accordance with the organization prescribed under this Act''.

In subsections (a) and (b), the provisions of 32:194(c) are exhausted by the enumeration of the jurisdictions named.

In subsection (b), the words ''Nothing in this title limits'' are substituted for the words ''Nothing contained in this Act shall be construed to limit''.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
109(c)	32 App.:194(b) (less 4th and last sentences).	Aug. 11, 1955, ch. 802, 69 Stat. 686.
109(d)	32 App.:194(b) (4th sentence).	
109(e)	32 App.:194(b) (last sentence).	

In subsection (c), the words ''heretofore authorized by this Act [sic]'', ''as such'', and ''in any manner'' are omitted as surplusage.

In subsection (d), the words ''under any Federal law'' are omitted since only Federal law could require service in the armed forces. The word ''military'' is omitted as surplusage.

In subsection (e), the words ''defense force'' are substituted for the words ''organized militia'' for accuracy and to conform to subsection (c). The words ''reserve component of the armed forces'' are substituted for the words ''Reserve Forces as defined in section 901 of Title 50'', since that term is not defined in the Armed Forces Reserve Act of 1952.

AMENDMENTS

2006—Subsecs. (a) to (c). Pub. L. 109–163, which directed substitution of ''State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands'' for ''State or Territory, Puerto Rico, the Virgin Islands or the District of Columbia'', was executed by making the substitution for ''State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia'', to reflect the probable intent of Congress.

1988—Subsecs. (a) to (c). Pub. L. 100–456 struck out ''the Canal Zone,'' after ''Virgin Islands,''.

1958—Subsecs. (a), (b). Pub. L. 85–861, §2(2)(A), substituted ''defense forces authorized by subsection (c)'' for ''State defense forces''.

Subsecs. (c) to (e). Pub. L. 85–861, §2(2)(B), added subsecs. (c) to (e).

§110. Regulations

The President shall prescribe regulations, and issue orders, necessary to organize, discipline, and govern the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
110	32:17.	June 3, 1916, ch. 134, §118, 39 Stat. 213.

The word ''rules'' is omitted as covered by the word ''regulations''. The words ''National Guard'' are substituted for the words ''the militia provided for in this title''. The words ''for the thorough'' are omitted as surplusage.

§111. Suspension of certain provisions of this title

In time of war, or of emergency declared by Congress, the President may suspend the operation of any provision of sections 307(e), 309, 310, and 323(d) and (e)[1] of this title with respect to the Army National Guard or the Air National Guard.

(Added Pub. L. 85–861, §2(3), Sept. 2, 1958, 72 Stat. 1543.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
111	50:1199 (as applicable to National Guard).	Sept. 3, 1954, ch. 1257, §209 (as applicable to National Guard), 68 Stat. 1152.

Reference to the exception in section 307(a) is omitted as unnecessary because a suspension of section 307(e) of this title, or of section 8365 or 8366 of Title 10, will in effect suspend that exception so far as it refers to the suspended section. A reference to the remainder of section 307(a) is omitted as unnecessary because the general rule that it states exists independently of that part of the source law for section 307(a) that is suspendible under this section. A reference to section 307(f) is omitted as unnecessary because a suspension of section 307(e) will in effect suspend section 307(f) so far as it applies to section 307(e). 50:1199 (2d sentence) is omitted as inapplicable to the National Guard.

REFERENCES IN TEXT

Section 323(e) of this title, referred to in text, was repealed by Pub. L. 103–337, div. A, title XVI, §1630(2), Oct. 5, 1994, 108 Stat. 2964.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(11) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

§112. Drug interdiction and counter-drug activities

(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for the following:

(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities.

(2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.

(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities. However, the use of such funds for the procurement of equipment may not exceed $5,000 per item, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.

(b) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time Na-

[1] See References in Text note below.

tional Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.

(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.

(C) To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform:

(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

(iii) The performance of the activities will not result in a significant increase in the cost of training.

(iv) In the case of drug interdiction and counter-drug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

(3) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.

