

prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1662(h)(3), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, eff. Dec. 1, 1994.

Prior sections 1004 to 1007 were renumbered sections 12644 to 12647 of this title, respectively.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

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AMENDMENTS

2011—	Pub. L. 111-383, div. A, title XII, §1204(b), Jan. 7, 2011, 124 Stat. 4387, added item 1050a.
2008—	Pub. L. 110-417, [div. A], title XII, §1231(c)(2), Oct. 14, 2008, 122 Stat. 4637, added item 1051 and struck out former item 1051 "Bilateral or regional cooperation programs: payment of personnel expenses".
	Pub. L. 110-181, div. A, title VI, §671(b)(2), title XII, §1203(e)(2), Jan. 28, 2008, 122 Stat. 184, 365, added items 1030 and 1051a and struck out former item 1051a "Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses".
2006—	Pub. L. 109-364, div. A, title V, §598(b)(2), Oct. 17, 2006, 120 Stat. 2237, struck out "issuance of permanent ID card after attaining 75 years of age" after "retirees" in item 1060b.
2004—	Pub. L. 108-375, div. A, title V, §583(a)(2), Oct. 28, 2004, 118 Stat. 1929, added item 1060b.
2003—	Pub. L. 108-136, div. A, title XII, §1222(b), Nov. 24, 2003, 117 Stat. 1652, added item 1051b.
2002—	Pub. L. 107-314, div. A, title XII, §1201(a)(2), Dec. 2, 2002, 116 Stat. 2663, added item 1051a.
2000—	Pub. L. 106-398, §1 [[div. A], title V, §§551(b), 579(c)(3)], Oct. 30, 2000, 114 Stat. 1654, 1654A-125, 1654A-142, added items 1044d, 1052, 1053, and 1053a, and struck out former items 1052 "Reimbursement for adoption expenses" and 1053 "Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay".
1997—	Pub. L. 105-85, div. A, title V, §593(a)(2), Nov. 18, 1997, 111 Stat. 1763, added item 1033.
1996—	Pub. L. 104-106, div. A, title VII, §749(a)(2), Feb. 10, 1996, 110 Stat. 389, added item 1044c.
	Pub. L. 104-106, div. A, title XV, §1504(a)(2), Feb. 10, 1996, 110 Stat. 513, made technical correction to Pub. L. 103-337, §531(g)(2). See 1994 Amendment note below.
1994—	Pub. L. 103-337, div. A, title V, §531(g)(2), Oct. 5, 1994, 108 Stat. 2758, as amended by Pub. L. 104-106, div. A, title XV, §1504(a)(2), Feb. 10, 1996, 110 Stat. 513, substituted "Protected communications;" for "Communicating with a Member of Congress or Inspector General;" in item 1034.
	Pub. L. 103-337, div. A, title V, §535(c)(2), title VI, §653(b), title X, §1070(a)(5)(B), (6)(B), title XVI, §1671(b)(9), Oct. 5, 1994, 108 Stat. 2763, 2795, 2855, 3013, struck out item 1033 "Compensation: Reserve on active duty accepting from any person", redesignated item 1058 "Dependents of members separated for dependent abuse: transitional compensation" as item 1059 and amended it generally, redesignated item 1058 "Military service of retired members with newly democratic nations: consent of Congress" as item 1060, and added item 1060a.
	Pub. L. 103-337, div. A, title X, §1070(b)(4), Oct. 5, 1994, 108 Stat. 2856, made technical correction to Pub. L. 103-160, §554(a)(2). See 1993 Amendment note below.
1993—	Pub. L. 103-160, div. A, title V, §§551(a)(2), 574(b), title XIV, §1433(b)(2), Nov. 30, 1993, 107 Stat. 1662, 1675, 1834, added item 1044b and items 1058 "Responsibilities of military law enforcement officials at scenes of domestic violence" and 1058 "Military service of retired members with newly democratic nations: consent of Congress".
	Pub. L. 103-160, div. A, title V, §554(a)(2), Nov. 30, 1993, 107 Stat. 1666, as amended by Pub. L. 103-337, div. A,

title X, §1070(b)(4), Oct. 5, 1994, 108 Stat. 2856, added item 1058 “Dependents of members separated for dependent abuse: transitional compensation”.

1992—Pub. L. 102-484, div. A, title VI, §651(b), title X, §1080(b), Oct. 23, 1992, 106 Stat. 2426, 2514, added items 1046 and 1057.

1991—Pub. L. 102-190, div. A, title VI, §651(a)(2), Dec. 5, 1991, 105 Stat. 1386, added item 1052.

Pub. L. 102-25, title VII, §701(e)(8)(B), Apr. 6, 1991, 105 Stat. 115, struck out “mandatory” after “error in” in item 1053.

1990—Pub. L. 101-510, div. A, title V, §§502(b)(2), 551(a)(2), title XIV, §1481(c)(2), Nov. 5, 1990, 104 Stat. 1557, 1566, 1705, added items 1044a and 1056 and struck out item 1046 “Preseparation counseling requirement”.

1989—Pub. L. 101-189, div. A, title VI, §664(a)(3)(B), Nov. 29, 1989, 103 Stat. 1466, substituted “Reimbursement for financial institution charges incurred because of Government” for “Relief for expenses because of” in item 1053.

1988—Pub. L. 100-456, div. A, title VI, §621(a)(2), title VIII, §846(a)(2), Sept. 29, 1988, 102 Stat. 1983, 2030, substituted “Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions” for “Communicating with a Member of Congress” in item 1034 and added item 1055.

Pub. L. 100-370, §1(c)(2)(B), July 19, 1988, 102 Stat. 841, struck out item 1052 “Period for use of commissary stores; eligibility attributable to active duty for training”.

1987—Pub. L. 100-26, §7(e)(1)(B), Apr. 21, 1987, 101 Stat. 281, added item 1032 and struck out second item 1051 “Disability and death compensation: dependents of members held as captives”.

1986—Pub. L. 99-661, div. A, title VI, §§656(a)(2), 662(a)(2), title XIII, §§1322(b), 1356(a)(2), Nov. 14, 1986, 100 Stat. 3891, 3894, 3989, 3998, added item 1051 “Bilateral or regional cooperation programs: payment of personnel expenses” and items 1052 to 1054.

Pub. L. 99-399, title VIII, §806(b)(2), Aug. 27, 1986, 100 Stat. 886, added item 1051 “Disability and death compensation: dependents of members held as captives”.

1985—Pub. L. 99-145, title XIII, §1303(a)(6), Nov. 8, 1985, 99 Stat. 739, substituted “Atmospheric” for “Atomospheric” in item 1043.

1984—Pub. L. 98-525, title VI, §§651(b), 654(b), title VII, §708(a)(2), title XIV, §§1401(d)(2), 1405(19)(B)(ii), Oct. 19, 1984, 98 Stat. 2549, 2552, 2572, 2616, 2623, added items 1044 to 1050 and substituted “Member” for “member” in item 1034.

1983—Pub. L. 98-94, title X, §1007(b)(2), Sept. 24, 1983, 97 Stat. 662, added item 1043.

1982—Pub. L. 97-258, §2(b)(2)(A), Sept. 13, 1982, 96 Stat. 1052, added item 1042.

1980—Pub. L. 96-513, title V, §511(33)(B), Dec. 12, 1980, 94 Stat. 2922, redesignated item 1040 as added by Pub. L. 90-285 as item 1041.

1977—Pub. L. 95-105, title V, §509(d)(2), Aug. 17, 1977, 91 Stat. 860, struck out item 1032 “Dual capacity: Reserve accepting employment with foreign government or concern”.

1968—Pub. L. 90-235, §7(a)(2)(B), Jan. 2, 1968, 81 Stat. 763, added item 1040: “Replacement of certificate of discharge”. Another item 1040: “Transportation of dependent patients”, was added by Pub. L. 89-140, §1(2), Aug. 28, 1965, 79 Stat. 579.

1966—Pub. L. 89-538, §1(2), Aug. 14, 1966, 80 Stat. 347, substituted “Deposits of savings” for “Enlisted members’ deposits” in item 1035.

1965—Pub. L. 89-140, §1(2), Aug. 28, 1965, 79 Stat. 579, added item 1040 “Transportation of dependent patients”.

Pub. L. 89-132, §9(b), Aug. 21, 1965, 79 Stat. 548, added item 1040 “Free postage from combat zone” which was repealed by Pub. L. 89-315, §3(b), Nov. 1, 1965, 79 Stat. 1165.

1961—Pub. L. 87-165, §1(2), Aug. 25, 1961, 75 Stat. 401, added item 1039.

1959—Pub. L. 86-160, §1(2), Aug. 14, 1959, 73 Stat. 358, added item 1036.

Pub. L. 86-142, §1(2), Aug. 7, 1959, 73 Stat. 289, added item 1038.

1958—Pub. L. 85-861, §1(24)(B), Sept. 2, 1958, 72 Stat. 1445, added item 1037.

PROHIBITION ON INFRINGING ON THE INDIVIDUAL RIGHT TO LAWFULLY ACQUIRE, POSSESS, OWN, CARRY, AND OTHERWISE USE PRIVATELY OWNED FIREARMS, AMMUNITION, AND OTHER WEAPONS

Pub. L. 111-383, div. A, title X, §1062, Jan. 7, 2011, 124 Stat. 4363, provided that:

“(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall not prohibit, issue any requirement relating to, or collect or record any information relating to the otherwise lawful acquisition, possession, ownership, carrying, or other use of a privately owned firearm, privately owned ammunition, or another privately owned weapon by a member of the Armed Forces or civilian employee of the Department of Defense on property that is not—

“(1) a military installation; or

“(2) any other property that is owned or operated by the Department of Defense.

“(b) EXISTING REGULATIONS AND RECORDS.—

“(1) REGULATIONS.—Any regulation promulgated before the date of enactment of this Act [Jan. 7, 2011] shall have no force or effect to the extent that it requires conduct prohibited by this section.

“(2) RECORDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall destroy any record containing information described in subsection (a) that was collected before the date of enactment of this Act.

“(c) RULE OF CONSTRUCTION.—Subsection (a) shall not be construed to limit the authority of the Secretary of Defense to—

“(1) create or maintain records relating to, or regulate the possession, carrying, or other use of a firearm, ammunition, or other weapon by a member of the Armed Forces or civilian employee of the Department of Defense while—

“(A) engaged in official duties on behalf of the Department of Defense; or

“(B) wearing the uniform of an Armed Force; or

“(2) create or maintain records relating to an investigation, prosecution, or adjudication of an alleged violation of law (including regulations not prohibited under subsection (a)), including matters related to whether a member of the Armed Forces constitutes a threat to the member or others.

“(d) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall—

“(1) conduct a comprehensive review of the privately owned weapons policy of the Department of Defense, including legal and policy issues regarding the regulation of privately owned firearms off of a military installation, as recommended by the Department of Defense Independent Review Related to Fort Hood; and

“(2) submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report regarding the findings of and recommendations relating to the review conducted under paragraph (1), including any recommendations for adjustments to the requirements under this section.

“(e) MILITARY INSTALLATION DEFINED.—In this section, the term ‘military installation’ has the meaning given that term under section 2687(e)(1) of title 10, United States Code.”

DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT

Pub. L. 108-136, div. A, title III, §344, Nov. 24, 2003, 117 Stat. 1448, as amended by Pub. L. 108-375, div. A, title III, §341, Oct. 28, 2004, 118 Stat. 1857; Pub. L. 109-163, div. A, title III, §375, Jan. 6, 2006, 119 Stat. 3213; Pub. L. 109-364, div. A, title III, §355(a)-(c), Oct. 17, 2006, 120

Stat. 2162, 2163; Pub. L. 111-383, div. A, title X, §1075(g)(3), Jan. 7, 2011, 124 Stat. 4376, provided that:

“(a) PROVISION OF BENEFIT.—(1) The Secretary of Defense shall provide, wherever practicable, prepaid phone cards, packet based telephony service, or an equivalent telecommunications benefit which includes access to telephone service, to members of the Armed Forces stationed outside the United States who (as determined by the Secretary) are eligible for combat zone tax exclusion benefits due to their service in direct support of a contingency operation to enable those members to make telephone calls without cost to the member.

“(2) As soon as possible after the date of the enactment of the John Warner National Defense Authorization Act for Fiscal Year 2007 [Oct. 17, 2006], the Secretary shall provide, wherever practicable, prepaid phone cards, packet based telephony service, or an equivalent telecommunications benefit which includes access to telephone service to members of the Armed Forces who, although are no longer directly supporting a contingency operation, are hospitalized as a result of wounds or other injuries incurred while serving in direct support of a contingency operation.

“(b) MONTHLY BENEFIT.—The value of the benefit provided under subsection (a) to any member in any month, to the extent the benefit is provided from amounts available to the Department of Defense, may not exceed—

“(1) \$40; or

“(2) 120 calling minutes, if the cost to the Department of Defense of providing such number of calling minutes is less than the amount specified in paragraph (1).

“(c) TERMINATION OF BENEFIT.—The authority to provide a benefit under subsection (a)(1) to a member directly supporting a contingency operation shall terminate on the date that is 60 days after the date on which the Secretary determines that the contingency operation has ended.

“(d) FUNDING.—(1)(A) In carrying out the program under this section, the Secretary shall maximize the use of existing Department of Defense telecommunications programs and capabilities, free or reduced-cost services of private sector entities, and programs to enhance morale and welfare.

“(B) The Secretary may not award a contract to a commercial firm for the purposes of subparagraph (A) other than through the use of competitive procedures.

“(2) The Secretary may accept gifts and donations in order to defray the costs of the program under this section. Such gifts and donations may be accepted from—

“(A) any foreign government;

“(B) any foundation or other charitable organization, including any that is organized or operates under the laws of a foreign country; and

“(C) any source in the private sector of the United States or a foreign country.

“(e) DEPLOYMENT OF ADDITIONAL TELEPHONE EQUIPMENT OR INTERNET ACCESS.—If the Secretary of Defense determines that, in order to implement this section as quickly as practicable, it is necessary to provide additional telephones or Internet service in any area to facilitate telephone or packet based telephony calling for which benefits are provided under this section, the Secretary may, consistent with the availability of resources, award competitively bid contracts to one or more commercial entities for the provision and installation of telephones or Internet access in that area.

“(f) NO COMPROMISE OF MILITARY MISSION.—The Secretary of Defense should not take any action under this section that would compromise the military objectives or mission of the Department of Defense.

“(g) CONTINGENCY OPERATION DEFINED.—In this section, the term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code. The term includes Operation Iraqi Freedom and Operation Enduring Freedom.”

§ 1030. Bonus to encourage Department of Defense personnel to refer persons for appointment as officers to serve in health professions

(a) AUTHORITY TO PAY BONUS.—

(1) AUTHORITY.—The Secretary of Defense may authorize the appropriate Secretary to pay a bonus under this section to an individual referred to in paragraph (2) who refers to a military recruiter a person who has not previously served in an armed force and, after such referral, takes an oath of enlistment that leads to appointment as a commissioned officer, or accepts an appointment as a commissioned officer, in an armed force in a health profession designated by the appropriate Secretary for purposes of this section.

(2) INDIVIDUALS ELIGIBLE FOR BONUS.—Subject to subsection (c), the following individuals are eligible for a referral bonus under this section:

(A) A member of the armed forces in a regular component of the armed forces.

(B) A member of the armed forces in a reserve component of the armed forces.

(C) A member of the armed forces in a retired status, including a member under 60 years of age who, but for age, would be eligible for retired or retainer pay.

(D) A civilian employee of a military department or the Department of Defense.

(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when the individual concerned contacts a military recruiter on behalf of a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession; or

(2) when a person interested in taking an oath of enlistment that leads to appointment as a commissioned officer, or accepting an appointment as a commissioned officer, as applicable, in an armed force in a health profession contacts a military recruiter and informs the recruiter of the role of the individual concerned in initially recruiting the person.

(c) CERTAIN REFERRALS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the armed forces or civilian employee of a military department or the Department of Defense may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member of the armed forces or civilian employee of a military department or the Department of Defense serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the appropriate Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(3) JUNIOR RESERVE OFFICERS’ TRAINING CORPS INSTRUCTORS.—A member of the armed forces detailed under subsection (c)(1) of section 2031 of this title to serve as an administrator or in-

structor in the Junior Reserve Officers' Training Corps program or a retired member of the armed forces employed as an administrator or instructor in the program under subsection (d) of such section may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus payable for a referral under subsection (a) may not exceed \$2,000. The amount shall be payable as provided in subsection (e).

(e) PAYMENT.—A bonus payable for a referral of a person under subsection (a) shall be paid as follows:

(1) Not more than \$1,000 shall be paid upon the execution by the person of an agreement to serve as an officer in a health profession in an armed force for not less than three years.

(2) Not more than \$1,000 shall be paid upon the completion by the person of the initial period of military training as an officer.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of this title.

(g) COORDINATION WITH RECEIPT OF RETIRED PAY.—A bonus paid under this section to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under this title, title 37 or 38, or any other provision of law.

(h) APPROPRIATE SECRETARY DEFINED.—In this section, the term "appropriate Secretary" means—

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

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

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

(4) the Secretary of Defense, with respect to personnel of the Department of Defense.

(i) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2011.

(Added Pub. L. 110-181, div. A, title VI, §671(b)(1), Jan. 28, 2008, 122 Stat. 182; amended Pub. L. 110-417, [div. A], title VI, §615(a), Oct. 14, 2008, 122 Stat. 4485; Pub. L. 111-84, div. A, title VI, §616(1), Oct. 28, 2009, 123 Stat. 2354; Pub. L. 111-383, div. A, title VI, §616(1), title X, §1075(b)(15), Jan. 7, 2011, 124 Stat. 4238, 4369.)

AMENDMENTS

2011—Subsec. (e)(1). Pub. L. 111-383, §1075(b)(15), substituted "three years." for "3 years."

Subsec. (i). Pub. L. 111-383, §616(1), substituted "December 31, 2011" for "December 31, 2010".

2009—Subsec. (i). Pub. L. 111-84 substituted "December 31, 2010" for "December 31, 2009".

2008—Subsec. (i). Pub. L. 110-417 substituted "December 31, 2009" for "December 31, 2008".

§ 1031. Administration of oath

The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath—

(1) required for the enlistment or appointment of any person in the armed forces; or

(2) required by law in connection with such an enlistment or appointment.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 109-364, div. A, title V, §595(b), Oct. 17, 2006, 120 Stat. 2235.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1031	10:19. 34:217a-2.	May 22, 1950, ch. 193, §1, 64 Stat. 187.

The words "(including the reserve component)" are omitted, since the words "any component of an armed force" include the reserve components. The words "any oath required for the enlistment or appointment of any person" are substituted for the words "the oath required for the enlistment of any person, the oath required for the appointment of any person to commissioned or warrant officer grade, and any other oath required by law in connection with the enlistment or appointment of any person".

AMENDMENTS

2006—Pub. L. 109-364 substituted "The President, the Vice-President, the Secretary of Defense, any commissioned officer, and any other person designated under regulations prescribed by the Secretary of Defense may administer any oath" for "Any commissioned officer of any component of an armed force, whether or not on active duty, may administer any oath" in introductory provisions.

§ 1032. Disability and death compensation: dependents of members held as captives

(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

(1) was caused by hostile action; and

(2) was a result of the relationship of the dependent to the member of the uniformed services.

(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

(d) In this section:

(1) The term "dependent" has the meaning given that term in section 551 of title 37.

(2) The term "Secretary concerned" has the meaning given that term in section 101 of that title.

(Added Pub. L. 99-399, title VIII, §806(b)(1), Aug. 27, 1986, 100 Stat. 885, §1051; amended Pub. L. 99-661, div. A, title XIII, §1343(a)(25), Nov. 14, 1986, 100 Stat. 3994; renumbered §1032 and amended Pub. L. 100-26, §§3(8), 7(e)(1)(A), Apr. 21, 1987, 101 Stat. 274, 281; Pub. L. 101-189, div. A, title XVI, §1622(e)(2), Nov. 29, 1989, 103 Stat. 1605.)

PRIOR PROVISIONS

A prior section 1032, act Aug. 10, 1956, ch. 1041, 70A Stat. 80, provided that a Reserve may accept civil employment with a foreign government or concern, prior to repeal by Pub. L. 95-105, title V, §509(d)(1), Aug. 17, 1977, 91 Stat. 860.

AMENDMENTS

1989—Subsec. (d)(1). Pub. L. 101-189, §1622(e)(2)(A), substituted “The term ‘dependent’ has” for “‘Dependent’ has”.

Subsec. (d)(2). Pub. L. 101-189, §1622(e)(2)(B), inserted “The term” after “(2)”.

1987—Pub. L. 100-26, §7(e)(1)(A), renumbered the second section 1051 of this title as this section.

Subsec. (d)(1), (2). Pub. L. 100-26, §3(8), amended directory language of Pub. L. 99-661. See 1986 Amendment note below.

1986—Subsec. (d). Pub. L. 99-661, §1343(a)(25), as amended by Pub. L. 100-26, §3(8), substituted “title 37” for “that title” in par. (1), and “has the meaning given that term” for “and ‘uniformed services’ have the meanings given those terms” in par. (2).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(8) of Pub. L. 100-26 applicable as if included in Pub. L. 99-661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100-26, set out as a note under section 776 of this title.

