[§ 2229b. Renumbered § 3072]

CHAPTER 133—FACILITIES FOR RESERVE COMPONENTS

Sec.
2231. Reference to chapter 1803.

Editorial Notes

PRIOR PROVISIONS

A prior chapter 133 was transferred to end of part V of subtitle E of this title and renumbered chapter 1803.

§ 2231. Reference to chapter 1803

Provisions of law relating to facilities for reserve components are set forth in chapter 1803 of this title (beginning with section 18231).

(Added Pub. L. 103–337, div. A, title XVI, § 1664(b)(11), Oct. 5, 1994, 108 Stat. 3011.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 2231 to 2239 were renumbered sections 18231 to 18239 of this title, respectively.

Statutory Notes and Related Subsidiaries

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.

CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Subchapter Sec.
I. Miscellaneous Authorities, Prohibitions, and Limitations on the Use of Appropriated Funds 2241
II. Miscellaneous Administrative Authority 2251

SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

Sec.
2241. Availability of appropriations for certain purposes.
2241a. Prohibition on use of funds for publicity or propaganda purposes within the United States.
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2242. Authority to use appropriated funds for certain investigations and security services.
2243. Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools.
2244. Security investigations.
2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications.
2245. Use of aircraft for proficiency flying: limitation.
[2245a. Repealed.]
2246. Authorization of certain support for military service academy foundations.
[2247 to 2249a. Renumbered or Repealed.]
2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces.
[2249c to 2249e. Renumbered.]

Editorial Notes

AMENDMENTS

2023—Pub. L. 118–31, div. A, title XVIII, § 1801(a)(20), Dec. 22, 2023, 137 Stat. 684, which directed amendment of the analysis for this chapter by striking item 2249 ''Prohibition on use of funds for documenting economic or employment impact of certain acquisition programs'', was executed to the analysis for this subchapter to reflect the probable intent of Congress.

2022—Pub. L. 117–263, div. A, title V, § 551(b), Dec. 23, 2022, 136 Stat. 2592, added item 2246.

2016—Pub. L. 114–328, div. A, title VIII, § 833(b)(1)(B), title XII, §§ 1241(*o*)(6), 1247(d), Dec. 23, 2016, 130 Stat. 2284, 2512, 2522, struck out items 2245a ''Use of operation and maintenance funds for purchase of investment items: limitation'', 2249a ''Prohibition on providing financial assistance to terrorist countries'', 2249c ''Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials'', 2249d ''Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces'', and 2249e ''Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights''.

2015—Pub. L. 114–92, div. A, title III, § 341(b), title V, § 573(b)(2), Nov. 25, 2015, 129 Stat. 793, 831, added item 2241b and substituted ''Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools'' for ''Authority to use appropriated funds to support student meal programs in overseas dependents' schools'' in item 2243.

2014—Pub. L. 113–291, div. A, title XII, § 1204(a)(2), Dec. 19, 2014, 128 Stat. 3533, added item 2249e.

2013—Pub. L. 112–239, div. A, title V, § 588(b)(2), Jan. 2, 2013, 126 Stat. 1769, substituted ''Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces.'' for ''Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display.'' in item 2249b.

2011—Pub. L. 111–383, div. A, title X, § 1075(b)(30), Jan. 7, 2011, 124 Stat. 4370, transferred item 2241a ''Prohibition on use of funds for publicity or propaganda purposes within the United States'' to appear after item 2241.

2009—Pub. L. 111–84, div. A, title X, § 1031(a)(2), Oct. 28, 2009, 123 Stat. 2448, added item 2241a at the end.

2008—Pub. L. 110–417, [div. A], title XII, § 1205(a)(2), Oct. 14, 2008, 122 Stat. 4624, added item 2249d.

2006—Pub. L. 109–364, div. A, title XII, § 1204(d)(3), Oct. 17, 2006, 120 Stat. 2416, substituted ''Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials'' for ''Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program'' in item 2249c.

Pub. L. 109–163, div. A, title III, §§ 372(b), 373(b), Jan. 6, 2006, 119 Stat. 3210, 3211, added items 2244a and 2245a.

2004—Pub. L. 108–375, div. A, title VI, § 651(f)(3), Oct. 28, 2004, 118 Stat. 1972, struck out items 2246 ''Department of Defense golf courses: limitation on use of appropriated funds'' and 2247 ''Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation''.

2003—Pub. L. 108–136, div. A, title X, § 1045(a)(5)(B), title XII, § 1221(a)(2), Nov. 24, 2003, 117 Stat. 1612, 1651, struck out item 2248 ''Purchase of surety bonds: prohibition'' and added item 2249c.

1996—Pub. L. 104–201, div. A, title X, § 1071(b), Sept. 23, 1996, 110 Stat. 2657, added item 2249b.

Pub. L. 104–106, div. A, title XIII, § 1341(b), div. D, title XLIII, § 4321(b)(2)(B), Feb. 10, 1996, 110 Stat. 485, 672, redesignated item 2247, relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs, as 2249 and added item 2249a.

1994—Pub. L. 103–355, title VII, § 7202(a)(2), Oct. 13, 1994, 108 Stat. 3379, added item 2247 relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.

Pub. L. 103–337, div. A, title III, § 372(b), title X, § 1063(b), Oct. 5, 1994, 108 Stat. 2736, 2848, added item 2247 relating to use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation and item 2248.

1993—Pub. L. 103–160, div. A, title III, § 312(b), Nov. 30, 1993, 107 Stat. 1618, added item 2246.

1991—Pub. L. 102–190, div. A, title X, § 1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, made technical correction to directory language of Pub. L. 101–510, div. A, title XIV, § 1481(e)(2), Nov. 5, 1990, 104 Stat. 1706. See 1990 amendment note below.

1990—Pub. L. 101–510, div. A, title XIV, § 1481(e)(2), Nov. 5, 1990, 104 Stat. 1706, as amended by Pub. L. 102–190, div. A, title X, § 1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, added item 2245.

Pub. L. 101–510, div. A, title IX, § 904(b), Nov. 5, 1990, 104 Stat. 1621, added item 2244.

1989—Pub. L. 101–189, div. A, title III, § 326(b), Nov. 29, 1989, 103 Stat. 1416, added item 2243.

§ 2241. Availability of appropriations for certain purposes

(a) OPERATION AND MAINTENANCE APPROPRIATIONS.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

(1) Morale, welfare, and recreation.

(2) Modification of personal property.

(3) Design of vessels.

(4) Industrial mobilization.

(5) Military communications facilities on merchant vessels.

(6) Acquisition of services, special clothing, supplies, and equipment.

(7) Expenses for the Reserve Officers' Training Corps and other units at educational institutions.

(b) NECESSARY EXPENSES.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

(c) ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.—Amounts appropriated for operation and maintenance may, under regulations prescribed by the Secretary of Defense, be used by the Secretary for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.

(d) IMPLEMENTATION OF VIENNA DOCUMENT 2011.—Amounts appropriated for operation and maintenance may be used by the Secretary of Defense for travel, transportation, and subsistence expenses for meetings and demonstrations hosted by the Department of Defense for the implementation of the Vienna Document 2011 on Confidence and Security-Building Measures.

(Added Pub. L. 100–370, § 1(e)(1), July 19, 1988, 102 Stat. 844; amended Pub. L. 108–136, div. A, title V, § 518, Nov. 24, 2003, 117 Stat. 1462; Pub. L. 118–31, div. A, title X, § 1043, Dec. 22, 2023, 137 Stat. 389.)

HISTORICAL AND REVISION NOTES

Subsection (a) of this section and sections 2253(b) and 2661(a) of this title are based on Pub. L. 98–212, title VII, § 735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98–525, title XIV, §§ 1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for ''welfare and recreation'' or ''welfare and recreational'' purposes. (Section 735 of Public Law 98–212 and section 8006(b) of Public Law 99–190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term ''morale'' in both of these two instances to conform to the usual ''MWR'' usage for morale, welfare, and recreation activities.

Subsection (b) of this section and sections 2242(1), (4) and 2253(a)(1) of this title are based on Pub. L. 98–212, title VII, § 705, Dec. 8, 1983, 97 Stat. 1437.

Section 705 of Public Law 98–212, to be codified as 10 U.S.C. 2241(b), provides that defense appropriations may be used in connection with certain services and supplies ''as may be necessary to carry out the purposes of this Act''. The reference to ''this Act'' means Public Law 98–212, the FY84 Defense Appropriations Act. Language similar to section 705 had been enacted as part of the annual defense appropriation Act for many years. In the FY84 Act, section 705 was enacted as a permanent provision. The quoted phrase above was not, however, revised from the traditional annual wording as the provision had appeared in annual appropriations Acts in order to give it effect beyond the fiscal year concerned. Since the general purpose of a defense appropriations Act is to provide funds for national defense purposes, the committee, in codifying this provision, revised the quoted phrase so as to read ''that may be necessary for the national defense''. No change in meaning is intended.

Editorial Notes

AMENDMENTS

2023—Subsec. (d). Pub. L. 118–31 added subsec. (d).

2003—Subsec. (c). Pub. L. 108–136 added subsec. (c).

Statutory Notes and Related Subsidiaries

REIMBURSEMENT OF PAY, ALLOWANCES AND OTHER EXPENSES WHEN MEMBERS OF THE NATIONAL GUARD AND RESERVE PROVIDE INTELLIGENCE OR COUNTERINTELLIGENCE SUPPORT TO COMBATANT COMMANDS, DEFENSE AGENCIES AND JOINT INTELLIGENCE ACTIVITIES

Pub. L. 118–47, div. A, title VIII, § 8049, Mar. 23, 2024, 138 Stat. 495, provided that: ''In this fiscal year and each fiscal year thereafter, funds appropriated for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Intelligence Program and the Military Intelligence Program: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.''

