to replace a military decoration, the Secretary concerned shall replace, on a one-time basis and without charge, a military decoration upon the request of the recipient of the military decoration or the immediate next of kin of a deceased recipient.

(b) MILITARY DECORATION DEFINED.—In this section, the term “decoration” means any decoration or award (other than the medal of honor) that may be presented or awarded by the President or the Secretary concerned to a member of the armed forces.


CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

Sec. 1141. Involuntary separation defined.
1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs.
1143. Employment assistance.
1143a. Encouragement of postseparation public and community service.
1144. Employment assistance, job training assistance, and other transitional services: Department of Labor.
1145. Health benefits.
1146. Commissary and exchange benefits.
1147. Use of military family housing.
1148. Relocation assistance for personnel overseas.
1149. Excess leave and permissive temporary duty.
1150. Affiliation with Guard and Reserve units: waiver of certain limitations.
1151. Retention of assistive technology and services provided before separation.
1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies.
1153. Assistance to separated members to obtain employment with health care providers.

AMENDMENTS

§ 1141. Involuntary separation defined

A member of the armed forces shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, or after November 29, 1993, or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994, and—

(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

(2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time National Guard duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;

(3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; and

(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned.


AMENDMENTS
1994—Pub. L. 103–337, in introductory provisions, substituted “armed forces” for “Army, Navy, Air Force, or Marine Corps” and “or after November 29, 1993” for “or, with respect to a member of the Coast Guard, if the member was on active duty in the Coast Guard after September 30, 1994,” for “or on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994,” and for “on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994” for “September 30, 1990,”.

EFFECTIVE DATE OF 1994 AMENDMENT
Section 542(e) of Pub. L. 103–337 provided that: “This section [amending this section and sections 1145, 1146a, 1151 to 1150, 1174a, and 1175 of this title and enacting provisions set out as a note under section 1293 of this title] and the amendments made by this section shall apply only to members of the Coast Guard who are separated after September 30, 1994.”

TRANSFER OF FUNCTIONS
For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 408(b), 551(d), 553(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.
§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling to each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member’s first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member’s service in the armed forces.

(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

(A) certification and licensure requirements that are applicable to civilian occupations;

(B) civilian occupations that correspond to military occupational specialties; and

(C) Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672).

(5) If the member has a spouse, inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families and the availability to the member and dependents of suicide prevention resources following separation from the armed forces.

(9) Financial planning assistance, including information on budgeting, saving, credit, loans, and taxes.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training, employment, and financial objectives of the member and, if the member has a spouse, the spouse of the member.

(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.

(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

(15) Information concerning veterans preference in Federal employment and Federal procurement opportunities.

1 So in original.
(16) Information on home loan services and housing assistance benefits available under the laws administered by the Secretary of Veterans Affairs and counseling on responsible borrowing practices.

(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs, and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits.

(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.


AMENDMENT OF SUBSECTION (a)(2)

Pub. L. 112–56, title II, § 221(b), (c), Nov. 21, 2011, 125 Stat. 716, provided that, effective on the date that is 1 year after Nov. 21, 2011, subsection (a)(2) of this section is amended by striking "may" and inserting "shall". See 2011 Amendment note below.

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112–56 substituted "shall" for "may".

Subsec. (a)(3)(B), Pub. L. 112–81, § 513, inserted "or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible," after "or separation date."

Subsec. (b)(5), Pub. L. 112–81, § 529(1), substituted "inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs" for "job placement counseling for the spouse".

Subsec. (b)(6), Pub. L. 112–81, § 533(c), inserted before period at end "and the availability to the member and dependents of suicide prevention resources following separation from the armed forces".

Subsec. (b)(9), Pub. L. 112–81, § 529(2), inserted before period at end "including information on budgeting, saving, credit, loans, and taxes"

Subsec. (b)(10), Pub. L. 112–81, § 529(3), substituted "employment, and financial" for "and employment".

Subsec. (b)(16), Pub. L. 112–81, § 529(4), added par. (16) and struck out former par. (16) which read as follows: "Contact information for housing counseling assistance."

Subsec. (b)(17), Pub. L. 112–81, § 529(5), inserted before period at end "and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits".


Subsec. (b)(15), Pub. L. 111–84, § 1073(a)(13)(B), substituted "Federal" for "federal" in two places.

1996—Subsec. (b)(13), Pub. L. 104–166 substituted "Provision of information on civilian occupations and related assistance programs, including information concerning—" for "Information concerning—".


2001—Subsec. (a)(1). Pub. L. 107–103, § 302(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "As soon as possible before, but in no event later than 90 days before, the date of the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual preseparation counseling of the member."