(c) PLAN REQUIREMENTS.—A State drug interdiction and counter-drug activities plan shall—

(1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;

(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service;

(3) certify that participation by National Guard personnel in those operations is service in addition to training required under section 502 of this title;

(4) certify that any engineer-type activities (as defined by the Secretary of Defense) under the plan will be performed only by units and members of the National Guard;

(5) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

(6) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

(d) EXAMINATION OF PLAN.—(1) Before funds are provided to the Governor of a State under this section and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b), the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (c). The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.

(2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with the Director of National Drug Control Policy.

(3) Paragraph (2) shall not apply if—

(A) the Governor of a State submits a plan under subsection (c) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).

(e) END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard—

(A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty; or

(B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty with State pay and allowances being reimbursed with funds provided under subsection (a)(1).

(2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.

(f) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report regarding assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

(1) The number of members of the National Guard excluded under subsection (e)[1] from the computation of end strengths.

(2) A description of the drug interdiction and counter-drug activities conducted under State drug interdiction and counter-drug activities plans referred to in subsection (c) with funds provided under this section.

(3) An accounting of the amount of funds provided to each State.

(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform activities under the State drug interdiction and counter-drug activities plans.

(g) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(h) DEFINITIONS.—For purposes of this section:

(1) The term ''drug interdiction and counter-drug activities'', with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities, authorized by the law of the State and requested by the Governor of the State.

(2) The term ''Governor of a State'' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(3) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(Added Pub. L. 101–189, div. A, title XII, §1207(a)(1), Nov. 29, 1989, 103 Stat. 1564; amended Pub. L. 102–25, title VII, §703, Apr. 6, 1991, 105 Stat. 118; Pub. L. 102–396, title IX, §9099A, Oct. 6, 1992, 106 Stat. 1926; Pub. L. 104–106, div. A, title X, §1021, Feb. 10, 1996, 110 Stat. 426; Pub. L. 104–208, div. C, title VI, §660, Sept. 30, 1996, 110 Stat. 3009–720; Pub. L. 105–85, div. A, title X, §1031, Nov. 18, 1997, 111 Stat. 1880; Pub. L. 105–261, div. A, title X, §1022, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 106–65, div. A, title X, §1021, Oct. 5, 1999, 113 Stat. 746; Pub. L. 108–375, div. A, title IV, §416(k), Oct. 28, 2004, 118 Stat. 1869.)

[1] See References in Text note below.

REFERENCES IN TEXT

Subsection (e), referred to in subsec. (f)(1), was repealed and subsec. (f) was redesignated (e) by Pub. L. 108–375, div. A, title IV, §416(k)(1), (2), Oct. 28, 2004, 118 Stat. 1869.

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 100–456, div. A, title XI, §1105, Sept. 29, 1988, 102 Stat. 2047, which was set out as a note under section 374 of Title 10, Armed Forces, prior to repeal by Pub. L. 101–189, §1207(b).

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–375, §416(k)(1), (2), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: ''Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 1993 otherwise implementing) this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10.''

Subsec. (e)(1)(A), (B). Pub. L. 108–375, §416(k)(3), struck out ''for a period of more than 180 days'' after ''order to duty''.

Subsecs. (f) to (i). Pub. L. 108–375, §416(k)(2), redesignated subsecs. (g) to (i) as (f) to (h), respectively.

1999—Subsec. (a)(3). Pub. L. 106–65 substituted ''per item'' for ''per purchase order'' in second sentence.

1998—Subsec. (a). Pub. L. 105–261, §1022(e)(1), substituted ''for the following:'' for ''for—'' in introductory provisions.

Subsec. (a)(1). Pub. L. 105–261, §1022(e)(2), (3), substituted ''The pay'' for ''the pay'' and ''activities.'' for ''activities;''.

Subsec. (a)(2). Pub. L. 105–261, §1022(e)(2), (4), substituted ''The operation'' for ''the operation'' and ''activities.'' for ''activities; and''.