POLICY REQUIRED FOR SUPPORT OF ENTERTAINMENT PROJECTS

Pub. L. 117–263, div. A, title XII, § 1257(c), Dec. 23, 2022, 136 Stat. 2852, provided that: ''Not later than 180 days after the date of the enactment of this Act [Dec. 23,

2022], the Secretary of Defense shall issue a policy that describes how the Department of Defense will review requests to provide active or direct support to any film, television, or other entertainment project. The policy shall include ways to assess Chinese influence or potential influence over the content of a film, television, or other entertainment project, actions the Department can take to prevent Chinese censorship of a project, and criteria the Department shall use when evaluating requests to support a project.''

PROHIBITION ON TRANSFER OF DEPARTMENT OF DEFENSE FUNDS OR RESOURCES TO THE TALIBAN

Pub. L. 117–81, div. A, title XII, §1213, Dec. 27, 2021, 135 Stat. 1963, provided that:

''(a) PROHIBITION.—None of the funds authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available—

''(1) to provide any funds or resources to the Taliban; or

''(2) to conduct any military cooperation or sharing of military intelligence with the Taliban, unless the Secretary of Defense determines that such cooperation or sharing advances the national security interests of the United States.

''(b) NOTIFICATION.———[SIC]

''(1) SUBMISSION REQUIRED.—If the Secretary makes an affirmative determination described in subsection (1)(a) [probably should be subsection (a)(2)], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written description of the military cooperation or military intelligence that was shared with the Taliban pursuant to such determination, not later than 5 days after the date of such cooperation or sharing. The Secretary shall include with such description any other matter the Secretary determines relevant.

''(2) FORM.—The information described in paragraph (1) shall be submitted in an unclassified format and may include a classified annex.''

PROHIBITION ON TRANSPORTING CURRENCY TO THE TALIBAN OR THE ISLAMIC EMIRATE OF AFGHANISTAN

Pub. L. 118–159, div. A, title X, §1056, Dec. 23, 2024, 138 Stat. 2063, provided that: ''None of the amounts authorized to be appropriated by this Act [divs. A to D of Pub. L. 118–159, see Tables for classification] or otherwise made available for the Department of Defense may be obligated or expended to operate any aircraft of the Department of Defense to transport currency or other items of value to the Taliban, the Islamic Emirate of Afghanistan, or any subsidiary, agent, or instrumentality of either the Taliban or the Islamic Emirate of Afghanistan.''

Similar provisions were contained in the following prior acts:

Pub. L. 118–31, div. A, title XII, §1271, Dec. 22, 2023, 137 Stat. 486.

Pub. L. 117–263, div. A, title XII, §1223, Dec. 23, 2022, 136 Stat. 2836.

Pub. L. 117–81, div. A, title XII, §1214, Dec. 27, 2021, 135 Stat. 1963.

RESTRICTION ON COUNTER-ISIS TRAIN AND EQUIP FUND

Pub. L. 117–81, div. A, title XII, §1223(e), Dec. 27, 2021, 135 Stat. 1971, provided that: ''Amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or the amendments made by this Act or otherwise made available for any fiscal year to the Counter-Islamic State of Iraq and Syria Train and Equip Fund are authorized to be made available only in support of partner forces eligible to receive assistance under section 1209(a) of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3541) or subsection (a) of section 1236 of such Act [128 Stat. 3558], as amended by subsection (a) of this section.''

PROHIBITION ON TRANSFERS TO THE BADR ORGANIZATION

Pub. L. 118–31, div. A, title XII, §1267, Dec. 22, 2023, 137 Stat. 483, provided that: ''None of the amounts authorized to be appropriated by this Act [Pub. L. 118–31, see Tables for classification] or otherwise made available to the Department of Defense may be made available, directly or indirectly, to the Badr Organization.''

Similar provisions were contained in the following prior acts:

Pub. L. 118–159, div. A, title X, §1057, Dec. 23, 2024, 138 Stat. 2063.

Pub. L. 117–263, div. A, title XII, §1239, Dec. 23, 2022, 136 Stat. 2841.

Pub. L. 117–81, div. A, title XII, §1225, Dec. 27, 2021, 135 Stat. 1972.

PROHIBITION ON TRANSFERS TO IRAN

Pub. L. 117–263, div. A, title XII, §1235, Dec. 23, 2022, 136 Stat. 2838, provided that: ''None of the amounts authorized to be appropriated by this Act [Pub. L. 117–263, see Tables for classification] or otherwise made available to the Department of Defense may be made available to transfer or facilitate a transfer of pallets of currency, currency, or other items of value to the Government of Iran, any subsidiary of such Government, or any agent or instrumentality of Iran.''

Similar provisions were contained in the following prior act:

Pub. L. 117–81, div. A, title XII, §1226, Dec. 27, 2021, 135 Stat. 1972.

LIMITATION ON PROVISION OF FUNDS TO INSTITUTIONS OF HIGHER EDUCATION HOSTING CONFUCIUS INSTITUTES

Pub. L. 116–283, div. A, title X, §1062, Jan. 1, 2021, 134 Stat. 3859, as amended by Pub. L. 118–31, div. A, title X, §§1044(a), 1045, Dec. 22, 2023, 137 Stat. 389, 390, provided that:

''(a) LIMITATION.—Except as provided in subsection (b), none of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be provided to an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance.

''(b) WAIVER.—

''(1) IN GENERAL.—The Secretary of Defense may waive the limitation under subsection (a) with respect to an institution of higher education if the Secretary, after consultation with the National Academies of Sciences, Engineering, and Medicine, determines such a waiver is appropriate.

''(2) MANAGEMENT PROCESS.—If the Secretary issues a waiver under paragraph (1), the academic liaison designated pursuant to subsection (g) [now (h)] of section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 [Pub. L. 115–232] ([former] 10 U.S.C. 2358 note) [now 10 U.S.C. 4001 note], as amended by section 1299C of this Act, shall manage the waiver process on behalf of the Secretary.

''(3) TERMINATION OF AUTHORITY.—The authority to issue a waiver under paragraph (1) shall terminate on October 1, 2026, and any waiver issued under such paragraph shall not apply on or after such date.

''(c) EFFECTIVE DATE.—The limitation under subsection (a) shall apply with respect to the first fiscal year that begins after the date that is 24 months after the date of the enactment of this Act [Jan. 1, 2021] and to any subsequent fiscal year.

''(d) DEFINITIONS.—In this section:

''(1) CONFUCIUS INSTITUTE.—The term 'Confucius Institute' means—

''(A) any program that receives funding or support from—

''(i) the Chinese International Education Foundation; or

''(ii) the Center for Language Exchange Cooperation of the Ministry of Education of the People's Republic of China; or

''(B) any cultural institute funded by the Government of the People's Republic of China.

''(2) The term 'institution of higher education' has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).''

OBLIGATION OF FUNDS FOR SPACE FORCE PROCUREMENT

Pub. L. 116–260, div. C, title VIII, § 8089, Dec. 27, 2020, 134 Stat. 1326, provided that: ''In this fiscal year and each fiscal year thereafter, funds appropriated under the heading 'Procurement, Space Force' may be obligated for payment of satellite on-orbit incentives in the fiscal year in which an incentive payment is earned: *Provided*, That any obligation made pursuant to this section may not be entered into until 30 calendar days in session after the congressional defense committees [see section 8028 of Pub. L. 116–260, set out below] have been notified that an on-orbit incentive payment has been earned.''

[Pub. L. 116–260, div. C, title VIII, § 8028, Dec. 27, 2020, 134 Stat. 1310, provided that: ''For the purposes of this Act [div. C of 116–260, see Tables for classification], the term 'congressional defense committees' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.'']

PROHIBITION ON USE OF FUNDS FOR CERTAIN PROGRAMS AND PROJECTS OF THE DEPARTMENT OF DEFENSE IN AFGHANISTAN THAT CANNOT BE SAFELY ACCESSED BY UNITED STATES GOVERNMENT PERSONNEL

Pub. L. 114–328, div. A, title XII, § 1216, Dec. 23, 2016, 130 Stat. 2480, provided that:

''(a) PROHIBITION.—

''(1) IN GENERAL.—Amounts available to the Department of Defense may not be obligated or expended for a construction or other infrastructure program or project of the Department in Afghanistan if military or civilian personnel of the United States Government or their representatives with authority to conduct oversight of such program or project cannot safely access such program or project.

''(2) APPLICABILITY.—Paragraph (1) shall apply only with respect to a program or project that is initiated on or after the date of the enactment of this Act [Dec. 23, 2016].

''(b) WAIVER.—

''(1) IN GENERAL.—The prohibition in subsection (a) may be waived with respect to a program or project otherwise covered by that subsection if a determination described in paragraph (2) is made as follows:

''(A) In the case of a program or project with an estimated lifecycle cost of less than $1,000,000, by the contracting officer assigned to oversee the program or project.

''(B) In the case of a program or project with an estimated lifecycle cost of $1,000,000 or more, but less than $20,000,000, by the Commander of the Combined Security Transition Command-Afghanistan.

''(C) In the case of a program or project with an estimated lifecycle cost of $20,000,000 or more, but less than $40,000,000, by the Commander of United States Forces-Afghanistan.

