
**LAWS RELATING TO MILITARY PERSONNEL
MATTERS**

[As amended through Public Law 110-5, February 15, 2006]

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1. PROVISIONS REGARDING POWS AND MIAS

a. Sections 1082 through 1084 of the National Defense Authorization Act for Fiscal Years 1992 and 1993

(Public Law 102-190; approved Dec. 5, 1991)

SEC. 1082. [50 U.S.C. 401 note] DISCLOSURE OF INFORMATION CONCERNING UNACCOUNTED FOR UNITED STATES PERSONNEL OF THE COLD WAR, THE KOREAN CONFLICT, AND THE VIETNAM ERA.

(a) PUBLIC AVAILABILITY OF INFORMATION.—(1) Except as provided in subsection (b), the Secretary of Defense shall, with respect to any information referred to in paragraph (2), place the information in a suitable library-like location within a facility within the National Capital region for public review and photocopying.

(2) Paragraph (1) applies to any record, live-sighting report, or other information in the custody of the official custodian referred to in subsection (d)(3) that may pertain to the location, treatment, or condition of (A) United States personnel who remain not accounted for as a result of service in the Armed Forces or other Federal Government service during the Korean conflict, the Vietnam era, or the Cold War, or (B) their remains.

(b) EXCEPTIONS.—(1) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if—

(A) the record or other information is exempt from the disclosure requirements of section 552 of title 5, United States Code, by reason of subsection (b) of that section; or

(B) the record or other information is in a system of records exempt from the requirements of subsection (d) of section 552a of such title pursuant to subsection (j) or (k) of that section.

(2) The Secretary of Defense may not make a record or other information available to the public pursuant to subsection (a) if the record or other information specifically mentions a person by name unless—

(A) in the case of a person who is alive (and not incapacitated) and whose whereabouts are known, that person expressly consents in writing to the disclosure of the record or other information; or

(B) in the case of a person who is dead or incapacitated or whose whereabouts are unknown, a family member or family members of that person determined by the Secretary of Defense to be appropriate for such purpose expressly consent in writing to the disclosure of the record or other information.

(3)(A) The limitation on disclosure in paragraph (2) does not apply in the case of a person who is dead or incapacitated or whose

whereabouts are unknown if the family member or members of that person determined pursuant to subparagraph (B) of that paragraph cannot be located by the Secretary of Defense—

(i) in the case of a person missing from the Vietnam era, after a reasonable effort; and

(ii) in the case of a person missing from the Korean Conflict or Cold War, after a period of 90 days from the date on which any record or other information referred to in paragraph (2) is received by the Department of Defense for disclosure review from the Archivist of the United States, the Library of Congress, or the Joint United States-Russian Commission on POW/MIAs.

(B) Paragraph (2) does not apply to the access of an adult member of the family of a person to any record or information to the extent that the record or other information relates to that person.

(C) The authority of a person to consent to disclosure of a record or other information for the purposes of paragraph (2) may be delegated to another person or an organization only by means of an express legal power of attorney granted by the person authorized by that paragraph to consent to the disclosure.

(c) DEADLINES.—(1) In the case of records or other information originated by the Department of Defense, the official custodian shall make such records and other information available to the public pursuant to this section not later than January 2, 1996. Such records or other information shall be made available as soon as a review carried out for the purposes of subsection (b) is completed.

(2) Whenever, a department or agency of the Federal Government receives any record or other information referred to in subsection (a) that is required by this section to be made available to the public, the head of that department or agency shall ensure that such record or other information is provided to the Secretary of Defense, and the Secretary shall make such record or other information available in accordance with subsection (a) as soon as possible and, in any event, not later than one year after the date on which the record or information is received by the department or agency of the Federal Government.

(3) If the Secretary of Defense determines that the disclosure of any record or other information referred to in subsection (a) by the date required by paragraph (1) or (2) may compromise the safety of any United States personnel referred to in subsection (a)(2) who remain not accounted for but who may still be alive in captivity, then the Secretary may withhold that record or other information from the disclosure otherwise required by this section. Whenever the Secretary makes a determination under the preceding sentence, the Secretary shall immediately notify the President and the Congress of that determination.

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

(1) The terms “Korean conflict” and “Vietnam era” have the meanings given those terms in section 101 of title 38, United States Code.

(2) The term “Cold War” means the period from the end of World War II to the beginning of the Korean conflict and the

period from the end of the Korean conflict to the beginning of the Vietnam era.

(3) The term “official custodian” means—

(A) in the case of records, reports, and information relating to the Korean conflict or the Cold War, the Archivist of the United States; and

(B) in the case of records, reports, and information relating to the Vietnam era, the Secretary of Defense.

SEC. 1083. [10 U.S.C. 113 note] FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION.

(a) **REQUEST FOR ESTABLISHMENT.**—The President is authorized and requested to establish in the Department of Defense a family support center to provide information and assistance to members of the families of persons who at any time while members of the Armed Forces were classified as prisoners of war or missing in action in Southeast Asia and who have not been accounted for. Such a support center should be located in a facility in the National Capital region.

(b) **DUTIES.**—The center should be organized and provided with such personnel as necessary to permit the center to assist family members referred to in subsection (a) in contacting the departments and agencies of the Federal Government having jurisdiction over matters relating to such persons.

SEC. 1084. DISPLAY OF POW/MIA FLAG.

[Repealed by section 1082(j) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1918). Provisions relating to the display of the POW/MIA flag can now be found in section 902 of title 36, United States Code.]

b. Section 1031 of the National Defense Authorization Act for Fiscal Year 1995

(Public Law 103–337; approved Oct. 5, 1994)

SEC. 1031. [10 U.S.C. 113 note] ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR.

(a) **SINGLE POINT OF CONTACT.**—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

(b) **FUNCTIONS.**—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean

conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

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

(1) The term “unaccounted-for Korean conflict POW/MIA” means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(2) The term “unaccounted-for Cold War POW/MIA” means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

(3) The term “Korean conflict” has the meaning given such term in section 101(9) of title 38, United States Code.

* * * * *

c. Section 521 of the National Defense Authorization Act for Fiscal Year 1996

(Public Law 104–106; approved Feb. 10, 1996)

SEC. 521. [10 U.S.C. 1129 note] AWARD OF PURPLE HEART TO PERSONS WOUNDED WHILE HELD AS PRISONERS OF WAR BEFORE APRIL 25, 1962.

(a) AWARD OF PURPLE HEART.—For purposes of the award of the Purple Heart, the Secretary concerned (as defined in section 101 of title 10, United States Code) shall treat a former prisoner of war who was wounded before April 25, 1962, while held as a prisoner of war (or while being taken captive) in the same manner as a former prisoner of war who is wounded on or after that date while held as a prisoner of war (or while being taken captive).

(b) STANDARDS FOR AWARD.—An award of the Purple Heart under subsection (a) shall be made in accordance with the standards in effect on the date of the enactment of this Act for the award of the Purple Heart to persons wounded on or after April 25, 1962.

(c) **ELIGIBLE FORMER PRISONERS OF WAR.**—A person shall be considered to be a former prisoner of war for purposes of this section if the person is eligible for the prisoner-of-war medal under section 1128 of title 10, United States Code.

(d) **PROCEDURES FOR AWARD.**—In determining whether a former prisoner of war who submits an application for the award of the Purple Heart under subsection (a) is eligible for that award, the Secretary concerned shall apply the following procedures:

(1) Failure of the applicant to provide any documentation as required by the Secretary shall not in itself disqualify the application from being considered.

(2) In evaluating the application, the Secretary shall consider (A) historical information as to the prison camp or other circumstances in which the applicant was held captive, and (B) the length of time that the applicant was held captive.

(3) To the extent that information is readily available, the Secretary shall assist the applicant in obtaining information or identifying the sources of information referred to in paragraph (2).

(4) The Secretary shall review a completed application under this section based upon the totality of the information presented, taking into account the length of time between the period during which the applicant was held as a prisoner of war and the date of the application.

d. Section 934 of the National Defense Authorization Act for Fiscal Year 1998

(Public Law 105–85; approved Nov. 18, 1997)

SEC. 934. [10 U.S.C. 1501 note] POW/MIA INTELLIGENCE ANALYSIS.

(a) **INTELLIGENCE ANALYSIS.**—The Director of Central Intelligence, in consultation with the Secretary of Defense, shall provide intelligence analysis on matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) to all departments and agencies of the Federal Government involved in such matters.

(b) **USE OF INTELLIGENCE IN ANALYSIS OF POW/MIA CASES IN DEPARTMENT OF DEFENSE.**—The Secretary of Defense shall ensure that the Defense Prisoner of War/Missing Personnel Office of the Department of Defense takes into full account all intelligence regarding matters concerning prisoners of war and missing persons (as defined in chapter 76 of title 10, United States Code) in analyzing cases involving such persons.

e. Bring Them Home Alive Act of 2000

(Public Law 106–484; approved Nov. 9, 2000)

SECTION 1. [8 U.S.C. 1157 note] SHORT TITLE.

This Act may be cited as the “Bring Them Home Alive Act of 2000”.

SEC. 2. [8 U.S.C. 1157 note] AMERICAN VIETNAM WAR POW/MIA ASYLUM PROGRAM.

(a) **ASYLUM FOR ELIGIBLE ALIENS.**—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) **ELIGIBILITY.**—Refugee status shall be granted under subsection (a) to—

(1) any alien who—

(A) is a national of Vietnam, Cambodia, Laos, China, or any of the independent states of the former Soviet Union; and

(B) personally delivers into the custody of the United States Government a living American Vietnam War POW/MIA; and

(2) any parent, spouse, or child of an alien described in paragraph (1).

(c) **DEFINITIONS.**—In this section:

(1) **AMERICAN VIETNAM WAR POW/MIA.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the term “American Vietnam War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Vietnam War; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Vietnam War.

(B) **EXCLUSION.**—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual’s post of duty without authority.