1996—Subsec. (b)(4). Pub. L. 103–160 substituted "programs established under sections 1151, 1152, and 1153 of this title for "program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aids", including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aids", including the public and community service jobs program carried out under section 1143a of this title".

1992—Subsec. (a)(1). Pub. L. 102–484, § 4401(a), substituted "As soon as possible before, but in no event later than 90 days before, the date of the discharge" for "Upon the discharge of".

Subsec. (b)(4). Pub. L. 102–484, § 4402(b), inserted before period at end "including the public and community service jobs program carried out under section 1143a of this title".

Pub. L. 102–484, § 4411(b), inserted before period at end "and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aids", including the public and community service jobs program carried out under section 1143a of this title".

Pub. L. 102–484, § 4401(a), substituted "job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aids", including the public and community service jobs program carried out under section 1143a of this title".
§ 1143  EMPLOYMENT assistance
(a) EMPLOYMENT SKILLS VERIFICATION.—The Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard shall provide to members of the armed forces who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations. The Secretary of Homeland Security shall establish permanent employment assistance centers at appropriate Coast Guard installations.

(c) INFORMATION TO CIVILIAN ENTITIES.—For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense and the Secretary of Homeland Security shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, organizations, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, be provided a preference in hiring by non-appropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 1784(a)(2) of this title, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once. The Secretary of Homeland Security shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.

(e) EMPLOYMENT SKILLS TRAINING.—(1) The Secretary of a military department may carry out one or more programs to provide eligible members of the armed forces under the jurisdiction of the Secretary with job training and employment skills training, including apprenticeship programs, to help prepare such members for employment in the civilian sector.

(2) A member of the armed forces is an eligible member for purposes of a program under this subsection if the member—
(A) has completed at least 180 days on active duty in the armed forces; and
(B) is expected to be discharged or released from active duty in the armed forces within 180 days of the date of commencement of participation in such a program.

(3) Any program under this subsection shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

AMENDMENTS
DEPARTMENT OF DEFENSE PILOT PROGRAM ON WORK EXPERIENCE FOR MEMBERS OF THE ARMED FORCES ON TERMINAL LEAVE

Pub. L. 112-56, title II, §236, Nov. 21, 2011, 125 Stat. 724, provided that:

“(a) IN GENERAL.—The Secretary of Defense may establish a pilot program to assess the feasibility and advisability of providing to members of the Armed Forces on terminal leave work experience with civilian employees and contractors of the Department of Defense to facilitate the transition of the individuals from service in the Armed Forces to employment in the civilian labor market.

“(b) DURATION.—The pilot program shall be carried out during the two-year period beginning on the date of the commencement of the pilot program.

“(c) REPORT.—Not later than 540 days after the date of commencement of the pilot program, the Secretary shall submit to the Committee on Armed Services and the Committee on Veterans’ Affairs of the Senate and the Committee on Armed Services and the Committee on Veterans’ Affairs of the House of Representatives an interim report on the pilot program that includes the findings of the Secretary with respect to the feasibility and advisability of providing covered individuals with work experience as described in subsection (a).”

DEMONSTRATION PROGRAM FOR TRAINING RECENTLY DISCHARGED VETERANS FOR EMPLOYMENT IN CONSTRUCTION AND HAZARDOUS WASTE REMEDIATION


“(1) Title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

“(2) Sections 1143 and 1144 of title 10, United States Code.

“(3) Chapter 41 of title 38, United States Code.


“(5) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).”

PARTICIPATION OF DISCHARGED MILITARY PERSONNEL IN UPWARD BOUND PROJECTS TO PREPARE FOR COLLEGE


“(a) PROGRAM.—The Secretary of Defense may carry out a program to assist a member of the Armed Forces described in subsection (b) who is accepted to participate in an upward bound project assisted under section 402C of the Higher Education Act of 1965 (3 U.S.C. 1070a–13) to cover the cost of providing services through the project to the member to assist the member to prepare for and pursue a program of higher education upon separation from active duty. Assistance provided under the program may include a stipend provided under subsection (d) of such section.

“(b) ELIGIBLE MEMBERS.—A member of the Armed Forces shall be eligible for assistance under subsection (a) if the member—

“(1) was on active duty or full-time National Guard duty on September 30, 1990;

“(2) during the five-year period beginning on that date, was or is discharged or released from such duty (under other than adverse circumstances); and

“(3) submits an application to the Secretary of Defense within such time, in such form, and containing such information as the Secretary of Defense may require.

“(c) NOTIFICATION OF MEMBERS PREVIOUSLY SEPARATED.—To the extent feasible, the Secretary of Defense shall notify members of the Armed Forces who, between September 30, 1990, and the date of the enactment of this Act [Oct. 23, 1992], were discharged or released from active duty or full-time National Guard duty regarding the availability of the program under subsection (a). The Secretary may establish a time limit within which such members may apply to participate in the program.