EFFECTIVE DATE

Section 806(b)(3) of Pub. L. 99-399 provided that: “Section 1051 [now 1032] of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after January 21, 1981.”

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 4 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

§ 1033. Participation in management of specified non-Federal entities: authorized activities

(a) AUTHORIZATION.—The Secretary concerned may authorize a member of the armed forces under the Secretary’s jurisdiction to serve without compensation as a director, officer, or trustee, or to otherwise participate, in the management of an entity designated under subsection (b). Any such authorization shall be made on a case-by-case basis, for a particular member to participate in a specific capacity with a specific designated entity. Such authorization may be made only for the purpose of providing oversight and advice to, and coordination with, the designated entity, and participation of the member in the activities of the designated entity may not extend to participation in the day-to-day operations of the entity.

(b) DESIGNATED ENTITIES.—(1) The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall designate those entities for which authorization under subsection (a) may be provided. The list of entities so designated may not be revised more frequently than semiannually. In making such designations, the Secretary shall designate each military welfare society and may designate any other entity described in paragraph (3). No other entities may be designated.

(2) In this section, the term “military welfare society” means the following:

- (A) Army Emergency Relief.
- (B) Air Force Aid Society, Inc.
- (C) Navy-Marine Corps Relief Society.
- (D) Coast Guard Mutual Assistance.

(3) An entity described in this paragraph is an entity that is not operated for profit and is any of the following:

(A) An entity that regulates and supports the athletic programs of the service academies (including athletic conferences).

(B) An entity that regulates international athletic competitions.

(C) An entity that accredits service academies and other schools of the armed forces (including regional accrediting agencies).

(D) An entity that (i) regulates the performance, standards, and policies of military health care (including health care associations and professional societies), and (ii) has designated the position or capacity in that entity in which a member of the armed forces may serve if authorized under subsection (a).

(E) An entity that, operating in a foreign nation where United States military personnel are serving at United States military activities, promotes understanding and tolerance between such personnel (and their families) and the citizens of that host foreign nation through programs that foster social relations between those persons.

(c) PUBLICATION OF DESIGNATED ENTITIES AND OF AUTHORIZED PERSONS.—A designation of an entity under subsection (b), and an authorization under subsection (a) of a member of the armed forces to participate in the management of such an entity, shall be published in the Federal Register.

(d) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

(Added Pub. L. 105-85, div. A, title V, §593(a)(1), Nov. 18, 1997, 111 Stat. 1762; amended Pub. L. 106-65, div. A, title V, §583, Oct. 5, 1999, 113 Stat. 634; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

PRIOR PROVISIONS

A prior section 1033, act Aug. 10, 1956, ch. 1041, 70A Stat. 80, related to Reserves continuing to accept compensation while on active duty that they were receiving prior to being ordered to active duty, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1662(g)(2), 1691, Oct. 5, 1994, 108 Stat. 2996, 3026, eff. Dec. 1, 1994.

AMENDMENTS

2002—Subsecs. (b)(1), (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (b)(3)(E). Pub. L. 106-65 added subpar. (E).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

§ 1034. Protected communications; prohibition of retaliatory personnel actions

(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTOR GENERAL PROHIBITED.—(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

(2) Paragraph (1) does not apply to a communication that is unlawful.

(b) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—(1) No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing—

(A) a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted; or

(B) a communication that is described in subsection (c)(2) and that is made (or prepared to be made) to—

(i) a Member of Congress;

(ii) an Inspector General (as defined in subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978;

(iii) a member of a Department of Defense audit, inspection, investigation, or law enforcement organization;

(iv) any person or organization in the chain of command; or

(v) any other person or organization designated pursuant to regulations or other established administrative procedures for such communications.

(2) Any action prohibited by paragraph (1) (including the threat to take any unfavorable action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

(c) INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF PROHIBITED PERSONNEL ACTIONS.—

(1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall take the action required under paragraph (3).

(2) A communication described in this paragraph is a communication in which a member of the armed forces complains of, or discloses information that the member reasonably believes constitutes evidence of, any of the following:

(A) A violation of law or regulation, including a law or regulation prohibiting sexual harassment or unlawful discrimination.

(B) Gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(3)(A) An Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine, in accordance with regulations prescribed under subsection (h), whether there is sufficient evidence to warrant an investigation of the allegation.

(B) If the Inspector General receiving such an allegation is an Inspector General within a military department, that Inspector General shall

promptly notify the Inspector General of the Department of Defense of the allegation. Such notification shall be made in accordance with regulations prescribed under subsection (h).

(C) If an allegation under paragraph (1) is submitted to an Inspector General within a military department and if the determination of that Inspector General under subparagraph (A) is that there is not sufficient evidence to warrant an investigation of the allegation, that Inspector General shall forward the matter to the Inspector General of the Department of Defense for review.

(D) Upon determining that an investigation of an allegation under paragraph (1) is warranted, the Inspector General making the determination shall expeditiously investigate the allegation. In the case of a determination made by the Inspector General of the Department of Defense, that Inspector General may delegate responsibility for the investigation to an appropriate Inspector General within a military department.

(E) In the case of an investigation under subparagraph (D) within the Department of Defense, the results of the investigation shall be determined by, or approved by, the Inspector General of the Department of Defense (regardless of whether the investigation itself is conducted by the Inspector General of the Department of Defense or by an Inspector General within a military department).

(4) Neither an initial determination under paragraph (3)(A) nor an investigation under paragraph (3)(D) is required in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

(5) The Inspector General of the Department of Defense, or the Inspector General of the Department of Homeland Security (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the Inspector General conducting the investigation of an allegation under this subsection is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.

(d) INSPECTOR GENERAL INVESTIGATION OF UNDERLYING ALLEGATIONS.—Upon receiving an allegation under subsection (c), the Inspector General receiving the allegation shall conduct a separate investigation of the information that the member making the allegation believes constitutes evidence of wrongdoing (as described in subparagraph (A) or (B) of subsection (c)(2)) if there previously has not been such an investigation or if the Inspector General determines that the original investigation was biased or otherwise inadequate. In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned.

(e) REPORTS ON INVESTIGATIONS.—(1) After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under sub-

section (c)(3)(E), the Inspector General conducting the investigation shall submit a report on the results of the investigation to the Secretary of Defense (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and shall transmit a copy of the report on the results of the investigation to the member of the armed forces who made the allegation investigated. The report shall be transmitted to the Secretary, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E).

(2) In the copy of the report transmitted to the member, the Inspector General shall ensure the maximum disclosure of information possible, with the exception of information that is not required to be disclosed under section 552 of title 5. However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.

(3) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (1) within 180 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense (or to the Secretary of Homeland Security in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) and to the member making the allegation a notice—

(A) of that determination (including the reasons why the report may not be submitted within that time); and

(B) of the time when the report will be submitted.

(4) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

(f) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1), a correction board—

(A) shall review the report of the Inspector General submitted under subsection (e)(1);

(B) may request the Inspector General to gather further evidence; and

(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

(A) may be provided with representation by a judge advocate if—

(i) the Inspector General, in the report under subsection (e)(1), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (e)(1).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(g) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (f), the member or former member of the armed forces (except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(h) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not oper-

ating as a service in the Navy, shall prescribe regulations to carry out this section.

(i) DEFINITIONS.—In this section:

(1) The term “Member of Congress” includes any Delegate or Resident Commissioner to Congress.

(2) The term “Inspector General” means any of the following:

(A) The Inspector General of the Department of Defense.

(B) The Inspector General of the Department of Homeland Security, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(C) Any officer of the armed forces or employee of the Department of Defense who is assigned or detailed to serve as an Inspector General at any level in the Department of Defense.

(3) The term “unlawful discrimination” means discrimination on the basis of race, color, religion, sex, or national origin.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 98-525, title XIV, §1405(19)(A), (B)(i), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 100-456, div. A, title VIII, §846(a)(1), Sept. 29, 1988, 102 Stat. 2027; Pub. L. 101-225, title II, §202, Dec. 12, 1989, 103 Stat. 1910; Pub. L. 103-337, div. A, title V, §531(a)-(g)(1), Oct. 5, 1994, 108 Stat. 2756-2758; Pub. L. 105-261, div. A, title IX, §933, Oct. 17, 1998, 112 Stat. 2107; Pub. L. 106-398, §1 [[div. A], title IX, §903], Oct. 30, 2000, 114 Stat. 1654, 1654A-224; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-375, div. A, title V, §591(a), Oct. 28, 2004, 118 Stat. 1933; Pub. L. 110-181, div. A, title X, §1063(a)(8), Jan. 28, 2008, 122 Stat. 322.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1034	50 App.:454(a) (last par.)	June 24, 1948, ch. 625, §4(a) (last par.); re-stated June 19, 1951, ch. 144, §1(d) (last par.), 65 Stat. 78.

The words “prevented”, “directly or indirectly”, “concerning any subject”, “or Members”, and “and safety” are omitted as surplusage. The word “unlawful” is substituted for the words “in violation of law”.

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (b)(1)(B)(ii), is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (b)(2). Pub. L. 110-181 inserted “unfavorable” before “action and the withholding”.

2004—Subsec. (b)(1)(B)(iv), (v). Pub. L. 108-375 added cls. (iv) and (v) and struck out former cl. (iv) which read as follows: “any other person or organization (including any person or organization in the chain of command) designated pursuant to regulations or other established administrative procedures for such communications.”

2002—Subsecs. (c)(5), (e)(1), (3), (h), (i)(2)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2000—Subsec. (c)(3)(A). Pub. L. 106-398, §1 [[div. A], title IX, §903(a)], inserted “, in accordance with regulations prescribed under subsection (h),” after “shall expeditiously determine”.

Subsec. (i)(2). Pub. L. 106-398, §1 [[div. A], title IX, §903(b)(1)], inserted “any of” after “means” in introductory provisions.

Subsec. (i)(2)(C) to (G). Pub. L. 106-398, §1 [[div. A], title IX, §903(b)(2), (3)], added subpar. (C) and struck out former subpars. (C) to (G) which read as follows:

“(C) The Inspector General of the Army, in the case of a member of the Army.

“(D) The Naval Inspector General, in the case of a member of the Navy.

“(E) The Inspector General of the Air Force, in the case of a member of the Air Force.

“(F) The Deputy Naval Inspector General for Marine Corps Matters, in the case of a member of the Marine Corps.

“(G) An officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces.”

1998—Subsec. (b)(1)(B)(ii). Pub. L. 105-261, §933(f)(2), substituted “subsection (i) or any other Inspector General appointed under the Inspector General Act of 1978” for “subsection (j)”.

Subsec. (c)(1). Pub. L. 105-261, §933(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows:

“If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation. If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.”

Subsec. (c)(2)(B). Pub. L. 105-261, §933(b), substituted “Gross mismanagement” for “Mismanagement”.

Subsec. (c)(3) to (5). Pub. L. 105-261, §933(a)(1)(B), added pars. (3) to (5) and struck out former par. (3) which read as follows: “The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.”

Subsec. (d). Pub. L. 105-261, §933(a)(2), inserted “receiving the allegation” after “, the Inspector General” and “In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that responsibility to the Inspector General of the armed force concerned.” at end.

Subsec. (e)(1). Pub. L. 105-261, §933(c)(1), substituted “After completion of an investigation under subsection (c) or (d) or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E), the Inspector General conducting the investigation shall submit a report on” for “Not later than 30 days after completion of an investigation under subsection (c) or (d), the Inspector General shall submit a report on” and inserted “shall transmit a copy of the report on the results of the investigation to” before “the member of the armed forces” and “The report shall be transmitted to the Secretary, and the copy of the report shall be transmitted to the member, not later than 30 days after the completion of the investigation or, in the case of an investigation under subsection (c) by an Inspector General within a military department, after approval of the report of that investigation under subsection (c)(3)(E).” at end.

Subsec. (e)(2). Pub. L. 105-261, §933(c)(2), substituted “transmitted” for “submitted” and inserted at end “However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member, if the member requests the items, with the copy of the report or after the transmittal to the member of the copy of the report, regardless of whether the request for those items is made before or after the copy of the report is transmitted to the member.”

Subsec. (e)(3). Pub. L. 105-261, §933(c)(3), substituted “180 days” for “90 days”.

Subsec. (h). Pub. L. 105-261, §933(f)(1), redesignated subsec. (i) as (h).

Pub. L. 105-261, §933(d), struck out heading and text of subsec. (h). Text read as follows: “After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter.”

Subsec. (i). Pub. L. 105-261, §933(f)(1), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 105-261, §933(f)(1), redesignated subsec. (j) as (i).

Subsec. (j)(2). Pub. L. 105-261, §933(e), substituted “means the following:” for “means—” in introductory provisions, added subpars. (A) to (F), redesignated former subpar. (B) as (G) and substituted “An officer” for “an officer” in that subpar., and struck out former subpar. (A) which read as follows: “an Inspector General appointed under the Inspector General Act of 1978; and”.

1994—Pub. L. 103-337, §531(g)(1), substituted “Protected communications” for “Communicating with a Member of Congress or Inspector General” in section catchline.

Subsec. (b). Pub. L. 103-337, §531(a), inserted “(1)” before “No person may take”, substituted “or preparing—” for “or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted.”, added subpars. (A) and (B), inserted “(2)” before “Any action prohibited”, and substituted “paragraph (1)” for “the preceding sentence”.

Subsec. (c). Pub. L. 103-337, §531(b)(3), substituted “Allegations of Prohibited Personnel Actions” for “Certain Allegations” in heading.

Subsec. (c)(1). Pub. L. 103-337, §531(b)(1), inserted at end “If, in the case of an allegation submitted to the Inspector General of the Department of Defense, the Inspector General delegates the conduct of the investigation of the allegation to the inspector general of one of the armed forces, the Inspector General of the Department of Defense shall ensure that the inspector general conducting the investigation is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.”

Subsec. (c)(2). Pub. L. 103-337, §531(b)(2), added par. (2) and struck out former par. (2) which read as follows: “A communication described in this paragraph is a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted in which the member of the armed forces makes a complaint or discloses information that the member reasonably believes constitutes evidence of—

“(A) a violation of a law or regulation; or

“(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”

Subsec. (c)(4). Pub. L. 103-337, §531(c)(2), struck out par. (4) which read as follows: “If the Inspector General has not already done so, the Inspector General shall commence a separate investigation of the information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (2). The Inspector General is not required to make such an investigation if the information that the member believes evidences wrongdoing relates to actions which took place during combat.”

Subsec. (c)(5). Pub. L. 103-337, §531(d)(1), redesignated subsec. (c)(5) as subsec. (e)(1).

Subsec. (c)(6), (7). Pub. L. 103-337, §531(d)(4), redesignated subsec. (c)(6) and (7) as subsec. (e)(3) and (4), respectively.

Subsec. (d). Pub. L. 103-337, §531(c)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 103-337, §531(d)(1), redesignated subsec. (c)(5) as subsec. (e) and inserted subsec. heading and par. (1) designation before “Not later than 30 days”. Former subsec. (e) redesignated (g).

Subsec. (e)(1). Pub. L. 103-337, §531(d)(2), substituted “subsection (c) or (d)” for “this subsection” and “the member of the armed forces who made the allegation investigated” for “the member of the armed forces concerned” and struck out at end “In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.”

Subsec. (e)(2). Pub. L. 103-337, §531(d)(3), added par. (2).

Subsec. (e)(3). Pub. L. 103-337, §531(d)(4), (5), redesignated subsec. (c)(6) as subsec. (e)(3) and substituted “paragraph (1)” for “paragraph (5)”.

Subsec. (e)(4). Pub. L. 103-337, §531(d)(4), redesignated subsec. (c)(7) as subsec. (e)(4).

Subsec. (f). Pub. L. 103-337, §531(c)(1), (f)(1), redesignated subsec. (d) as (f) and substituted “subsection (e)(1)” for “subsection (c)(5)” in pars. (2)(A), (3)(A)(i) and (B). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 103-337, §531(c)(1), (f)(2), redesignated subsec. (e) as (g) and substituted “subsection (f)” for “subsection (d)”. Former subsec. (g) redesignated (i).

Subsecs. (h), (i). Pub. L. 103-337, §531(c)(1), redesignated subsecs. (f) and (g) as (h) and (i), respectively. Former subsec. (h) redesignated (j).

Subsec. (j). Pub. L. 103-337, §531(c)(1), (e), redesignated subsec. (h) as (j) and added par. (3).

1989—Subsec. (c)(1). Pub. L. 101-225, §202(1), inserted “when the Coast Guard is not operating as a service in the Navy” after “Coast Guard”.

Subsec. (c)(5). Pub. L. 101-225, §202(2), inserted “(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)” after “Secretary of Defense”.

Subsec. (c)(6). Pub. L. 101-225, §202(3), inserted “(or to the Secretary of Transportation in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)” after “Secretary of Defense”.

Subsec. (e). Pub. L. 101-225, §202(4), inserted “(except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy)” after “armed forces”.

1988—Pub. L. 100-456 substituted “Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions” for “Communicating with a Member of Congress” in section catchline, and amended text generally. Prior to amendment, text read as follows: “No person may restrict any member of an armed force in communicating with a Member of Congress, unless the communication is unlawful or violates a regulation necessary to the security of the United States.”

1984—Pub. L. 98-525 substituted “Member” for “member” in section catchline and text.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title V, §591(b), Oct. 28, 2004, 118 Stat. 1933, provided that: “The amendments made by this section [amending this section] apply with respect to any unfavorable personnel action taken or threatened, and any withholding of or threat to withhold a favorable personnel action, on or after the date of the enactment of this Act [Oct. 28, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 846(d) of Pub. L. 100-456 provided that: “The amendment to section 1034 of title 10, United States Code, made by subsection (a)(1), shall apply with respect to any personnel action taken (or threatened to be taken) on or after the date of the enactment of this Act [Sept. 29, 1988] as a reprisal prohibited by subsection (b) of that section.”

REGULATIONS

Section 531(h), (i) of Pub. L. 103-337 provided that: “(h) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe regulations to implement the amendments made by this section [amending this section] not later than 120 days after the date of the enactment of this Act [Oct. 5, 1994].

“(i) CONTENT OF REGULATIONS.—In prescribing regulations under section 1034 of title 10, United States Code, as amended by this section, the Secretary of Defense and the Secretary of Transportation shall provide for appropriate procedural protections for the subject of any investigation carried out under the provisions of that section, including a process for appeal and review of investigative findings.”

Section 846(b) of Pub. L. 100-456 provided that: “The Secretary of Defense and the Secretary of Transportation shall prescribe the regulations required by subsection (g) [now (h)] of section 1034 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act [Sept. 29, 1988].”

WHISTLEBLOWER PROTECTIONS FOR MEMBERS OF ARMED FORCES

Pub. L. 102-190, div. A, title VIII, §843, Dec. 5, 1991, 105 Stat. 1449, provided that:

“(a) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations prohibiting members of the Armed Forces from taking or threatening to take any unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, as a reprisal against any member of the Armed Forces for making or preparing a lawful communication to any employee of the Department of Defense or any member of the Armed Forces who is assigned to or belongs to an organization which has as its primary responsibility audit, inspection, investigation, or enforcement of any law or regulation.

“(b) VIOLATIONS BY PERSONS SUBJECT TO THE UCMJ.—The Secretary shall provide in the regulations that a violation of the prohibition by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is punishable as a violation of section 892 of such title (article 92 of the Uniform Code of Military Justice).

“(c) DEADLINE.—The regulations required by this section shall be prescribed not later than 180 days after the date of the enactment of this Act [Dec. 5, 1991].”

REPORT ON ACTIVITIES OF INSPECTOR GENERAL

Section 846(c) of Pub. L. 100-456 directed Inspector General of Department of Defense (and Inspector General of Department of Transportation with respect to Coast Guard) to submit, not later than Feb. 1, 1990, a report to Congress on activities of Inspector General under this section, with that report to include, in the case of each case handled by Inspector General under this section, a description of (A) nature of allegation described in subsec. (c) of this section; (B) evaluation and recommendation of Inspector General with respect to allegation; (C) any action of appropriate board for correction of military records with respect to allegation; (D) if allegation was determined to be meritorious, any corrective action taken; and (E) views of member or former member of armed forces making allega-

tion (determined on basis of interview under subsec. (f) of this section) on disposition of case.

§ 1035. Deposits of savings

(a) Under joint regulations prescribed by the Secretaries concerned, a member of the armed forces who is on a permanent duty assignment outside the United States or its possessions may deposit during that tour of duty not more than his unallotted current pay and allowances in amounts of \$5 or more, with any branch, office, or officer of a uniformed service. Amounts so deposited shall be deposited in the Treasury and kept as a separate fund, and shall be accounted for in the same manner as public funds.

(b) Interest at a rate prescribed by the President, not to exceed 10 percent a year, will accrue on amounts deposited under this section. However, the maximum amount upon which interest may be paid under this subsection to any member is \$10,000, except that such limitation shall not apply to deposits made on or after September 1, 1966, in the case of those members in a missing status during the Vietnam conflict, the Persian Gulf conflict, or a contingency operation. Interest under this subsection shall terminate 90 days after the member's return to the United States or its possessions.