(2) **MISSING STATUS.**—The term “missing status”, with respect to the Vietnam War, means the status of an individual as a result of the Vietnam War if immediately before that status began the individual—

(A) was performing service in Vietnam; or

(B) was performing service in Southeast Asia in direct support of military operations in Vietnam.

(3) **VIETNAM WAR.**—The term “Vietnam War” means the conflict in Southeast Asia during the period that began on February 28, 1961, and ended on May 7, 1975.

SEC. 3. [8 U.S.C. 1157 note] AMERICAN KOREAN WAR POW/MIA ASYLUM PROGRAM.

(a) **ASYLUM FOR ELIGIBLE ALIENS.**—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

(b) **ELIGIBILITY.**—Refugee status shall be granted under subsection (a) to—

- (1) any alien—
 - (A) who is a national of North Korea, China, or any of the independent states of the former Soviet Union; and
 - (B) who personally delivers into the custody of the United States Government a living American Korean War POW/MIA; and
- (2) any parent, spouse, or child of an alien described in paragraph (1).
- (c) DEFINITIONS.—In this section:
 - (1) AMERICAN KOREAN WAR POW/MIA.—
 - (A) IN GENERAL.—Except as provided in subparagraph (B), the term “American Korean War POW/MIA” means an individual—
 - (i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Korean War; or
 - (ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Korean War.
 - (B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual’s post of duty without authority.
 - (2) KOREAN WAR.—The term “Korean War” means the conflict on the Korean peninsula during the period that began on June 27, 1950, and ended January 31, 1955.
 - (3) MISSING STATUS.—The term “missing status”, with respect to the Korean War, means the status of an individual as a result of the Korean War if immediately before that status began the individual—
 - (A) was performing service in the Korean peninsula; or
 - (B) was performing service in Asia in direct support of military operations in the Korean peninsula.

SEC. 3A. [8 U.S.C. 1157 note] AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

- (a) ASYLUM FOR ELIGIBLE ALIENS.—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.
- (b) ELIGIBILITY.—
 - (1) IN GENERAL.—Except as provided in paragraph (2), an alien described in this subsection is—
 - (A) any alien who—
 - (i) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and
 - (ii) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

(B) any parent, spouse, or child of an alien described in subparagraph (A).

(2) EXCEPTIONS.—An alien described in this subsection does not include a terrorist, a persecutor, a person who has been convicted of a serious criminal offense, or a person who presents a danger to the security of the United States, as set forth in clauses (i) through (v) of section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)).

(c) DEFINITIONS.—In this section:

(1) AMERICAN PERSIAN GULF WAR POW/MIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “American Persian Gulf War POW/MIA” means an individual—

(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual’s post of duty without authority.

(2) MISSING STATUS.—The term “missing status”, with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

(3) PERSIAN GULF WAR.—The term “Persian Gulf War” means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

SEC. 4. [8 U.S.C. 1157 note] BROADCASTING INFORMATION ON THE “BRING THEM HOME ALIVE” PROGRAM.

(a) REQUIREMENT.—

(1) IN GENERAL.—The International Broadcasting Bureau shall broadcast, through WORLDNET Television and Film Service and Radio, VOA-TV, VOA Radio, or otherwise, information that promotes the “Bring Them Home Alive” refugee program under this Act to foreign countries covered by paragraph (2).

(2) COVERED COUNTRIES.—The foreign countries covered by paragraph (1) are—

- (A) Vietnam, Cambodia, Laos, China, and North Korea;
- (B) Russia and the other independent states of the former Soviet Union; and
- (C) Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State).
- (b) **LEVEL OF PROGRAMMING.**—The International Broadcasting Bureau shall broadcast—
- (1) at least 20 hours of the programming described in subsection (a)(1) during the 30-day period that begins 15 days after the date of enactment of this Act; and
- (2) at least 10 hours of the programming described in subsection (a)(1) in each calendar quarter during the period beginning with the first calendar quarter that begins after the date of enactment of this Act and ending five years after the date of enactment of this Act.
- (c) **AVAILABILITY OF INFORMATION ON THE INTERNET.**—The International Broadcasting Bureau shall ensure that information regarding the “Bring Them Home Alive” refugee program under this Act is readily available on the World Wide Web sites of the Bureau.
- (d) **SENSE OF CONGRESS.**—It is the sense of Congress that RFE/RL, Incorporated, Radio Free Asia, and any other recipient of Federal grants that engages in international broadcasting to the countries covered by subsection (a)(2) should broadcast information similar to the information required to be broadcast by subsection (a)(1).
- (e) **DEFINITION.**—The term “International Broadcasting Bureau” means the International Broadcasting Bureau of the United States Information Agency or, on and after the effective date of title XIII of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105–277), the International Broadcasting Bureau of the Broadcasting Board of Governors.

SEC. 5. [8 U.S.C. 1157 note] INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.

In this Act, the term “independent states of the former Soviet Union” has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

2. MATTERS RELATING TO VOTING BY MEMBERS OF THE UNIFORMED SERVICES

a. Uniformed and Overseas Citizens Absentee Voting Act

(Public Law 99–410, Enacted August 28, 1986)

[As Amended Through P.L. 111–84, Enacted October 28, 2009]

SECTION 1. [42 U.S.C. 1973ff note] SHORT TITLE.¹

This Act may be cited as the “Uniformed and Overseas Citizens Absentee Voting Act”.

* * * * *

TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

- Sec. 101. Federal responsibilities.
- Sec. 102. State responsibilities.
- Sec. 103. Federal write-in absentee ballot for overseas voters in general elections for Federal office.
- Sec. 104. Use of single application for all subsequent elections.
- Sec. 105. Enforcement.
- Sec. 106. Effect on certain other laws.
- Sec. 107. Definitions.

TITLE II—POSTAL, CRIMINAL, AND GENERAL PROVISIONS

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TITLE I—REGISTRATION AND VOTING BY ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS IN ELECTIONS FOR FEDERAL OFFICE

SEC. 101. [42 U.S.C. 1973ff] FEDERAL RESPONSIBILITIES.

(a) PRESIDENTIAL DESIGNEE.—The President shall designate the head of an executive department to have primary responsibility for Federal functions under this title.

(b) DUTIES OF PRESIDENTIAL DESIGNEE.—The Presidential designee shall—

(1) consult State and local election officials in carrying out this title, and ensure that such officials are aware of the requirements of this Act;

(2) prescribe an official post card form, containing both an absentee voter registration application and an absentee ballot application, for use by the States as required under section 102(a)(4);

¹The table of contents has been added for the convenience of the reader.

(3) carry out section 103 with respect to the Federal write-in absentee ballot for absent uniformed services voters and overseas voters in general elections for Federal office;

(4) prescribe a suggested design for absentee ballot mailing envelopes;

(5) compile and distribute (A) descriptive material on State absentee registration and voting procedures, and (B) to the extent practicable, facts relating to specific elections, including dates, offices involved, and the text of ballot questions;

(6) not later than the end of each year after a Presidential election year, transmit to the President and the Congress a report on the effectiveness of assistance under this title, including a statistical analysis of uniformed services voter participation, a separate statistical analysis of overseas nonmilitary participation, and a description of State-Federal cooperation;

(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury;

(8) carry out section 103A with respect to the collection and delivery of marked absentee ballots of absent overseas uniformed services voters in elections for Federal office;

(9) to the greatest extent practicable, take such actions as may be necessary—

(A) to ensure that absent uniformed services voters who cast absentee ballots at locations or facilities under the jurisdiction of the Presidential designee are able to do so in a private and independent manner; and

(B) to protect the privacy of the contents of absentee ballots cast by absentee uniformed services voters and overseas voters while such ballots are in the possession or control of the Presidential designee;

(10) carry out section 103B with respect to Federal Voting Assistance Program Improvements; and

(11) working with the Election Assistance Commission and the chief State election official of each State, develop standards—

(A) for States to report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate; and

(B) for the Presidential designee to store the data reported.

(c) DUTIES OF OTHER FEDERAL OFFICIALS.—

(1) IN GENERAL.—The head of each Government department, agency, or other entity shall, upon request of the Presidential designee, distribute balloting materials and otherwise cooperate in carrying out this title.

(2) ADMINISTRATOR OF GENERAL SERVICES.—As directed by the Presidential designee, the Administrator of General Services shall furnish official post card forms (prescribed under subsection (b)) and Federal write-in absentee ballots (prescribed under section 103).

(d) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.—There are authorized to be appropriated to the Presidential designee such sums as are necessary for purposes of carrying out subsection (b)(10).

SEC. 102. [42 U.S.C. 1973ff-1] STATE RESPONSIBILITIES.

(a) IN GENERAL.—Each State shall—

(1) permit absent uniformed services voters and overseas voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office;

(2) accept and process, with respect to any election for Federal office, any otherwise valid voter registration application and absentee ballot application from an absent uniformed services voter or overseas voter, if the application is received by the appropriate State election official not less than 30 days before the election;

(3) permit absent uniformed services voters and overseas voters to use Federal write-in absentee ballots (in accordance with section 103) in general elections for Federal office;

(4) use the official post card form (prescribed under section 101) for simultaneous voter registration application and absentee ballot application;

(5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7);

(6) in addition to any other method of registering to vote or applying for an absentee ballot in the State, establish procedures—

(A) for absent uniformed services voters and overseas voters to request by mail and electronically voter registration applications and absentee ballot applications with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (e);

(B) for States to send by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (C)) voter registration applications and absentee ballot applications requested under subparagraph (A) in accordance with subsection (e); and

(C) by which the absent uniformed services voter or overseas voter can designate whether the voter prefers that such voter registration application or absentee ballot application be transmitted by mail or electronically;

(7) in addition to any other method of transmitting blank absentee ballots in the State, establish procedures for transmitting by mail and electronically blank absentee ballots to absent uniformed services voters and overseas voters with respect to general, special, primary, and runoff elections for Federal office in accordance with subsection (f);

(8) transmit a validly requested absentee ballot to an absent uniformed services voter or overseas voter—

(A) except as provided in subsection (g), in the case in which the request is received at least 45 days before an election for Federal office, not later than 45 days before the election; and

(B) in the case in which the request is received less than 45 days before an election for Federal office—

(i) in accordance with State law; and

(ii) if practicable and as determined appropriate by the State, in a manner that expedites the transmission of such absentee ballot;

(9) if the State declares or otherwise holds a runoff election for Federal office, establish a written plan that provides absentee ballots are made available to absent uniformed services voters and overseas voters in manner that gives them sufficient time to vote in the runoff election;

(10) carry out section 103A(b)(1) with respect to the processing and acceptance of marked absentee ballots of absent overseas uniformed services voters; and

(11) report data on the number of absentee ballots transmitted and received under section 102(c) and such other data as the Presidential designee determines appropriate in accordance with the standards developed by the Presidential designee under section 101(b)(11).