Subsec. (a)(3). Pub. L. 105–261, §1022(a), (e)(2), substituted ''The procurement'' for ''the procurement'' and ''and equipment, and the leasing of equipment,'' for ''and leasing of equipment'' and inserted at end ''However, the use of such funds for the procurement of equipment may not exceed $5,000 per purchase order, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.''

Subsec. (b)(2). Pub. L. 105–261, §1022(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan is not detrimental to the training and readiness of such units and personnel, the requirements of section 2012(d) of title 10 shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform.''

Subsec. (b)(3). Pub. L. 105–261, §1022(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Section 508 of this title, regarding the provision of assistance to certain specified youth and charitable organizations, shall apply in any case in which a unit or member of the National Guard of a State is proposed to be used pursuant to a State drug interdiction and counter-drug activities plan to provide to an organization specified in subsection (d) of such section any of the services described in subsection (b) of such section or services regarding counter-drug education.''

Subsec. (i)(1). Pub. L. 105–261, §1022(d), inserted '', including drug demand reduction activities,'' after ''drug interdiction and counter-drug law enforcement activities''.

1997—Subsec. (b). Pub. L. 105–85, §1031(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c)(4) to (6). Pub. L. 105–85, §1031(b)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (e). Pub. L. 105–85, § 1031(d), designated par. (1) as subsec. (e) and struck out par. (2) which read as follows: ''The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual report specifying for the period covered by the report the number of members of the National Guard excluded under paragraph (1) from the computation of end strengths.''

Subsecs. (g) to (i). Pub. L. 105–85, § 1031(c), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1996—Subsec. (a). Pub. L. 104–106, § 1021(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for—

''(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State used for—

''(A) the purpose of drug interdiction and counter-drug activities; and

''(B) the operation and maintenance of the equipment and facilities of the National Guard of that State used for that purpose; and

''(2) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.''

Subsec. (b). Pub. L. 104–106, § 1021(e), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–106, § 1021(c), substituted ''A State drug interdiction and counter-drug activities plan'' for ''A plan referred to in subsection (a)'' in introductory provisions and ''training'' for ''annual training'' in par. (3) and added pars. (4) and (5).

Pub. L. 104–106, § 1021(b)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–106, § 1021(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (g).

Subsec. (d)(1). Pub. L. 104–208 inserted at end ''The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.''

Pub. L. 104–106, § 1021(d)(1), inserted ''and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b)'' after ''under this section'' and substituted ''under subsection (c)'' for ''under subsection (b)''.

Subsec. (d)(3)(A). Pub. L. 104–106, § 1021(d)(2)(A), substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (d)(3)(B). Pub. L. 104–106, § 1021(d)(2)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: ''funds were provided to the State pursuant to such plan.''

Subsec. (e)(1). Pub. L. 104–106, § 1021(h)(1), substituted ''sections 12011 and 12012'' for ''sections 517 and 524''.

Subsec. (e)(2). Pub. L. 104–106, § 1021(h)(2), substituted ''the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''the Committees on Armed Services of the Senate and House of Representatives''.

Subsec. (f). Pub. L. 104–106, § 1021(f), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 104–106, § 1021(b)(2), redesignated subsec. (d) as (g) and transferred it to appear before subsec. (h), as redesignated.

Subsec. (h). Pub. L. 104–106, § 1021(b)(1), redesignated subsec. (f) as (h).

Subsec. (h)(1). Pub. L. 104–106, § 1021(g), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'counter-drug activities' includes the use of National Guard personnel, while not in Federal service, in any law enforcement activities authorized by State and local law and requested by the Governor.''

1992—Subsec. (e)(1). Pub. L. 102–396 inserted ''(or during fiscal year 1993 otherwise implementing)'' after ''administering''.

1991—Subsec. (c)(2). Pub. L. 102–25 substituted ''in consultation with the Director of National Drug Control Policy.'' for ''in consultation with—

''(A) the Attorney General of the United States in the case of a plan submitted for fiscal year 1990; and

''(B) the Director of National Drug Control Policy in the case of a plan submitted for subsequent fiscal years.''