(c) Except as provided in joint regulations prescribed by the Secretaries concerned, payments of deposits, and interest thereon, may not be made to the member while he is on duty outside the United States or its possessions.

(d) An amount deposited under this section, with interest thereon, is exempt from liability for the member's debts, including any indebtedness to the United States or any instrumentality thereof, and is not subject to forfeiture by sentence of a court-martial.

(e) The Secretary concerned, or his designee, may in the interest of a member who is in a missing status or his dependents, initiate, stop, modify, and change allotments, and authorize a withdrawal of deposits, made under this section, even though the member had an opportunity to deposit amounts under this section and elected not to do so. Interest may be computed from the day the member entered a missing status, or September 1, 1966, whichever is later.

(f) The Secretary of Defense may authorize a member of the armed forces who is on a temporary duty assignment outside of the United States or its possessions in support of a contingency operation to make deposits of unallotted current pay and allowances during that duty as provided in subsection (a). The Secretary shall prescribe regulations establishing standards and procedures for the administration of this subsection.

(g) In this section:

(1) The term “missing status” has the meaning given that term in section 551(2) of title 37.

(2) The term “Vietnam conflict” means the period beginning on February 28, 1961, and ending on May 7, 1975.

(3) The term “Persian Gulf conflict” means the period beginning on January 16, 1991, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 80; Pub. L. 89-538, §1(1), Aug. 14, 1966, 80 Stat. 347; Pub. L.

90-122, §1, Nov. 3, 1967, 81 Stat. 361; Pub. L. 91-200, Feb. 26, 1970, 84 Stat. 16; Pub. L. 98-525, title XIV, §1405(20), Oct. 19, 1984, 98 Stat. 2623; Pub. L. 99-661, div. A, title XIII, §1343(a)(3), Nov. 14, 1986, 100 Stat. 3992; Pub. L. 102-25, title III, §310, Apr. 6, 1991, 105 Stat. 84; Pub. L. 102-190, div. A, title VI, §639, Dec. 5, 1991, 105 Stat. 1384.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1035(a)	10:908(a) (less words after last semicolon). 34:937 (less words after last semicolon).	July 15, 1954, ch. 513, §§1-3, 68 Stat. 485.
1035(b)	10:908b (1st 20, and last 13, words). 34:938 (1st 20, and last 13, words).	
1035(c)	10:908a (words after last semicolon). 10:908b (less 1st 20, and last 13, words). 34:937 (words after last semicolon). 34:938 (less 1st 20, and last 13, words).	
1035(d)	10:908c. 34:939.	

In subsection (a), the words "in amounts of \$5 or more" are substituted for the words "in sums not less than \$5". 10:908a (words before 1st semicolon of last sentence) and 34:937 (words before 1st semicolon of last sentence) are omitted as covered by subsection (c).

In subsection (b), the word "accrues" is substituted for the words "shall be paid".

In subsection (c), the words "not less than \$5" are omitted as surplusage.

AMENDMENTS

1991—Subsec. (b). Pub. L. 102-190, §639(a), substituted "the Persian Gulf conflict, or a contingency operation" for "or during the Persian Gulf conflict" before period at end of second sentence and struck out at end "For purposes of this subsection, the Vietnam conflict begins on February 28, 1961, and ends on May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law."

Pub. L. 102-25, §310(a), (c)(1), struck out "as defined in section 551(2) of title 37," after "missing status", inserted "or during the Persian Gulf conflict" before period at end of second sentence, and substituted "May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law" for "the date designated by the President by Executive order as the date of the termination of combatant activities in Vietnam".

Subsec. (e). Pub. L. 102-25, §310(c)(2), struck out "(as defined in section 551(2) of title 37)" after "in a missing status".

Subsec. (f). Pub. L. 102-190, §639(b), added subsec. (f) and redesignated former subsec. (f) as (g).

Pub. L. 102-25, §310(b), added subsec. (f).

Subsec. (g). Pub. L. 102-190, §639(b)(1), (c), redesignated subsec. (f) as (g) and amended it generally. Prior to amendment, subsec. (g) read as follows: "In this section, the term 'missing status' has the meaning given such term in section 551(2) of title 37."

1986—Subsec. (a). Pub. L. 99-661 substituted "armed forces" for "armed force".

1984—Subsec. (b). Pub. L. 98-525 substituted "percent" for "per centum", "subsection" for "Act" after "paid under this", and "90" for "ninety".

1970—Subsec. (b). Pub. L. 91-200 permitted accrual of interest on savings above \$10,000 ceiling in case of soldiers involved in Vietnam conflicts who have made deposits on or after Sept. 1, 1966, and who are in missing status contemplated by section 551(2) of Title 37, and set out duration of Vietnam conflict as starting Feb.

28, 1961, and ending on the date that the President may designate by Executive order.

1967—Subsec. (e). Pub. L. 90-122 added subsec. (e).

1966—Subsec. (a). Pub. L. 89-538 permitted not only enlisted personnel but any member of the armed forces, provided he is on permanent duty outside the United States, to participate in the savings program organized under this section and changed the fund into which such savings deposits are made.

Subsec. (b). Pub. L. 89-538 changed rate of interest from 4 per centum per annum to a rate prescribed by the President, not to exceed 10 per centum per annum, did away with the necessity that amounts be on deposit for six months or more, set a maximum of \$10,000 upon which interest shall be paid, and provided for termination of interest 90 days after the member's return to the United States or its possessions.

Subsec. (c). Pub. L. 89-538 substituted provisions that, unless changed by joint regulations of the Secretaries concerned, payments of deposits and interest may not be made to the individual while stationed outside of the United States, for provisions that payment of deposits and interest could be made only to the member upon discharge, or before discharge as prescribed by the Secretary concerned, or to the member's heirs or legal representatives.

Subsec. (d). Pub. L. 89-538 reenacted subsec. (d) substantially without change.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 2 of Pub. L. 90-122 provided that: "This Act [amending this section] becomes effective as of September 1, 1966."

SAVINGS PROGRAM FOR OVERSEAS PERSONNEL

Pub. L. 101-510, div. A, title XI, §1114, Nov. 5, 1990, 104 Stat. 1636, as amended by Pub. L. 102-25, title III, §314(1), (3), Apr. 6, 1991, 105 Stat. 86, directed the Secretary of Defense to prescribe regulations establishing standards and procedures for the administration of a program to authorize members of the Armed Forces serving outside the United States during the Persian Gulf conflict to make deposits of unallotted current pay and allowances and to earn interest under this section.

ADJUSTMENT OF DEPOSIT ACCOUNTS OF CERTAIN ENLISTED MEN

Pub. L. 89-738, Nov. 2, 1966, 80 Stat. 1165, provided: "That the Secretary of a military department or his designee, shall adjust the deposit account of any enlisted member or former enlisted member of the Army, Navy, Air Force, or Marine Corps, as the case may be, who, after July 14, 1954, and before the effective date of this Act [Nov. 2, 1966], upon discharge and immediate reenlistment or retirement and immediate recall to active duty, continued, without withdrawal and re-deposit, his account for deposits made under section 1035 of title 10, United States Code, or prior laws authorizing enlisted members' deposits, to show that his deposits and interest accrued thereon were withdrawn and redeposited on the date of such reenlistment or recall to active duty.

"SEC. 2. The Secretary of the military department concerned, or his designee, shall pay to a former enlisted member described in section 1 of this Act any amount found due as a result of the adjustment prescribed by that section if he submits an application within two years following the date of enactment of this Act [Nov. 2, 1966]. If the member is currently serving on active duty and has an active deposit account, the amount due him will automatically be credited to such account. In the case of a deceased member, application under this section shall be made within two years following the date of enactment of this Act [Nov. 2, 1966] by the person determined to be eligible under section 2771 of Title 10, United States Code.

"SEC. 3. All payments heretofore made which would, but for the fact of such payment, be payable under this

Act are validated. However, if such a payment has been repaid to the United States, the fact of payment shall not affect entitlement under this Act."

RATES OF INTEREST ON DEPOSITS MADE BEFORE
AUG. 14, 1966

Section 2 of Pub. L. 89-538 provided that:

"(a) Notwithstanding the first section of this Act [amending this section], an amount on deposit under section 1035 of title 10, United States Code, on the date of enactment of this Act [Aug. 14, 1966], shall accrue interest at the rate and under the conditions in effect on the day before the date of enactment of this Act [Aug. 14, 1966], until the member's current enlistment terminates or earlier, as may be jointly prescribed by the Secretaries concerned. However, a member who is on a permanent duty assignment outside the United States or its possessions on the date of enactment of this Act [Aug. 14, 1966], or who reports for that duty on or after that date but before the termination of his current enlistment, will be entitled to interest on such deposit, on and after that date, at the rate and under the conditions prescribed pursuant to section 1 [amending this section]. Payments of deposits, and interest thereon, may be made to the member's heirs or legal representatives.

"(b) Any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] while a member was assigned to permanent duty within the United States and its possessions, and any amounts deposited between May 4, 1966, and the date of enactment of this Act [Aug. 14, 1966] by a member on permanent duty assignment outside the United States and its possessions which are in excess of his unallotted pay and allowances for that period, shall accrue interest at the rate in effect before enactment of this Act."

EXTENSION OF COVERAGE TO PUBLIC HEALTH SERVICE
AND COAST AND GEODETIC SURVEY PERSONNEL;
RULES AND REGULATIONS

Section 3(c) of Pub. L. 89-538 provided that: "Regulations prescribed by the Secretary of Commerce and the Secretary of Health, Education, and Welfare [now Health and Human Services] under subsections (a) and (b) [extending savings deposits benefits to commissioned officers of the Public Health Service and the Coast and Geodetic Survey (now the National Oceanic and Atmospheric Administration), respectively] shall be prescribed jointly with regulations prescribed by the Secretaries concerned under section 1035 of title 10, United States Code."

PUBLIC HEALTH SERVICE

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

EX. ORD. NO. 11298. INTEREST RATE

Ex. Ord. No. 11298, Aug. 14, 1966, 31 F.R. 10915, provided:

By virtue of the authority vested in me by Section 1035 of Title 10 of the United States Code, as amended by the Act of August 14, 1966, I hereby prescribe that amounts deposited by members of the uniformed services under that Section shall accrue interest at the rate of ten percent per annum, compounded quarterly.

This order shall be effective September 1, 1966.

LYNDON B. JOHNSON.

§ 1036. Escorts for dependents of members: transportation and travel allowances

Under regulations to be prescribed by the Secretary concerned, round trip transportation and travel allowances may be paid to any person for travel performed or to be performed under competent orders as an escort for dependents of a member of the armed forces, if the travel is performed not later than one year after the member—

- (1) dies;
- (2) is missing; or
- (3) is otherwise unable to accompany his dependents;

and it has been determined that travel by the dependents is necessary and that they are incapable of traveling alone because of age, mental or physical incapacity, or other extraordinary circumstances. Such allowances may be paid in advance.

(Added Pub. L. 86-160, §1(1), Aug. 14, 1959, 73 Stat. 358; amended Pub. L. 98-94, title IX, §913(a), Sept. 24, 1983, 97 Stat. 640.)

AMENDMENTS

1983—Pub. L. 98-94 inserted sentence allowing the payment of allowances in advance.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 913(c) of Pub. L. 98-94 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1040 of this title] shall apply to travel performed by escorts or attendants of dependents on or after the date of the enactment of this Act [Sept. 24, 1983]."

BACK PAYMENTS: VALIDATION; APPLICATION; LIMITATIONS; ACCOUNTABILITY OF DISBURSING OFFICERS; REGULATIONS

Sections 4-7 of Pub. L. 86-160 provided that:

"SEC. 4. Travel and transportation allowances paid before the effective date of this Act [Aug. 14, 1959] to persons ordered by competent authority to escort dependents of members of the uniformed services are hereby validated, if they would have been authorized under section 1 of this Act [enacting this section].

"SEC. 5. Any person who was ordered by competent authority after January 1, 1950, and before the effective date of this Act [Aug. 14, 1959] to escort dependents of members of the uniformed services and who has not been paid travel and transportation allowances, or who has repaid the United States the amount so paid to him, is entitled to be paid the amount otherwise authorized by section 1 of this Act [enacting this section], if application for such payment is made not later than one year after the effective date of this Act [Aug. 14, 1959].

"SEC. 6. The Comptroller General of the United States, or his designee, shall relieve disbursing officers, including special disbursing agents, from accountability or responsibility for any payments described in section 4 of this Act, and shall allow credits in the settlement of the accounts of those disbursing officers or agents for payments which are found to be free from fraud or collusion.

"SEC. 7. No regulations under section 1 of this Act [enacting this section] relating to the military departments shall be prescribed by the Secretary of a military department unless such regulations are first approved under procedures prescribed by the Secretary of Defense. Regulations of the Secretaries of the Treasury, Commerce, and Health, Education, and Welfare [now Health and Human Services] under section 1, 2, or 3 of this Act [enacting this section and amending section 857a of Title 33, Navigation and Navigable Waters,

and section 213a of Title 42, The Public Health and Welfare] shall, to the extent practicable, agree with regulations so approved."

PUBLIC HEALTH SERVICE

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

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

§ 1037. Counsel before foreign judicial tribunals and administrative agencies; court costs and bail

(a) Under regulations to be prescribed by him, the Secretary concerned may employ counsel, and pay counsel fees, court costs, bail, and other expenses incident to the representation, before the judicial tribunals and administrative agencies of any foreign nation, of persons subject to the Uniform Code of Military Justice and of persons not subject to the Uniform Code of Military Justice who are employed by or accompanying the armed forces in an area outside the United States and the territories and possessions of the United States, the Northern Mariana Islands, and the Commonwealth of Puerto Rico. So far as practicable, these regulations shall be uniform for all armed forces.

(b) The person on whose behalf a payment is made under this section is not liable to reimburse the United States for that payment, unless he is responsible for forfeiture of bail provided under subsection (a).

(c) Appropriations available to the military department concerned or the Department of Homeland Security, as the case may be, for the pay of persons under its jurisdiction may be used to carry out this section.

(Added Pub. L. 85-861, §1(24)(A), Sept. 2, 1958, 72 Stat. 1445; amended Pub. L. 96-513, title I, §511(31), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 99-145, title VI, §681(a), Nov. 8, 1985, 99 Stat. 665; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1037(a)	50:751. 50:752.	July 24, 1956, ch. 689 (less §3), 70 Stat. 630.
1037(b)	50:754.	
1037(c)	50:755.	

In subsection (a), the words "Under regulations to be prescribed by him" and the last sentence are substituted for 50:752.

In subsection (b), the words "subject to the Uniform Code of Military Justice" are omitted as surplusage.

In subsection (c), the words "the terms and provisions of" are omitted as surplusage.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in subsec. (a), is classified to chapter 47 (§801 et seq.) of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-296 substituted "Department of Homeland Security" for "Department of Transportation".

1985—Subsec. (a). Pub. L. 99-145 provided for payment of expenses for legal representation of civilians overseas.

1980—Subsec. (c). Pub. L. 96-513 substituted "Department of Transportation" for "Department of the Treasury".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 681(b) of Pub. L. 99-145 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to costs incurred after September 30, 1985."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 1038. Service credit: certain service in Women's Army Auxiliary Corps

In computing years of active service of any female member of the armed forces, there shall be credited for all purposes, except the right to promotion, in addition to any other service that may be credited, all active service performed in the Women's Army Auxiliary Corps after May 13, 1942, and before September 30, 1943, if that member performed active service in the armed forces after September 29, 1943. Service as an officer in the Women's Army Auxiliary Corps shall be credited as active service in the status of a commissioned officer, and service as an enrolled member of the Corps shall be credited as active service in the status of an enlisted member.

(Added Pub. L. 86-142, §1(1), Aug. 7, 1959, 73 Stat. 289.)

ELECTION OF PENSION OR COMPENSATION

Section 2 of Pub. L. 86-142 provided that a person entitled to a pension or compensation under any law administered by the Veterans' Administration, based on the active service described in section 1 of Pub. L. 86-142, which added section 1038 to Title 10, Armed Forces, could elect within 1 year after Aug. 7, 1959 to receive that pension or compensation in lieu of any compensation under the Federal Employees' Compensation Act; that such an election is irrevocable; and that the election does not entitle that person to the pension or compensation for any period before the date of election.

BACK PAY OR ALLOWANCES

Section 3 of Pub. L. 86-142 provided that: "No person is entitled to back pay or allowances because of any service credited under section 1 of this Act [enacting this section]."

§ 1039. Crediting of minority service

For the purpose of determining eligibility for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, entitlement to retired or retainer pay, and years of service in computing retired or retainer pay of a member of the armed forces, any service which would be

creditable but for the fact that it was performed by him under an enlistment or induction entered into before he attained the age prescribed by law for that enlistment or induction, shall be credited.

(Added Pub. L. 87-165, §1(1), Aug. 25, 1961, 75 Stat. 401.)

EFFECTIVE DATE

Section 2 of Pub. L. 87-165 provided that: "Section 1 [enacting this section] applies to service performed, and retirements or transfers to the Fleet Reserve or the Fleet Marine Corps Reserve effected, before and after this Act takes effect [Aug. 25, 1961]."

§ 1040. Transportation of dependent patients

(a) Except as provided in subsection (b), if a dependent accompanying a member of the uniformed services who is stationed outside the United States or in Alaska or Hawaii and who is on active duty for a period of more than 30 days requires medical attention which is not available in the locality, transportation of the dependents at the expense of the United States is authorized to the nearest appropriate medical facility in which adequate medical care is available. On his recovery or when it is administratively determined that the patient should be removed from the medical facility involved, the dependent may be transported at the expense of the United States to the duty station of the member or to such other place determined to be appropriate under the circumstances. If a dependent is unable to travel unattended, round-trip transportation and travel expenses may be furnished necessary attendants. In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance.

(b) This section does not authorize transportation and travel expenses for a dependent for elective surgery which is determined to be not medically indicated by a medical authority designated under joint regulations to be prescribed under this section.

(c) In this section, the term "dependent" has the meaning given that term in section 1072 of this title.

(d) Transportation and travel expenses authorized by this section shall be furnished in accordance with joint regulations to be prescribed by the Secretary of Transportation, the Secretary of Defense, the Secretary of Commerce, and the Secretary of Health and Human Services, which shall require the use of transportation facilities of the United States insofar as practicable.

(Added Pub. L. 89-140, §1(1), Aug. 28, 1965, 79 Stat. 579; amended Pub. L. 96-513, title V, §511(32), Dec. 12, 1980, 94 Stat. 2922; Pub. L. 98-94, title IX, §913(b), Sept. 24, 1983, 97 Stat. 640; Pub. L. 98-525, title VI, §611, title XIV, §1405(21), Oct. 19, 1984, 98 Stat. 2538, 2623; Pub. L. 99-348, title

III, §304(a)(2), July 1, 1986, 100 Stat. 703; Pub. L. 99-661, div. A, title VI, §616(a), Nov. 14, 1986, 100 Stat. 3880.)

CODIFICATION

Another section 1040 was renumbered section 1041 of this title.

Another section 1040, related to free postage from combat zones, was added by Pub. L. 89-132, §9(a), Aug. 21, 1965, 79 Stat. 548, prior to repeal by Pub. L. 89-315, §3(a), Nov. 1, 1965, 79 Stat. 1164. See section 3401 et seq. of Title 39, Postal Service.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-661 substituted "In addition to transportation of a dependent at the expense of the United States authorized under this subsection, reasonable travel expenses incurred in connection with the transportation of the dependent may be paid at the expense of the United States. Travel expenses authorized by this section may include reimbursement for necessary local travel in the vicinity of the medical facility involved. The transportation and travel expenses authorized by this section may be paid in advance" for "and such expenses may be paid in advance".

Subsec. (c). Pub. L. 99-348 substituted "In this section, the term 'dependent' has the meaning given that term in" for "'Dependent' and 'uniformed services' in this section have the meanings of those terms as defined in".

1984—Subsec. (a). Pub. L. 98-525, §1405(21), substituted "30" for "thirty".

Pub. L. 98-525, §611, made provisions of section applicable to a dependent accompanying a member of the uniformed services stationed in Alaska or Hawaii.

1983—Subsec. (a). Pub. L. 98-94 inserted "and such expenses may be paid in advance" after "attendants".

1980—Subsec. (d). Pub. L. 96-513 substituted "Secretary of Transportation" and "Secretary of Health and Human Services" for "Secretary of the Treasury" and "Secretary of Health, Education, and Welfare", respectively.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 616(b) of Pub. L. 99-661 provided that: "The amendment made by subsection (a) [amending this section] shall apply only to travel performed on or after the date of the enactment of this Act [Nov. 14, 1986]."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 611 of Pub. L. 98-525 provided that the amendment made by that section is effective Oct. 1, 1984.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-94 applicable to travel performed by escorts or attendants of dependents on or after Sept. 24, 1983, see section 913(c) of Pub. L. 98-94, set out as a note under section 1036 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

§ 1041. Replacement of certificate of discharge

If satisfactory proof is presented that a person who was discharged honorably or under honorable conditions has lost his certificate of discharge from an armed force or that it was destroyed without his procurement or connivance, the Secretary concerned may give that person, or his surviving spouse, a certificate of that discharge, indelibly marked to show that it is a certificate in place of the lost or destroyed certificate. A certificate given under this section may not be accepted as a voucher for the pay-

ment of a claim against the United States for pay, bounty, or other allowance, or as evidence in any other case.