(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.—

(1) IN GENERAL.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(2) RECOMMENDATION REGARDING USE OF OFFICE TO ACCEPT AND PROCESS MATERIALS.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State's duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

(c) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the

election, and shall make such report available to the general public.

(d) REGISTRATION NOTIFICATION.—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.

(e) DESIGNATION OF MEANS OF ELECTRONIC COMMUNICATION FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO REQUEST AND FOR STATES TO SEND VOTER REGISTRATION APPLICATIONS AND ABSENTEE BALLOT APPLICATIONS, AND FOR OTHER PURPOSES RELATED TO VOTING INFORMATION.—

(1) IN GENERAL.—Each State shall, in addition to the designation of a single State office under subsection (b), designate not less than 1 means of electronic communication—

(A) for use by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State to request voter registration applications and absentee ballot applications under subsection (a)(6);

(B) for use by States to send voter registration applications and absentee ballot applications requested under such subsection; and

(C) for the purpose of providing related voting, balloting, and election information to absent uniformed services voters and overseas voters.

(2) CLARIFICATION REGARDING PROVISION OF MULTIPLE MEANS OF ELECTRONIC COMMUNICATION.—A State may, in addition to the means of electronic communication so designated, provide multiple means of electronic communication to absent uniformed services voters and overseas voters, including a means of electronic communication for the appropriate jurisdiction of the State.

(3) INCLUSION OF DESIGNATED MEANS OF ELECTRONIC COMMUNICATION WITH INFORMATIONAL AND INSTRUCTIONAL MATERIALS THAT ACCOMPANY BALLOTING MATERIALS.—Each State shall include a means of electronic communication so designated with all informational and instructional materials that accompany balloting materials sent by the State to absent uniformed services voters and overseas voters.

(4) AVAILABILITY AND MAINTENANCE OF ONLINE REPOSITORY OF STATE CONTACT INFORMATION.—The Federal Voting Assistance Program of the Department of Defense shall maintain and make available to the public an online repository of State contact information with respect to elections for Federal office, including the single State office designated under subsection (b) and the means of electronic communication designated under paragraph (1), to be used by absent uniformed services voters and overseas voters as a resource to send voter registration applications and absentee ballot applications to the appropriate jurisdiction in the State.

(5) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under subsection

(a)(6)(C), the State shall transmit the voter registration application or absentee ballot application by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

(6) SECURITY AND PRIVACY PROTECTIONS.—

(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(6) protect the security and integrity of the voter registration and absentee ballot application request processes.

(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(6) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter who requests or is sent a voter registration application or absentee ballot application under such subsection is protected throughout the process of making such request or being sent such application.

(f) TRANSMISSION OF BLANK ABSENTEE BALLOTS BY MAIL AND ELECTRONICALLY.—

(1) IN GENERAL.—Each State shall establish procedures—

(A) to transmit blank absentee ballots by mail and electronically (in accordance with the preferred method of transmission designated by the absent uniformed services voter or overseas voter under subparagraph (B)) to absent uniformed services voters and overseas voters for an election for Federal office; and

(B) by which the absent uniformed services voter or overseas voter can designate whether the voter prefers that such blank absentee ballot be transmitted by mail or electronically.

(2) TRANSMISSION IF NO PREFERENCE INDICATED.—In the case where an absent uniformed services voter or overseas voter does not designate a preference under paragraph (1)(B), the State shall transmit the ballot by any delivery method allowable in accordance with applicable State law, or if there is no applicable State law, by mail.

(3) SECURITY AND PRIVACY PROTECTIONS.—

(A) SECURITY PROTECTIONS.—To the extent practicable, States shall ensure that the procedures established under subsection (a)(7) protect the security and integrity of absentee ballots.

(B) PRIVACY PROTECTIONS.—To the extent practicable, the procedures established under subsection (a)(7) shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter to whom a blank absentee ballot is transmitted under such subsection is protected throughout the process of such transmission.

(g) HARDSHIP EXEMPTION.—

(1) IN GENERAL.—If the chief State election official determines that the State is unable to meet the requirement under subsection (a)(8)(A) with respect to an election for Federal office due to an undue hardship described in paragraph (2)(B),

the chief State election official shall request that the Presidential designee grant a waiver to the State of the application of such subsection. Such request shall include—

(A) a recognition that the purpose of such subsection is to allow absent uniformed services voters and overseas voters enough time to vote in an election for Federal office;

(B) an explanation of the hardship that indicates why the State is unable to transmit absent uniformed services voters and overseas voters an absentee ballot in accordance with such subsection;

(C) the number of days prior to the election for Federal office that the State requires absentee ballots be transmitted to absent uniformed services voters and overseas voters; and

(D) a comprehensive plan to ensure that absent uniformed services voters and overseas voters are able to receive absentee ballots which they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office, which includes—

(i) the steps the State will undertake to ensure that absent uniformed services voters and overseas voters have time to receive, mark, and submit their ballots in time to have those ballots counted in the election;

(ii) why the plan provides absent uniformed services voters and overseas voters sufficient time to vote as a substitute for the requirements under such subsection; and

(iii) the underlying factual information which explains how the plan provides such sufficient time to vote as a substitute for such requirements.

(2) APPROVAL OF WAIVER REQUEST.—After consulting with the Attorney General, the Presidential designee shall approve a waiver request under paragraph (1) if the Presidential designee determines each of the following requirements are met:

(A) The comprehensive plan under subparagraph (D) of such paragraph provides absent uniformed services voters and overseas voters sufficient time to receive absentee ballots they have requested and submit marked absentee ballots to the appropriate State election official in time to have that ballot counted in the election for Federal office.

(B) One or more of the following issues creates an undue hardship for the State:

(i) The State's primary election date prohibits the State from complying with subsection (a)(8)(A).

(ii) The State has suffered a delay in generating ballots due to a legal contest.

(iii) The State Constitution prohibits the State from complying with such subsection.

(3) TIMING OF WAIVER.—

(A) IN GENERAL.—Except as provided under subparagraph (B), a State that requests a waiver under paragraph (1) shall submit to the Presidential designee the written

waiver request not later than 90 days before the election for Federal office with respect to which the request is submitted. The Presidential designee shall approve or deny the waiver request not later than 65 days before such election.

(B) EXCEPTION.—If a State requests a waiver under paragraph (1) as the result of an undue hardship described in paragraph (2)(B)(ii), the State shall submit to the Presidential designee the written waiver request as soon as practicable. The Presidential designee shall approve or deny the waiver request not later than 5 business days after the date on which the request is received.

(4) APPLICATION OF WAIVER.—A waiver approved under paragraph (2) shall only apply with respect to the election for Federal office for which the request was submitted. For each subsequent election for Federal office, the Presidential designee shall only approve a waiver if the State has submitted a request under paragraph (1) with respect to such election.

(h) TRACKING MARKED BALLOTS.—The chief State election official, in coordination with local election jurisdictions, shall develop a free access system by which an absent uniformed services voter or overseas voter may determine whether the absentee ballot of the absent uniformed services voter or overseas voter has been received by the appropriate State election official.

(i) PROHIBITING REFUSAL TO ACCEPT APPLICATIONS FOR FAILURE TO MEET CERTAIN REQUIREMENTS.—A State shall not refuse to accept and process any otherwise valid voter registration application or absentee ballot application (including the official post card form prescribed under section 101) or marked absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

- (1) Notarization requirements.
- (2) Restrictions on paper type, including weight and size.
- (3) Restrictions on envelope type, including weight and size.

SEC. 103. [42 U.S.C. 1973ff-2] FEDERAL WRITE-IN ABSENTEE BALLOT IN GENERAL ELECTIONS FOR FEDERAL OFFICE FOR ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS.

(a) IN GENERAL.—

(1) FEDERAL WRITE-IN ABSENTEE BALLOT.—The Presidential designee shall prescribe a Federal write-in absentee ballot (including a secrecy envelope and mailing envelope for such ballot) for use in general, special, primary, and runoff elections for Federal office by absent uniformed services voters and overseas voters who make timely applications for, and do not receive, States, absentee ballots.²

(2) PROMOTION AND EXPANSION OF USE OF FEDERAL WRITE-IN ABSENTEE BALLOTS.—

(A) IN GENERAL.—Not later than December 31, 2011, the Presidential designee shall adopt procedures to promote and expand the use of the Federal write-in absentee

²In subsection (a), a comma appears between “States” and “absentee ballots”.

ballot as a back-up measure to vote in elections for Federal office.

(B) USE OF TECHNOLOGY.—Under such procedures, the Presidential designee shall utilize technology to implement a system under which the absent uniformed services voter or overseas voter may—

(i) enter the address of the voter or other information relevant in the appropriate jurisdiction of the State, and the system will generate a list of all candidates in the election for Federal office in that jurisdiction; and

(ii) submit the marked Federal write-in absentee ballot by printing the ballot (including complete instructions for submitting the marked Federal write-in absentee ballot to the appropriate State election official and the mailing address of the single State office designated under section 102(b)).

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this paragraph.