''(D) In the case of a program or project with an estimated lifecycle cost of $40,000,000 or more, by the Secretary of Defense.

''(2) DETERMINATION.—A determination described in this paragraph with respect to a program or project is a determination of each of the following:

''(A) That the program or project clearly contributes to United States national interests or strategic objectives.

''(B) That the Government of Afghanistan has requested or expressed a need for the program or project.

''(C) That the program or project has been coordinated with the Government of Afghanistan, and with any other implementing agencies or international donors.

''(D) That security conditions permit effective implementation and oversight of the program or project.

''(E) That the program or project includes safeguards to detect, deter, and mitigate corruption and waste, fraud, and abuse of funds.

''(F) That adequate arrangements have been made for the sustainment of the program or project following its completion, including arrangements with respect to funding and technical capacity for sustainment.

''(G) That meaningful metrics have been established to measure the progress and effectiveness of the program or project in meeting its objectives.

''(3) NOTICE ON CERTAIN WAIVERS.—In the event a waiver is issued under paragraph (1) for a program or project described in subparagraph (D) of that paragraph, the Secretary of Defense shall notify Congress of the waiver not later than 15 days after the issuance of the waiver.''

FUNDS PROHIBITED FOR SUPPORT OF DEPARTMENT OR AGENCY IN ARREARS IN MAKING PAYMENT TO DEPARTMENT OF DEFENSE

Pub. L. 113–235, div. C, title VIII, § 8063, Dec. 16, 2014, 128 Stat. 2268, provided that: ''During the current fiscal year and hereafter, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.''

PUBLIC FINANCIAL DISCLOSURE REQUIRED BY SENIOR MENTOR ADVISING DEPARTMENT OF DEFENSE

Pub. L. 113–235, div. C, title VIII, § 8104, Dec. 16, 2014, 128 Stat. 2278, provided that: ''None of the funds appropriated or otherwise made available by this Act [div. C of Pub. L. 113–235, see Tables for classification] and hereafter may be obligated or expended to pay a retired general or flag officer to serve as a senior mentor advising the Department of Defense unless such retired officer files a Standard Form 278 (or successor form concerning public financial disclosure under part 2634 of title 5, Code of Federal Regulations) to the Office of Government Ethics.''

LIMITATION ON SOURCE OF FUNDS FOR CERTAIN JOINT CARGO AIRCRAFT EXPENDITURES

Pub. L. 110–417, [div. A], title II, § 216, Oct. 14, 2008, 122 Stat. 4387, provided that:

''(a) LIMITATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act [see Tables for classification] or otherwise made available for fiscal year 2009 or any fiscal year thereafter for the Army or the Air Force, the Secretary of the Army and the Secretary of the Air Force may fund relevant expenditures for the Joint Cargo Aircraft only through amounts made available for procurement or for research, development, test, and evaluation.

''(b) RELEVANT EXPENDITURES FOR THE JOINT CARGO AIRCRAFT DEFINED.—In this section, the term 'relevant expenditures for the Joint Cargo Aircraft' means expenditures relating to—

''(1) support equipment;

''(2) initial spares;

''(3) training simulators;
''(4) systems engineering and management; and
''(5) post-production modifications.''

PROHIBITIONS RELATING TO PROPAGANDA

Pub. L. 110–417, [div. A], title X, §1056, Oct. 14, 2008, 122 Stat. 4610, provided that:

''(a) PROHIBITION.—No part of any funds authorized to be appropriated in this or any other Act shall be used by the Department of Defense for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

''(b) REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Inspector General of the Department of Defense shall submit to Congress a report on the findings of their project number D2008–DIPOEF–0209.000, entitled 'Examination of Allegations Involving DoD Office of Public Affairs Outreach Program'.

''(c) LEGAL OPINION.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall issue a legal opinion to Congress on whether the Department of Defense violated appropriations prohibitions on publicity or propaganda activities established in Public Laws 107–117, 107–248, 108–87, 108–287, 109–148, 109–289, and 110–116, the Department of Defense Appropriations Acts for fiscal years 2002 through 2008, respectively, by offering special access to prominent persons in the private sector who serve as media analysts, including briefings and information on war efforts, meetings with high level government officials, and trips to Iraq and Guantanamo Bay, Cuba.

''(d) RULE OF CONSTRUCTION RELATED TO INTELLIGENCE ACTIVITIES.—Nothing in this section shall be construed to apply to any lawful and authorized intelligence activity of the United States Government.''

FUNDS MADE AVAILABLE FOR TRANSPORTATION OF MEDICAL SUPPLIES TO AMERICAN SAMOA AND INDIAN HEALTH SERVICE

Pub. L. 110–329, div. C, title VIII, §8058, Sept. 30, 2008, 122 Stat. 3634, provided that: ''Notwithstanding any other provision of law, funds available to the Department of Defense in this Act [div. C of Pub. L. 110–329, see Tables for classification], and hereafter, shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.''

OBLIGATION OF FUNDS FOR INSTALLATION SUPPORT FUNCTIONS

Pub. L. 108–287, title VIII, §8070, Aug. 5, 2004, 118 Stat. 987, provided that: ''Hereafter, funds appropriated for Operation and maintenance and for the Defense Health Program in this Act [see Tables for classification], and in future appropriations acts for the Department of Defense, for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–87, title VIII, §8071, Sept. 30, 2003, 117 Stat. 1088.

Pub. L. 107–248, title VIII, §8072, Oct. 23, 2002, 116 Stat. 1553.

Pub. L. 107–117, div. A, title VIII, §8080, Jan. 10, 2002, 115 Stat. 2265.

Pub. L. 106–259, title VIII, §8079, Aug. 9, 2000, 114 Stat. 691.

Pub. L. 106–79, title VIII, §8084, Oct. 25, 1999, 113 Stat. 1251.

Pub. L. 105–262, title VIII, §8085, Oct. 17, 1998, 112 Stat. 2318.

Pub. L. 105–56, title VIII, §8093, Oct. 8, 1997, 111 Stat. 1241.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8119], Sept. 30, 1996, 110 Stat. 3009–71, 3009–114.

LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE

Pub. L. 108–136, div. A, title X, §1007, Nov. 24, 2003, 117 Stat. 1585, provided that:

''(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that year in providing goods and services to the Department of State.

''(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of October 1, 2003.''

TOTAL INFORMATION AWARENESS PROGRAM

Pub. L. 108–7, div. M, §111, Feb. 20, 2003, 117 Stat. 534, provided that:

''(a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, commencing 90 days after the date of the enactment of this Act [Feb. 20, 2003], no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Total Information Awareness program unless—

''(1) the report described in subsection (b) is submitted to Congress not later than 90 days after the date of the enactment of this Act; or

''(2) the President certifies to Congress in writing, that—

''(A) the submittal of the report to Congress within 90 days after the date of the enactment of this Act is not practicable; and

''(B) the cessation of research and development on the Total Information Awareness program would endanger the national security of the United States.

''(b) REPORT.—The report described in this subsection is a report, in writing, of the Secretary of Defense, the Attorney General, and the Director of Central Intelligence, acting jointly, that—

''(1) contains—

''(A) a detailed explanation of the actual and intended use of funds for each project and activity of the Total Information Awareness program, including an expenditure plan for the use of such funds;

''(B) the schedule for proposed research and development on each project and activity of the Total Information Awareness program; and

''(C) target dates for the deployment of each project and activity of the Total Information Awareness program;

''(2) assesses the likely efficacy of systems such as the Total Information Awareness program in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists or terrorist groups;

''(3) assesses the likely impact of the implementation of a system such as the Total Information Awareness program on privacy and civil liberties;

''(4) sets forth a list of the laws and regulations that govern the information to be collected by the Total Information Awareness program, and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program; and

''(5) includes recommendations, endorsed by the Attorney General, for practices, procedures, regulations, or legislation on the deployment, implementation, or use of the Total Information Awareness program to eliminate or minimize adverse effects of such program on privacy and other civil liberties.

''(c) LIMITATION ON DEPLOYMENT OF TOTAL INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), if and when research and development on the Total Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

''(A) notifies Congress of that development, including a specific and detailed description of—

''(i) each element of such program or component intended to be deployed or implemented; and

''(ii) the method and scope of the intended deployment or implementation of such program or component (including the data or information to be accessed or used); and

''(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

''(i) a specific authorization by law for the deployment or implementation of such program or component; and

''(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

''(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Total Information Awareness program, or a component of such program, in support of the following:

''(A) Lawful military operations of the United States conducted outside the United States.

''(B) Lawful foreign intelligence activities conducted wholly against non-United States persons.

''(d) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the Total Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

''(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

''(e) DEFINITIONS.—In this section:

''(1) TOTAL INFORMATION AWARENESS PROGRAM.—The term 'Total Information Awareness program'—

''(A) means the computer hardware and software components of the program known as Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

''(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

''(2) NON-UNITED STATES PERSON.—The term 'non-United States person' means any person other than a United States person.

''(3) UNITED STATES PERSON.—The term 'United States person' has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 3001 of Title 50, War and National Defense.]

FUNDS PROHIBITED FOR CONTRACTS WITH PERSONS CONVICTED OF UNLAWFUL MANUFACTURE OR SALE OF CONGRESSIONAL MEDALS OF HONOR

Pub. L. 105–262, title VIII, § 8118, Oct. 17, 1998, 112 Stat. 2331, provided that: ''During the current fiscal year and hereafter, no funds appropriated or otherwise available to the Department of Defense may be used to award a contract to, extend a contract with, or approve the award of a subcontract to any person who within the preceding 15 years has been convicted under section 704 of title 18, United States Code, of the unlawful manufacture or sale of the Congressional Medal of Honor.''