“(d) PROVISION OF ASSISTANCE.—

“(1) DETERMINATION OF AMOUNT.—The amount of assistance provided under subsection (a) to a member of the Armed Forces shall be equal to the anticipated cost of providing services to the member through an upward bound project, subject to the limitation that such amount may not exceed the monthly basic pay to which the member is entitled at the time of the separation of the member. The Secretary of Defense may provide assistance in excess of that limitation if the Secretary determines, on a case by case basis, that such assistance is warranted by the special training needs of the member.

“(2) CONSULTATION.—The Secretary of Education may assist the Secretary of Defense in determining the amount to be provided under paragraph (1).

“(e) USE OF ASSISTANCE.—A member of the Armed Forces who is selected to participate in the program described in subsection (b) may receive services through an upward bound project assisted under section 402C of the Higher Education Act of 1965 (3 U.S.C. 1070a–13) to the same extent as other individuals eligible to receive such services. A member may not participate after the end of the two-year period for participation in the program shall be two years from the date of the enactment of this Act [Oct. 23, 1993], the period for participation in the program shall be two years from the date of the enactment of this Act [Oct. 23, 1993].

“(f) REMUNERATION.—Upon submission to the Secretary of Defense of a request for reimbursement of the costs to provide services to a participant, the Secretary shall reimburse the upward bound project submitting the request for the actual cost of providing services (including a stipend) to the member, not to exceed the amount provided under subsection (d)(1). Funds provided under this subsection shall be in addition to the funds otherwise provided to the project under the Higher Education Act of 1965 (30 U.S.C. 1001 et seq.) and 42 U.S.C. 2751 et seq.). Not more than 10 percent of the funds provided under this subsection may be used for administrative costs.

“(g) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301 [106 Stat.
SEC. 4481. SHORT TITLE.


SEC. 4482. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) the men and women serving in our Nation’s Armed Forces are of the highest caliber—intelligent, dedicated, and disciplined—and hundreds of thousands of these service members will be separating from the Armed Forces due to the drawdown in military personnel;

(2) these men and women will be entering the civilian workforce during a time of economic instability and uncertainty;

(3) many of these service personnel specialized in critical skills such as combat arms which will not transfer to the civilian workforce;

(4) as part of the Nation’s obligation to these service members, the Secretary of Defense has a unique responsibility and obligation to provide them with the tools they need to be reabsorbed into the civilian community and continue to be outstanding, productive citizens;

(5) the rapid placement of separated military personnel in civilian employment and training opportunities will significantly reduce the Department of Defense’s costs relative to unemployment compensation for ex-service members;

(6) military personnel are a national resource whose skills and abilities must be absorbed by and integrated into the civilian workforce; and

(7) providing such training will reduce the total cost of the drawdown and is important to the national defense function of the Department of Defense.

(b) Purpose.—The purpose of this subtitle is to provide additional means by which the Secretary of Defense may manage the drawdown of the Armed Forces and to provide additional forms of assistance to members of the Armed Forces who are forced or induced to leave military service by reason of the drawdown of the Armed Forces, thereby facilitating the Secretary’s ability to achieve end strength reductions caused by the drawdown.

SEC. 4483. DEFINITIONS.

For purposes of this subtitle:

(1) The term ‘Secretary’ means the Secretary of Defense with respect to the Department of Defense and the Secretary of Transportation with respect to the Coast Guard.

(2) The terms ‘veteran’, ‘compensation’, ‘service-connected’, ‘State’, and ‘active military, naval, or air service’ have the meanings given such terms in paragraphs (2), (13), (16), (20), and (24), respectively, of section 101 of title 38, United States Code.

SEC. 4484. ESTABLISHMENT OF PROGRAM.

(a) Establishment.—Not later than 60 days after the date of enactment of this Act (Oct. 23, 1992), the Secretary shall carry out a program in accordance with this subtitle to assist eligible persons in obtaining employment through participation in programs of significant training for employment in stable and permanent positions. The Secretary may enter into an agreement with the Secretary of Veterans Affairs, the Secretary of Labor, or both, for the implementation of the program. The program shall be carried out through payments to employers who employ and train eligible persons in such positions. Such payments shall be made to assist such employers in defraying the costs of necessary training.

(b) State Agencies.—(1) The implementing official may enter into contracts or agreements with State approving agencies, as designated pursuant to section 307(a) of title 38, United States Code, or other State agencies to carry out any duty of the implementing official under this subtitle. Payment may be made to such agencies pursuant to any such contract or agreement for reasonable and necessary expenses of services and travel incurred by employees of such agencies in carrying out such duties. Each such payment may be made only from funds available to the implementing official pursuant to section 4495(a)(4).