(b) SUBMISSION AND PROCESSING.—Except as otherwise provided in this title, a Federal write-in absentee ballot shall be submitted and processed in the manner provided by law for absentee ballots in the State involved. A Federal write-in absentee ballot of an absent uniformed services voter or overseas voter shall not be counted—

(1) in the case of a ballot submitted by an overseas voter who is not an absent uniformed services voter, if the ballot is submitted from any location in the United States;

(2) if the application of the absent uniformed services voter or overseas voter for a State absentee ballot is received by the appropriate State election official after the later of—

(A) the deadline of the State for receipt of such application; or

(B) the date that is 30 days before the general election; or

(3) if a State absentee ballot of the absent uniformed services voter or overseas voter is received by the appropriate State election official not later than the deadline for receipt of the State absentee ballot under State law.

(c) SPECIAL RULES.—The following rules shall apply with respect to Federal write-in absentee ballots:

(1) In completing the ballot, the absent uniformed services voter or overseas voter may designate a candidate by writing in the name of the candidate or by writing in the name of a political party (in which case the ballot shall be counted for the candidate of that political party).

(2) In the case of the offices of President and Vice President, a vote for a named candidate or a vote by writing in the name of a political party shall be counted as a vote for the electors supporting the candidate involved.

(3) Any abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall

be disregarded in determining the validity of the ballot, if the intention of the voter can be ascertained.

(d) **SECOND BALLOT SUBMISSION; INSTRUCTION TO ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER.**—An absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives a State absentee ballot, may submit the state absentee ballot. The Presidential designee shall assure that the instructions for each Federal write-in absentee ballot clearly state that an absent uniformed services voter or overseas voter who submits a Federal write-in absentee ballot and later receives and submits a State absentee ballot should make every reasonable effort to inform the appropriate State election official that the voter has submitted more than one ballot.

(e) **USE OF APPROVED STATE ABSENTEE BALLOT IN PLACE OF FEDERAL WRITE-IN ABSENTEE BALLOT.**—The Federal write-in absentee ballot shall not be valid for use in a general, special, primary, or runoff election for Federal office if the State involved provides a State absentee ballot that—

(1) at the request of the State, is approved by the Presidential designee for use in place of the Federal write-in absentee ballot; and

(2) is made available to absent uniformed services voters and overseas voters at least 60 days before the deadline for receipt of the State ballot under State law.

(f) **PROHIBITING REFUSAL TO ACCEPT BALLOT FOR FAILURE TO MEET CERTAIN REQUIREMENTS.**—A State shall not refuse to accept and process any otherwise valid Federal write-in absentee ballot submitted in any manner by an absent uniformed services voter or overseas voter solely on the basis of the following:

(1) Notarization requirements.

(2) Restrictions on paper type, including weight and size.

(3) Restrictions on envelope type, including weight and size.

(g) **CERTAIN STATES EXEMPTED.**—A State is not required to permit use of the Federal write-in absentee ballot, if, on and after the date of the enactment of this title, the State has in effect a law providing that—

(1) a State absentee ballot is required to be available to any voter described in section 107(5)(A) at least 90 days before the general, special, primary, or runoff election for Federal office involved; and

(2) a State absentee ballot is required to be available to any voter described in section 107(5) (B) or (C), as soon as the official list of candidates in the general, special, primary, or runoff election for Federal office is complete.

SEC. 103A. [42 U.S.C. 1973ff-2a] PROCEDURES FOR COLLECTION AND DELIVERY OF MARKED ABSENTEE BALLOTS OF ABSENT OVERSEAS UNIFORMED SERVICES VOTERS.

(a) **ESTABLISHMENT OF PROCEDURES.**—The Presidential designee shall establish procedures for collecting marked absentee ballots of absent overseas uniformed services voters in regularly scheduled general elections for Federal office, including absentee ballots prepared by States and the Federal write-in absentee ballot

prescribed under section 103, and for delivering such marked absentee ballots to the appropriate election officials.

(b) DELIVERY TO APPROPRIATE ELECTION OFFICIALS.—

(1) IN GENERAL.—Under the procedures established under this section, the Presidential designee shall implement procedures that facilitate the delivery of marked absentee ballots of absent overseas uniformed services voters for regularly scheduled general elections for Federal office to the appropriate election officials, in accordance with this section, not later than the date by which an absentee ballot must be received in order to be counted in the election.

(2) COOPERATION AND COORDINATION WITH THE UNITED STATES POSTAL SERVICE.—The Presidential designee shall carry out this section in cooperation and coordination with the United States Postal Service, and shall provide expedited mail delivery service for all such marked absentee ballots of absent uniformed services voters that are collected on or before the deadline described in paragraph (3) and then transferred to the United States Postal Service.

(3) DEADLINE DESCRIBED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the deadline described in this paragraph is noon (in the location in which the ballot is collected) on the seventh day preceding the date of the regularly scheduled general election for Federal office.

(B) AUTHORITY TO ESTABLISH ALTERNATIVE DEADLINE FOR CERTAIN LOCATIONS.—If the Presidential designee determines that the deadline described in subparagraph (A) is not sufficient to ensure timely delivery of the ballot under paragraph (1) with respect to a particular location because of remoteness or other factors, the Presidential designee may establish as an alternative deadline for that location the latest date occurring prior to the deadline described in subparagraph (A) which is sufficient to provide timely delivery of the ballot under paragraph (1).

(4) NO POSTAGE REQUIREMENT.—In accordance with section 3406 of title 39, United States Code, such marked absentee ballots and other balloting materials shall be carried free of postage.

(5) DATE OF MAILING.—Such marked absentee ballots shall be postmarked with a record of the date on which the ballot is mailed.

(c) OUTREACH FOR ABSENT OVERSEAS UNIFORMED SERVICES VOTERS ON PROCEDURES.—The Presidential designee shall take appropriate actions to inform individuals who are anticipated to be absent overseas uniformed services voters in a regularly scheduled general election for Federal office to which this section applies of the procedures for the collection and delivery of marked absentee ballots established pursuant to this section, including the manner in which such voters may utilize such procedures for the submittal of marked absentee ballots pursuant to this section.

(d) ABSENT OVERSEAS UNIFORMED SERVICES VOTER DEFINED.—In this section, the term “absent overseas uniformed services voter” means an overseas voter described in section 107(5)(A).

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Presidential designee such sums as may be necessary to carry out this section.

SEC. 103B. [42 U.S.C. 1973ff-2b] FEDERAL VOTING ASSISTANCE PROGRAM IMPROVEMENTS.

(a) **DUTIES.**—The Presidential designee shall carry out the following duties:

(1) Develop online portals of information to inform absent uniformed services voters regarding voter registration procedures and absentee ballot procedures to be used by such voters with respect to elections for Federal office.

(2) Establish a program to notify absent uniformed services voters of voter registration information and resources, the availability of the Federal postcard application, and the availability of the Federal write-in absentee ballot on the military Global Network, and shall use the military Global Network to notify absent uniformed services voters of the foregoing 90, 60, and 30 days prior to each election for Federal office.

(b) **CLARIFICATION REGARDING OTHER DUTIES AND OBLIGATIONS.**—Nothing in this section shall relieve the Presidential designee of their duties and obligations under any directives or regulations issued by the Department of Defense, including the Department of Defense Directive 1000.04 (or any successor directive or regulation) that is not inconsistent or contradictory to the provisions of this section.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Federal Voting Assistance Program of the Department of Defense (or a successor program) such sums as are necessary for purposes of carrying out this section.

SEC. 104. [42 U.S.C. 1973ff-3] PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.

SEC. 105. [42 U.S.C. 1973ff-4] ENFORCEMENT.

(a) **IN GENERAL.**—The Attorney General may bring civil action in an appropriate district court for such declaratory or injunctive relief as may be necessary to carry out this title.

(b) **REPORT TO CONGRESS.**—Not later than December 31 of each year, the Attorney General shall submit to Congress an annual report on any civil action brought under subsection (a) during the preceding year.

SEC. 105A. [42 U.S.C. 1973ff-4a] REPORTING REQUIREMENTS.

(a) **REPORT ON STATUS OF IMPLEMENTATION AND ASSESSMENT OF PROGRAMS.**—Not later than 180 days after the date of the enactment of the Military and Overseas Voter Empowerment Act, the

Presidential designee shall submit to the relevant committees of Congress a report containing the following information:

(1) The status of the implementation of the procedures established for the collection and delivery of marked absentee ballots of absent overseas uniformed services voters under section 103A, and a detailed description of the specific steps taken towards such implementation for the regularly scheduled general election for Federal office held in November 2010.

(2) An assessment of the effectiveness of the Voting Assistance Officer Program of the Department of Defense, which shall include the following:

(A) A thorough and complete assessment of whether the Program, as configured and implemented as of such date of enactment, is effectively assisting absent uniformed services voters in exercising their right to vote.

(B) An inventory and explanation of any areas of voter assistance in which the Program has failed to accomplish its stated objectives and effectively assist absent uniformed services voters in exercising their right to vote.

(C) As necessary, a detailed plan for the implementation of any new program to replace or supplement voter assistance activities required to be performed under this Act.

(3) A detailed description of the specific steps taken towards the implementation of voter registration assistance for absent uniformed services voters under section 1566a of title 10, United States Code.

(b) ANNUAL REPORT ON EFFECTIVENESS OF ACTIVITIES AND UTILIZATION OF CERTAIN PROCEDURES.—Not later than March 31 of each year, the Presidential designee shall transmit to the President and to the relevant committees of Congress a report containing the following information:

(1) An assessment of the effectiveness of activities carried out under section 103B, including the activities and actions of the Federal Voting Assistance Program of the Department of Defense, a separate assessment of voter registration and participation by absent uniformed services voters, a separate assessment of voter registration and participation by overseas voters who are not members of the uniformed services, and a description of the cooperation between States and the Federal Government in carrying out such section.

(2) A description of the utilization of voter registration assistance under section 1566a of title 10, United States Code, which shall include the following:

(A) A description of the specific programs implemented by each military department of the Armed Forces pursuant to such section.

(B) The number of absent uniformed services voters who utilized voter registration assistance provided under such section.