(Added Pub. L. 90-235, §7(a)(2)(A), Jan. 2, 1968, 81 Stat. 762, §1040; renumbered §1041, Pub. L. 96-513, title V, §511(33)(A), Dec. 12, 1980, 94 Stat. 2922.)

§ 1042. Copy of certificate of service

A fee for a copy of a certificate showing service in the armed forces may not be charged to—

- (1) a person discharged or released from the armed forces honorably or under honorable conditions;
- (2) the next of kin of the person; or
- (3) a legal representative of the person.

(Added Pub. L. 97-258, §2(b)(2)(B), Sept. 13, 1982, 96 Stat. 1052.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1042	31:483b.	June 19, 1956, ch. 409, 70 Stat. 297.

The words “armed forces” are substituted for “Army, Navy, Air Force, Marine Corps, or Coast Guard” because of 10:101(4). The words “honorably or” are added for consistency with 10:1040.

§ 1043. Service credit: service in the National Oceanic and Atmospheric Administration or the Public Health Service

Active commissioned service in the National Oceanic and Atmospheric Administration or the Public Health Service shall be credited as active commissioned service in the armed forces for purposes of determining the retirement eligibility and computing the retired pay of a member of the armed forces.

(Added Pub. L. 98-94, title X, §1007(b)(1), Sept. 24, 1983, 97 Stat. 662.)

§ 1044. Legal assistance

(a) Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with their personal civil legal affairs to the following persons:

- (1) Members of the armed forces who are on active duty.
- (2) Members and former members entitled to retired or retainer pay or equivalent pay.
- (3) Officers of the commissioned corps of the Public Health Service who are on active duty or entitled to retired or equivalent pay.
- (4) Members of reserve components not covered by paragraph (1) or (2) following release from active duty under a call or order to active duty for more than 30 days issued under a mobilization authority (as determined by the Secretary), for a period of time (prescribed by the Secretary) that begins on the date of the release and is not less than twice the length of the period served on active duty under that call or order to active duty.
- (5) Dependents of members and former members described in paragraphs (1), (2), (3), and (4).
- (6) Survivors of a deceased member or former member described in paragraphs (1),

(2), (3), and (4) who were dependents of the member or former member at the time of the death of the member or former member, except that the eligibility of such survivors shall be determined pursuant to regulations prescribed by the Secretary concerned.

(7) Civilian employees of the Federal Government serving in locations where legal assistance from non-military legal assistance providers is not reasonably available, except that the eligibility of civilian employees shall be determined pursuant to regulations prescribed by the Secretary concerned.

(b) Under such regulations as may be prescribed by the Secretary concerned, the Judge Advocate General (as defined in section 801(1) of this title) under the jurisdiction of the Secretary is responsible for the establishment and supervision of legal assistance programs under this section.

(c) This section does not authorize legal counsel to be provided to represent a member or former member of the uniformed services described in subsection (a), or the dependent of such a member or former member, in a legal proceeding if the member or former member can afford legal fees for such representation without undue hardship.

(d)(1) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or civilian attorney who is authorized to provide military legal assistance is authorized to provide that assistance in any jurisdiction, subject to such regulations as may be prescribed by the Secretary concerned.

(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

(3) In this subsection, the term “military legal assistance” includes—

- (A) legal assistance provided under this section; and
- (B) legal assistance contemplated by sections 1044a, 1044b, 1044c, and 1044d of this title.

(e) The Secretary concerned shall define “dependent” for the purposes of this section.

(Added Pub. L. 98-525, title VI, §651(a), Oct. 19, 1984, 98 Stat. 2549; amended Pub. L. 104-201, div. A, title V, §583, Sept. 23, 1996, 110 Stat. 2538; Pub. L. 106-398, §1 [[div. A], title V, §524(a), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108; Pub. L. 109-163, div. A, title V, §555, Jan. 6, 2006, 119 Stat. 3265; Pub. L. 110-181, div. A, title V, §541, Jan. 28, 2008, 122 Stat. 114; Pub. L. 111-84, div. A, title V, §513, Oct. 28, 2009, 123 Stat. 2282.)

AMENDMENTS

2009—Subsec. (a)(4). Pub. L. 111-84 substituted “the Secretary”, for a period of time (prescribed by the Secretary)” for “the Secretary of Defense”, for a period of time, prescribed by the Secretary of Defense.”

2008—Subsec. (a)(6), (7). Pub. L. 110-181 added pars. (6) and (7).

2006—Subsecs. (d), (e). Pub. L. 109-163 added subsec. (d) and redesignated former subsec. (d) as (e).

2000—Subsec. (a)(4). Pub. L. 106-398, §1 [[div. A], title V, §524(a)(2)], added par. (4). Former par. (4) redesignated (5).

Subsec. (a)(5). Pub. L. 106-398, §1 [[div. A], title V, §524(b)], substituted “(3), and (4)” for “and (3)”.

Pub. L. 106-398, § 1 [[div. A], title V, § 524(a)(1)], redesignated par. (4) as (5).

1996—Subsec. (a). Pub. L. 104-201, § 583(d)(1), substituted “to the following persons:” for “to—” in introductory provisions.

Subsec. (a)(1). Pub. L. 104-201, § 583(c), (d)(2), (3), substituted “Members” for “members”, struck out “under his jurisdiction” after “armed forces”, and substituted a period for the semicolon at end.

Subsec. (a)(2). Pub. L. 104-201, § 583(c), (d)(2), (4), substituted “Members and” for “members and”, struck out “under his jurisdiction” after “former members”, and substituted a period for “; and” at end.

Subsec. (a)(3), (4). Pub. L. 104-201, § 583(a), added pars. (3) and (4) and struck out former par. (3) which read as follows: “dependents of members and former members described in clauses (1) and (2).”

Subsec. (c). Pub. L. 104-201, § 583(b), substituted “uniformed services described in subsection (a)” for “armed forces” and inserted “such” after “dependent of”.

REGULATIONS

Pub. L. 106-398, § 1 [[div. A], title V, § 524(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-108, provided that: “Regulations to implement the amendments made by this section [amending this section] shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

§ 1044a. Authority to act as notary

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the armed forces.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the armed forces, including reserve members when not in a duty status, who are designated by regulations of the armed forces or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person’s

offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

(Added Pub. L. 101-510, div. A, title V, § 551(a)(1), Nov. 5, 1990, 104 Stat. 1566; amended Pub. L. 104-201, div. A, title V, § 573, Sept. 23, 1996, 110 Stat. 2534; Pub. L. 107-107, div. A, title XI, § 1103, Dec. 28, 2001, 115 Stat. 1236.)

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107-107, § 1103(a), substituted “legal assistance attorneys” for “legal assistance officers”.

Subsec. (b)(5). Pub. L. 107-107, § 1103(b), added par. (5).

1996—Subsec. (b)(1). Pub. L. 104-201, § 573(1), substituted “, including reserve judge advocates when not in a duty status” for “on active duty or performing inactive-duty training”.

Subsec. (b)(3). Pub. L. 104-201, § 573(2), substituted “adjutants, including reserve members when not in a duty status” for “adjutants on active duty or performing inactive-duty training”.

Subsec. (b)(4). Pub. L. 104-201, § 573(3), substituted “members of the armed forces, including reserve members when not in a duty status,” for “persons on active duty or performing inactive-duty training”.

TRANSFER OF FUNCTIONS

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

§ 1044b. Military powers of attorney: requirement for recognition by States

(A) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—A military power of attorney—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for powers of attorney under the laws of a State; and

(2) shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the State concerned.

(b) MILITARY POWER OF ATTORNEY.—For purposes of this section, a military power of attorney is any general or special power of attorney that is notarized in accordance with section 1044a of this title or other applicable State or Federal law.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, each military power of attorney shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a military power of attorney that does not include a statement described in that paragraph.

(d) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(Added Pub. L. 103-160, div. A, title V, § 574(a), Nov. 30, 1993, 107 Stat. 1674.)

§ 1044c. Advance medical directives of members and dependents: requirement for recognition by States

(a) INSTRUMENTS TO BE GIVEN LEGAL EFFECT WITHOUT REGARD TO STATE LAW.—An advance medical directive executed by a person eligible for legal assistance—

(1) is exempt from any requirement of form, substance, formality, or recording that is provided for advance medical directives under the laws of a State; and

(2) shall be given the same legal effect as an advance medical directive prepared and executed in accordance with the laws of the State concerned.

(b) ADVANCE MEDICAL DIRECTIVES.—For purposes of this section, an advance medical directive is any written declaration that—

(1) sets forth directions regarding the provision, withdrawal, or withholding of life-prolonging procedures, including hydration and sustenance, for the declarant whenever the declarant has a terminal physical condition or is in a persistent vegetative state; or

(2) authorizes another person to make health care decisions for the declarant, under circumstances stated in the declaration, whenever the declarant is incapable of making informed health care decisions.

(c) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed by the Secretary concerned, an advance medical directive prepared by an attorney authorized to provide legal assistance shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to an advance medical directive that does not include a statement described in that paragraph.

(d) STATES NOT RECOGNIZING ADVANCE MEDICAL DIRECTIVES.—Subsection (a) does not make an advance medical directive enforceable in a State that does not otherwise recognize and enforce advance medical directives under the laws of the State.

(e) DEFINITIONS.—In this section:

(1) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and a possession of the United States.

(2) The term “person eligible for legal assistance” means a person who is eligible for legal assistance under section 1044 of this title.

(3) The term “legal assistance” means legal services authorized under section 1044 of this title.

(Added Pub. L. 104-106, div. A, title VII, § 749(a)(1), Feb. 10, 1996, 110 Stat. 388.)

EFFECTIVE DATE OF 1996 AMENDMENT

Section 749(b) of Pub. L. 104-106 provided that: “Section 1044c of title 10, United States Code, shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to advance medical directives referred to in that section that are executed before, on, or after that date.”

§ 1044d. Military testamentary instruments: requirement for recognition by States

(a) TESTAMENTARY INSTRUMENTS TO BE GIVEN LEGAL EFFECT.—A military testamentary instrument—

(1) is exempt from any requirement of form, formality, or recording before probate that is provided for testamentary instruments under the laws of a State; and

(2) has the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the State in which it is presented for probate.

(b) MILITARY TESTAMENTARY INSTRUMENTS.—For purposes of this section, a military testamentary instrument is an instrument that is prepared with testamentary intent in accordance with regulations prescribed under this section and that—

(1) is executed in accordance with subsection (c) by (or on behalf of) a person, as a testator, who is eligible for military legal assistance;

(2) makes a disposition of property of the testator; and

(3) takes effect upon the death of the testator.

(c) REQUIREMENTS FOR EXECUTION OF MILITARY TESTAMENTARY INSTRUMENTS.—An instrument is valid as a military testamentary instrument only if—

(1) the instrument is executed by the testator (or, if the testator is unable to execute the instrument personally, the instrument is executed in the presence of, by the direction of, and on behalf of the testator);

(2) the instrument is executed in the presence of a military legal assistance counsel acting as presiding attorney;

(3) the instrument is executed in the presence of at least two disinterested witnesses (in addition to the presiding attorney), each of whom attests to witnessing the testator’s execution of the instrument by signing it; and

(4) the instrument is executed in accordance with such additional requirements as may be provided in regulations prescribed under this section.

(d) SELF-PROVING MILITARY TESTAMENTARY INSTRUMENTS.—(1) If the document setting forth a military testamentary instrument meets the requirements of paragraph (2), then the signature of a person on the document as the testator, an attesting witness, a notary, or the presiding attorney, together with a written representation of the person’s status as such and the person’s military grade (if any) or other title, is prima facie evidence of the following:

(A) That the signature is genuine.

(B) That the signatory had the represented status and title at the time of the execution of the will.

(C) That the signature was executed in compliance with the procedures required under the regulations prescribed under subsection (f).

(2) A document setting forth a military testamentary instrument meets the requirements of this paragraph if it includes (or has attached to it), in a form and content required under the regulations prescribed under subsection (f), each of the following:

(A) A certificate, executed by the testator, that includes the testator's acknowledgment of the testamentary instrument.

(B) An affidavit, executed by each witness signing the testamentary instrument, that attests to the circumstances under which the testamentary instrument was executed.

(C) A notarization, including a certificate of any administration of an oath required under the regulations, that is signed by the notary or other official administering the oath.

(e) STATEMENT TO BE INCLUDED.—(1) Under regulations prescribed under this section, each military testamentary instrument shall contain a statement that sets forth the provisions of subsection (a).

(2) Paragraph (1) shall not be construed to make inapplicable the provisions of subsection (a) to a testamentary instrument that does not include a statement described in that paragraph.

(f) REGULATIONS.—Regulations for the purposes of this section shall be prescribed jointly by the Secretary of Defense and by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Department of the Navy.

(g) DEFINITIONS.—In this section:

(1) The term "person eligible for military legal assistance" means a person who is eligible for legal assistance under section 1044 of this title.

(2) The term "military legal assistance counsel" means—

(A) a judge advocate (as defined in section 801(13) of this title); or

(B) a civilian attorney serving as a legal assistance officer under the provisions of section 1044 of this title.

(3) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 106-398, §1 [[div. A], title V, §551(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-123; amended Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (f). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

§ 1045. Voluntary withholding of State income tax from retired or retainer pay

(a) The Secretary concerned shall enter into an agreement under this section with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Secretary concerned shall withhold State income tax from the monthly retired or retainer pay of any member or former member entitled to such pay who voluntarily requests such withholding in writing. The amounts withheld during any calendar month

shall be retained by the Secretary concerned and disbursed to the States during the following calendar month.

(b) A member or former member may request that the State designated for withholding be changed and that the withholdings be remitted in accordance with such change. A member or former member also may revoke any request of such member or former member for withholding. Any request for a change in the State designated and any revocation is effective on the first day of the month after the month in which the request or revocation is processed by the Secretary concerned, but in no event later than on the first day of the second month beginning after the day on which the request or revocation is received by the Secretary concerned.

(c) A member or former member may have in effect at any time only one request for withholding under this section and may not have more than two such requests in effect during any one calendar year.

(d)(1) This section does not give the consent of the United States to the application of a statute that imposes more burdensome requirements on the United States than on employers generally or that subjects the United States or any member or former member entitled to retired or retainer pay to a penalty or liability because of this section.

(2) The Secretary concerned may not accept pay from a State for services performed in withholding State income taxes from retired or retainer pay.

(3) Any amount erroneously withheld from retired or retainer pay and paid to a State by the Secretary concerned shall be repaid by the State in accordance with regulations prescribed by the Secretary concerned.

(e) In this section:

(1) The term "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) The term "Secretary concerned" includes the Secretary of Health and Human Services with respect to the commissioned corps of the Public Health Service and the Secretary of Commerce with respect to the commissioned corps of the National Oceanic and Atmospheric Administration.

(Added Pub. L. 98-525, title VI, §654(a), Oct. 19, 1984, 98 Stat. 2551; amended Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 109-163, div. A, title VI, §661, Jan. 6, 2006, 119 Stat. 3314.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-163, in third sentence, substituted "any calendar month" for "any calendar quarter" and "during the following calendar month" for "during the month following that calendar quarter".

1987—Subsec. (e)(1), (2). Pub. L. 100-26 inserted "The term" after each par. designation.

§ 1046. Overseas temporary foster care program

(a) PROGRAM AUTHORIZED.—The Secretary concerned may establish a program to provide temporary foster care services outside the United States for children accompanying members of

the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.

(Added Pub. L. 102-484, div. A, title VI, §651(a), Oct. 23, 1992, 106 Stat. 2425.)

PRIOR PROVISIONS

A prior section 1046, added Pub. L. 98-525, title VII, §708(a)(1), Oct. 19, 1984, 98 Stat. 2572, related to pre-separation counseling, prior to repeal by Pub. L. 101-510, div. A, title V, §502(b)(1), Nov. 5, 1990, 104 Stat. 1557.

§ 1047. Allowance for civilian clothing

(a) MEMBERS TRAVELING IN CONNECTION WITH MEDICAL EVACUATION.—The Secretary of the military department concerned may furnish civilian clothing and luggage to a member at a cost not to exceed \$250, or reimburse a member for the purchase of civilian clothing and luggage in an amount not to exceed \$250, in the case of a member who—

(1) is medically evacuated for treatment in a medical facility by reason of an illness or injury incurred or aggravated while on active duty; or

(2) after being medically evacuated as described in paragraph (1), is in an authorized travel status from a medical facility to another location approved by the Secretary.

(b) CERTAIN ENLISTED MEMBERS.—The Secretary of the military department concerned may furnish civilian clothing, at a cost of not more than \$40, to an enlisted member who is—

(1) discharged for misconduct or unsuitability or under conditions other than honorable;

(2) sentenced by a civil court to confinement in a prison;

(3) interned or discharged as an alien enemy; or

(4) discharged before completion of recruit training under honorable conditions for dependency, hardship, minority, or disability or for the convenience of the Government.

(Added Pub. L. 98-525, title XIV, §1401(d)(1), Oct. 19, 1984, 98 Stat. 2615; amended Pub. L. 108-375, div. A, title V, §584(a), Oct. 28, 2004, 118 Stat. 1929; Pub. L. 110-181, div. A, title VI, §634, Jan. 28, 2008, 122 Stat. 155.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, §101(h) [title VIII, §8024], 98 Stat. 1904, 1928.

Dec. 8, 1983, Pub. L. 98-212, title VII, §727, 97 Stat. 1443.

Dec. 21, 1982, Pub. L. 97-377, title I, §101(c) [title VII, §730], 96 Stat. 1833, 1855.

Dec. 29, 1981, Pub. L. 97-114, title VII, §730, 95 Stat. 1584.

Dec. 15, 1980, Pub. L. 96-527, title VII, §731, 94 Stat. 3086.

Dec. 21, 1979, Pub. L. 96-154, title VII, §731, 93 Stat. 1157.

Oct. 13, 1978, Pub. L. 95-457, title VIII, §831, 92 Stat. 1249.

Sept. 21, 1977, Pub. L. 95-111, title VIII, §830, 91 Stat. 905.

Sept. 22, 1976, Pub. L. 94-419, title VII, §730, 90 Stat. 1296.

Feb. 9, 1976, Pub. L. 94-212, title VII, §730, 90 Stat. 173.

Oct. 8, 1974, Pub. L. 93-437, title VIII, §831, 88 Stat. 1230.

Jan. 2, 1974, Pub. L. 93-238, title VII, §732, 87 Stat. 1044.

Oct. 26, 1972, Pub. L. 92-570, title VII, §732, 86 Stat. 1201.

Dec. 18, 1971, Pub. L. 92-204, title VII, §733, 85 Stat. 733.

Jan. 11, 1971, Pub. L. 91-668, title VIII, §833, 84 Stat. 2036.

Dec. 29, 1969, Pub. L. 91-171, title VI, §633, 83 Stat. 485.

Oct. 17, 1968, Pub. L. 90-580, title V, §532, 82 Stat. 1135.

Sept. 29, 1967, Pub. L. 90-96, title VI, §632, 81 Stat. 247.

Oct. 15, 1966, Pub. L. 89-687, title VI, §633, 80 Stat. 996.

Sept. 29, 1965, Pub. L. 89-213, title VI, §633, 79 Stat. 879.

Aug. 19, 1964, Pub. L. 88-446, title V, §533, 78 Stat. 480.

Oct. 17, 1963, Pub. L. 88-149, title V, §533, 77 Stat. 269.

Aug. 9, 1962, Pub. L. 87-577, title V, §534, 76 Stat. 333.

Aug. 17, 1961, Pub. L. 87-144, title VI, §634, 75 Stat. 381.

July 7, 1960, Pub. L. 86-601, title II, §201, 74 Stat. 340-342.

Aug. 18, 1959, Pub. L. 86-166, title II, §201, 73 Stat. 368-370.

Aug. 22, 1958, Pub. L. 85-724, title III, §301, title IV, §401, title V, §501, 72 Stat. 714, 717, 721.

Aug. 2, 1957, Pub. L. 85-117, title III, §301, title IV, §401, title V, §501, 71 Stat. 314, 316, 321.

July 2, 1956, ch. 488, title III, §301, title IV, §401, title V, §501, 70 Stat. 457, 459, 464.

July 13, 1955, ch. 358, title III, §301, title IV, §401, title V, §501, 69 Stat. 304, 306, 312.

June 30, 1954, ch. 432, title IV, §401, title V, §501, title VI, §601, 68 Stat. 339, 342, 347.

Aug. 1, 1953, ch. 305, title III, §301, title IV, §401, title V, §501, 67 Stat. 339, 342, 348.

July 10, 1952, ch. 630, title III, §301, title IV, §401, title V, §501, 66 Stat. 520, 524, 529.

Oct. 18, 1951, ch. 512, title III, §301, title IV, §401, title V, §501, 65 Stat. 429, 437, 443.

Sept. 6, 1950, ch. 896, Ch. X, title III, §301, title IV, §401, title V, §501, 64 Stat. 735, 743, 749.

Oct. 29, 1949, ch. 787, title III, §301, title IV, §401, title V, §501, 63 Stat. 993, 1006, 1014.