USE OF FUNDS FOR MODIFICATION OF RETIRED AIRCRAFT, WEAPON, SHIP OR OTHER ITEM OF EQUIPMENT

Pub. L. 105–56, title VIII, § 8053, Oct. 8, 1997, 111 Stat. 1232, which provided that none of the funds provided in the Act and hereafter would be available for use by a military department to modify an aircraft, weapon, ship or other item of equipment, that the military department concerned planned to retire or otherwise dispose of within 5 years after completion of the modification, was repealed and restated in section 2244a of this title by Pub. L. 109–163, div. A, title III, § 372(a), (c), 119 Stat. 3209, 3210.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, § 101(b) [title VIII, § 8055], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99.

Pub. L. 104–61, title VIII, § 8068, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103–335, title VIII, § 8079, Sept. 30, 1994, 108 Stat. 2636.

Pub. L. 103–139, title VIII, § 8098, Nov. 11, 1993, 107 Stat. 1462.

Pub. L. 102–396, title IX, § 9034, Oct. 6, 1992, 106 Stat. 1908.

Pub. L. 102–172, title VIII, § 8034, Nov. 26, 1991, 105 Stat. 1178.

Pub. L. 101–511, title VIII, § 8035, Nov. 5, 1990, 104 Stat. 1882.

DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 104–106, div. A, title III, § 335, Feb. 10, 1996, 110 Stat. 262, directed the Secretary of Defense to conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs, directed the Secretary to submit to Congress a final report on the results of the project not later than Dec. 31, 1998, and provided that the project would terminate not later than Sept. 30, 1998.

INTERAGENCY COURIER SERVICE

Pub. L. 103–335, title VIII, § 8119, Sept. 30, 1994, 108 Stat. 2649, provided that: ''During the current fiscal year and hereafter, the Department of State and the

Department of Defense are authorized to provide interagency courier service on a non-reimbursable basis.''

RESTRICTIONS ON PROCUREMENTS FROM OUTSIDE OF UNITED STATES

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8109], Sept. 30, 1996, 110 Stat. 3009–71, 3009–111, provided for application of section 9005 of Public Law 102–396 (formerly set out below), prior to repeal by Pub. L. 107–107, div. A, title VIII, §832(b)(2), Dec. 28, 2001, 115 Stat. 1190.

Pub. L. 102–396, title IX, §9005, Oct. 6, 1992, 106 Stat. 1900, as amended by Pub. L. 103–139, title VIII, §8005, Nov. 11, 1993, 107 Stat. 1438; Pub. L. 103–355, title IV, §4401(e), Oct. 13, 1994, 108 Stat. 3348, provided for restrictions on procurements from outside of the United States, prior to repeal by Pub. L. 107–107, div. A, title VIII, §832(b)(1), Dec. 28, 2001, 115 Stat. 1190.

PROHIBITION ON USE OF FUNDS TO PURCHASE DOGS OR CATS FOR MEDICAL TRAINING

Pub. L. 101–511, title VIII, §8019, Nov. 5, 1990, 104 Stat. 1879, provided that: ''None of the funds appropriated by this Act [see Tables for classification] or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.''

RESTORATION, CANCELLATION, OR CLOSURE OF CERTAIN DEPARTMENT OF DEFENSE APPROPRIATION ACCOUNT BALANCES

Pub. L. 101–511, title VIII, §8080, Nov. 5, 1990, 104 Stat. 1893, provided that:

''(a) Upon the date of enactment of this Act [Nov. 5, 1990], the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled.

''(b) During the current fiscal year and thereafter—

''(1) on the 3rd September 30th after enactment of this section [Nov. 5, 1990], all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

''(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code; and

''(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out,

any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided*, That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further*, That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided further*, That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect to a program, project or activity would cause the total amount of such obligations to exceed $4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed $25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

''(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account.''

AVAILABILITY OF APPROPRIATIONS

The following general provisions, that had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1990, Pub. L. 101–165, title IX, §§9002, 9006, 9020, 9025, 9030, 9079, Nov. 21, 1989, 103 Stat. 1129, 1130, 1133–1135, 1147:

''SEC. 9002. [Authorized Secretaries of Defense, Army, Navy, and Air Force to procure services in accordance with section 3109 of Title 5, Government Organization and Employees, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals while traveling from their homes or places of business to official duty stations and return; and was repealed and restated in section 129b of this title by Pub. L. 101–510, div. A, title XIV, §1481(b)(1), (3), Nov. 5, 1990, 104 Stat. 1704, 1705.]

''SEC. 9006. [Provided that no appropriations available to the Department of Defense could be used for operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense; and was repealed and restated in section 2245 of this title by Pub. L. 101–510, div. A, title XIV, §1481(e)(1), (3), Nov. 5, 1990, 104 Stat. 1706.]

''SEC. 9020. [Provided that no funds available to the Department of Defense could be used to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their de-

pendents unless the Department is reimbursed for the costs of providing such care; and was repealed and restated in section 2549 of this title by Pub. L. 101–510, div. A, title XIV, §1481(f)(1), (3), Nov. 5, 1990, 104 Stat. 1707.]

''SEC. 9025. [Provided that no funds available to the Department of Defense could be used to lease to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department when suitable aircraft or vehicles are commercially available in the private sector; and was repealed and restated in section 2550 of this title by Pub. L. 101–510, div. A, title XIV, §1481(g)(1), (4), Nov. 5, 1990, 104 Stat. 1707.]

''SEC. 9030. [Provided that funds available to the Department of Defense could be used by the Department for helicopters and motorized equipment at Defense installations for removal of feral burros and horses; and was repealed and restated in section 2678 of this title by Pub. L. 101–510, div. A, title XIV, §1481(h)(1), (3), Nov. 5, 1990, 104 Stat. 1708.]

''SEC. 9079. None of the funds appropriated by this Act or hereafter shall be obligated for the second career training program authorized by Public Law 96–347 [amending sections 2109, 3307, 3381 to 3385, and 8335 of Title 5, Government Organization and Employees].''

The following general provision, that had been repeated as fiscal year provision in prior appropriation acts, was enacted as permanent law in the Department of Defense Appropriations Act, 1989, Pub. L. 100–463, title VIII, §8098, Oct. 1, 1988, 102 Stat. 2270–35, which provided that appropriations available to the Department of Defense for operation and maintenance could be used to pay claims authorized by law to be paid by the Department (except for civil functions), was repealed and restated in section 2732 of this title by Pub. L. 101–510, div. A, title XIV, §1481(j)(1), (3), Nov. 5, 1990, 104 Stat. 1708, 1709.

§ 2241a. Prohibition on use of funds for publicity or propaganda purposes within the United States

Funds available to the Department of Defense may not be obligated or expended for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

(Added Pub. L. 111–84, div. A, title X, §1031(a)(1), Oct. 28, 2009, 123 Stat. 2448.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111–84, div. A, title X, §1031(b), Oct. 28, 2009, 123 Stat. 2448, provided that: ''Section 2241a 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.''

§ 2241b. Prohibition on contracts providing payments for activities at sporting events to honor members of the armed forces

(a) PROHIBITION.—The Department of Defense may not enter into any contract or other agreement under which payments are to be made in exchange for activities by the contractor intended to honor, or giving the appearance of honoring, members of the armed forces (whether members of the regular components or the reserve components) at any form of sporting event.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as prohibiting the Department of Defense from taking actions to facilitate activities intended to honor members of the armed forces at sporting events that are provided on a pro bono basis or otherwise funded with non-Federal funds if such activities are provided and received in accordance with applicable rules and regulations regarding the acceptance of gifts by the military departments, the armed forces, and members of the armed forces.

(Added Pub. L. 114–92, div. A, title III, §341(a), Nov. 25, 2015, 129 Stat. 792.)

§ 2242. Authority to use appropriated funds for certain investigations and security services

The Secretary of Defense and the Secretary of each military department may—

(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;

(2) pay expenses incurred in connection with the administration of occupied areas;

(3) pay expenses of military courts, boards, and commissions; and

(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files.

(Added Pub. L. 100–370, §1(e)(1), July 19, 1988, 102 Stat. 844.)

Historical and Revision Notes

Paragraphs (1) and (4) of this section and sections 2241(b) and 2253(a)(1) of this title are based on Pub. L. 98–212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Paragraphs (2) and (3) are based on Pub. L. 99–190, §101(b) [title VIII, §§8005(a), 8006(a)], Dec. 19, 1985, 99 Stat. 1185, 1202, 1203.

§ 2243. Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools

(a) AUTHORITY.—Subject to subsection (b), amounts appropriated to the Department of Defense for the operation of overseas defense dependents' schools may be used by the Secretary of Defense to enable an overseas meal program to provide students enrolled in such a school with meals at a price equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(b) LIMITATION.—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide meals under that program at a price for students equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(c) DETERMINING AVERAGE PRICE.—In determining the average price paid by students in the United States for meals under a school meal program, the Secretary of Defense shall exclude free and reduced price meals provided pursuant to income guidelines.

(d) OVERSEAS MEAL PROGRAM DEFINED.—In this section, the term ''overseas meal program'' means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending overseas defense dependents' schools.

(e) OVERSEAS DEFENSE DEPENDENTS' SCHOOL DEFINED.—In this section, the term ''overseas defense dependents' school'' means the following:

(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) An elementary or secondary school established pursuant to section 2164 of this title that is located in a territory, commonwealth, or possession of the United States.