(3) In the case of a report submitted under this subsection in the year following a year in which a regularly scheduled general election for Federal office is held, a description of the utilization of the procedures for the collection and delivery of marked absentee ballots established pursuant to section 103A,

which shall include the number of marked absentee ballots collected and delivered under such procedures and the number of such ballots which were not delivered by the time of the closing of the polls on the date of the election (and the reasons such ballots were not so delivered).

(c) DEFINITIONS.—In this section:

(1) ABSENT OVERSEAS UNIFORMED SERVICES VOTER.—The term “absent overseas uniformed services voter” has the meaning given such term in section 103A(d).

(2) PRESIDENTIAL DESIGNEE.—The term “Presidential designee” means the Presidential designee under section 101(a).

(3) RELEVANT COMMITTEES OF CONGRESS DEFINED.—The term “relevant committees of Congress” means—

(A) the Committees on Appropriations, Armed Services, and Rules and Administration of the Senate; and

(B) the Committees on Appropriations, Armed Services, and House Administration of the House of Representatives.

SEC. 106. [42 U.S.C. 1973ff-5] EFFECT ON CERTAIN OTHER LAWS.

The exercise of any right under this title shall not affect, for purposes of any Federal, State, or local tax, the residence or domicile of a person exercising such right.

SEC. 107. [42 U.S.C. 1973ff-6] DEFINITIONS.

As used in this title, the term—

(1) “absent uniformed services voter” means—

(A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;

(B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and

(C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;

(2) “balloting materials” means official post card forms (prescribed under section 101), Federal write-in absentee ballots (prescribed under section 103), and any State balloting materials that, as determined by the Presidential designee, are essential to the carrying out of this title;

(3) “Federal office” means the office of President or Vice President, or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(4) “member of the merchant marine” means an individual (other than a member of a uniformed service or an individual employed, enrolled, or maintained on the Great Lakes or the inland waterways)—

(A) employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag

registry under charter to or control of the United States;
or

(B) enrolled with the United States for employment or training for employment, or maintained by the United States for emergency relief service, as an officer or crew member of any such vessel;

(5) “overseas voter” means—

(A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;

(B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or

(C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.¹

(6) “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa;

(7) “uniformed services” means the Army, Navy, Air Force, Marine Corps, and Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration; and

(8) “United States”, where used in the territorial sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

TITLE II—POSTAL, CRIMINAL, AND GENERAL PROVISIONS

[Omitted-Amendments]

b. Section 1604 of the National Defense Authorization Act for Fiscal Year 2002

(Public Law 107–107, approved Dec. 28, 2001)

SEC. 1604. [42 U.S.C. 1973ff note] ELECTRONIC VOTING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT OF DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Defense shall carry out a demonstration project under which absent uniformed services voters are permitted to cast ballots in the regularly scheduled general election for Federal office for November 2002 through an electronic voting system. The project shall be carried out with participation of sufficient numbers of absent uniformed services voters so that the results are statistically relevant.

(2) AUTHORITY TO DELAY IMPLEMENTATION.—If the Secretary of Defense determines that the implementation of the demonstration project under paragraph (1) with respect to the

¹The period at the end of paragraph (5) should be a semicolon.

regularly scheduled general election for Federal office for November 2002 may adversely affect the national security of the United States, the Secretary may delay the implementation of such demonstration project until the first regularly scheduled general election for Federal office which occurs after the Election Assistance Commission notifies the Secretary that the Commission has established electronic absentee voting guidelines and certifies that it will assist the Secretary in carrying out the project. The Secretary shall notify the Committee on Armed Services and the Committee on Rules and Administration of the Senate and the Committee on Armed Services and the Committee on House Administration of the House of Representatives of any decision to delay implementation of the demonstration project.

(b) COORDINATION WITH STATE ELECTION OFFICIALS.—The Secretary shall carry out the demonstration project under this section through cooperative agreements with State election officials of States that agree to participate in the project.

(c) REPORT TO CONGRESS.—Not later than June 1 of the year following the year in which the demonstration project is conducted under this section, the Secretary of Defense shall submit to Congress a report analyzing the demonstration project. The Secretary shall include in the report any recommendations the Secretary considers appropriate for continuing the project on an expanded basis for absent uniformed services voters during the next regularly scheduled general election for Federal office.

(d) DEFINITIONS.—In this section:

(1) ABSENT UNIFORMED SERVICES VOTER.—The term “absent uniformed services voter” has the meaning given that term in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-6(1)).

(2) STATE.—The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa.

3. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002

(Title II of Public Law 107–372, approved Dec. 19, 2002)

[As Amended Through P.L. 110–386, Enacted October 10, 2008]

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TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

- Sec. 211. Commissioned officer corps.
- Sec. 212. Definitions.
- Sec. 213. Authorized number on the active list.
- Sec. 214. Strength and distribution in grade.
- Sec. 215. Authorized number for fiscal years 2003 through 2005.

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

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Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.

Sec. 266. Presentation of United States flag upon retirement.

SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

Sec. 271. Repeals.

Sec. 272. Conforming amendments.

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**TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION COMMISSIONED OFFICER CORPS**

SEC. 201. [33 U.S.C. 3001 note] SHORT TITLE.¹

This title may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

Subtitle A—General Provisions

SEC. 211. [33 U.S.C. 3001] COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

SEC. 212. [33 U.S.C. 3002] DEFINITIONS.

(a) **APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.**—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) **ADDITIONAL DEFINITIONS.**—In this title:

(1) **ACTIVE DUTY.**—The term “active duty” means full-time duty in the active service of a uniformed service.

(2) **GRADE.**—The term “grade” means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) **OFFICER.**—The term “officer” means an officer of the commissioned corps.

(4) **FLAG OFFICER.**—The term “flag officer” means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(6) **ADMINISTRATION.**—The term “Administration” means the National Oceanic and Atmospheric Administration.

SEC. 213. [33 U.S.C. 3003] AUTHORIZED NUMBER ON THE ACTIVE LIST.

(a) **ANNUAL STRENGTH ON ACTIVE LIST.**—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) **LINEAL LIST.**—The Secretary shall maintain a list, known as the “lineal list”, of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

¹The National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 replaced and repealed the Coast and Geodetic Survey Commissioned Officers’ Act of 1948 (Act of June 3, 1948; 33 U.S.C. 853a et seq.).

SEC. 214. [33 U.S.C. 3004] STRENGTH AND DISTRIBUTION IN GRADE.

(a) **RELATIVE RANK; PROPORTION.**—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

- (1) 8 in the grade of captain.
- (2) 14 in the grade of commander.
- (3) 19 in the grade of lieutenant commander.
- (4) 23 in the grade of lieutenant.
- (5) 18 in the grade of lieutenant (junior grade).
- (6) 18 in the grade of ensign.

(b) **COMPUTATION OF NUMBER IN GRADE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) **LIMITATION ON INCREASE IN TOTAL NUMBER.**—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) **PRESERVATION OF GRADE AND PAY, ETC.**—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) **FILLING OF VACANCIES; ADDITIONAL NUMBERS.**—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) **TEMPORARY INCREASE IN NUMBERS.**—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.

SEC. 215. [33 U.S.C. 3005] NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.

Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

- (1) the Secretary has submitted to the Congress—
 - (A) the Administration's ship recapitalization plan for fiscal years 2010 through 2024;
 - (B) the Administration's aircraft modernization plan;and
 - (C) supporting workforce management plans;
- (2) appropriated funding is available; and
- (3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.

Subtitle B—Appointment and Promotion of Officers**SEC. 221. [33 U.S.C. 3021] ORIGINAL APPOINTMENTS.****(a) IN GENERAL.—**

(1) **GRADES.**—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) **QUALIFICATIONS.**—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) **EXAMINATION.**—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) **REVOCACTION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.**—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) **LINEAL LIST.**—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) **SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.**—

(1) **IN GENERAL.**—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) **HIGHER CREDIT UNDER OTHER LAW.**—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

SEC. 222. [33 U.S.C. 3022] PERSONNEL BOARDS.

(a) **CONVENING.**—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) **DUTIES.**—Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, con-

tinuation, and retirement of officers as prescribed in this subtitle and subtitle C.

(c) ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.

SEC. 223. [33 U.S.C. 3023] PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).

(a) IN GENERAL.—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. [33 U.S.C. 3024] PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. [33 U.S.C. 3025] LENGTH OF SERVICE FOR PROMOTION PURPOSES.

(a) GENERAL RULE.—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) EXCEPTION.—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. [33 U.S.C. 3026] APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

SEC. 227. [33 U.S.C. 3027] GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

SEC. 228. [33 U.S.C. 3028] POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) DESIGNATION OF POSITIONS.—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.—The Secretary may assign officers to positions designated under subsection (a).

(c) **DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.**—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) **GRADE.**—

(1) **TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.**—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

(2) **REVERSION TO PERMANENT GRADE.**—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) **NUMBER OF OFFICERS APPOINTED.**—

(1) **OVERALL LIMIT.**—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

(2) **LIMIT BY GRADE.**—The number of officers serving on active duty under appointments under this section may not exceed—

(A) one in the grade of vice admiral;

(B) two in the grade of rear admiral; and

(C) two in the grade of rear admiral (lower half).

(f) **PAY AND ALLOWANCES.**—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) **EFFECT OF APPOINTMENT.**—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

SEC. 229. [33 U.S.C. 3029] TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.

(a) **ENSIGN.**—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

(b) **LIEUTENANT (JUNIOR GRADE).**—Officers in the permanent grade of ensign may be temporarily promoted to and appointed in

the grade of lieutenant (junior grade) by the President alone whenever vacancies exist in higher grades.

(c) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

SEC. 230. [33 U.S.C. 3030] TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY.

(a) IN GENERAL.—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) LIMITATIONS.—Subsection (a) shall be applied subject to the following limitations:

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. [33 U.S.C. 3031] PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION.