June 24, 1948, ch. 632, 62 Stat. 655.

July 30, 1947, ch. 357, title I, §1, 61 Stat. 557.

July 16, 1946, ch. 583, §1, 60 Stat. 548.

July 3, 1945, ch. 265, §1, 59 Stat. 391.

June 28, 1944, ch. 303, §1, 58 Stat. 580.

July 1, 1943, ch. 185, §1, 57 Stat. 354.

July 2, 1942, ch. 477, §1, 56 Stat. 617.

June 30, 1941, ch. 262, §1, 55 Stat. 373.

June 13, 1940, ch. 343, §1, 54 Stat. 359.

Apr. 26, 1939, ch. 88, §1, 53 Stat. 600.

June 11, 1938, ch. 37, §1, 52 Stat. 650.

July 1, 1937, ch. 423, §1, 50 Stat. 450.

May 15, 1936, ch. 404, §1, title I, 49 Stat. 1286.

Apr. 9, 1935, ch. 54, §1, title I, 49 Stat. 129.

Apr. 26, 1934, ch. 165, title I, 48 Stat. 622.

Mar. 4, 1933, ch. 281, title I, 47 Stat. 1577.

July 14, 1932, ch. 482, title I, 47 Stat. 671.

Feb. 23, 1931, ch. 279, title I, 46 Stat. 1284.

May 28, 1930, ch. 348, title I, 46 Stat. 438.

Feb. 28, 1929, ch. 366, title I, 45 Stat. 1356.

Mar. 23, 1928, ch. 232, title I, 45 Stat. 332.

Feb. 23, 1927, ch. 167, title I, 44 Stat. 1113.

Apr. 15, 1926, ch. 146, title I, 44 Stat. 262.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 inserted “and luggage” after “civilian clothing” in two places in introductory provisions.

2004—Pub. L. 108-375 added subsec. (a), designated existing provisions as subsec. (b), and inserted subsec. (b) heading.

EFFECTIVE DATE OF 2004 AMENDMENT; RETROACTIVE APPLICATION

Pub. L. 108-375, div. A, title V, § 584(b), (c), Oct. 28, 2004, 118 Stat. 1930, provided that:

“(b) EFFECTIVE DATE.—Subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), shall take effect as of October 1, 2004, and (subject to subsection (c)) shall apply with respect to clothing furnished, and reimbursement for clothing purchased, on or after that date.

“(c) RETROACTIVE APPLICATION.—With respect to the period beginning on October 1, 2004, and ending on the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall provide for subsection (a) of section 1047 of title 10, United States Code, as added by subsection (a), to be applied as a continuation of the authority provided in section 1319 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108-11; 117 Stat. 571), as continued in effect during fiscal year 2004 by section 1103 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 117 Stat. 1214).”

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 1048. Gratuity payment to persons discharged for fraudulent enlistment

The Secretary concerned may pay a gratuity of not to exceed \$25 to a person discharged for fraudulent enlistment.

(Added Pub. L. 98-525, title XIV, § 1401(d)(1), Oct. 19, 1984, 98 Stat. 2616.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8006], 98 Stat. 1904, 1923.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 709, 97 Stat. 1439.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 709], 96 Stat. 1833, 1851.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 709, 95 Stat. 1579.

Dec. 15, 1980, Pub. L. 96-527, title VII, § 709, 94 Stat. 3081.

Dec. 21, 1979, Pub. L. 96-154, title VII, § 709, 93 Stat. 1153.

Oct. 13, 1978, Pub. L. 95-457, title VIII, § 809, 92 Stat. 1244.

Sept. 21, 1977, Pub. L. 95-111, title VIII, § 808, 91 Stat. 900.

Sept. 22, 1976, Pub. L. 94-419, title VII, § 708, 90 Stat. 1292.

Feb. 9, 1976, Pub. L. 94-212, title VII, § 708, 90 Stat. 169.

Oct. 8, 1974, Pub. L. 93-437, title VIII, § 808, 88 Stat. 1225.

Jan. 2, 1974, Pub. L. 93-238, title VII, § 708, 87 Stat. 1039.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 708, 86 Stat. 1197.

Dec. 18, 1971, Pub. L. 92-204, title VII, § 708, 85 Stat. 728.

Jan. 11, 1971, Pub. L. 91-668, title VIII, § 808, 84 Stat. 2031.

Dec. 29, 1969, Pub. L. 91-171, title VI, § 608, 83 Stat. 480.

Oct. 17, 1968, Pub. L. 90-580, title V, § 507, 82 Stat. 1130.

Sept. 29, 1967, Pub. L. 90-96, title VI, § 607, 81 Stat. 242.

Oct. 15, 1966, Pub. L. 89-687, title VI, § 607, 80 Stat. 991.

Sept. 29, 1965, Pub. L. 89-213, title VI, § 607, 79 Stat. 874.

Aug. 19, 1964, Pub. L. 88-446, title V, § 507, 78 Stat. 475.

Oct. 17, 1963, Pub. L. 88-149, title V, § 507, 77 Stat. 264.

Aug. 9, 1962, Pub. L. 87-577, title V, § 507, 76 Stat. 328.

Aug. 17, 1961, Pub. L. 87-144, title VI, § 607, 75 Stat. 376.

July 7, 1960, Pub. L. 86-601, title V, § 507, 74 Stat. 350.

Aug. 18, 1959, Pub. L. 86-166, title V, § 607, 73 Stat. 379.

Aug. 22, 1958, Pub. L. 85-724, title III, § 301, title V,

§ 501, 72 Stat. 713, 722.

Aug. 2, 1957, Pub. L. 85-117, title III, § 301, title V, § 501,

71 Stat. 313, 321.

July 2, 1956, ch. 488, title III, § 301, title V, § 501, 70

Stat. 456, 465.

July 13, 1955, ch. 358, title III, § 301, title V, § 501, 69

Stat. 303, 313.

June 30, 1954, ch. 432, title IV, § 401, title VI, § 601, 68

Stat. 339, 348.

Aug. 1, 1953, ch. 305, title III, § 301, title V, § 501, 67

Stat. 338, 348.

July 10, 1952, ch. 630, title III, § 301, title V, § 501, 66

Stat. 519, 530.

Oct. 18, 1951, ch. 512, title III, § 301, title V, § 501, 65

Stat. 426, 443.

Sept. 6, 1950, ch. 896, Ch. X, title III, § 301, title V,

§ 501, 64 Stat. 732, 750.

Oct. 29, 1949, ch. 787, title III, § 301, title V, § 501, 63

Stat. 991, 1015.

June 24, 1948, ch. 632, 62 Stat. 653.

July 30, 1947, ch. 357, title I, § 1, 61 Stat. 555.

July 16, 1946, ch. 583, § 1, 60 Stat. 546.

July 3, 1945, ch. 265, § 1, 59 Stat. 389.

June 28, 1944, ch. 303, § 1, 58 Stat. 578.

July 1, 1943, ch. 185, § 1, 57 Stat. 352.

July 2, 1942, ch. 477, § 1, 56 Stat. 615.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 1049. Subsistence: miscellaneous persons

The following persons may be provided subsistence at the expense of the United States:

(1) Enlisted members while sick in hospitals.

(2) Applicants for enlistment and selective service registrants called for induction.

(3) Prisoners.

(4) Civilian employees, as authorized by law.

(5) Supernumeraries, when necessitated by emergent military circumstances.

(Added Pub. L. 98-525, title XIV, § 1401(d)(1), Oct. 19, 1984, 98 Stat. 2616.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Oct. 12, 1984, Pub. L. 98-473, title I, § 101(h) [title VIII, § 8006], 98 Stat. 1904, 1923.

Dec. 8, 1983, Pub. L. 98-212, title VII, § 709, 97 Stat. 1439.

Dec. 21, 1982, Pub. L. 97-377, title I, § 101(c) [title VII, § 709], 96 Stat. 1833, 1851.

Dec. 29, 1981, Pub. L. 97-114, title VII, § 709, 95 Stat. 1579.

Dec. 15, 1980, Pub. L. 96-527, title VII, § 709, 94 Stat. 3081.

Dec. 21, 1979, Pub. L. 96-154, title VII, § 709, 93 Stat. 1153.

Oct. 13, 1978, Pub. L. 95-457, title VIII, § 809, 92 Stat. 1244.

Sept. 21, 1977, Pub. L. 95-111, title VIII, § 808, 91 Stat. 900.

Sept. 22, 1976, Pub. L. 94-419, title VII, § 708, 90 Stat. 1292.

Feb. 9, 1976, Pub. L. 94-212, title VII, § 708, 90 Stat. 169.

Oct. 8, 1974, Pub. L. 93-437, title VIII, § 808, 88 Stat. 1225.

Jan. 2, 1974, Pub. L. 93-238, title VII, § 708, 87 Stat. 1039.

Oct. 26, 1972, Pub. L. 92-570, title VII, § 708, 86 Stat. 1197.

Dec. 18, 1971, Pub. L. 92-204, title VII, § 708, 85 Stat. 728.

Jan. 11, 1971, Pub. L. 91-668, title VIII, § 808, 84 Stat. 2031.

Dec. 29, 1969, Pub. L. 91-171, title VI, § 608, 83 Stat. 480.

Oct. 17, 1968, Pub. L. 90-580, title V, § 507, 82 Stat. 1130.

Sept. 29, 1967, Pub. L. 90-96, title VI, § 607, 81 Stat. 242.

Oct. 15, 1966, Pub. L. 89-687, title VI, § 607, 80 Stat. 991.

Sept. 29, 1965, Pub. L. 89-213, title VI, § 607, 79 Stat. 874.

Aug. 19, 1964, Pub. L. 88-446, title V, § 507, 78 Stat. 475.

Oct. 17, 1963, Pub. L. 88-149, title V, § 507, 77 Stat. 264.

Aug. 9, 1962, Pub. L. 87-577, title V, § 507, 76 Stat. 328.

Aug. 17, 1961, Pub. L. 87-144, title II, § 201, title VI, § 607, 75 Stat. 367, 376.

July 7, 1960, Pub. L. 86-601, title II, § 201, title V, § 507, 74 Stat. 340, 350.

Aug. 18, 1959, Pub. L. 86-166, title II, § 201, title V, § 607, 73 Stat. 368, 379.

Aug. 22, 1958, Pub. L. 85-724, title III, § 301, title V, § 501, 72 Stat. 713, 714, 721, 722.

Aug. 2, 1957, Pub. L. 85-117, title III, § 301, title V, § 501, 71 Stat. 313, 314, 321.

July 2, 1956, ch. 488, title III, § 301, title V, § 501, 70 Stat. 456, 457, 465.

July 13, 1955, ch. 358, title III, § 301, title V, § 501, 69 Stat. 303, 312.

June 30, 1954, ch. 432, title IV, § 401, title VI, § 601, 68 Stat. 339, 348.

Aug. 1, 1953, ch. 305, title III, § 301, title V, § 501, 67 Stat. 338, 339, 348.

July 10, 1952, ch. 630, title III, § 301, title V, § 501, 66 Stat. 519, 520, 529.

Oct. 18, 1951, ch. 512, title III, § 301, title V, § 501, 65 Stat. 428, 443.

Sept. 6, 1950, ch. 896, Ch. X, title III, § 301, title V, § 501, 64 Stat. 734, 749, 750.

Oct. 29, 1949, ch. 787, title III, § 301, title V, § 501, 63 Stat. 991, 992, 1015.

June 24, 1948, ch. 632, 62 Stat. 654.

July 30, 1947, ch. 357, title I, § 1, 61 Stat. 556.

July 16, 1946, ch. 583, § 1, 60 Stat. 546, 547.

July 3, 1945, ch. 265, § 1, 59 Stat. 389, 390.

June 28, 1944, ch. 303, § 1, 58 Stat. 579.

July 1, 1943, ch. 185, § 1, 57 Stat. 353.

July 2, 1942, ch. 477, § 1, 56 Stat. 616.

June 30, 1941, ch. 262, § 1, 55 Stat. 372.

June 13, 1940, ch. 343, § 1, 54 Stat. 357.

Apr. 26, 1939, ch. 88, § 1, 53 Stat. 599.

June 11, 1938, ch. 37, § 1, 52 Stat. 648.

July 1, 1937, ch. 423, § 1, 50 Stat. 448.

May 15, 1936, ch. 404, § 1, title I, 49 Stat. 1285.

Apr. 9, 1935, ch. 54, § 1, title I, 49 Stat. 127.

Apr. 26, 1934, ch. 165, title I, 48 Stat. 620.

Mar. 4, 1933, ch. 281, title I, 47 Stat. 1576.

July 14, 1932, ch. 482, title I, 47 Stat. 669.

Feb. 23, 1931, ch. 279, title I, 46 Stat. 1282.

May 28, 1930, ch. 348, title I, 46 Stat. 437.

Feb. 28, 1929, ch. 366, title I, 45 Stat. 1354.

Mar. 23, 1928, ch. 232, title I, 45 Stat. 331.

Feb. 23, 1927, ch. 167, title I, 44 Stat. 1111.

Apr. 15, 1926, ch. 146, title I, 44 Stat. 260.

Feb. 12, 1925, ch. 225, title I, 43 Stat. 898.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 1050. Latin American cooperation: payment of personnel expenses

The Secretary of Defense or the Secretary of a military department may pay the travel, subsistence, and special compensation of officers

and students of Latin American countries and other expenses that the Secretary considers necessary for Latin American cooperation.

(Added Pub. L. 98-525, title XIV, § 1401(d)(1), Oct. 19, 1984, 98 Stat. 2616; amended Pub. L. 105-261, div. A, title IX, § 905(b), Oct. 17, 1998, 112 Stat. 2093.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriation acts:

Pub. L. 98-473, title I, § 101(h) [title VIII, § 8006], Oct. 12, 1984, 98 Stat. 1904, 1923.

Pub. L. 98-212, title VII, § 709, Dec. 8, 1983, 97 Stat. 1439.

Pub. L. 97-377, title I, § 101(c) [title VII, § 709], Dec. 21, 1982, 96 Stat. 1833, 1851.

Pub. L. 97-114, title VII, § 709, Dec. 29, 1981, 95 Stat. 1579.

Pub. L. 96-527, title VII, § 709, Dec. 15, 1980, 94 Stat. 3081.

Pub. L. 96-154, title VII, § 709, Dec. 21, 1979, 93 Stat. 1153.

Pub. L. 95-457, title VIII, § 809, Oct. 13, 1978, 92 Stat. 1244.

Pub. L. 95-111, title VIII, § 808, Sept. 21, 1977, 91 Stat. 900.

Pub. L. 94-419, title VII, § 708, Sept. 22, 1976, 90 Stat. 1292.

Pub. L. 94-212, title VII, § 708, Feb. 9, 1976, 90 Stat. 169.

Pub. L. 93-437, title VIII, § 808, Oct. 8, 1974, 88 Stat. 1225.

Pub. L. 93-238, title VII, § 708, Jan. 2, 1974, 87 Stat. 1039.

Pub. L. 92-570, title VII, § 708, Oct. 26, 1972, 86 Stat. 1197.

Pub. L. 92-204, title VII, § 708, Dec. 18, 1971, 85 Stat. 728.

Pub. L. 91-668, title VIII, § 808, Jan. 11, 1971, 84 Stat. 2031.

Pub. L. 91-171, title VI, § 608, Dec. 29, 1969, 83 Stat. 480.

Pub. L. 90-580, title V, § 507, Oct. 17, 1968, 82 Stat. 1130.

Pub. L. 90-96, title VI, § 607, Sept. 29, 1967, 81 Stat. 242.

Pub. L. 89-687, title VI, § 607, Oct. 15, 1966, 80 Stat. 991.

Pub. L. 89-213, title VI, § 607, Sept. 29, 1965, 79 Stat. 874.

Pub. L. 88-446, title V, § 507, Aug. 19, 1964, 78 Stat. 475.

Pub. L. 88-149, title V, § 507, Oct. 17, 1963, 77 Stat. 264.

Pub. L. 87-577, title V, § 507, Aug. 9, 1962, 76 Stat. 328.

Pub. L. 87-144, title II, § 201, Aug. 17, 1961, 75 Stat. 367, 369.

Pub. L. 86-601, title II, § 201, July 7, 1960, 74 Stat. 341, 343.

Pub. L. 86-166, title II, § 201, Aug. 18, 1959, 73 Stat. 369, 371.

Pub. L. 85-724, title III, § 301, title V, § 501, Aug. 22, 1958, 72 Stat. 714, 721.

Pub. L. 85-117, title III, § 301, title V, § 501, Aug. 2, 1957, 71 Stat. 314, 321.

July 2, 1956, ch. 488, title III, § 301, title V, § 501, 70 Stat. 457, 465.

July 13, 1955, ch. 358, title III, § 301, title V, § 501, 69 Stat. 304, 312.

June 30, 1954, ch. 432, title IV, § 401, title VI, § 601, 68 Stat. 340, 347.

Aug. 1, 1953, ch. 305, title III, § 301, title V, § 501, 67 Stat. 339, 347.

July 10, 1952, ch. 630, title III, § 301, title V, § 501, 66 Stat. 521, 529.

Oct. 18, 1951, ch. 512, title III, § 301, title V, § 501, 65 Stat. 426, 442.

Sept. 6, 1950, ch. 896, Ch. X, title III, § 301, title V, § 501, 64 Stat. 732, 749.

Oct. 29, 1949, ch. 787, title III, § 301, title V, § 501, 63 Stat. 989, 1014.

June 24, 1948, ch. 632, 62 Stat. 650.

July 30, 1947, ch. 357, title I, § 1, 61 Stat. 568.

July 16, 1946, ch. 583, § 1, 60 Stat. 560.

July 3, 1945, ch. 265, §1, 59 Stat. 401.
 June 28, 1944, ch. 303, §1, 58 Stat. 591.
 July 1, 1943, ch. 185, §1, 57 Stat. 365.
 July 2, 1942, ch. 477, §1, 56 Stat. 628.

AMENDMENTS

1998—Pub. L. 105-261 inserted “Secretary of Defense or the” before “Secretary of a military department”.

EFFECTIVE DATE

Section effective Oct. 1, 1985, see section 1404 of Pub. L. 98-525, set out as a note under section 520b of this title.

§ 1050a. African cooperation: payment of personnel expenses

The Secretary of Defense or the Secretary of a military department may pay the travel, subsistence, and special compensation of officers and students of African countries and other expenses that the Secretary considers necessary for African cooperation.

(Added Pub. L. 111-383, div. A, title XII, §1204(a), Jan. 7, 2011, 124 Stat. 4386.)

§ 1051. Multilateral, bilateral, or regional cooperation programs: payment of personnel expenses

(a) The Secretary of Defense may pay the travel, subsistence, and similar personal expenses of defense personnel of developing countries in connection with the attendance of such personnel at a multilateral, bilateral, or regional conference, seminar, or similar meeting if the Secretary determines that the attendance of such personnel at such conference, seminar, or similar meeting is in the national security interests of the United States.

(b)(1) Except as provided in paragraphs (2) and (3), expenses authorized to be paid under subsection (a) may be paid on behalf of personnel from a developing country only in connection with travel to, from, and within the area of responsibility of the unified combatant command (as such term is defined in section 161(c) of this title) in which the multilateral, bilateral, or regional conference, seminar, or similar meeting for which expenses are authorized is located or in connection with travel to Canada or Mexico.

(2) In a case in which the headquarters of a unified combatant command is located within the United States, expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the United States to attend a multilateral, bilateral, or regional conference, seminar, or similar meeting.

(3) In the case of defense personnel of a developing country that is not a member of the North Atlantic Treaty Organization and that is participating in the Partnership for Peace program of the North Atlantic Treaty Organization (NATO), expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the territory of any of the countries participating in the Partnership for Peace program or the territory of any NATO member country.

(4) Expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 of title 37 to a member of the armed

forces of the United States (of a comparable grade) for authorized travel of a similar nature.

(c) In addition to the expenses authorized to be paid under subsection (a), the Secretary of Defense may pay such other expenses in connection with any such conference, seminar, or similar meeting as the Secretary considers in the national security interests of the United States.

(d) The authority to pay expenses under this section is in addition to the authority to pay certain expenses and compensation of officers and students of Latin American countries under section 1050 of this title.

(e) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.

(Added Pub. L. 99-661, div. A, title XIII, §1322(a), Nov. 14, 1986, 100 Stat. 3989; amended Pub. L. 101-189, div. A, title IX, §936, Nov. 29, 1989, 103 Stat. 1538; Pub. L. 101-510, div. A, title XIII, §1301(5), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 102-484, div. A, title XIII, §1362, Oct. 23, 1992, 106 Stat. 2560; Pub. L. 107-314, div. A, title XII, §1202(a), Dec. 2, 2002, 116 Stat. 2663; Pub. L. 109-163, div. A, title XII, §1203, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 110-417, [div. A], title XII, §1231(a), (b)(1), (c)(1), Oct. 14, 2008, 122 Stat. 4636, 4637.)

CODIFICATION

Another section 1051 was renumbered section 1032 of this title.