(Added Pub. L. 101–189, div. A, title III, § 326(a), Nov. 29, 1989, 103 Stat. 1415; amended Pub. L. 106–78, title VII, § 752(b)(7), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 114–92, div. A, title V, § 573(a), (b)(1), Nov. 25, 2015, 129 Stat. 830, 831.)

Editorial Notes

REFERENCES IN TEXT

The Defense Dependents' Education Act of 1978, referred to in subsec. (e)(1), is title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, which is classified principally to chapter 25A (§ 921 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 921 of Title 20 and Tables.

AMENDMENTS

2015—Pub. L. 114–92, § 573(b)(1), substituted ''Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools'' for ''Authority to use appropriated funds to support student meal programs in overseas dependents' schools'' in section catchline.

Subsec. (a). Pub. L. 114–92, § 573(a)(1), substituted ''overseas defense dependents' schools'' for ''the defense dependents' education system'' and ''students enrolled in such a school'' for ''students enrolled in that system''.

Subsec. (d). Pub. L. 114–92, § 573(a)(2), substituted ''overseas defense dependents' schools'' for ''Department of Defense dependents' schools which are located outside the United States''.

Subsec. (e). Pub. L. 114–92, § 573(a)(3), added subsec. (e).

1999—Subsec. (b). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 2244. Security investigations

(a) Funds appropriated to the Department of Defense may not be used for the conduct of an investigation by the Department of Defense, or by any other Federal department or agency, for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Defense determines both of the following:

(1) That a current, complete investigation file is not available from any other department or agency of the Federal Government with respect to that individual or facility.

(2) That no other department or agency of the Federal Government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(b) For purposes of subsection (a)(1), a current investigation file is a file on an investigation that has been conducted within the past five years.

(Added Pub. L. 101–510, div. A, title IX, § 904(a), Nov. 5, 1990, 104 Stat. 1621; amended Pub. L. 102–190, div. A, title X, § 1061(a)(11), Dec. 5, 1991, 105 Stat. 1473.)

Editorial Notes

AMENDMENTS

1991—Subsec. (a)(1), (2). Pub. L. 102–190 substituted ''Government'' for ''government''.

§ 2244a. Equipment scheduled for retirement or disposal: limitation on expenditures for modifications

(a) PROHIBITION.—Except as otherwise provided in this section, the Secretary of a military department may not carry out a modification of an aircraft, weapon, vessel, or other item of equipment that the Secretary plans to retire or otherwise dispose of within five years after the date on which the modification, if carried out, would be completed.

(b) EXCEPTIONS.—

(1) EXCEPTION FOR BELOW-THRESHOLD MODIFICATIONS.—The prohibition in subsection (a) does not apply to a modification for which the cost is less than $100,000.

(2) EXCEPTION FOR TRANSFER OF REUSABLE ITEMS OF VALUE.—The prohibition in subsection (a) does not apply to a modification in a case in which—

(A) the reusable items of value, as determined by the Secretary, installed on the item of equipment as part of such modification will, upon the retirement or disposal of the item to be modified, be removed from such item of equipment, refurbished, and installed on another item of equipment; and

(B) the cost of such modification (including the cost of the removal and refurbishment of reusable items of value under subparagraph (A)) is less than $1,000,000.

(3) EXCEPTION FOR SAFETY MODIFICATIONS.—The prohibition in subsection (a) does not apply to a safety modification.

(c) WAIVER AUTHORITY.—The Secretary concerned may waive the prohibition in subsection (a) in the case of any modification otherwise subject to that subsection if the Secretary determines that carrying out the modification is in the national security interest of the United States. Whenever the Secretary issues such a waiver, the Secretary shall notify the congressional defense committees in writing.

(Added Pub. L. 109–163, div. A, title III, § 372(a), Jan. 6, 2006, 119 Stat. 3209.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 105–56, title VIII, § 8053, Oct. 8, 1997, 111

Stat. 1232, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 109–163, div. A, title III, § 372(c), 119 Stat. 3210.

§ 2245. Use of aircraft for proficiency flying: limitation

(a) An aircraft under the jurisdiction of a military department may not be used by a member of the armed forces for the purpose of proficiency flying except in accordance with regulations prescribed by the Secretary of Defense.

(b) Such regulations—

(1) may not require proficiency flying by a member except to the extent required for the member to maintain flying proficiency in anticipation of the member's assignment to combat operations; and

(2) may not permit proficiency flying in the case of a member who is assigned to a course of instruction of 90 days or more.

(c) In this section, the term ''proficiency flying'' means flying performed under competent orders by a rated or designated member of the armed forces while serving in a non-aviation assignment or in an assignment in which skills would normally not be maintained in the performance of assigned duties.

(Added Pub. L. 101–510, div. A, title XIV, § 1481(e)(1), Nov. 5, 1990, 104 Stat. 1706; amended Pub. L. 110–181, div. A, title X, § 1077, Jan. 28, 2008, 122 Stat. 333.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, § 9006, Nov. 21, 1989, 103 Stat. 1130, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, § 1481(e)(3).

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–181 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''In this section, the term 'proficiency flying' has the meaning given that term in Department of Defense Directive 1340.4.''

[§ 2245a. Repealed. Pub. L. 114–328, div. A, title VIII, § 833(b)(1)(A), Dec. 23, 2016, 130 Stat. 2284]

Section, added Pub. L. 109–163, div. A, title III, § 373(a), Jan. 6, 2006, 119 Stat. 3210, related to limitation on use of operation and maintenance funds for purchase of investment items.

§ 2246. Authorization of certain support for military service academy foundations

(a) AUTHORITY.—Subject to subsection (b) and pursuant to regulations prescribed by the Secretary of Defense, the Superintendent of a Service Academy may authorize a covered foundation to use, on an unreimbursed basis, facilities or equipment of such Service Academy.

(b) LIMITATIONS.—Use of facilities or equipment under subsection (a) may be provided only if such use—

(1) is without any liability of the United States to the covered foundation;

(2) does not affect the ability of any official or employee of the military department concerned, or any member of the armed forces, to carry out any responsibility or duty in a fair and objective manner;

(3) does not compromise the integrity or appearance of integrity of any program of the military department concerned, or any individual involved in such a program;

(4) does not include the participation of any cadet or midshipman, other than participation in an honor guard at an event of the covered foundation;

(5) complies with the Joint Ethics Regulation; and

(6) has been reviewed and approved by an attorney of the military department concerned.

(c) BRIEFING.—In any fiscal year during which the Superintendent of a Service Academy exercises the authority under subsection (a), the Secretary of the military department concerned shall provide a briefing not later than the last day of that fiscal year to the Committees on Armed Services of the Senate and House of Representatives regarding the number of events or activities of a covered foundation supported by such exercise during such fiscal year.

(d) DEFINITIONS.—In this section:

(1) The term ''covered foundation'' means a charitable, educational, or civic nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986, that the Secretary concerned determines operates exclusively to support, with respect to a Service Academy, any of the following:

(A) Recruiting.

(B) Parent or alumni development.

(C) Academic, leadership, or character development.

(D) Institutional development.

(E) Athletics.

(2) The term ''Service Academy'' has the meaning given such term in section 347 of this title.

(Added Pub. L. 117–263, div. A, title V, § 551(a), Dec. 23, 2022, 136 Stat. 2591.)

Editorial Notes

REFERENCES IN TEXT

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (d)(1), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

CODIFICATION

Pub. L. 117–263, div. A, title V, § 551(a), Dec. 23, 2022, 136 Stat. 2591, which directed amendment of this subchapter by inserting this section ''after section 2245 the end'', was executed by inserting this section after section 2245 of this title to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 2246 of this title was renumbered section 2491a of this title.

[§ 2247. Renumbered § 2491b]

Editorial Notes

PRIOR PROVISIONS

Another section 2247 was renumbered section 2249 of this title.

[§ 2248. Repealed. Pub. L. 108–136, div. A, title X, § 1045(a)(5)(A), Nov. 24, 2003, 117 Stat. 1612]

Section, added Pub. L. 103–337, div. A, title X, § 1063(a), Oct. 5, 1994, 108 Stat. 2848, related to prohibition on purchase of surety bonds.

[§ 2249. Renumbered § 4652]

[§ 2249a. Renumbered § 361]

§ 2249b. Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces

(a) DISPLAY OF FLAGS BY ARMED FORCES.—The Secretary of Defense shall ensure that, whenever the official flags of all 50 States are displayed by the armed forces, such display shall include the flags of the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) POSITION AND MANNER OF DISPLAY.—The display of an official flag of a State, territory, or possession of the United States at an installation or other facility of the Department shall be governed by section 7 of title 4 and any modification of section 7 under section 10 of title 4.

(Added Pub. L. 104–201, div. A, title X, § 1071(a), Sept. 23, 1996, 110 Stat. 2656; amended Pub. L. 105–225, § 4(a)(1), Aug. 12, 1998, 112 Stat. 1498; Pub. L. 112–239, div. A, title V, § 588(a), (b)(1), Jan. 2, 2013, 126 Stat. 1768, 1769.)

Editorial Notes

AMENDMENTS

2013—Pub. L. 112–239, § 588(b)(1), substituted ''Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces'' for ''Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display'' in section catchline.

Subsec. (a). Pub. L. 112–239, § 588(a), amended subsec. (a) generally. Prior to amendment, text read as follows: ''Funds available to the Department of Defense may not be used to prescribe or enforce any rule that arbitrarily excludes the official flag of any State, territory, or possession of the United States from any display of the flags of the States, territories, and possessions of the United States at an official ceremony of the Department of Defense.''