(a) ACCEPTANCE AND DATE OF PROMOTION.—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) OATH OF OFFICE.—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

SEC. 232. [33 U.S.C. 3032] SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

SEC. 233. [33 U.S.C. 3033] SUSPENSION DURING WAR OR EMERGENCY.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

Subtitle C—Separation and Retirement of Officers**SEC. 241. [33 U.S.C. 3041] INVOLUNTARY RETIREMENT OR SEPARATION.**

(a) **TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.**—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) **COMPUTATIONS.**—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) **EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.**—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

SEC. 242. [33 U.S.C. 3042] SEPARATION PAY.

(a) **AUTHORIZATION OF PAYMENT.**—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) **AMOUNT OF SEPARATION PAY.**—

(1) **SIX OR MORE YEARS.**—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) **THREE TO SIX YEARS.**—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

SEC. 243. [33 U.S.C. 3043] MANDATORY RETIREMENT FOR AGE.

(a) OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) FLAG OFFICERS.—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. [33 U.S.C. 3044] RETIREMENT FOR LENGTH OF SERVICE.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. [33 U.S.C. 3045] COMPUTATION OF RETIRED PAY.

(a) OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.—

(1) IN GENERAL.—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) ROUNDING.—Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

SEC. 246. [33 U.S.C. 3046] RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

SEC. 247. [33 U.S.C. 3047] RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

SEC. 248. [33 U.S.C. 3048] CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

SEC. 249. [33 U.S.C. 3049] RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

Subtitle D—Service of Officers With the Military Departments

SEC. 251. [33 U.S.C. 3061] COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.

(a) TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.—

(1) TRANSFERS AUTHORIZED.—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of the Administration as the President considers to be in the best interest of the country.

(2) RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) RETURN OF TRANSFERRED RESOURCES AND OFFICERS.—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) LIMITATION ON TRANSFER OF OFFICERS.—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

SEC. 252. [33 U.S.C. 3062] RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. [33 U.S.C. 3063] RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. [33 U.S.C. 3071] APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect

from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.
- (3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.
- (4) Section 1035, relating to deposits of savings.
- (5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.
- (6) Section 1052, relating to reimbursement for adoption expenses.
- (7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).
- (8) Chapter 61, relating to retirement or separation for physical disability.
- (9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.
- (10) Chapter 71, relating to computation of retired pay.
- (11) Chapter 73, relating to annuities based on retired or retainer pay.
- (12) Subchapter II of chapter 75, relating to death benefits.
- (13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.
- (14) Sections 2731 and 2735, relating to property loss incident to service.
- (15) Section 2771, relating to final settlement of accounts of deceased members.
- (16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee.

SEC. 262. [33 U.S.C. 3072] ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) IN GENERAL.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

- (1) Laws administered by the Secretary of Veterans Affairs.
- (2) The Servicemembers Civil Relief Act.
- (3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. [33 U.S.C. 3073] MEDICAL AND DENTAL CARE.

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

SEC. 264. [33 U.S.C. 3074] COMMISSARY PRIVILEGES.

(a) EXTENSION OF PRIVILEGE.—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) SALES OF RATIONS, STORES, UNIFORMS, AND RELATED EQUIPMENT.—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) SURVIVING SPOUSES' RIGHTS.—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. [33 U.S.C. 3075] AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.

(a) TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. [33 U.S.C. 3076] PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.

(a) PRESENTATION OF FLAG UPON RETIREMENT.—Upon the release of a commissioned officer from active commissioned service

for retirement, the Secretary shall present a United States flag to the officer.

(b) **MULTIPLE PRESENTATIONS NOT AUTHORIZED.**—An officer is not eligible for presentation of a flag under subsection (a) if the officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) **NO COST TO RECIPIENT.**—The presentation of a flag under this section shall be at no cost to the recipient.

Subtitle F—Repeals and Conforming Amendments

[Omitted-Amendments]

4. EDUCATIONAL SERVICES FOR MEMBERS

Section 1212 of the Department of Defense Authorization Act, 1986

(Public Law 99-145; approved Nov. 8, 1985)

SEC. 1212. [10 U.S.C. 113 note] PROHIBITION OF CERTAIN RESTRICTIONS ON INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES

(a) No solicitation, contract, or agreement for the provision of offduty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

(b) No solicitation, contract, or agreement for the provision of offduty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 with respect to the procurement of such services are—

- (A) consistent with the provisions of subsections (a) and (b);
- (B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and
- (C) adequate to ensure that persons stationed at geographically isolated military installations or at installations

with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

- (i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and
- (ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph, the contract may be awarded—

- (i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;
- (ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or
- (iii) on the basis of a new solicitation.

(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel.

5. EFFORTS TO ENHANCE RECRUITING FOR THE ARMED SERVICES

a. Treating Persons with GED or Home School Diploma as Eligible for Enlistment in Armed Forces

(Section 571 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999; Public Law 105-261, approved Oct. 17, 1998)

SEC. 571. [10 U.S.C. 520 note] PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTMENT IN THE ARMED FORCES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the Armed Force or armed forces under the jurisdiction of that Secretary.

(b) PERSONS ELIGIBLE UNDER THE PILOT PROGRAM AS HIGH SCHOOL GRADUATES.—Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if—

(1) the person has completed a general education development program while participating in the National Guard Challenge Program under section 509 of title 32, United States Code, and is a GED recipient; or

(2) the person is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(c) GED AND HOME SCHOOL DIPLOMA RECIPIENTS.—For the purposes of this section—

(1) a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates; and

(2) a person is a home school diploma recipient if the person has received a diploma for completing a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(d) ANNUAL LIMIT ON NUMBER.—Not more than 1,250 GED recipients and home school diploma recipients enlisted by an armed force during a fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(e) DURATION OF PILOT PROGRAM.—The pilot program shall be in effect during the period beginning on October 1, 1998, and ending on September 30, 2003.

(f) REPORT.—Not later than February 1, 2004, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the pilot program. The report shall include the following, set forth separately for GED recipients and home school diploma recipients:

(1) The assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(2) A comparison (shown by armed force and by each fiscal year of the pilot program) of the performance of the persons who enlisted during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

- (A) Attrition.
- (B) Discipline.
- (C) Adaptability to military life.
- (D) Aptitude for mastering the skills necessary for technical specialties.
- (E) Reenlistment rates.

(g) STATE DEFINED.—For purposes of this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories of the United States.

b. Army College First Pilot Program for Delayed Entry into Active Service in the Army

(Section 573 of the National Defense Authorization Act for Fiscal Year 2000; Public Law 106–65, approved Oct. 5, 1999)

SEC. 573. [10 U.S.C. 513 note] ARMY COLLEGE FIRST PILOT PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of the Army shall establish a pilot program (to be known as the “Army College First” program) to assess whether the Army could increase the number of, and the level of the qualifications of, persons entering the Army as enlisted members by encouraging recruits to pursue higher education or vocational or technical training before entry into active service in the Army.

(b) DELAYED ENTRY WITH ALLOWANCE FOR HIGHER EDUCATION.—Under the pilot program, the Secretary may—

(1) exercise the authority under section 513 of title 10, United States Code—

(A) to accept the enlistment of a person as a Reserve for service in the Selected Reserve or Individual Ready Reserve of the Army Reserve or, notwithstanding the scope of the authority under subsection (a) of that section, in the Army National Guard of the United States; and

(B) to authorize, notwithstanding the period limitation in subsection (b) of that section, a delay of the enlistment of any such person in a regular component under that subsection for the period during which the person is enrolled in, and pursuing a program of education at, an institution of higher education, or a program of vocational or technical training, on a full-time basis that is to be completed within the maximum period of delay determined for that person under subsection (c); and

(2) subject to paragraph (2) of subsection (d) and except as provided in paragraph (3) of that subsection, pay an allowance to a person accepted for enlistment under paragraph (1)(A) for each month of the period during which that person is enrolled in and pursuing a program described in paragraph (1)(B).

(c) MAXIMUM PERIOD OF DELAY.—The period of delay authorized a person under paragraph (1)(B) of subsection (b) may not exceed the 30-month period beginning on the date of the person's enlistment accepted under paragraph (1)(A) of such subsection.

(d) ALLOWANCE.—(1) The monthly allowance paid under subsection (b)(2) shall be equal to the amount of the subsistence allowance provided for certain members of the Senior Reserve Officers' Training Corps with the corresponding number of years of participation under section 209(a) of title 37, United States Code.

(2) An allowance may not be paid to a person under this section for more than 24 months.

(3) A member of the Selected Reserve of a reserve component may be paid an allowance under this section only for months during which the member performs satisfactorily as a member of a unit of the reserve component that trains as prescribed in section 10147(a)(1) of title 10, United States Code, or section 502(a) of title 32, United States Code. Satisfactory performance shall be determined under regulations prescribed by the Secretary.

(4) An allowance under this section is in addition to any other pay or allowance to which a member of a reserve component is entitled by reason of participation in the Ready Reserve of that component.

[(e) Repealed.]

(f) RECOUPMENT OF ALLOWANCE.—(1) A person who, after receiving an allowance under this section, fails to complete the total period of service required of that person in connection with delayed entry authorized for the person under section 513 of title 10, United States Code, shall repay the United States the amount which bears the same ratio to the total amount of that allowance paid to the person as the unserved part of the total required period of service bears to the total period.

(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge of a person in bankruptcy under title 11, United States Code, that is entered less than five years after the date on which the person was, or was to be, enlisted in the regular Army pursuant to the delayed entry authority under section 513 of title 10, United States Code, does not discharge that person from a debt arising under paragraph (1).

(4) The Secretary of the Army may waive, in whole or in part, a debt arising under paragraph (1) in any case for which the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(g) COMPARISON GROUP.—To perform the assessment under subsection (a), the Secretary may define and study any group not including persons receiving a benefit under subsection (b) and compare that group with any group or groups of persons who receive such benefits under the pilot program.

(h) DURATION OF PILOT PROGRAM.—The pilot program shall be in effect during the period beginning on October 1, 1999, and ending on September 30, 2004.