AMENDMENTS

2008—Pub. L. 110-417, in section catchline substituted “Multilateral, bilateral, or regional” for “Bilateral or regional”, in subsec. (a) substituted “a multilateral, bilateral,” for “a bilateral”, in subsec. (b)(1) substituted “to, from, and” for “to and” and “multilateral, bilateral,” for “bilateral”, in subsec. (b)(2) substituted “multilateral, bilateral,” for “bilateral”, and added subsec. (e).

2006—Subsec. (b)(1). Pub. L. 109-163 inserted “to and” after “in connection with travel” and substituted “in which the bilateral or regional conference, seminar, or similar meeting for which expenses are authorized is located” for “in which the developing country is located”.

2002—Subsec. (b)(1). Pub. L. 107-314, §1202(a)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)”.

Subsec. (b)(3), (4). Pub. L. 107-314, §1202(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

1992—Subsec. (e). Pub. L. 102-484 struck out subsec. (e) which read as follows: “The authority of the Secretary of Defense under this section shall expire on September 30, 1992.”

1990—Subsecs. (e) to (g). Pub. L. 101-510 redesignated subsec. (g) as (e) and struck out former subsecs. (e) and (f) which read as follows:

“(e) Not later than March 1 each year, the Secretary of Defense shall submit to Congress a report containing—

“(1) a list of the developing countries for which expenses have been paid under this section during the preceding fiscal year; and

“(2) the amount paid by the United States in the case of each such country.

“(f) During each of fiscal years 1987, 1988, and 1989, not more than \$800,000 may be obligated or expended under this section.”

1989—Subsec. (b)(1). Pub. L. 101-189, §936(a), inserted before period at end “or in connection with travel to Canada or Mexico”.

Subsec. (g). Pub. L. 101-189, § 936(b), substituted “1992” for “1989”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title XII, § 1231(b)(2), Oct. 14, 2008, 122 Stat. 4637, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 1051 of title 10, United States Code, as so amended, that begin on or after that date.”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title XII, § 1202(b), Dec. 2, 2002, 116 Stat. 2663, provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to travel performed on or after the date of the enactment of this Act [Dec. 2, 2002].”

AIR FORCE SCHOLARSHIPS FOR PARTNERSHIP FOR PEACE NATIONS TO PARTICIPATE IN THE EURO-NATO JOINT JET PILOT TRAINING PROGRAM

Pub. L. 111-383, div. A, title XII, § 1206, Jan. 7, 2011, 124 Stat. 4387, provided that:

“(a) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Secretary of the Air Force may establish and maintain a demonstration scholarship program to allow personnel of the air forces of countries that are signatories of the Partnership for Peace Framework Document to receive undergraduate pilot training and necessary related training through the Euro-NATO Joint Jet Pilot Training (ENJJPT) program. The Secretary of the Air Force shall establish the program pursuant to regulations prescribed by the Secretary of Defense in consultation with the Secretary of State.

“(b) TRANSPORTATION, SUPPLIES, AND ALLOWANCE.—Under such conditions as the Secretary of the Air Force may prescribe, the Secretary may provide to a person receiving a scholarship under the scholarship program—

“(1) transportation incident to the training received under the ENJJPT program;

“(2) supplies and equipment to be used during the training;

“(3) flight clothing and other special clothing required for the training;

“(4) billeting, food, and health services; and

“(5) a living allowance at a rate to be prescribed by the Secretary, taking into account the amount of living allowances authorized for a member of the Armed Forces of the United States under similar circumstances.

“(c) RELATION TO EURO-NATO JOINT JET PILOT TRAINING PROGRAM.—

“(1) ENJJPT STEERING COMMITTEE AUTHORITY.—Nothing in this section shall be construed or interpreted to supersede the authority of the ENJJPT Steering Committee under the ENJJPT Memorandum of Understanding. Pursuant to the ENJJPT Memorandum of Understanding, the ENJJPT Steering Committee may resolve to forbid any airman or airmen from a Partnership for Peace nation to participate in the Euro-NATO Joint Jet Pilot Training program under the authority of a scholarship under this section.

“(2) NO REPRESENTATION.—Countries whose air force personnel receive scholarships under the scholarship program shall not have privilege of ENJJPT Steering Committee representation.

“(d) LIMITATION ON ELIGIBLE COUNTRIES.—The Secretary of the Air Force may not use the authority in subsection (a) to provide assistance described in subsection (b) to any foreign country that is otherwise prohibited from receiving such type of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or any other provision of law.

“(e) COST-SHARING.—For purposes of ENJJPT cost-sharing, personnel of an air force of a foreign country who receive a scholarship under the scholarship program may be counted as United States pilots.

“(f) PROGRESS REPORT.—Not later than February 1, 2012, the Secretary of the Air Force shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate a report on the status of the demonstration program, including the opinion of the Secretary and NATO allies on the benefits of the program and whether or not to permanently authorize the program or extend the program beyond fiscal year 2012. The report shall specify the following:

“(1) The countries participating in the scholarship program.

“(2) The total number of foreign pilots who received scholarships under the scholarship program.

“(3) The amount expended on scholarships under the scholarship program.

“(4) The source of funding for scholarships under the scholarship program.

“(g) DURATION.—No scholarship may be awarded under the scholarship program after September 30, 2012.

“(h) FUNDING SOURCE.—Amounts to award scholarships under the scholarship program shall be derived from amounts authorized to be appropriated for operation and maintenance for the Air Force.”

§ 1051a. Liaison officers of certain foreign nations; administrative services and support; travel, subsistence, medical care, and other personal expenses

(a) AUTHORITY.—The Secretary of Defense may provide administrative services and support for the performance of duties by a liaison officer of another nation involved in a military operation with the United States while the liaison officer is assigned temporarily as follows:

(1) To the headquarters of a combatant command, component command, or subordinate operational command of the United States in connection with the planning for, or conduct of, a military operation.

(2) To the headquarters of the combatant command assigned by the Secretary of Defense the mission of joint warfighting experimentation and joint forces training.

(b) TRAVEL, SUBSISTENCE, AND MEDICAL CARE EXPENSES.—(1) The Secretary may pay the expenses specified in paragraph (2) of a liaison officer of a developing country in connection with the assignment of that officer to the headquarters of a combatant command as described in subsection (a), if the assignment is requested by the commander of the combatant command.

(2) Expenses of a liaison officer that may be paid under paragraph (1) in connection with an assignment described in that paragraph are the following:

(A) Travel and subsistence expenses.

(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

(C) Expenses for medical care at a civilian medical facility if—

(i) adequate medical care is not available to the liaison officer at a local military medical treatment facility;

(ii) the Secretary determines that payment of such medical expenses is necessary and in the best interests of the United States; and

(iii) medical care is not otherwise available to the liaison officer pursuant to any treaty or other international agreement.

(3) The Secretary may pay the mission-related travel expenses of a liaison officer described in subsection (a) if such travel is in support of the national interests of the United States and the commander of the headquarters to which the liaison officer is temporarily assigned directs round-trip travel from the assigned headquarters to one or more locations.

(c) REIMBURSEMENT.—To the extent that the Secretary determines appropriate, the Secretary may provide the services and support authorized by subsection (a) and the expenses authorized by subsection (b) with or without reimbursement from (or on behalf of) the recipients.

(d) DEFINITION.—In this section, the term “administrative services and support” includes base or installation support services, office space, utilities, copying services, fire and police protection, and computer support.

(Added Pub. L. 107-314, div. A, title XII, §1201(a)(1), Dec. 2, 2002, 116 Stat. 2662; amended Pub. L. 109-13, div. A, title I, §1010, May 11, 2005, 119 Stat. 244; Pub. L. 109-163, div. A, title XII, §1205, Jan. 6, 2006, 119 Stat. 3456; Pub. L. 110-181, div. A, title XII, §1203(a)-(e)(1), Jan. 28, 2008, 122 Stat. 364, 365; Pub. L. 111-84, div. A, title XII, §1205(a), Oct. 28, 2009, 123 Stat. 2514.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-84 substituted “assigned temporarily as follows:” for “assigned temporarily”, designated remainder of existing provisions as par. (1) and realigned margins, substituted “To the headquarters” for “to the headquarters”, and added par. (2).

2008—Pub. L. 110-181, §1203(e)(1), amended section catchline generally, substituting “Liaison officers of certain foreign nations; administrative services and support; travel, subsistence, medical care, and other personal expenses” for “Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses”.

Subsec. (a). Pub. L. 110-181, §1203(a), substituted “involved in a military operation” for “involved in a coalition” and “military operation” for “coalition operation”.

Subsec. (b). Pub. L. 110-181, §1203(b)(1), substituted “, SUBSISTENCE, AND MEDICAL CARE” for “AND SUBSISTENCE” in heading.

Subsec. (b)(2)(C). Pub. L. 110-181, §1203(b)(2), added subpar. (C).

Subsec. (b)(3). Pub. L. 110-181, §1203(b)(3), added par. (3).

Subsec. (d). Pub. L. 110-181, §1203(c), substituted “DEFINITION” for “DEFINITIONS” in heading, redesignated par. (1) as subsec. (d), and struck out par. (2) which read as follows: “The term “coalition” means an ad hoc arrangement between or among the United States and one or more other nations for common action.”

Subsec. (e). Pub. L. 110-181, §1203(d), struck out heading and text of subsec. (e). Text read as follows: “The authority under this section shall expire on September 30, 2007.”

2006—Subsec. (e). Pub. L. 109-163, which directed amendment of subsec. (e) by substituting “September 30, 2007” for “September 30, 2005”, was executed by making the substitution for “December 31, 2005”, to reflect the probable intent of Congress and the amendment by Pub. L. 109-13. See note below.

2005—Subsec. (e). Pub. L. 109-13 substituted “December 31, 2005” for “September 30, 2005”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title XII, §1205(b), Oct. 28, 2009, 123 Stat. 2514, provided that: “Paragraph (2) of section

1051a(a) of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2009, or the date of the enactment of this Act [Oct. 28, 2009], whichever is later.”

GAO REPORT

Pub. L. 107-314, div. A, title XII, §1201(b), Dec. 2, 2002, 116 Stat. 2663, directed the Comptroller General to submit to committees of Congress a report providing an assessment of the implementation of this section not later than Mar. 1, 2005.

§ 1051b. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance

(a) GENERAL AUTHORITY.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or performance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

(b) ACTIVITIES THAT MAY BE RECOGNIZED.—Activities that may be recognized under subsection (a) include superior achievement or performance that—

(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

(c) LIMITATION.—Expenditures for the purchase or production of mementos for award under this section may not exceed the minimal value in effect under section 7342(a)(5) of title 5.

(Added Pub. L. 108-136, div. A, title XII, §1222(a), Nov. 24, 2003, 117 Stat. 1652.)

§ 1052. Adoption expenses: reimbursement

(a) AUTHORIZATION TO REIMBURSE.—The Secretary of Defense shall carry out a program under which a member of the armed forces may be reimbursed, as provided in this section, for qualifying adoption expenses incurred by the member in the adoption of a child under 18 years of age.

(b) ADOPTIONS COVERED.—An adoption for which expenses may be reimbursed under this section includes an adoption by a single person, an infant adoption, an intercountry adoption, and an adoption of a child with special needs (as defined in section 473(c) of the Social Security Act (42 U.S.C. 673(c))).

(c) BENEFITS PAID AFTER ADOPTION IS FINAL.—Benefits paid under this section in the case of an adoption may be paid only after the adoption is final.

(d) TREATMENT OF OTHER BENEFITS.—A benefit may not be paid under this section for any expense paid to or for a member of the armed forces under any other adoption benefits program administered by the Federal Government or under any such program administered by a State or local government.

(e) LIMITATIONS.—(1) Not more than \$2,000 may be paid under this section to a member of the armed forces, or to two such members who are spouses of each other, for expenses incurred in the adoption of a child.

(2) Not more than \$5,000 may be paid under this section to a member of the armed forces, or to two such members who are spouses of each other, for adoptions by such member (or members) in any calendar year.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(g) DEFINITIONS.—In this section:

(1) The term “qualifying adoption expenses” means reasonable and necessary expenses that are directly related to the legal adoption of a child under 18 years of age, but only if such adoption is arranged by a qualified adoption agency or other source authorized to place children for adoption under State or local law. Such term does not include any expense incurred—

(A) by an adopting parent for travel; or

(B) in connection with an adoption arranged in violation of Federal, State, or local law.

(2) The term “reasonable and necessary expenses” includes—

(A) public and private agency fees, including adoption fees charged by an agency in a foreign country;

(B) placement fees, including fees charged adoptive parents for counseling;

(C) legal fees (including court costs) in connection with services that are unavailable to a member of the armed forces under section 1044 or 1044a of this title; and

(D) medical expenses, including hospital expenses of the biological mother of the child to be adopted and of a newborn infant to be adopted.

(3) The term “qualified adoption agency” means any of the following:

(A) A State or local government agency which has responsibility under State or local law for child placement through adoption.

(B) A nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.

(C) Any other source authorized by a State to provide adoption placement if the adoption is supervised by a court under State or local law.

(D) A foreign government or an agency authorized by a foreign government to place children for adoption, in any case in which—

(i) the adopted child is entitled to automatic citizenship under section 320 of the Immigration and Nationality Act (8 U.S.C. 1431); or

(ii) a certificate of citizenship has been issued for such child under section 322 of that Act (8 U.S.C. 1433).

(Added Pub. L. 102-190, div. A, title VI, § 651(a)(1), Dec. 5, 1991, 105 Stat. 1385; amended Pub. L. 102-484, div. A, title X, § 1052(12), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 104-201, div. A, title VI, § 652(a), Sept. 23, 1996, 110 Stat. 2582; Pub. L. 106-398, § 1 [[div. A], title V, § 579(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141; Pub. L. 108-375, div. A, title VI, § 661, Oct. 28, 2004, 118 Stat. 1974; Pub. L. 109-163, div. A, title V, § 592(a), Jan. 6, 2006, 119 Stat. 3280.)

PRIOR PROVISIONS

A prior section 1052 was renumbered section 1063 of this title and subsequently repealed.

AMENDMENTS

2006—Subsec. (g)(1). Pub. L. 109-163 inserted “or other source authorized to place children for adoption under State or local law” after “qualified adoption agency” in introductory provisions.

2004—Subsec. (g)(3)(D). Pub. L. 108-375 added subpar. (D).

2000—Pub. L. 106-398 substituted “Adoption expenses: reimbursement” for “Reimbursement for adoption expenses” in section catchline.

1996—Subsec. (g)(1). Pub. L. 104-201, § 652(a)(1), substituted “qualified adoption agency.” for “State or local government agency which has responsibility under State or local law for child placement through adoption or by a nonprofit, voluntary adoption agency which is authorized by State or local law to place children for adoption.”

Subsec. (g)(3). Pub. L. 104-201, § 652(a)(2), added par. (3).

1992—Subsec. (b). Pub. L. 102-484 inserted close parenthesis before period at end.

EFFECTIVE DATE

Section 651(c) of Pub. L. 102-190 provided that: “The amendments made by subsections (a) and (b) [enacting this section and section 514 of Title 14, Coast Guard] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to adoptions completed on or after that date.”

REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING PERIOD BETWEEN TEST AND PERMANENT PROGRAM

Pub. L. 102-484, div. A, title VI, § 652, Oct. 23, 1992, 106 Stat. 2426, provided that this section and section 514 of Title 14, Coast Guard, would apply with respect to the reimbursement of adoption expenses incurred for an adoption proceeding completed during the period beginning on Oct. 1, 1990, and ending on Dec. 4, 1991, to the extent that such expenses would have been covered if the proceeding had been completed after Dec. 4, 1991, but only if an application for such reimbursement had been made within one year after Oct. 23, 1992.

§ 1053. Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement

(a)(1) A member of the armed forces (or a former member of the armed forces entitled to retired pay under chapter 1223 of this title) who, in accordance with law or regulation, participates in a program for the automatic deposit of pay to a financial institution may be reimbursed by the Secretary concerned for a covered late-deposit charge.

(2) A covered late-deposit charge for purposes of paragraph (1) is a charge (including an overdraft charge or a minimum balance or average balance charge) that is levied by a financial institution and that results from an administrative or mechanical error on the part of the Gov-

ernment that causes the pay of the person concerned to be deposited late or in an incorrect manner or amount.

(b) Reimbursements under this section shall be made from appropriations available for the pay and allowances of members of the armed force concerned.

(c) The Secretaries concerned shall prescribe regulations to carry out this section, including regulations for the manner in which reimbursement under this section is to be made.

(d) In this section:

(1) The term “financial institution” means a bank, savings and loan association, or similar institution or a credit union chartered by the United States or a State.

(2) The term “pay” includes (A) retired pay, and (B) allowances.

(Added Pub. L. 99-661, div. A, title VI, § 662(a)(1), Nov. 14, 1986, 100 Stat. 3893; amended Pub. L. 101-189, div. A, title VI, § 664(a)(1)-(3)(A), Nov. 29, 1989, 103 Stat. 1466; Pub. L. 102-25, title VII, § 701(e)(8)(A), Apr. 6, 1991, 105 Stat. 115; Pub. L. 104-106, div. A, title XV, § 1501(c)(8), Feb. 10, 1996, 110 Stat. 499; Pub. L. 105-261, div. A, title V, § 564(a), Oct. 17, 1998, 112 Stat. 2029; Pub. L. 106-398, § 1 [[div. A], title V, § 579(c)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141.)

AMENDMENTS

2000—Pub. L. 106-398 substituted “Financial institution charges incurred because of Government error in direct deposit of pay: reimbursement” for “Reimbursement for financial institution charges incurred because of Government error in direct deposit of pay” in section catchline.

1998—Subsec. (d)(1). Pub. L. 105-261 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘financial institution’ has the meaning given the term ‘financial organization’ in section 3332(a) of title 31.”

1996—Subsec. (a)(1). Pub. L. 104-106 substituted “chapter 1223” for “chapter 67”.

1991—Pub. L. 102-25 struck out “mandatory” after “error in” in section catchline.

1989—Pub. L. 101-189, § 664(a)(3)(A), amended section catchline generally, substituting “Reimbursement for financial institution charges incurred because of Government” for “Relief for expenses because of”.

Subsec. (a). Pub. L. 101-189, § 664(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “A member of the armed forces who, by law or regulation, is required to participate in a program for the automatic deposit of pay to a financial institution may be reimbursed for overdraft charges levied by the financial institution when such charges result from an administrative or mechanical error on the part of the Government that causes such member’s pay to be deposited late or in an incorrect amount or manner.”

Subsec. (d). Pub. L. 101-189, § 664(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In this section, the term ‘financial institution’ has the meaning given that term in section 3332 of title 31.”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104-106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 664(c) of Pub. L. 101-189 provided that: “The amendments made by subsection (a) [amending this

section], and section 1594 of title 10, United States Code, as added by subsection (b), shall apply with respect to pay and allowances deposited (or scheduled to be deposited) on or after the first day of the first month beginning after the date of the enactment of this Act [Nov. 29, 1989].”

EFFECTIVE DATE

Section 662(c) of Pub. L. 99-661 provided that: “Section 1053 of title 10, United States Code, as added by subsection (a), shall apply only with respect to charges levied as a result of errors occurring on or after the date of the enactment of this Act [Nov. 14, 1986].”

§ 1053a. Expenses incurred in connection with leave canceled due to contingency operations: reimbursement

(a) AUTHORIZATION TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces under the jurisdiction of the Secretary for travel and related expenses (to the extent not otherwise reimbursable under law) incurred by the member as a result of the cancellation of previously approved leave when the leave is canceled in connection with the member’s participation in a contingency operation and the cancellation occurs within 48 hours of the time the leave would have commenced.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to establish the criteria for the applicability of subsection (a).

(c) CONCLUSIVENESS OF SETTLEMENT.—The settlement of an application for reimbursement under subsection (a) is final and conclusive.

(Added Pub. L. 106-398, § 1 [[div. A], title V, § 579(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141.)

EFFECTIVE DATE

Pub. L. 106-398, § 1 [[div. A], title V, § 579(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-141, provided that: “Section 1053a of title 10, United States Code, as added by subsection (a), shall apply with respect to any travel and related expenses incurred by a member in connection with leave canceled after the date of the enactment of this Act [Oct. 30, 2000].”

§ 1054. Defense of certain suits arising out of legal malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for injury or loss of property caused by the negligent or wrongful act or omission of any person who is an attorney, paralegal, or other member of a legal staff within the Department of Defense (including the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32) or within the Coast Guard, in connection with providing legal services while acting within the scope of the person’s duties or employment, is exclusive of any other civil action or proceeding by reason of the same subject matter against the person (or the estate of the person) whose act or omission gave rise to such action or proceeding.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or the estate of such person) for any such injury. Any person against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney Gen-

eral, all process served upon such person (or an attested true copy thereof) to such person's immediate superior or to whomever was designated by the head of the agency concerned to receive such papers. Such person shall promptly furnish copies of the pleading and process therein—

- (1) to the United States attorney for the district embracing the place wherein the action or proceeding is brought;
- (2) to the Attorney General; and
- (3) to the head of the agency concerned.

(c) Upon a certification by the Attorney General that a person described in subsection (a) was acting in the scope of such person's duties or employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court—

(1) shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending; and

(2) shall be deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) is not available against the United States, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) For purposes of this section, the provisions of section 2680(h) of title 28 shall not apply to a cause of action arising out of a negligent or wrongful act or omission in the provision of legal assistance.