1998—Subsec. (b). Pub. L. 105–225 substituted ''section 7 of title 4 and any modification of section 7 under section 10 of title 4'' for ''the provisions of section 3 of the Joint Resolution of June 22, 1942 (56 Stat. 378, chapter 435; 36 U.S.C. 175), and any modification of such provisions under section 8 of that Joint Resolution (36 U.S.C. 178)''.

[§ 2249c. Renumbered § 345]

[§ 2249d. Renumbered § 346]

[§ 2249e. Renumbered § 362]

SUBCHAPTER II—MISCELLANEOUS ADMINISTRATIVE AUTHORITY

Sec.
2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii.
2252. Rewards: missing property.
2253. Motor vehicles.
2254. Treatment of reports of aircraft accident investigations.
2254a. Data files of military flight operations quality assurance systems: exemption from disclosure under Freedom of Information Act.
2255. Aircraft accident investigation boards: composition requirements.
2257. Use of recruiting materials for public relations.
2259. Transit pass program: personnel in poor air quality areas.
2260. Licensing of intellectual property: retention of fees.
2261. Presentation of recognition items for recruitment and retention purposes.
2262. Department of Defense conferences: collection of fees to cover Department of Defense costs.
2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets.
2264. Reimbursement for assistance provided to nongovernmental entertainment-oriented media producers.
2265. Access to broadband internet access service for certain members of the armed forces.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. A, title VI, § 651(a), Dec. 23, 2024, 138 Stat. 1938, added item 2265. Amendment was made pursuant to operation of section 102 of this title.

2014—Pub. L. 113–291, div. A, title VIII, § 859(b), Dec. 19, 2014, 128 Stat. 3461, added item 2264.

2011—Pub. L. 112–81, div. A, title X, § 1082(a)(2), Dec. 31, 2011, 125 Stat. 1601, added item 2254a.

2008—Pub. L. 110–417, [div. A], title X, § 1004(a)(2), Oct. 14, 2008, 122 Stat. 4583, added item 2263.

2006—Pub. L. 109–364, div. A, title X, § 1051(b), Oct. 17, 2006, 120 Stat. 2396, added item 2262.

Pub. L. 109–163, div. A, title V, § 589(a)(2), Jan. 6, 2006, 119 Stat. 3279, added item 2261.

2004—Pub. L. 108–375, div. A, title X, § 1004(b), Oct. 28, 2004, 118 Stat. 2036, added item 2260.

2000—Pub. L. 106–398, § 1 [[div. A], title X, § 1082(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285, added item 2259.

1999—Pub. L. 106–65, div. A, title V, § 574(b), Oct. 5, 1999, 113 Stat. 624, added item 2257.

1996—Pub. L. 104–201, div. A, title IX, § 911(a)(2), Sept. 23, 1996, 110 Stat. 2622, added item 2255.

1992—Pub. L. 102–484, div. A, title X, § 1071(a)(2), Oct. 23, 1992, 106 Stat. 2508, added item 2254.

Statutory Notes and Related Subsidiaries

IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS RELATING TO THE FOOD PROGRAM OF THE DEPARTMENT OF DEFENSE

Pub. L. 118–159, div. A, title X, § 1093, Dec. 23, 2024, 138 Stat. 2083, provided that: ''Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall—

''(1) implement the recommendations of the Comptroller General of the United States contained in the report published by the Comptroller General in June 2024 and titled 'DOD Food Program: Additional Actions Needed to Implement, Oversee, and Evaluate Nutrition Efforts for Service Members' (GAO–24–106155); or

''(2) if the Secretary does not implement any such recommendation, submit to the Committees on Armed Services of the Senate and the House of Representatives a report explaining why the Secretary has not implemented those recommendations.''

CLARIFICATION OF FOOD INGREDIENT REQUIREMENTS FOR FOOD OR BEVERAGES PROVIDED BY THE DEPARTMENT OF DEFENSE

Pub. L. 116–283, div. A, title III, § 369, Jan. 1, 2021, 134 Stat. 3552, provided that:

''(a) IN GENERAL.—Before making any final rule, statement, or determination regarding the limitation or prohibition of any food or beverage ingredient in military food service, military medical foods, commissary food, or commissary food service, the Secretary of Defense shall publish in the Federal Register a notice of a preliminary rule, statement, or determination (in this section referred to as a 'proposed action') and provide opportunity for public comment.

''(b) MATTERS TO BE INCLUDED.—The Secretary shall include in any notice published under subsection (a) the following:

''(1) The date of the notice.

''(2) Contact information for the appropriate office at the Department of Defense.

''(3) A summary of the notice.

''(4) A date for comments to be submitted and specific methods for submitting comments.

''(5) A description of the substance of the proposed action.

''(6) Findings and a statement of reasons supporting the proposed action.

''(c) WAIVER AUTHORITY.—

''(1) MILITARY OPERATIONS AND EMERGENCY RESPONSE.—The Secretary may waive subsections (a) and (b) if the Secretary determines that such a waiver is necessary for military operations or for the response to a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.), a medical emergency, or a pandemic.

''(2) PROTECTION OF HUMAN HEALTH.—The Secretary may waive subsections (a) and (b) if the Food and Drug Administration, the Surgeon General of the United States, or the Surgeons General of the Department of Defense makes a recall or prohibition determination due to certain ingredients being harmful for human consumption.

''(3) NOTIFICATION REQUIRED.—

''(A) IN GENERAL.—The Secretary shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than 60 days after exercising waiver authority under paragraph (1).

''(B) ELEMENTS.—The notification required under subparagraph (A) shall include, with respect to each waiver, the following elements:

''(i) The date, time, and location of the issuance of the waiver.

''(ii) A detailed justification for the issuance of the waiver.

''(iii) An identification of the rule, statement, or determination for which the Secretary issued the waiver, including the proposed duration of such rule, statement, or determination.''

§ 2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the military department concerned may—

(1) purchase household furnishings and automobiles from members of the armed forces and civilian employees of the Department of Defense on duty outside the United States or in Hawaii for resale at cost to incoming personnel; and

(2) provide household furnishings, without charge, in other than public quarters occupied by members of the armed forces or civilian employees of the Department of Defense who are on duty outside the United States or in Alaska or Hawaii.

(b) REQUIRED DETERMINATION.—The authority provided in subsection (a) may be used only when it is determined, under regulations approved by the Secretary of Defense, that the use of that authority would be advantageous to the United States.

(Added Pub. L. 100–370, § 1(e)(1), July 19, 1988, 102 Stat. 845.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 98–212, title VII, § 723, Dec. 8, 1983, 97 Stat. 1443.

§ 2252. Rewards: missing property

The Secretary of Defense and the Secretary of each military department may pay a reward of not more than $500 in any case for information leading to the discovery of missing property under the jurisdiction of that Secretary or leading to the recovery of such property.

(Added Pub. L. 100–370, § 1(e)(1), July 19, 1988, 102 Stat. 845.)

HISTORICAL AND REVISION NOTES

Section is based on Pub. L. 99–190, § 101(b) [title VIII, § 8005(b)], Dec. 19, 1985, 99 Stat. 1185, 1202.

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 7209 of this title prior to repeal by Pub. L. 100–370, § 1(e)(3)(A).

§ 2253. Motor vehicles

(a) GENERAL AUTHORITIES.—The Secretary of Defense and the Secretary of each military department may—

(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and

(2) purchase right-hand drive passenger sedans at a cost of not more than $30,000 each.

(b) HIRE OF PASSENGER VEHICLES.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.

(Added Pub. L. 100–370, § 1(e)(1), July 19, 1988, 102 Stat. 845; amended Pub. L. 105–85, div. A, title VIII, § 805, Nov. 18, 1997, 111 Stat. 1834; Pub. L. 112–81, div. A, title VIII, § 814(a), Dec. 31, 2011, 125 Stat. 1491.)

HISTORICAL AND REVISION NOTES

Subsection (a)(1) of this section and sections 2241(b) and 2242(1), (4) of this title are based on Pub. L. 98–212, title VII, § 705, Dec. 8, 1983, 97 Stat. 1437.

Subsection (a)(2) is based on Pub. L. 99–190, § 101(b) [title VIII, § 8005(i)], Dec. 19, 1985, 99 Stat. 1185, 1202.

Subsection (b) of this section and sections 2241(a) and 2661(a) of this title are based on Pub. L. 98–212, title VII, § 735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98–525, title XIV, §§ 1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

Editorial Notes

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112–81 substituted ''passenger sedans'' for ''vehicles''.

1997—Subsec. (a)(2). Pub. L. 105–85 substituted ''$30,000'' for ''$12,000''.

§ 2254. Treatment of reports of aircraft accident investigations

(a) IN GENERAL.—(1) Whenever the Secretary of a military department conducts an accident investigation of an accident involving an aircraft under the jurisdiction of the Secretary, the records and report of the investigations shall be treated in accordance with this section.

(2) For purposes of this section, an accident investigation is any form of investigation of an aircraft accident other than an investigation (known as a ''safety investigation'') that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.

(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION.—(1) The Secretary concerned, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation, before the release of the final accident investigation report relating to the accident, if the Secretary concerned determines—

(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

(B) that release of such tapes, reports, or other information—

(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

(ii) would not compromise national security.