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

NATIONAL GUARD COUNTERDRUG SCHOOLS

Pub. L. 109–469, title IX, § 901, Dec. 29, 2006, 120 Stat. 3536, provided that:

''(a) AUTHORITY TO OPERATE.—Under such regulations as the Secretary of Defense may prescribe, the Chief of the National Guard Bureau may establish and operate, or provide financial assistance to the States to establish and operate, not more than 5 schools (to be known generally as 'National Guard counterdrug schools').

''(b) PURPOSE.—The purpose of the National Guard counterdrug schools shall be the provision by the National Guard of training in drug interdiction and counterdrug activities and drug demand reduction activities to personnel of the following:

''(1) Federal agencies.

''(2) State, local, and tribal law enforcement agencies.

''(3) Community-based organizations engaged in such activities.

''(4) Other non-Federal governmental and private entities and organizations engaged in such activities.

''(c) COUNTERDRUG SCHOOLS SPECIFIED.—The National Guard counterdrug schools operated under the authority in subsection (a) are as follows:

''(1) The National Interagency Civil-Military Institute (NICI), San Luis Obispo, California.

''(2) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT), St. Petersburg, Florida.

''(3) The Midwest Counterdrug Training Center (MCTC), Johnston, Iowa.

''(4) The Regional Counterdrug Training Academy (RCTA), Meridian, Mississippi.

''(5) The Northeast Regional Counterdrug Training Center (NCTC), Fort Indiantown Gap, Pennsylvania.

''(d) USE OF NATIONAL GUARD PERSONNEL.—

''(1) IN GENERAL.—To the extent provided for in the State drug interdiction and counterdrug activities plan of a State in which a National Guard counterdrug school is located, personnel of the National Guard of that State who are ordered to perform full-time National Guard duty authorized under section 112(b) of that [sic] title 32, United States Code, may provide training referred to in subsection (b) at that school.

''(2) DEFINITION.—In this subsection, the term 'State drug interdiction and counterdrug activities plan', in the case of a State, means the current plan submitted by the Governor of the State to the Secretary of Defense under section 112 of title 32, United States Code.

''(e) TREATMENT UNDER AUTHORITY TO PROVIDE COUNTERDRUG SUPPORT.—The provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to any activities of a National Guard counterdrug school under this section that are for an agency referred to in subsection (a) of such section 1004 and for a purpose set forth in subsection (b) of such section 1004.

''(f) ANNUAL REPORTS ON ACTIVITIES.—

''(1) IN GENERAL.—Not later than February 1 each year, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools during the preceding year.

''(2) CONTENTS.—Each report under paragraph (1) shall set forth the following:

''(A) FUNDING.—The amount made available for each National Guard counterdrug school during the fiscal year ending in the year preceding the year in which such report is submitted.

''(B) ACTIVITIES.—A description of the activities of each National Guard counterdrug school during the year preceding the year in which such report is submitted.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is hereby authorized to be appropriated for the Department of Defense for the National Guard for each of fiscal years 2006 through 2010, $30,000,000 for purposes of the National Guard counterdrug schools in such fiscal year.

''(2) CONSTRUCTION.—The amount authorized to be appropriated by paragraph (1) for a fiscal year is in addition to any other amount authorized to be appropriated for the Department of Defense for the National Guard for such fiscal year.''

§113. Federal financial assistance for support of additional duties assigned to the Army National Guard

(a) AUTHORITY.—The Secretary of the Army may provide financial assistance to a State to support activities carried out by the Army National Guard of the State in the performance of duties that the Secretary has assigned, with the consent of the Chief of the National Guard Bureau, to the Army National Guard of the State. The Secretary shall determine the amount of the assistance that is appropriate for the purpose.