(f) The head of the agency concerned may hold harmless or provide liability insurance for any person described in subsection (a) for damages for injury or loss of property caused by such person's negligent or wrongful act or omission in the provision of authorized legal assistance while acting within the scope of such person's duties if such person is assigned to a foreign country or detailed for service with an entity other than a Federal department, agency, or instrumentality or if the circumstances are such as are likely to preclude the remedies of third persons against the United States described in section 1346(b) of title 28, for such damage or injury.

(g) In this section, the term "head of the agency concerned" means the Secretary of Defense, the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate.

(Added Pub. L. 99-661, div. A, title XIII, §1356(a)(1), Nov. 14, 1986, 100 Stat. 3996; amended Pub. L. 100-448, §15(a), Sept. 28, 1988, 102 Stat. 1845.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-448, §15(a)(1), inserted "or within the Coast Guard" after "of title 32".

Subsec. (g). Pub. L. 100-448, §15(a)(2), inserted reference to the Secretary of the department in which the Coast Guard is operating.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 15(b) of Pub. L. 100-448 provided that: "The amendments made by subsection (a) [amending this section] shall apply only to claims accruing on or after the date of the enactment of this Act [Sept. 28, 1988], regardless of when the alleged negligent act or omission occurred."

EFFECTIVE DATE

Section 1356(b) of Pub. L. 99-661 provided that: "Section 1054 of title 10, United States Code, as added by subsection (a), shall apply only to claims accruing on or after the date of the enactment of this Act [Nov. 14, 1986], regardless of when the alleged negligent or wrongful act or omission occurred."

TRANSFER OF FUNCTIONS

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

§ 1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord

(a) The Secretary of Defense may carry out a program under which the Secretary of a military department agrees to indemnify a landlord who leases a rental unit to a member of the armed forces against a breach of the lease by the member or for damage to the rental unit caused by the member. In exchange for agreement for such indemnification by the Secretary, the landlord shall be required to waive any requirement for payment by the member of a security deposit that the landlord would otherwise require.

(b)(1) For purposes of carrying out a program authorized by subsection (a), the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any landlord who agrees to waive the requirement for a security deposit in connection with the lease of a rental unit to a member of the armed forces under the jurisdiction of the Secretary. An agreement under this paragraph shall provide that—

(A) the term of the agreement shall remain in effect during the term of the member's lease and during any lease renewal periods with the lessor;

(B) the member shall not pay a security deposit;

(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the landlord for breach of the lease by the member and for damage to the rental unit caused by the member or by a guest or dependent of the member;

(D) the total liability of the Secretary for a breach of the lease or for damage described in subparagraph (C) may not exceed an amount equal to the amount that the Secretary determines would have been required by the landlord as a security deposit in the absence of an agreement authorized in this paragraph;

(E) the Secretary may not compensate the landlord for any claim for breach of the lease or for damage described in subparagraph (C)

until the landlord exhausts any remedies available to the landlord (including submission to binding arbitration by a panel composed of military personnel and persons from the private sector) against the member for the breach or damage; and

(F) the Secretary shall be subrogated to the rights of the landlord in any case in which the Secretary compensates the landlord for breach of the lease or for damage described in subparagraph (C).

(2) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

(c)(1) The Secretary of a military department who compensates a landlord under subsection (b) for a breach of a lease or for damage described in subsection (b)(1)(C) may issue a special order under section 1007 of title 37 to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the landlord as compensation for the breach or damage.

(2) Before the Secretary of a military department issues a special order under section 1007 of title 37 to authorize the withholding of any amount from the pay of a member for a breach or damage referred to in paragraph (1), the Secretary concerned shall provide the member with the same notice and opportunity for hearing and record inspection as provided an individual under section 5514(a)(2) of title 5. The Secretary concerned shall prescribe regulations, subject to the approval of the President, to carry out this paragraph. Such regulations shall be as uniform for the military departments as practicable.

(d) In this section, the term “landlord” means a person who leases a rental unit to a member of the armed forces.

(Added Pub. L. 100-456, div. A, title VI, §621(a)(1), Sept. 29, 1988, 102 Stat. 1982.)

EFFECTIVE DATE

Section 621(b) of Pub. L. 100-456 provided that: “Section 1055 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1988.”

§ 1056. Relocation assistance programs

(a) **REQUIREMENT TO PROVIDE ASSISTANCE.**—The Secretary of Defense shall carry out a program to provide relocation assistance to members of the armed forces and their families as provided in this section. In addition, the Secretary of Defense shall make every effort, consistent with readiness objectives, to stabilize and lengthen tours of duty to minimize the adverse effects of relocation.

(b) **TYPES OF ASSISTANCE.**—(1) The Secretary of each military department, under regulations prescribed by the Secretary of Defense, shall provide relocation assistance, through military relocation assistance programs described in subsection (c), to members of the armed forces who are ordered to make a change of permanent station which includes a move to a new location (and for dependents of such members who are authorized to move in connection with the change of permanent station).

(2) The relocation assistance provided shall include the following:

(A) Provision of destination area information and preparation (to be provided before the change of permanent station takes effect), with emphasis on information with regard to moving costs, housing costs and availability, child care, spouse employment opportunities, cultural adaptation, and community orientation.

(B) Provision of counseling about financial management, home buying and selling, renting, stress management aimed at intervention and prevention of abuse, property management, and shipment and storage of household goods (including motor vehicles and pets).

(C) Provision of settling-in services, with emphasis on available government living quarters, private housing, child care, spouse employment assistance information, cultural adaptation, and community orientation.

(D) Provision of home finding services, with emphasis on services for locating adequate, affordable temporary and permanent housing.

(c) **MILITARY RELOCATION ASSISTANCE PROGRAMS.**—(1) The Secretary shall provide for the establishment of military relocation assistance programs to provide the relocation assistance described in subsection (b). The Secretary shall establish such a program in each geographic area in which at least 500 members of the armed forces are assigned to or serving at a military installation. A member who is not stationed within a geographic area that contains such a program shall be given access to such a program. The Secretary shall ensure that persons on the staff of each program are trained in the techniques and delivery of professional relocation assistance.

(2) The Secretary shall ensure that information available through each military relocation assistance program shall be managed through a computerized information system that can interact with all other military relocation assistance programs of the military departments, including programs located outside the continental United States.

(3) Duties of each military relocation assistance program shall include assisting personnel offices on the military installation in using the computerized information available through the program to help provide members of the armed forces who are deciding whether to reenlist information on locations of possible future duty assignments.

(d) **DIRECTOR.**—The Secretary of Defense shall establish the position of Director of Military Relocation Assistance Programs in the office of the Assistant Secretary of Defense (Force Management and Personnel). The Director shall oversee development and implementation of the military relocation assistance programs under this section.

(e) **REGULATIONS.**—This section shall be administered under regulations prescribed by the Secretary of Defense.

(f) **INAPPLICABILITY TO COAST GUARD.**—This section does not apply to the Coast Guard.

(Added Pub. L. 101-510, div. A, title XIV, §1481(c)(1), Nov. 5, 1990, 104 Stat. 1705; amended Pub. L. 104-106, div. A, title IX, §903(d), title X, §1062(a), Feb. 10, 1996, 110 Stat. 402, 443; Pub. L.

104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 107-107, div. A, title X, §1048(a)(9), Dec. 28, 2001, 115 Stat. 1223.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-189, div. A, title VI, §661(a)-(g), Nov. 29, 1989, 103 Stat. 1463, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101-510, §1481(c)(3).

AMENDMENTS

2001—Subsec. (c)(2). Pub. L. 107-107 struck out “, not later than September 30, 1991,” before “information available”.

1996—Subsec. (d). Pub. L. 104-106, §903(a), (d), which directed repeal of subsec. (d), eff. Jan. 31, 1997, was repealed by Pub. L. 104-201.

Subsecs. (f), (g). Pub. L. 104-106, §1062(a), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: “ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense, acting through the Director of Military Relocation Assistance Programs, shall submit to Congress a report on the program under this section and on military family relocation matters. The report shall include the following:

“(1) An assessment of available, affordable private-sector housing for members of the armed forces and their families.

“(2) An assessment of the actual nonreimbursed costs incurred by members of the armed forces and their families who are ordered to make a change of permanent station.

“(3) Information (shown by military installation) on the types of locations at which members of the armed forces assigned to duty at military installations live, including the number of members of the armed forces who live on a military installation and the number who do not live on a military installation.

“(4) Information on the effects of the relocation assistance programs established under this section on the quality of life of members of the armed forces and their families and on retention and productivity of members of the armed forces.”

IMPLEMENTATION OF RELOCATION ASSISTANCE PROGRAMS

Section 1481(c)(4) of Pub. L. 101-510 provided that: “The program required to be carried out by section 1056 of title 10, United States Code, as added by paragraph (1), shall be established by the Secretary of Defense not later than October 1, 1990. The Secretary shall prescribe regulations to implement that section not later than July 1, 1990.”

TRANSFER OF FUNCTIONS

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

§ 1057. Use of armed forces insignia on State license plates

(a) The Secretary concerned may approve an application by a State to use or imitate the seal or other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on motor vehicle license plates issued by the State to an individual who is a member or former member of the armed forces.

(b) The Secretary concerned may prescribe any regulations necessary regarding the display of the seal or other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on the license plates described in subsection (a).

(c) In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

(Added Pub. L. 102-484, div. A, title X, §1080(a), Oct. 23, 1992, 106 Stat. 2514.)

§ 1058. Responsibilities of military law enforcement officials at scenes of domestic violence

(a) IMMEDIATE ACTIONS REQUIRED.—Under regulations prescribed pursuant to subsection (c), the Secretary concerned shall ensure, in any case of domestic violence in which a military law enforcement official at the scene determines that physical injury has been inflicted or a deadly weapon or dangerous instrument has been used, that military law enforcement officials—

(1) take immediate measures to reduce the potential for further violence at the scene; and

(2) within 24 hours of the incident, provide a report of the domestic violence to the appropriate commander and to a local military family advocacy representative exercising responsibility over the area in which the incident took place.

(b) FAMILY ADVOCACY COMMITTEE.—Under regulations prescribed pursuant to subsection (c), the Secretary concerned shall ensure that, whenever a report is provided to a commander under subsection (a)(2), a multidisciplinary family advocacy committee meets, with all due practicable speed, to review the situation and to make recommendations to the commander for appropriate action.

(c) REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe by regulation the definition of “domestic violence” for purposes of this section and such other regulations as may be necessary for purposes of this section.

(d) MILITARY LAW ENFORCEMENT OFFICIAL.—In this section, the term “military law enforcement official” means a person authorized under regulations governing the armed forces to apprehend persons subject to the Uniform Code of Military Justice (chapter 47 of this title) or to trial thereunder.

(Added Pub. L. 103-160, div. A, title V, §551(a)(1), Nov. 30, 1993, 107 Stat. 1661; amended Pub. L. 103-337, div. A, title X, §1070(a)(4), (b)(3), Oct. 5, 1994, 108 Stat. 2855, 2856; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

CODIFICATION

Other sections 1058 were renumbered sections 1059 and 1060 of this title.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1994—Pub. L. 103-337, §1070(b)(3), made technical correction to directory language of Pub. L. 103-160, §551(a)(1), which enacted this section.

Subsec. (d). Pub. L. 103-337, §1070(a)(4), substituted “subject to the Uniform Code of Military Justice (chapter 47 of this title)” for “subject to this chapter”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1070(b) of Pub. L. 103-337 provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103-160, as enacted.

DEADLINE FOR PRESCRIBING PROCEDURES

Section 551(b) of Pub. L. 103-160 provided that: “The Secretary of Defense shall prescribe procedures to carry out section 1058 of title 10, United States Code, as added by subsection (a), not later than six months after the date of the enactment of this Act [Nov. 30, 1993].”

§ 1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits

(a) **AUTHORITY TO PAY COMPENSATION.**—The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy), and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may each establish a program to pay monthly transitional compensation in accordance with this section to dependents or former dependents of a member of the armed forces described in subsection (b). Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.

(b) **PUNITIVE AND OTHER ADVERSE ACTIONS COVERED.**—This section applies in the case of a member of the armed forces on active duty for a period of more than 30 days—

(1) who is convicted of a dependent-abuse offense (as defined in subsection (c)) and whose conviction results in the member—

(A) being separated from active duty pursuant to a sentence of a court-martial; or

(B) forfeiting all pay and allowances pursuant to a sentence of a court-martial; or

(2) who is administratively separated, voluntarily or involuntarily, from active duty in accordance with applicable regulations if the basis for the separation includes a dependent-abuse offense.

(c) **DEPENDENT-ABUSE OFFENSES.**—For purposes of this section, a dependent-abuse offense is conduct by an individual while a member of the armed forces on active duty for a period of more than 30 days—

(1) that involves abuse of the spouse or a dependent child of the member; and

(2) that is a criminal offense specified in regulations prescribed by the Secretary of Defense under subsection (k).

(d) **RECIPIENTS OF PAYMENTS.**—In the case of any individual described in subsection (b), the

Secretary shall pay such compensation to dependents or former dependents of the individual as follows:

(1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, such compensation shall be paid to the spouse or former spouse to whom the individual was married at that time, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.

(2) If there is a spouse or former spouse who is or, but for subsection (g), would be eligible for compensation under this section and if there is a dependent child of the individual described in subsection (b) who does not reside in the same household as that spouse or former spouse, compensation under this section shall be paid to each such dependent child of the individual described in subsection (b) who does not reside in that household.

(3) If there is no spouse or former spouse who is (or but for subsection (g) would be) eligible under paragraph (1), such compensation shall be paid to the dependent children of the individual described in subsection (b).

(4) For purposes of this subsection, an individual’s status as a “dependent child” shall be determined as of the date on which the individual described in subsection (b) is convicted of the dependent-abuse offense or, in a case described in subsection (b)(2), as of the date on which the individual described in subsection (b) is separated from active duty.

(e) **COMMENCEMENT AND DURATION OF PAYMENT.**—(1) Payment of transitional compensation under this section—

(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence—

(i) as of the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(ii) if there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

(2) Transitional compensation with respect to a member shall be paid for a period of not less

than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned.

(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).

(f) AMOUNT OF PAYMENT.—(1) Payment to a spouse or former spouse under this section for any month shall be at the rate in effect for that month for the payment of dependency and indemnity compensation under section 1311(a)(1) of title 38.

(2) If a spouse or former spouse to whom compensation is paid under this section has custody of a dependent child of the member who resides in the same household as that spouse or former spouse, the amount of such compensation paid for any month shall be increased for each such dependent child by the amount in effect for that month under section 1311(b) of title 38.

(3) If compensation is paid under this section to a child or children pursuant to subsection (d)(2) or (d)(3), such compensation shall be paid in equal shares, with the amount of such compensation for any month determined in accordance with the rates in effect for that month under section 1313 of title 38.

(g) SPOUSE AND FORMER SPOUSE FORFEITURE PROVISIONS.—(1) If a former spouse receiving compensation under this section remarries, the Secretary shall terminate payment of such compensation, effective as of the date of such marriage. The Secretary may not renew payment of compensation under this section to such former spouse in the event of the termination of such subsequent marriage.

(2) If after a punitive or other adverse action is executed in the case of a former member as

described in subsection (b) the former member resides in the same household as the spouse or former spouse, or dependent child, to whom compensation is otherwise payable under this section, the Secretary shall terminate payment of such compensation, effective as of the time the former member begins residing in such household. Compensation paid for a period after the former member's separation, but before the former member resides in the household, shall not be recouped. If the former member subsequently ceases to reside in such household before the end of the period of eligibility for such payments, the Secretary may not resume such payments.

(3) In a case in which the victim of the dependent-abuse offense resulting in a punitive or other adverse action described in subsection (b) was a dependent child, the Secretary concerned may not pay compensation under this section to a spouse or former spouse who would otherwise be eligible to receive such compensation if the Secretary determines (under regulations prescribed under subsection (k)) that the spouse or former spouse was an active participant in the conduct constituting the dependent-abuse offense.

(h) EFFECT OF CONTINUATION OF MILITARY PAY.—In the case of payment of transitional compensation by reason of a total forfeiture of pay and allowances pursuant to a sentence of a court-martial, payment of transitional compensation shall not be made for any period for which an order—

(1) suspends, in whole or in part, that part of a sentence that includes forfeiture of the member's pay and allowance; or

(2) otherwise results in continuation, in whole or in part, of the member's pay and allowances.

(i) COORDINATION OF BENEFITS.—The Secretary concerned may not make payments to a spouse or former spouse under both this section and section 1408(h)(1) of this title. In the case of a spouse or former spouse for whom a court order provides for payments by the Secretary pursuant to section 1408(h)(1) of this title and to whom the Secretary offers payments under this section, the spouse or former spouse shall elect which to receive.

(j) COMMISSARY AND EXCHANGE BENEFITS.—(1) A dependent or former dependent entitled to payment of monthly transitional compensation under this section shall, while receiving payments in accordance with this section, be entitled to use commissary and exchange stores to the same extent and in the same manner as a dependent of a member of the armed forces on active duty for a period of more than 30 days.

(2) If a dependent or former dependent eligible or entitled to use commissary and exchange stores under paragraph (1) is eligible or entitled to use commissary and exchange stores under another provision of law, the eligibility or entitlement of that dependent or former dependent to use commissary and exchange stores shall be determined under such other provision of law rather than under paragraph (1).

(k) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section with respect to the armed forces

(other than the Coast Guard when it is not operating as a service in the Navy). The Secretary of Homeland Security shall prescribe regulations to carry out this section with respect to the Coast Guard when it is not operating as a service in the Navy.

(2) Regulations prescribed under paragraph (1) shall include the criminal offenses, or categories of offenses, under the Uniform Code of Military Justice (chapter 47 of this title), Federal criminal law, the criminal laws of the States and other jurisdictions of the United States, and the laws of other nations that are to be considered to be dependent-abuse offenses for the purposes of this section.

(l) **DEPENDENT CHILD DEFINED.**—In this section, the term “dependent child”, with respect to a member or former member of the armed forces referred to in subsection (b), means an unmarried child, including an adopted child or a step-child, who was residing with the member at the time of the dependent-abuse offense resulting in the separation of the former member and—

(1) who is under 18 years of age;

(2) who is 18 years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child’s support; or

(3) who is 18 years of age or older but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, at the time a punitive or other adverse action was executed in the case of the former member as described in subsection (b), was) dependent on the former member for over one-half of the child’s support.

(m) **EXCEPTIONAL ELIGIBILITY FOR DEPENDENTS OF FORMER MEMBERS.**—(1) The Secretary concerned, under regulations prescribed under subsection (k), may authorize eligibility for benefits under this section for dependents and former dependents of a former member of the armed forces in a case in which the dependents or former dependents are not otherwise eligible for such benefits and the Secretary concerned determines that the former member engaged in conduct that is a dependent-abuse offense under this section and the former member was separated from active duty other than as described in subsection (b).

(2) In a case in which the Secretary concerned, under the authority of paragraph (1), authorizes benefits to be provided under this section, such benefits shall be provided in the same manner as if the former member were an individual described in subsection (b), except that, under regulations prescribed under subsection (k), the Secretary shall make such adjustments to the commencement and duration of payment provisions of subsection (e), and may make adjustments to other provisions of this section, as the Secretary considers necessary in light of the circumstances in order to provide benefits substantially equivalent to the benefits provided in the case of an individual described in subsection (b).

(3) The authority of the Secretary concerned under paragraph (1) may not be delegated.

(Added Pub. L. 103–160, div. A, title V, § 554(a)(1), Nov. 30, 1993, 107 Stat. 1663, § 1058; renumbered § 1059 and amended Pub. L. 103–337, div. A, title V, § 535(a)–(c)(1), title X, § 1070(a)(5)(A), Oct. 5, 1994, 108 Stat. 2762, 2763, 2855; Pub. L. 104–106, div. A, title VI, § 636(a), (b), title XV, § 1503(a)(8), Feb. 10, 1996, 110 Stat. 367, 511; Pub. L. 105–261, div. A, title V, § 570(a), (b), Oct. 17, 1998, 112 Stat. 2032; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title V, §§ 572(a), (b)(1), (c), 573(a), 574, Nov. 24, 2003, 117 Stat. 1484–1486.)

AMENDMENTS

2003—Subsec. (b)(2). Pub. L. 108–136, § 574, inserted “, voluntarily or involuntarily,” after “administratively separated”.

Subsec. (e)(1)(A). Pub. L. 108–136, § 572(a), substituted “shall commence—” and cls. (i) and (ii) for “shall commence as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and”.

Subsec. (e)(2). Pub. L. 108–136, § 572(b)(1), substituted “a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned” for “a period of 36 months, except that, if as of the date on which payment of transitional compensation commences the unserved portion of the member’s period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

“(A) the unserved portion of the member’s period of obligated active duty service; or

“(B) 12 months”.

Subsec. (e)(3)(A). Pub. L. 108–136, § 572(c), substituted “conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated” for “punishment applicable to the member under the sentence is remitted, set aside, or mitigated”.

Subsec. (m). Pub. L. 108–136, § 573(a), added subsec. (m).

2002—Subsecs. (a), (k)(1). Pub. L. 107–296 substituted “of Homeland Security” for “of Transportation”.