(2) A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

(c) OPINIONS REGARDING CAUSATION OF ACCIDENT.—Following a military aircraft accident—

(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion (or opinions) as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion (or opinions) of the investigators as to the cause or causes of the accident; and

(2) if the evidence surrounding the accident is not sufficient for those investigators to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

(d) USE OF INFORMATION IN CIVIL PROCEEDINGS.—For purposes of any civil or criminal proceeding arising from an aircraft accident, any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in such proceeding, nor may such information be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.

(e) REGULATIONS.—The Secretary of each military department shall prescribe regulations to carry out this section.

(Added Pub. L. 102–484, div. A, title X, §1071(a)(1), Oct. 23, 1992, 106 Stat. 2507.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 102–484, div. A, title X, §1071(c), Oct. 23, 1992, 106 Stat. 2508, provided that: ''Section 2254 of title 10, United States Code, as added by subsection (a), shall apply with respect to accidents occurring on or after the date on which regulations are first prescribed under that section.''

REGULATIONS

Pub. L. 105–261, div. A, title X, §1065(c), Oct. 17, 1998, 112 Stat. 2134, provided that: ''The Secretary of Defense shall prescribe regulations, which shall be applied uniformly across the Department of Defense, establishing procedures by which the military departments shall provide to the family members of any person involved in a military aviation accident periodic update reports on the conduct and progress of investigations into the accident.''

Pub. L. 102–484, div. A, title X, §1071(b), Oct. 23, 1992, 106 Stat. 2508, provided that: ''Regulations under section 2254 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act [Oct. 23, 1992].''

§ 2254a. Data files of military flight operations quality assurance systems: exemption from disclosure under Freedom of Information Act

(a) AUTHORITY TO EXEMPT CERTAIN DATA FILES FROM DISCLOSURE UNDER FOIA.—

(1) The Secretary of Defense may exempt information contained in any data file of the military flight operations quality assurance system of a military department from disclosure under section 552(b)(3) of title 5, upon a written determination that—

(A) the information is sensitive information concerning military aircraft, units, or aircrew; and

(B) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(2) In this section, the term ''data file'' means a file of the military flight operations quality assurance (in this section referred to as ''MFOQA'') system that contains information acquired or generated by the MFOQA system, including—

(A) any data base containing raw MFOQA data; and

(B) any analysis or report generated by the MFOQA system or which is derived from MFOQA data.

(3) Information that is exempt under paragraph (1) from disclosure under section 552(b)(3) of title 5 shall be exempt from such disclosure even if such information is contained in a data file that is not exempt in its entirety from such disclosure.

(4) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section and which specifically cites and repeals or modifies those provisions.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administra-

tion of this section. Such regulations shall ensure consistent application of the authority in subsection (a) across the military departments.

(c) TRANSPARENCY.—Each determination of the Secretary under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request.

(Added Pub. L. 112–81, div. A, title X, § 1082(a)(1), Dec. 31, 2011, 125 Stat. 1600; amended Pub. L. 118–31, div. A, title IX, § 901(e)(2), Dec. 22, 2023, 137 Stat. 355.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(4), is the date of enactment of Pub. L. 112–81, which was approved Dec. 31, 2011.

AMENDMENTS

2023—Subsecs. (c), (d). Pub. L. 118–31 redesignated subsec. (d) as (c), struck out '', or the Secretary's designee,'' after ''Secretary'' and '', through the Office of the Director of Administration and Management'' after ''request'', and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows: ''The Secretary of Defense may delegate the authority to make a determination under subsection (a) to the Director of Administration and Management of the Department.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 112–81, div. A, title X, § 1082(b), Dec. 31, 2011, 125 Stat. 1601, provided that: ''Section 2254a of title 10, United States Code, as added by subsection (a), shall apply to any information entered into any data file of the military flight operations quality assurance system before, on, or after the date of the enactment of this Act [Dec. 31, 2011].''

§ 2255. Aircraft accident investigation boards: composition requirements

(a) REQUIRED MEMBERSHIP OF BOARDS.—Whenever the Secretary of a military department convenes an aircraft accident investigation board to conduct an accident investigation (as described in section 2254(a)(2) of this title) with respect to a Class A accident involving an aircraft under the jurisdiction of the Secretary, the Secretary shall select the membership of the board so that—

(1) a majority of the members (or in the case of a board consisting of a single member, the member) is selected from units other than the mishap unit or a unit subordinate to the mishap unit; and

(2) in the case of a board consisting of more than one member, at least one member of the board is a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(b) EXCEPTION.—The Secretary of the military department concerned may waive the requirement of subsection (a)(1) in the case of an aircraft accident if the Secretary determines that—

(1) it is not practicable to meet the requirement because of—

(A) the remote location of the aircraft accident;

(B) an urgent need to promptly begin the investigation; or

(C) a lack of available persons outside of the mishap unit who have adequate knowledge and expertise regarding the type of aircraft involved in the accident; and

(2) the objectivity and independence of the aircraft accident investigation board will not be compromised.

(c) CONSULTATION REQUIREMENT.—In the case of an aircraft accident investigation board consisting of a single member, the member shall consult with a member of the armed forces or an officer or an employee of the Department of Defense who possesses knowledge and expertise relevant to aircraft accident investigations.

(d) DESIGNATION OF CLASS A ACCIDENTS.—Not later than 60 days after an aircraft accident involving an aircraft under the jurisdiction of the Secretary of a military department, the Secretary shall determine whether the aircraft accident should be designated as a Class A accident for purposes of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''Class A accident'' means an accident involving an aircraft that results in—

(A) the loss of life or permanent disability;

(B) damages to the aircraft, other property, or a combination of both, in an amount in excess of the amount specified by the Secretary of Defense for purposes of determining Class A accidents; or

(C) the destruction of the aircraft.

(2) The term ''mishap unit'', with respect to an aircraft accident investigation, means the unit of the armed forces (at the squadron or battalion level or equivalent) to which was assigned the flight crew of the aircraft that sustained the accident that is the subject of the investigation.

(Added Pub. L. 104–201, div. A, title IX, § 911(a)(1), Sept. 23, 1996, 110 Stat. 2621; amended Pub. L. 108–136, div. A, title X, § 1031(a)(13), Nov. 24, 2003, 117 Stat. 1597.)

Editorial Notes

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–136 struck out par. (1) designation before ''The Secretary'', redesignated subpars. (A) and (B) of former par. (1) as pars. (1) and (2), respectively, redesignated cls. (i) to (iii) of former subpar. (A) as subpars. (A) to (C), respectively, of par. (1), and struck out par. (2) which read as follows: ''The Secretary shall notify Congress of a waiver exercised under this subsection and the reasons therefor.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 104–201, div. A, title IX, § 911(b), Sept. 23, 1996, 110 Stat. 2622, provided that: ''Section 2255 of title 10, United States Code, as added by subsection (a), shall apply with respect to any aircraft accident investigation board convened by the Secretary of a military department after the end of the six-month period beginning on the date of the enactment of this Act [Sept. 23, 1996].''

§ 2257. Use of recruiting materials for public relations

The Secretary of Defense may use for public relations purposes of the Department of Defense any advertising materials developed for use for recruitment and retention of personnel for the armed forces. Any such use shall be under such conditions and subject to such restrictions as the Secretary of Defense shall prescribe.

(Added Pub. L. 106–65, div. A, title V, § 574(a), Oct. 5, 1999, 113 Stat. 624.)

§ 2259. Transit pass program: personnel in poor air quality areas

(a) ESTABLISHMENT OF PROGRAM.—To encourage Department of Defense personnel assigned to duty, or employed, in poor air quality areas to use means other than single-occupancy motor vehicles to commute to or from the location of their duty assignments, the Secretary of Defense shall exercise the authority provided in section 7905 of title 5 to establish a program to provide a transit pass benefit under subsection (b)(2)(A) of that section for members of the Army, Navy, Air Force, Marine Corps, and Space Force who are assigned to duty, and to Department of Defense civilian officers and employees who are employed, in a poor air quality area.

(b) POOR AIR QUALITY AREAS.—In this section, the term ''poor air quality area'' means an area—

(1) that is subject to the national ambient air quality standards promulgated by the Administrator of the Environmental Protection Agency under section 109 of the Clean Air Act (42 U.S.C. 7409); and

(2) that, as determined by the Administrator of the Environmental Protection Agency, is a nonattainment area with respect to any of those standards.

(Added Pub. L. 106–398, § 1 [[div. A], title X, § 1082(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285; amended Pub. L. 116–283, div. A, title IX, § 924(b)(1)(O), Jan. 1, 2021, 134 Stat. 3820.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a). Pub. L. 116–283 substituted ''Marine Corps, and Space Force'' for ''and Marine Corps''.

Statutory Notes and Related Subsidiaries

TIME FOR IMPLEMENTATION

Pub. L. 106–398, § 1 [[div. A], title X, § 1082(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–285, provided that: ''The Secretary of Defense shall prescribe the effective date for the transit pass program required under section 2259 of title 10, United States Code, as added by subsection (a). The effective date so prescribed may not be later than the first day of the first month that begins on or after the date that is 180 days after the date of the enactment of this Act [Oct. 30, 2000].''

§ 2260. Licensing of intellectual property: retention of fees

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

(b) DESIGNATED MARKS.—The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

(c) LICENSES FOR QUALIFYING COMPANIES.—(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.

(2) For purposes of paragraph (1), a qualifying company is any United States company that—

(A) is a toy or hobby manufacturer; and

(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.

(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.

(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.

(5) A license under this subsection shall not be an exclusive license.