(b) COVERED ACTIVITIES.—(1) Except as provided in paragraph (2), financial assistance may be provided for the performance of an activity by the Army National Guard under subsection (a) only if—

(A) the activity is carried out in the performance of a responsibility of the Secretary of the Army under paragraph (6), (10), or (11) of section 3013(b) of title 10; and

(B) the Army National Guard was selected to perform the activity under competitive procedures that permit all qualified public-sector and private-sector sources to submit offers and be considered for selection to perform the activity on the basis of the offers, subject to the exceptions provided in section 2304(c) of title 10.

(2) Paragraph (1)(B) does not apply to an activity that, on October 17, 1998, was performed for the Federal Government by employees of the Federal Government or employees of a State.

(c) DISBURSEMENT THROUGH NATIONAL GUARD BUREAU.—The Secretary of the Army shall disburse any contribution under this section through the Chief of the National Guard Bureau.

(d) AVAILABILITY OF FUNDS.—Funds appropriated for the Army for a fiscal year are available for providing financial assistance under this section in support of activities carried out by the Army National Guard during that fiscal year.

(Added Pub. L. 105–85, div. A, title III, §386(a), Nov. 18, 1997, 111 Stat. 1712; amended Pub. L. 105–261, div. A, title III, §375(a), Oct. 17, 1998, 112 Stat. 1992; Pub. L. 106–65, div. A, title X, §1066(d)(4), Oct. 5, 1999, 113 Stat. 773; Pub. L. 108–375, div. A, title VIII, §806, Oct. 28, 2004, 118 Stat. 2010.)

AMENDMENTS

2004—Subsec. (b)(1)(B). Pub. L. 108–375 inserted before period at end '', subject to the exceptions provided in section 2304(c) of title 10''.

1999—Subsec. (b)(2). Pub. L. 106–65 substituted ''October 17, 1998'' for ''the date of the enactment of this subsection''.

1998—Subsec. (b). Pub. L. 105–261 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Activities supported under this section may include only those activities that are carried out by the Army National Guard in the performance of responsibilities of the Secretary of the Army under paragraphs (6), (10), and (11) of section 3013(b) of title 10.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title III, §375(b), Oct. 17, 1998, 112 Stat. 1993, provided that: ''Subsection (b)(1)(B) of section 113 of title 32, United States Code (as added by subsection (a) of this section), does not apply to—

''(1) financial assistance provided under that section before October 1, 1998; or

''(2) financial assistance for an activity that, before May 9, 1998, the Secretary of the Army identified in writing as being under consideration for supporting with financial assistance under that section.''

§114. Funeral honors functions at funerals for veterans

Subject to such regulations and restrictions as may be prescribed by the Secretary concerned, the performance of funeral honors functions by members of the National Guard at funerals for veterans of the armed forces may be treated by the Secretary concerned as a Federal function for which appropriated funds may be used. Any such performance of funeral honors functions at such a funeral may not be considered to be a period of drill or training, but may be performed as funeral honors duty under section 115 of this title.

(Added Pub. L. 105–85, div. A, title V, §517(a)(1), Nov. 18, 1997, 111 Stat. 1733; amended Pub. L. 105–261, div. A, title V, §567(d), Oct. 17, 1998, 112 Stat. 2031; Pub. L. 106–65, div. A, title V, §578(g)(1), (k)(3)(A), Oct. 5, 1999, 113 Stat. 627, 631.)

AMENDMENTS

1999—Pub. L. 106–65, in section catchline, substituted ''Funeral honors'' for ''Honor guard'' and, in text, substituted ''funeral honors functions'' for ''honor guard functions'' in two places and ''drill or training, but may be performed as funeral honors duty under section 115 of this title'' for ''drill or training otherwise required''.

1998—Pub. L. 105–261 designated subsec. (a) as entire section and struck out subsec. (b) which read as follows: ''This section does not authorize additional appropriations for any fiscal year. Any expense of the National Guard that is incurred by reason of this section shall be paid from appropriations otherwise available for the National Guard.''

§115. Funeral honors duty performed as a Federal function

(a) ORDER TO DUTY.—A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to funeral honors duty, with the consent of the member, to prepare for or perform funeral honors functions at the funeral of a veteran under section 1491 of title 10. However, a mem-