1998—Subsec. (d)(1). Pub. L. 105–261, § 570(a)(1), struck out “(except as otherwise provided in this subsection)” after “such compensation shall” and inserted before period at end “, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse”.

Subsec. (d)(2). Pub. L. 105–261, § 570(a)(2), substituted “is or, but for subsection (g), would be eligible” for “(but for subsection (g)) would be eligible” and “compensation under this section shall” for “such compensation shall”.

Subsec. (d)(4). Pub. L. 105–261, § 570(a)(3), substituted “For purposes of this subsection” for “For purposes of paragraphs (2) and (3)”.

Subsec. (f)(2). Pub. L. 105–261, § 570(b), substituted “has custody of a dependent child of the member who resides in the same household as that spouse or former spouse” for “has custody of a dependent child or children of the member”.

1996—Subsec. (a). Pub. L. 104–106, § 636(a), inserted at end “Upon establishment of such a program, the program shall apply in the case of each such member de-

scribed in subsection (b) who is under the jurisdiction of the Secretary establishing the program.”

Subsec. (c)(2). Pub. L. 104-106, § 1503(a)(8), substituted “subsection (k)” for “subsection (j)”.

Subsec. (d). Pub. L. 104-106, § 636(b)(1), in introductory provisions, substituted “the case of any individual described in subsection (b)” for “any case of a separation from active duty as described in subsection (b)” and “dependents of the individual” for “dependents of the former member”.

Subsec. (d)(1). Pub. L. 104-106, § 636(b)(2), substituted “If the individual” for “If the former member” and “to whom the individual” for “to whom the member”.

Subsec. (d)(2). Pub. L. 104-106, § 636(b)(3), substituted “individual described in subsection (b)” for “former member” in two places.

Subsec. (d)(3). Pub. L. 104-106, § 636(b)(4), substituted “individual described in subsection (b)” for “former member”.

Subsec. (d)(4). Pub. L. 104-106, § 636(b)(5), substituted “individual described in subsection (b)” for “member” in two places.

Subsec. (g)(3). Pub. L. 104-106, § 1503(a)(8), substituted “subsection (k)” for “subsection (j)”.

1994—Pub. L. 103-337, § 1070(a)(5)(A), renumbered section 1058 of this title as this section.

Pub. L. 103-337, § 535(c)(1), inserted “; commissary and exchange benefits” at end of section catchline.

Subsec. (e). Pub. L. 103-337, § 535(a), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows:

“(e) COMMENCEMENT AND DURATION OF PAYMENT.—(1) Payment of transitional compensation under this section shall commence as of the date of the discontinuance of the member’s pay and allowances pursuant to the separation or sentencing of the member and, except as provided in paragraph (2), shall be paid for a period of 36 months.

“(2) If as of the date on which payment of transitional compensation commences the unserved portion of the member’s period of obligated active duty service is less than 36 months, the period for which transitional compensation is paid shall be equal to the greater of—

“(A) the unserved portion of the member’s period of obligated active duty service; or

“(B) 12 months.”

Subsecs. (j) to (l). Pub. L. 103-337, § 535(b), added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title V, § 572(d), Nov. 24, 2003, 117 Stat. 1485, provided that: “The amendments made by this section [amending this section] shall apply only with respect to cases in which a court-martial sentence is adjudged on or after the date of the enactment of this Act [Nov. 24, 2003].”

Pub. L. 108-136, div. A, title V, § 573(b), Nov. 24, 2003, 117 Stat. 1485, provided that: “The authority under subsection (m) of section 1059 of title 10, United States Code, as added by subsection (a), may be exercised with respect to eligibility for benefits under that section only for dependents and former dependents of individuals who are separated from active duty in the Armed Forces on or after the date of the enactment of this Act [Nov. 24, 2003].”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title V, § 570(c), Oct. 17, 1998, 112 Stat. 2032, provided that: “No benefits shall accrue by reason of the amendments made by this section [amending this section] for any month that begins be-

fore the date of the enactment of this Act [Oct. 17, 1998].”

EFFECTIVE DATE

Section 554(b) of Pub. L. 103-160, as amended by Pub. L. 103-337, div. A, title X, § 1070(b)(5), Oct. 5, 1994, 108 Stat. 2856; Pub. L. 104-106, div. A, title VI, § 636(c), Feb. 10, 1996, 110 Stat. 367, provided that:

“(1) The section of title 10, United States Code, added by subsection (a)(1) [this section] shall apply with respect to a member of the Armed Forces who, after November 29, 1993—

“(A) is separated from active duty as described in subsection (b) of such section; or

“(B) forfeits all pay and allowances as described in such subsection.

“(2) Payments of transitional compensation under that section in the case of any person eligible to receive payments under that section shall be made for each month after November 1993 for which that person may be paid transitional compensation in accordance with that section.”

DURATION OF TRANSITIONAL COMPENSATION PAYMENTS

Pub. L. 108-136, div. A, title V, § 572(b)(2), Nov. 24, 2003, 117 Stat. 1485, provided that: “Policies under subsection (e)(2) of section 1059 of title 10, United States Code, as amended by paragraph (1), for the duration of transitional compensation payments under that section shall be prescribed under such subsection not later than six months after the date of the enactment of this Act [Nov. 24, 2003].”

§ 1060. Military service of retired members with newly democratic nations: consent of Congress

(a) CONSENT OF CONGRESS.—Subject to subsection (b), Congress consents to a retired member of the uniformed services—

(1) accepting employment by, or holding an office or position in, the military forces of a newly democratic nation; and

(2) accepting compensation associated with such employment, office, or position.

(b) APPROVAL REQUIRED.—The consent provided in subsection (a) for a retired member of the uniformed services to accept employment or hold an office or position shall apply to a retired member only if the Secretary concerned and the Secretary of State jointly approve the employment or the holding of such office or position.

(c) DETERMINATION OF NEWLY DEMOCRATIC NATIONS.—The Secretary concerned and the Secretary of State shall jointly determine whether a nation is a newly democratic nation for the purposes of this section.

[(d) Repealed. Pub. L. 108-136, div. A, title X, § 1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.]

(e) CONTINUED ENTITLEMENT TO RETIRED PAY AND BENEFITS.—The eligibility of a retired member to receive retired or retainer pay and other benefits arising from the retired member’s status as a retired member of the uniformed services, and the eligibility of dependents of such retired member to receive benefits on the basis of such retired member’s status as a retired member of the uniformed services, may not be terminated by reason of employment or holding of an office or position consented to in subsection (a).

(f) RETIRED MEMBER DEFINED.—In this section, the term “retired member” means a member or former member of the uniformed services who is entitled to receive retired or retainer pay.

(g) CIVIL EMPLOYMENT BY FOREIGN GOVERNMENTS.—For a provision of law providing the consent of Congress to civil employment by foreign governments, see section 908 of title 37.

(Added Pub. L. 103-160, div. A, title XIV, §1433(b)(1), Nov. 30, 1993, 107 Stat. 1834, §1058; renumbered §1060, Pub. L. 103-337, div. A, title X, §1070(a)(6)(A), Oct. 5, 1994, 108 Stat. 2855; amended Pub. L. 104-106, div. A, title XV, §1502(a)(13), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1031(a)(9), Nov. 24, 2003, 117 Stat. 1597.)

AMENDMENTS

2003—Subsec. (d). Pub. L. 108-136 struck out heading and text of subsec. (d). Text read as follows: “The Secretary concerned and the Secretary of State shall notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives of each approval under subsection (b) and each determination under subsection (c).”

1999—Subsec. (d). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (d). Pub. L. 104-106 substituted “Committee on National Security and the Committee on International Relations” for “Committee on Armed Services and the Committee on Foreign Affairs”.

1994—Pub. L. 103-337 renumbered section 1058 of this title as this section.

EFFECTIVE DATE

Section 1433(d) of Pub. L. 103-160 provided that this section was to take effect as of Jan. 1, 1993, prior to repeal by Pub. L. 103-236, title I, §182(b), Apr. 30, 1994, 108 Stat. 418.

RESTORATION OF WITHHELD BENEFITS

Pub. L. 103-236, title I, §182(a), Apr. 30, 1994, 108 Stat. 418, as amended by Pub. L. 103-337, div. A, title X, §1070(d)(7), Oct. 5, 1994, 108 Stat. 2858; Pub. L. 103-415, §1(j), Oct. 25, 1994, 108 Stat. 4301, provided that: “With respect to any person for which the Secretary of State and the Secretary concerned within the Department of Defense have approved the employment or the holding of a position pursuant to the provisions of section 1060 of title 10, United States Code, before April 30, 1994, the consents, approvals and determinations under that section shall be deemed to be effective as of January 1, 1993.”

CONGRESSIONAL FINDINGS

Section 1433(a) of Pub. L. 103-160 provided that: “The Congress makes the following findings:

“(1) It is in the national security interest of the United States to promote democracy throughout the world.

“(2) The armed forces of newly democratic nations often lack the democratic traditions that are a hallmark of the Armed Forces of the United States.

“(3) The understanding of military roles and missions in a democracy is essential for the development and preservation of democratic forms of government.

“(4) The service of retired members of the Armed Forces of the United States in the armed forces of newly democratic nations could lead to a better understanding of military roles and missions in a democracy.”

§ 1060a. Special supplemental food program

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to provide supplemental foods and nutrition education to

members of the armed forces on duty at stations outside the United States (and its territories and possessions) and to eligible civilians serving with, employed by, or accompanying the armed forces outside the United States (and its territories and possessions).

(b) FUNDING MECHANISM.—The Secretary of Defense shall use funds available for the Department of Defense to carry out the program under subsection (a).

(c) PROGRAM ADMINISTRATION.—(1)(A) The Secretary of Defense shall administer the program referred to in subsection (a) and, except as provided in subparagraph (B), shall determine eligibility for program benefits under the criterion published by the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). In determining eligibility for benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under such section 17 shall be considered eligible for the duration of the certification period under that special supplemental nutrition program.

(B) In determining eligibility for families of individuals participating in the program under this section, the Secretary of Defense shall, to the extent practicable, use the criterion described in subparagraph (A), including nutritional risk standards. In the application of such criterion, the Secretary shall exclude from income any basic allowance for housing as permitted under section 17(d)(2)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)).

(2) The program benefits provided under the program shall be similar to benefits provided by State and local agencies in the United States, particularly with respect to nutrition education.

(3) The Secretary of Agriculture shall provide technical assistance to the Secretary of Defense, if so requested by the Secretary of Defense, for the purpose of carrying out the program under subsection (a).

(d) DEPARTURE FROM STANDARDS.—The Secretary of Defense may authorize departures from standards prescribed by the Secretary of Agriculture regarding the supplemental foods to be made available in the program when local conditions preclude strict compliance or when such compliance is highly impracticable.

(e) REBATE AGREEMENTS WITH FOOD PRODUCERS.—(1) In the administration of the program under this section, the Secretary of Defense may enter into a contract with a producer of a particular brand of food that provides for—

(A) the Secretary of Defense to procure that particular brand of food, exclusive of other brands of the same or similar food, for the purpose of providing the food in commissary stores or Navy Exchange Markets of the Department of Defense as a supplemental food under the program; and

(B) the producer to rebate to the Secretary amounts equal to agreed portions of the amounts paid by the Secretary for the procurement of that particular brand of food for the program.

(2) The Secretary of Defense shall use competitive procedures under chapter 137 of this title to enter into contracts under this subsection.

(3) The period covered by a contract entered into under this subsection, including any period

of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years. No such contract may be extended by a modification of the contract, by exercise of an option, or by any other means. Nothing in this paragraph prohibits a contractor under a contract entered into under this subsection for any year from submitting an offer for, and being awarded, a contract that is to be entered into under this subsection for a successive year.

(4) Amounts rebated under a contract entered into under paragraph (1) shall be credited to the appropriation available for carrying out the program under this section in the fiscal year in which rebated, shall be merged with the other sums in that appropriation, and shall be available for the program for the same period as the other sums in the appropriation.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations to administer the program authorized by this section.

(g) DEFINITIONS.—In this section:

(1) The term “eligible civilian” means—

(A) a dependent of a member of the armed forces residing with the member outside the United States;

(B) an employee of a military department who is a national of the United States and is residing outside the United States in connection with such individual’s employment or a dependent of such individual residing with the employee outside the United States; or

(C) an employee of a Department of Defense contractor who is a national of the United States and is residing outside the United States in connection with such individual’s employment or a dependent of such individual residing with the employee outside the United States.

(2) The term “national of the United States” means—

(A) a citizen of the United States; or

(B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States, as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(3) The term “dependent” has the meaning given such term in subparagraphs (A), (D), (E), and (I) of section 1072(2) of this title.

(4) The terms “nutrition education” and “supplemental foods” have the meanings given the terms in section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)).

(Added Pub. L. 103-337, div. A, title VI, §653(a), Oct. 5, 1994, 108 Stat. 2794; amended Pub. L. 104-106, div. A, title XV, §1503(a)(9), Feb. 10, 1996, 110 Stat. 511; Pub. L. 105-85, div. A, title VI, §655(b)(1), Nov. 18, 1997, 111 Stat. 1805; Pub. L. 106-65, div. A, title VI, §674(a)-(d), Oct. 5, 1999, 113 Stat. 675; Pub. L. 106-398, §1 [[div. A], title VI, §662], Oct. 30, 2000, 114 Stat. 1654, 1654A-167; Pub. L. 107-107, div. A, title III, §334, Dec. 28, 2001, 115 Stat. 1059; Pub. L. 107-314, div. A, title III, §324, Dec. 2, 2002, 116 Stat. 2511.)

REFERENCES IN TEXT

The Immigration and Nationality Act, referred to in subsec. (g)(2)(B), is act June 27, 1952, ch. 477, 66 Stat.

163, as amended, which is classified principally to chapter 12 (§1101 et seq.) of Title 8, Aliens and Nationality. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 8 and Tables.

AMENDMENTS

2002—Subsec. (e)(1)(A). Pub. L. 107-314, §324(a), inserted “or Navy Exchange Markets” after “commissary stores”.

Subsec. (e)(3). Pub. L. 107-314, §324(b), in first sentence, substituted “subsection, including any period of extension of the contract by modification of the contract, exercise of an option, or other cause, may not exceed three years” for “subsection may not exceed one year”.

2001—Subsecs. (e) to (g). Pub. L. 107-107 added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

2000—Subsec. (c)(1)(B). Pub. L. 106-398 added second sentence and struck out former second sentence which read as follows: “The Secretary shall also consider the value of housing in kind provided to the individual when determining program eligibility.”

1999—Subsec. (a). Pub. L. 106-65, §674(a), substituted “Program Required” for “Authority” in heading and “The Secretary of Defense shall carry out a program to provide supplemental foods and nutrition education” for “The Secretary of Defense may carry out a program to provide special supplemental food benefits” in text.

Subsec. (b). Pub. L. 106-65, §674(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786). The Secretary of Defense may use funds available for the Department of Defense to carry out the program under subsection (a).”

Subsec. (c)(1)(A). Pub. L. 106-65, §674(c)(1), inserted at end “In determining eligibility for benefits, a person already certified for participation in the special supplemental nutrition program for women, infants, and children under such section 17 shall be considered eligible for the duration of the certification period under that special supplemental nutrition program.”

Subsec. (c)(1)(B). Pub. L. 106-65, §674(c)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: “The Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of individuals participating in the program under this section.”

Subsec. (c)(2). Pub. L. 106-65, §674(c)(3), inserted “, particularly with respect to nutrition education” before period at end.

Subsec. (c)(3). Pub. L. 106-65, §674(c)(4), added par. (3).

Subsec. (f)(4). Pub. L. 106-65, §674(d), added par. (4).

1997—Subsec. (b). Pub. L. 105-85 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For the purpose of obtaining Federal payments and commodities in order to carry out the program referred to in subsection (a), the Secretary of Agriculture shall make available to the Secretary of Defense from funds appropriated for such purpose, the same payments and commodities as are made for the special supplemental food program in the United States under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).”

1996—Subsec. (f)(2)(B). Pub. L. 104-106 substituted “, as determined in accordance with the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)” for “(as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))”.

REPORT ON IMPLEMENTATION OF SPECIAL SUPPLEMENTAL FOOD PROGRAM

Pub. L. 105-85, div. A, title VI, §655(b)(2), Nov. 18, 1997, 111 Stat. 1805, directed the Secretary of Defense to sub-

mit to Congress a report including plans to implement the program authorized under this section not later than 90 days after Nov. 18, 1997.

§ 1060b. Military ID cards: dependents and survivors of retirees

(a) ISSUANCE OF PERMANENT ID CARD.—(1) In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent as follows:

(A) A retiree dependent who has attained 75 years of age.

(B) A retiree dependent who is permanently disabled.

(2) A permanent ID card shall be issued to a retiree dependent under paragraph (1)(A) upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military card or, if earlier, upon the request of the retiree dependent after attaining age 75.

(b) DEFINITIONS.—In this section:

(1) The term “military ID card” means a card or other form of identification used for purposes of demonstrating eligibility for any benefit from the Department of Defense.

(2) The term “retiree dependent” means a person who is a dependent of a retired member of the uniformed services, or a survivor of a deceased retired member of the uniformed services, who is eligible for any benefit from the Department of Defense.

(Added Pub. L. 108-375, div. A, title V, §583(a)(1), Oct. 28, 2004, 118 Stat. 1929; amended Pub. L. 109-364, div. A, title V, §598(a), (b)(1), Oct. 17, 2006, 120 Stat. 2237.)

AMENDMENTS

2006—Pub. L. 109-364, §598(b)(1), struck out “; issuance of permanent ID card after attaining 75 years of age” after “retirees” in section catchline.

Subsec. (a). Pub. L. 109-364, §598(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “In issuing military ID cards to retiree dependents, the Secretary concerned shall issue a permanent ID card (not subject to renewal) to any such retiree dependent who has attained 75 years of age. Such a permanent ID card shall be issued upon the expiration, after the retiree dependent attains 75 years of age, of any earlier, renewable military ID card or, if earlier, upon the request of such a retiree dependent after attaining age 75.”

EFFECTIVE DATE

Pub. L. 108-375, div. A, title V, §583(b), Oct. 28, 2004, 118 Stat. 1929, provided that: “Section 1060b of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2004.”

CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

Sec.	
1061.	Survivors of certain Reserve and Guard members.
1062.	Certain former spouses.
1063.	Use of commissary stores and MWR retail facilities: members of reserve components and reserve retirees under age 60.
1064.	Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.

AMENDMENTS

2003—Pub. L. 108-136, div. A, title VI, §651(c), Nov. 24, 2003, 117 Stat. 1522, added items 1063 and 1064 and struck

out former items 1063 “Use of commissary stores: members of Ready Reserve”, 1063a “Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency”, 1064 “Use of commissary stores: persons qualified for retired pay under chapter 1223 but under age 60”, and 1065 “Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents”.

2002—Pub. L. 107-314, div. A, title III, §322(b)(2), Dec. 2, 2002, 116 Stat. 2510, inserted “or national emergency” after “disaster” in item 1063a.

2001—Pub. L. 107-107, div. A, title III, §331(d)(3), Dec. 28, 2001, 115 Stat. 1058, struck out “with at least 50 creditable points” after “Ready Reserve” in item 1063.

1998—Pub. L. 105-261, div. A, title III, §362(e), Oct. 17, 1998, 112 Stat. 1985, added items 1063, 1063a, and 1064 and struck out former items 1063 “Period for use of commissary stores: eligibility for members of the Ready Reserve” and 1064 “Use of commissary stores by certain members and former members”.

1996—Pub. L. 104-106, div. A, title III, §342(b), Feb. 10, 1996, 110 Stat. 266, substituted “Morale, welfare, and recreation retail facilities: use by members of reserve components and dependents” for “Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents” in item 1065.

1992—Pub. L. 102-484, div. A, title III, §365(c)(2), Oct. 23, 1992, 106 Stat. 2382, substituted “eligibility for members of the Ready Reserve” for “eligibility attributable to active duty for training”.

1990—Pub. L. 101-510, div. A, title III, §321(d), Nov. 5, 1990, 104 Stat. 1528, added items 1064 and 1065.

§ 1061. Survivors of certain Reserve and Guard members

(a) BENEFITS.—The Secretary of Defense shall prescribe regulations to allow dependents of members of the uniformed services described in subsection (b) to use commissary and exchange stores on the same basis as dependents of members of the uniformed services who die while on active duty for a period of more than 30 days.

(b) COVERED DEPENDENTS.—A dependent referred to in subsection (a) is a dependent of a member of a uniformed service who died—

(1) while on active duty, active duty for training, or inactive-duty training (regardless of the period of such duty); or

(2) while traveling to or from the place at which the member was to perform, or has performed, active duty, active duty for training, or inactive-duty training (regardless of the period of such duty).

(Added Pub. L. 100-370, §1(c)(1), July 19, 1988, 102 Stat. 841.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99-145, title III, §308, Nov. 8, 1985, 99 Stat. 618.

§ 1062. Certain former spouses

The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of this title is entitled to commissary and exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

(Added Pub. L. 100-370, §1(c)(1), July 19, 1988, 102 Stat. 841.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 97-252, title X, §1005, Sept. 8, 1982, 96 Stat. 737.