(i) REPORT.—Not later than February 1, 2004, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. The report shall include the following:

(1) The assessment of the Secretary regarding the value of the authority under this section for achieving the objectives of increasing the number of, and the level of the qualifications of, persons entering the Army as enlisted members.

(2) Any recommendation for legislation or other action that the Secretary considers appropriate to achieve those objectives through grants of entry delays and financial benefits for advanced education and training of recruits.

c. Pilot Programs to Enhance Recruiting

(Sections 561 and 564 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398, approved Oct. 30, 2000)

SEC. 561. [10 U.S.C. 503 note] ARMY RECRUITING PILOT PROGRAMS.

(a) REQUIREMENT FOR PROGRAMS.—The Secretary of the Army shall carry out pilot programs to test various recruiting approaches under this section for the following purposes:

(1) To assess the effectiveness of the recruiting approaches for creating enhanced opportunities for recruiters to make direct, personal contact with potential recruits.

(2) To improve the overall effectiveness and efficiency of Army recruiting activities.

(b) OUTREACH THROUGH MOTOR SPORTS.—(1) One of the pilot programs shall be a pilot program of public outreach that associates the Army with motor sports competitions to achieve the objectives set forth in paragraph (2).

(2) The events and activities undertaken under the pilot program shall be designed to provide opportunities for Army recruiters

to make direct, personal contact with high school students to achieve the following objectives:

(A) To increase enlistments by students graduating from high school.

(B) To reduce attrition in the Delayed Entry Program of the Army by sustaining the personal commitment of students who have elected delayed entry into the Army under the program.

(3) Under the pilot program, the Secretary of the Army shall provide for the following:

(A) For Army recruiters or other Army personnel—

(i) to organize Army sponsored career day events in association with national motor sports competitions; and

(ii) to arrange for or encourage attendance at the competitions by high school students, teachers, guidance counselors, and administrators of high schools located near the competitions.

(B) For Army recruiters and other soldiers to attend national motor sports competitions—

(i) to display exhibits depicting the contemporary Army and career opportunities in the Army; and

(ii) to discuss those opportunities with potential recruits.

(C) For the Army to sponsor a motor sports racing team as part of an integrated program of recruitment and publicity for the Army.

(D) For the Army to sponsor motor sports competitions for high school students at which recruiters meet with potential recruits.

(E) For Army recruiters or other Army personnel to compile in an Internet accessible database the names, addresses, telephone numbers, and electronic mail addresses of persons who are identified as potential recruits through activities under the pilot program.

(F) Any other activities associated with motor sports competition that the Secretary determines appropriate for Army recruitment purposes.

(c) OUTREACH AT VOCATIONAL SCHOOLS AND COMMUNITY COLLEGES.—(1) One of the pilot programs shall be a pilot program under which Army recruiters are assigned, as their primary responsibility, at postsecondary vocational institutions and community colleges for the purpose of recruiting students graduating from those institutions and colleges, recent graduates of those institutions and colleges, and students withdrawing from enrollments in those institutions and colleges.

(2) The Secretary of the Army shall select the institutions and colleges to be invited to participate in the pilot program.

(3) The conduct of the pilot program at an institution or college shall be subject to an agreement which the Secretary shall enter into with the governing body or authorized official of the institution or college, as the case may be.

(4) Under the pilot program, the Secretary shall provide for the following:

(A) For Army recruiters to be placed in postsecondary vocational institutions and community colleges to serve as a resource for guidance counselors and to recruit for the Army.

(B) For Army recruiters to recruit from among students and graduates described in paragraph (1).

(C) For the use of telemarketing, direct mail, interactive voice response systems, and Internet website capabilities to assist the recruiters in the postsecondary vocational institutions and community colleges.

(D) For any other activities that the Secretary determines appropriate for recruitment activities in postsecondary vocational institutions and community colleges.

(5) In this subsection, the term “postsecondary vocational institution” has the meaning given the term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).

(d) CONTRACT RECRUITING INITIATIVES.—(1) One of the pilot programs shall be a program that expands in accordance with this subsection the scope of the Army’s contract recruiting initiatives that are ongoing as of the date of the enactment of this Act. Under the pilot program, the Secretary of the Army shall select at least 10 recruiting companies to apply the initiatives in efforts to recruit personnel for the Army.

(2) Under the pilot program, the Secretary shall provide for the following:

(A) For replacement of the Regular Army and Army Reserve recruiters by contract recruiters in the 10 recruiting companies selected under paragraph (1).

(B) For operation of the 10 companies under the same rules as the other Army recruiting companies.

(C) For use of the offices, facilities, and equipment of the 10 companies by the contract recruiters.

(D) For reversion to performance of the recruiting activities by Regular Army and Army Reserve soldiers in the 10 companies upon termination of the pilot program.

(E) For any other uses of contractor personnel for Army recruiting activities that the Secretary determines appropriate.

(e) DURATION OF PILOT PROGRAMS.—The pilot programs required by this section shall be carried out during the period beginning on October 1, 2000, and, subject to subsection (f), ending on September 30, 2007.

(f) AUTHORITY TO EXPAND OR EXTEND PILOT PROGRAMS.—The Secretary may expand the scope of any of the pilot programs (under subsection (b)(3)(F), (c)(4)(D), (d)(2)(E), or otherwise) or extend the period for any of the pilot programs. Before doing so in the case of a pilot program, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the expansion of the pilot program (together with the scope of the expansion) or the continuation of the pilot program (together with the period of the extension), as the case may be.

(g) REPORTS.—Not later than February 1, 2008, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a separate report on

each of the pilot programs carried out under this section. The report on a pilot program shall include the following:

(1) The Secretary's assessment of the value of the actions taken in the administration of the pilot program for increasing the effectiveness and efficiency of Army recruiting.

(2) Any recommendations for legislation or other action that the Secretary considers appropriate to increase the effectiveness and efficiency of Army recruiting.

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SEC. 564. [10 U.S.C. 503 note] PILOT PROGRAM TO ENHANCE MILITARY RECRUITING BY IMPROVING MILITARY AWARENESS OF SCHOOL COUNSELORS AND EDUCATORS.

(a) **IN GENERAL.**—The Secretary of Defense shall conduct a pilot program to determine if cooperation with military recruiters by local educational agencies and by institutions of higher education could be enhanced by improving the understanding of school counselors and educators about military recruiting and military career opportunities. The pilot program shall be conducted during a three-year period beginning not later than 180 days after the date of the enactment of this Act.

(b) **CONDUCT OF PILOT PROGRAM THROUGH PARTICIPATION IN INTERACTIVE INTERNET SITE.**—(1) The pilot program shall be conducted by means of participation by the Department of Defense in a qualifying interactive Internet site.

(2) For purposes of this section, a qualifying interactive Internet site is an Internet site in existence as of the date of the enactment of this Act that is designed to provide to employees of local educational agencies and institutions of higher education participating in the Internet site—

- (A) systems for communicating;
- (B) resources for individual professional development;
- (C) resources to enhance individual on-the-job effectiveness; and
- (D) resources to improve organizational effectiveness.

(3) Participation in an Internet site by the Department of Defense for purposes of this section shall include—

- (A) funding;
- (B) assistance; and
- (C) access by other Internet site participants to Department of Defense aptitude testing programs, career development information, and other resources, in addition to information on military recruiting and career opportunities.

(c) **REPORT.**—[Repealed. P.L. 109–364, § 1046, Oct. 17, 2006.]

d. Enhanced Screening Methods and Process Improvements for Recruitment of Home Schooled and National Guard Challenge Program GED Recipients

Section 593 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Public Law 108–375, approved Oct. 28, 2004)

SEC. 593. [10 U.S.C. 503 note] ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS FOR RECRUITMENT OF HOME SCHOOLED AND NATIONAL GUARD CHALLENGE PROGRAM GED RECIPIENTS.

(a) ENHANCED SCREENING METHODS AND PROCESS IMPROVEMENTS.—(1) The Secretary of the Army shall carry out an initiative—

(A) to develop screening methods and process improvements for recruiting specified GED recipients so as to achieve attrition patterns, among the GED recipients so recruited, that match attrition patterns for Army recruits who are high school diploma graduates; and

(B) subject to subsection (b), to implement such screening methods and process improvements on a test basis.

(2) For purposes of this section, the term “specified GED recipients” means persons who receive a General Educational Development (GED) certificate as a result of home schooling or the completion of a program under the National Guard Challenge program.

(b) SECRETARY OF DEFENSE REVIEW.—Before the screening methods and process improvements developed under subsection (a)(1) are put into effect under subsection (a)(2), the Secretary of Defense shall review the proposed screening methods and process improvements. Based on such review, the Secretary of Defense either shall approve the use of such screening methods and process improvements for testing (with such modifications as the Secretary may direct) or shall disapprove the use of such methods and process improvements on a test basis.

(c) SECRETARY OF DEFENSE DECISION.—If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, then upon completion of the test period, the Secretary of Defense shall, after reviewing the results of the test program, determine whether the new screening methods and process improvements developed by the Army should be extended throughout the Department for recruit candidates identified by the new procedures to be considered tier 1 recruits.

(d) REPORTS.—(1) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should not be implemented on a test basis, the Secretary of Defense shall, not later than 90 days thereafter, notify the Committee on Armed Services of the

Senate and the Committee on Armed Services of the House of Representatives of such determination, together with the reasons of the Secretary for such determination.

(2) If the Secretary of Defense determines under subsection (b) that the screening methods and process improvements developed under subsection (a)(1) should be implemented on a test basis, the Secretary of the Army shall submit to the committees specified in paragraph (1) a report on the results of the testing. The report shall be submitted not later than March 31, 2009, except that if the Secretary of Defense directs an earlier termination of the testing initiative, the Secretary of the Army shall submit the report under this paragraph not later than 180 days after such termination. Such report shall include the determination of the Secretary of Defense under subsection (c). If that determination is that the methods and processes tested should not be extended to the other services, the report shall include the Secretary's rationale for not recommending such extension.