(d) USE OF FEES.—The Secretary concerned shall use fees retained under this section for the following purposes:

(1) For payment of the following costs incurred by the Secretary:

(A) Costs of securing trademark registrations.

(B) Costs of operating the licensing program under this section.

(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

(e) AVAILABILITY.—Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

(f) DEFINITIONS.—In this section:

(1) The terms ''trademark'', ''service mark'', ''certification mark'', and ''collective mark'' have the meanings given such terms in section 45 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).

(2) The term ''Secretary concerned'' has the meaning provided in section 101(a)(9) of this title and also includes—

(A) the Secretary of Defense, with respect to matters concerning the Defense Agencies and Department of Defense Field Activities; and

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

(Added Pub. L. 108–375, div. A, title X, § 1004(a), Oct. 28, 2004, 118 Stat. 2035; amended Pub. L. 110–181, div. A, title VIII, § 882(a), Jan. 28, 2008, 122 Stat. 263; Pub. L. 110–417, [div. A], title VIII, § 881, Oct. 14, 2008, 122 Stat. 4559.)

Editorial Notes

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–417, § 881(1), inserted ''or the Secretary of Homeland Security'' after ''Secretary of Defense''.

Subsecs. (c) to (e). Pub. L. 110–181, § 882(a), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 110–417, § 881(2), substituted ''this section:'' for ''this section,'' and ''(1) The'' for ''the'' and added par. (2).

Pub. L. 110–181, § 882(a)(1), redesignated subsec. (e) as (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title VIII, § 882(b), Jan. 28, 2008, 122 Stat. 264, provided that: ''The Secretary of Defense shall prescribe regulations to implement the amendment made by this section [amending this section] not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008].''

§ 2261. Presentation of recognition items for recruitment and retention purposes

(a) EXPENDITURES FOR RECOGNITION ITEMS.—Under regulations prescribed by the Secretary of Defense, appropriated funds may be expended—

(1) to procure recognition items of nominal or modest value for recruitment or retention purposes; and

(2) to present such items—

(A) to members of the armed forces; and

(B) to members of the families of members of the armed forces, and other individuals, recognized as providing support that substantially facilitates service in the armed forces.

(b) PROVISION OF MEALS AND REFRESHMENTS.—For purposes of section 520c of this title and any regulation prescribed to implement that section, functions conducted for the purpose of presenting recognition items described in subsection (a) shall be treated as recruiting functions, and recipients of such items shall be treated as persons who are the objects of recruiting efforts.

(c) RECOGNITION ITEMS OF NOMINAL OR MODEST VALUE.—In this section, the term ''recognition item of nominal or modest value'' means a commemorative coin, medal, trophy, badge, flag, poster, painting, or other similar item that is valued at less than $50 per item and is designed to recognize or commemorate service in the armed forces.

(Added Pub. L. 109–163, div. A, title V, § 589(a)(1), Jan. 6, 2006, 119 Stat. 3279; amended Pub. L. 109–364, div. A, title V, § 594, Oct. 17, 2006, 120 Stat. 2235.)

Editorial Notes

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–364 struck out heading and text of subsec. (d). Text read as follows: ''The authority under this section shall expire December 31, 2007.''

§ 2262. Department of Defense conferences: collection of fees to cover Department of Defense costs

(a) AUTHORITY TO COLLECT FEES.—(1) The Secretary of Defense may collect fees from any individual or commercial participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Defense (in this section referred to collectively as a ''conference'').

(2) The Secretary may provide for the collection of fees under this section directly or by contract. The fees may be collected in advance of a conference.

(b) USE OF COLLECTED FEES.—Amounts collected under subsection (a) with respect to a conference shall be credited to the appropriation or account from which the costs of the conference are paid and shall be available to pay the costs of the Department of Defense with respect to the conference or to reimburse the Department for costs incurred with respect to the conference.

(c) TREATMENT OF EXCESS AMOUNTS.—In the event the total amount of fees collected under subsection (a) with respect to a conference exceeds the actual costs of the Department of Defense with respect to the conference, the amount of such excess shall be deposited into the Treasury as miscellaneous receipts.

(Added Pub. L. 109–364, div. A, title X, § 1051(a), Oct. 17, 2006, 120 Stat. 2395; amended Pub. L. 115–91, div. A, title X, § 1051(a)(11), Dec. 12, 2017, 131 Stat. 1561.)

Editorial Notes

AMENDMENTS

2017—Subsec. (d). Pub. L. 115–91 struck out subsec. (d) which required annual reports on conferences, including information on costs and fees collected.

§ 2263. United States contributions to the North Atlantic Treaty Organization common-funded budgets

(a) IN GENERAL.—The total amount contributed by the Secretary of Defense in any fiscal year for the common-funded budgets of NATO may be an amount in excess of the maximum amount that would otherwise be applicable to those contributions in such fiscal year under the fiscal year 1998 baseline limitation.

(b) DEFINITIONS.—In this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term ''common-funded budgets of NATO'' means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term ''fiscal year 1998 baseline limitation'' means the maximum annual amount of

Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

(Added Pub. L. 110–417, [div. A], title X, §1004(a)(1), Oct. 14, 2008, 122 Stat. 4582; amended Pub. L. 115–91, div. A, title X, §1051(a)(12), Dec. 12, 2017, 131 Stat. 1561.)

Editorial Notes

REFERENCES IN TEXT

The resolution of ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic approved by the Senate on April 30, 1998, referred to in subsec. (b)(2), was adopted in the 105th Congress and is not classified to the Code. See Cong. Rec., vol. 144, pt. 5, p. 7555, Apr. 30, 1998.

AMENDMENTS

2017—Subsecs. (b), (c). Pub. L. 115–91 redesignated subsec. (c) as (b) and struck out former subsec. (b) which required annual reports on contributions to the common-funded budgets of NATO.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 110–417, [div. A], title X, §1004(b), Oct. 14, 2008, 122 Stat. 4583, provided that: ''The amendments made by this section [enacting this section] shall take effect on October 1, 2008, and shall apply to fiscal years that begin on or after that date.''

§ 2264. Reimbursement for assistance provided to nongovernmental entertainment-oriented media producers

(a) IN GENERAL.—There shall be credited to the applicable appropriations account or fund from which the expenses described in subsection (b) were charged any amounts received by the Department of Defense as reimbursement for such expenses.

(b) DESCRIPTION OF EXPENSES.—The expenses referred to in subsection (a) are any expenses—

(1) incurred by the Department of Defense as a result of providing assistance to a nongovernmental entertainment-oriented media producer;

(2) for which the Department of Defense requires reimbursement under section 9701 of title 31 or any other provision of law; and

(3) for which the Department of Defense received reimbursement after December 19, 2014.

(Added Pub. L. 113–291, div. A, title VIII, §859(a), Dec. 19, 2014, 128 Stat. 3461; amended Pub. L. 115–91, div. A, title X, §1081(a)(29), Dec. 12, 2017, 131 Stat. 1595.)

Editorial Notes

AMENDMENTS

2017—Subsec. (b)(3). Pub. L. 115–91 substituted ''December 19, 2014'' for ''the date of the enactment of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015''.

§ 2265. Access to broadband internet access service for certain members of the armed forces

The Secretary of a military department may provide, to a member of the armed forces who resides in military unaccompanied housing (as defined in section 2871 of this title) within the United States, broadband internet access service, at no cost to such member.

(Added Pub. L. 118–159, div. A, title VI, §651(a), Dec. 23, 2024, 138 Stat. 1938.)

Statutory Notes and Related Subsidiaries

GUIDANCE

Pub. L. 118–159, div. A, title VI, §651(b), Dec. 23, 2024, 138 Stat. 1938, provided that: ''Not later than 90 days after the date of enactment of this Act [Dec. 23, 2024], the Secretary of Defense shall issue policy and guidance for implementation of section 2265 of title 10, United States Code, as added by this section, that—

''(1) meets or exceeds any speed benchmark established for broadband internet access service by the Federal Communications Commission under section 706 of the Telecommunications Act of 1996 (47 U.S.C. 1302);

''(2) maximizes access to such service in individual rooms and spaces; and

''(3) allows reasonable internet access, subject to appropriate restrictions applicable to other internet access provided by the Secretary to members of the Armed Forces.''

CHAPTER 135—SPACE PROGRAMS

Sec.
2271. Management of space programs: joint program offices and officer management programs.
§ 2271a. Space Contractor Responsibility Watch List.
2272. Space science and technology strategy: coordination.
2273. Policy regarding assured access to space: national security payloads.
2273a. Space Rapid Capabilities Office.
2274. Space situational awareness services and information: provision to non-United States Government entities.
[2275. Repealed.]
2275a. Requirements for protection of satellites.
2275b. Requirements for appropriate classification guidance.
2275c. Space Force satellite ground systems.
2276. Commercial space launch cooperation.
2276a. Special authority for provision of space launch support services to increase space launch capacity.
2277. Disclosure of National Security Space Launch program contract pricing terms.
2278. Notification of foreign interference of national security space.
2279. Foreign commercial satellite services and foreign launches.
[2279a. Repealed.]
2279b. Council on Oversight of the Department of Defense Positioning, Navigation, and Timing Enterprise.
[2279c. Renumbered.]
2279d. Limitation on construction on United States territory of satellite positioning ground monitoring stations of certain foreign governments.

Editorial Notes

AMENDMENTS

2024—Pub. L. 118–159, div. A, title XVI, §§1601(a), 1603, Dec. 23, 2024, 138 Stat. 2157, 2160, added items 2271a and