**e. Recruitment and Enlistment of Home-Schooled Students
in the Armed Forces**

Section 591 of the National Defense Authorization Act for Fiscal Year 2006

(Public Law 109–163, approved Jan. 6, 2006)

**SEC. 591. [10 U.S.C. 503 note] RECRUITMENT AND ENLISTMENT OF
HOME-SCHOOLED STUDENTS IN THE ARMED FORCES.**

(a) **POLICY ON RECRUITMENT AND ENLISTMENT.**—

(1) **POLICY REQUIRED.**—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home-schooled students in the Armed Forces.

(2) **UNIFORMITY ACROSS THE ARMED FORCES.**—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) **ELEMENTS.**—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) A communication plan to ensure that the policy described in subsection (c) is understood by recruiting officials of all the Armed Forces, to include field recruiters at the lowest level of command.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) **HOME SCHOOL GRADUATES.**—In prescribing the policy under subsection (a), the Secretary of Defense shall prescribe a single set of criteria to be used by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) **SECRETARY CONCERNED DEFINED.**—In this section, the term “Secretary concerned” has the meaning given such term in section 101(a)(9) of title 10, United States Code.

**f. Bonus to Encourage Members of the Army to Refer Other
Persons for Enlistment in the Army**

Section 645 of the National Defense Authorization Act for Fiscal Year 2006

(Public Law 109-163, approved Jan. 6, 2006)

[As Amended Through P.L. 110-181, Enacted January 28, 2008]

[Section 645 was repealed by section 671(c)(1) of Public Law
110-181]

6. PILOT PROGRAM FOR REENGINEERING THE EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESS

Section 1111 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001

(as enacted into law by Public Law 106–398, approved Oct. 30, 2000)

SEC. 1111. [10 U.S.C. 113 note] PILOT PROGRAM FOR REENGINEERING THE EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESS.

(a) PILOT PROGRAM.—(1) The Secretary of Defense shall carry out a pilot program to improve processes for the resolution of equal employment opportunity complaints by civilian employees of the Department of Defense. Complaints processed under the pilot program shall be subject to the procedural requirements established for the pilot program and shall not be subject to the procedural requirements of part 1614 of title 29 of the Code of Federal Regulations or other regulations, directives, or regulatory restrictions prescribed by the Equal Employment Opportunity Commission.

(2) The pilot program shall include procedures to reduce processing time and eliminate redundancy with respect to processes for the resolution of equal employment opportunity complaints, reinforce local management and chain-of-command accountability, and provide the parties involved with early opportunity for resolution.

(3) The Secretary may carry out the pilot program for a period of three years, beginning on January 1, 2001.

(4)(A) Participation in the pilot program shall be voluntary on the part of the complainant. Complainants who participate in the pilot program shall retain the right to appeal a final agency decision to the Equal Employment Opportunity Commission and to file suit in district court. The Equal Employment Opportunity Commission shall not reverse a final agency decision on the grounds that the agency did not comply with the regulatory requirements promulgated by the Commission.

(B) Subparagraph (A) shall apply to all cases—

(i) pending as of January 1, 2001, before the Equal Employment Opportunity Commission involving a civilian employee who filed a complaint under the pilot program of the Department of the Navy to improve processes for the resolution of equal employment opportunity complaints; and

(ii) hereinafter filed with the Commission under the pilot program established by this section.

(5) The pilot program shall be carried out in at least one military department and two Defense Agencies.

(b) REPORT.—Not later than 90 days following the end of the first and last full or partial fiscal years during which the pilot program is implemented, the Comptroller General shall submit to

Congress a report on the pilot program. Such report shall contain the following:

- (1) A description of the processes tested by the pilot program.
 - (2) The results of such testing.
 - (3) Recommendations for changes to the processes for the resolution of equal employment opportunity complaints as a result of such pilot program.
 - (4) A comparison of the processes used, and results obtained, under the pilot program to traditional and alternative dispute resolution processes used in the government or private industry.
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7. DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT

Section 344 of the National Defense Authorization Act for Fiscal Year 2004

(Public Law 108–136, approved Nov. 24, 2003)

SEC. 344. [117 Stat. 1338] DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

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

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

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

(1) \$40; or

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

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

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

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

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

(A) any foreign government;

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

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

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

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

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

8. REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS

Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005

(Public Law 108–375, approved Oct. 28, 2004)

[As Amended Through P.L. 110–181, Enacted January 28, 2008]

SEC. 351. [118 Stat. 1857] REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES DEPLOYED IN CONTINGENCY OPERATIONS.

(a) REIMBURSEMENT REQUIRED.—The Secretary of Defense shall reimburse a member of the Armed Forces for the cost (including any shipping cost) of any protective, safety, or health equipment that was purchased by the member or by another person on behalf of the member for the personal use of the member in anticipation of, or during, the deployment of the member in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom, but only if—

(1) the Secretary of Defense certifies that the protective, safety, or health equipment was critical to the protection, safety, or health of the member;

(2) the member was not issued the protective, safety, or health equipment before the member became engaged in operations in areas or situations described in section 310(a)(2) of title 37, United States Code; and

(3) the protective, safety, or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on April 1, 2006, or in the case of protective helmet pads purchased by a member from a qualified vendor for that member's personal use, ending on September 30, 2007.

(b) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, or health equipment purchased by a member of the Armed Forces may not exceed \$1,100.

(c) SUBMISSION OF REIMBURSEMENT CLAIMS.—Claims for reimbursement for the cost of protective, safety, or health equipment purchased by a member of the Armed Forces shall comply with regular Department of Defense procedures for the submission of claims and shall be submitted to the Secretary of Defense under this section not later than one year after the date on which the implementing rules required by subsection (d) take effect or one

year after the date on which the purchase of the protective, safety, or health equipment was made, whichever occurs last.

(d) RULEMAKING.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue rules to expedite the provision of reimbursement under subsection (a). In conducting such rulemaking, the Secretary shall address the circumstances under which the United States will assume title or ownership of any protective, safety, or health equipment for which reimbursement is made. Subsection (a)(1) shall not apply in the case of the purchase of protective helmet pads on behalf of a member.

**9. ADDITIONAL AUTHORITY FOR INCREASES OF ARMY
AND MARINE CORPS ACTIVE DUTY PERSONNEL END
STRENGTHS FOR FISCAL YEARS 2005 THROUGH 2009**

**Section 403 of the Ronald W. Reagan National Defense
Authorization Act for Fiscal Year 2005**

(Public Law 108-375, approved Oct. 28, 2004)

[As Amended Through P.L. 110-181, Enacted January 28, 2008]

**【Section 403 was repealed by section 403(h) of Public Law
110-181】**

10. REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW

Section 554 of the National Defense Authorization Act for Fiscal Year 2006

(Public Law 109–163, approved Jan. 6, 2006)

SEC. 554. [10 U.S.C. 113 note] REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW.

(a) REQUIREMENT FOR REPORTS.—

(1) **IN GENERAL.**—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report of any conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not the member is on active duty at the time of the conduct that provides the basis for the conviction. The regulations shall apply uniformly throughout the military departments.

(2) **COVERED MEMBERS.**—In this section, the term “covered member of the Armed Forces” means a member of the Army, Navy, Air Force, or Marine Corps who is on the active-duty list or the reserve active-status list and who is—

(A) an officer; or

(B) an enlisted member in a pay grade above pay grade E–6.

(b) LAW ENFORCEMENT AUTHORITY OF THE UNITED STATES.—For purposes of this section, a law enforcement authority of the United States includes—

(1) a military or other Federal law enforcement authority;

(2) a State or local law enforcement authority; and

(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(c) CRIMINAL LAW OF THE UNITED STATES.—

(1) **IN GENERAL.**—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

(A) any military or other Federal criminal law;

(B) any State, county, municipal, or local criminal law or ordinance; and

(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

(2) EXCEPTION.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

(d) TIMELINESS OF REPORTS.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

(e) FORWARDING OF INFORMATION.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to a conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

(f) CONVICTIONS.—In this section, the term “conviction” includes any plea of guilty or nolo contendere.

(g) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a), including the requirement in subsection (e), shall go into effect not later than the end of the 180-day period beginning on the date of the enactment of this Act.

(h) APPLICABILITY OF REQUIREMENT.—The requirement under the regulations required by subsection (a) that a covered member of the Armed Forces submit notice of a conviction shall apply only to a conviction that becomes final after the date of the enactment of this Act.

**11. AUTHORITY TO WAIVE ANNUAL LIMITATION ON
TOTAL COMPENSATION PAID TO FEDERAL CIVILIAN
EMPLOYEES**

**Section 1105 of the National Defense Authorization Act for
Fiscal Year 2006**

(Public Law 109–163, approved Jan. 6, 2006)

[As Amended Through P.L. 110–181, Enacted January 28, 2008]

**SEC. 1105. AUTHORITY TO WAIVE ANNUAL LIMITATION ON TOTAL
COMPENSATION PAID TO FEDERAL CIVILIAN EMPLOYEES.**

(a) **WAIVER AUTHORITY.**—During 2006, 2007, and 2008 and notwithstanding section 5547 of title 5, United States Code, the head of an executive agency may waive, subject to subsection (b), the limitation established in that section for total compensation (including limitations on the aggregate of basic pay and premium pay payable in a calendar year) of an employee who performs work while in an overseas location that is in the area of responsibility of the commander of the United States Central Command, in direct support of or directly related to a military operation (including a contingency operation as defined in section 101(13) of title 10, United States Code) or, during 2008, a military operation (including a contingency operation, as so defined) or an operation in response to an emergency declared by the President.

(b) **MAXIMUM TOTAL COMPENSATION.**—The total compensation of an employee whose pay is covered by a waiver under subsection (a) may not exceed \$200,000 in 2006 and \$212,100 in 2007 or 2008.

(c) **ADDITIONAL PAY NOT CONSIDERED BASIC PAY.**—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay—

(1) shall not be considered to be basic pay for any purpose; and

(2) shall not be used in computing a lump sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.