(2) Each State approving agency or other State agency with which a contract or agreement is entered into under this section shall submit to the implementing official on a monthly or quarterly basis, as determined by the agency, a report containing a certification of such expenses for the period covered by the report. The report shall be submitted in the form and manner required by such official.

(c) Expedient Implementation.—A requirement in this subtitle to issue regulations shall not be the basis for a delay in carrying out this program within the time limit established by subsection (a).

SEC. 4485. ELIGIBILITY FOR PROGRAM; PERIOD OF TRAINING.

(a) In General.—(1) To be eligible for participation in a program of job training under this subtitle, an eligible person must be an eligible person described in paragraph (2) who—

(A)(i) is unemployed at the time of applying for participation in a program under this subtitle; and

(B)(i) served in the active military, naval, or air service and whose primary or secondary occupational specialty in the Armed Forces is (as determined under regulations prescribed by the Secretary and in effect before the date of such separation) not readily transferable to the civilian workforce; or

(ii) served in the active military, naval, or air service and is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Secretary of Veterans Affairs for a disability rated at 30 percent or more.

(2) For purposes of paragraph (1), an eligible person referred to in paragraph (1) is a veteran who—

(A) was discharged on or after August 2, 1990; and

(B)(i) served in the active military, naval, or air service for a period of more than 90 days; or

(ii) was discharged or released from active duty because of a service-connected disability.

(3) For purposes of paragraph (1), an eligible person shall be considered to be unemployed during any period such person is without a job and wants and is available for work. In determining whether a person is unemployed for purposes of paragraph (1), the implementing official shall not take into consideration part-time or temporary employment, as defined by such official.
Title 10—ARMED FORCES

§ 1143

(b) APPLICATION PROCESS.—(1) An eligible person who desires to participate in a program of job training under this subtitle shall submit to the implementing official an application for participation in such a program. Such an application—

"(A) shall include a certification by the eligible person that the eligible person meets the criteria for eligibility prescribed by subparagraph (A), (B), or (C) of subsection (a)(1);

"(B) shall include an opportunity for the eligible person to request counseling under section 449(a); and

"(C) shall be in such form and contain such additional information as such official may prescribe.

"(2)(A) Subject to subparagraph (B), an application by an eligible person for participation in a program of job training under this subtitle shall be approved unless the implementing official finds that the eligible person is not eligible to participate in a program of job training under this subtitle.

"(B) Approval of an application of an eligible person under this subtitle may be withheld if the implementing official determines that, because of limited funds available for the purpose of making payments to employers under this subtitle, it is necessary to limit the number of participants in the program carried out under this subtitle.

"(3)(A) Subject to section 449(c), the implementing official shall certify as eligible for participation under this subtitle an eligible person whose application is approved under this subsection and shall furnish the eligible person with a certificate of that eligible person’s eligibility for presentation to an employer offering a program of job training under this subtitle. Any such certificate shall expire 180 days after it is furnished to the eligible person. The date on which a certificate is furnished to an eligible person under this paragraph shall be stated on the certificate.

"(B) A certificate furnished under this paragraph may, upon the eligible person’s application, be renewed in accordance with the terms and conditions of subparagraph (A).

"(c) APPEAL OF DENIAL OF CERTIFICATE.—The implementing official shall permit each eligible person who is not issued a certificate of eligibility under subsection (b) to challenge in a hearing before the implementing official the decision of the implementing official not to issue the certificate. The implementing official shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.

"(d) PERIOD OF TRAINING.—An employer shall provide a period of training under a program of job training under this subtitle of not less than 6 months in a field of employment providing a reasonable probability of stable, long-term employment.

"(e) SEC. 4486. APPROVAL OF EMPLOYER PROGRAMS.

"(a) IN GENERAL.—(1) An employer may be paid assistance under section 4487(a) on behalf of an eligible person employed by such employer and participating in a program of job training offered by that employer only if the program is approved under this section.

"(2) Except as provided in subsection (b), a proposed program of job training of an employer shall be approved unless the implementing official determines that the application does not contain a certification and other information meeting the requirements established under this subtitle or that withholding of approval is warranted under subsection (g).

"(b) INELIGIBLE PROGRAMS.—A program of job training—

"(1) for employment which consists of seasonal, intermittent, or temporary jobs;

"(2) for employment under which commissions are authorized in lieu of wages;

"(3) for employment which involves political or religious activities;

"(4) for employment with any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission); or

"(5) for employment outside of a State, may not be approved under this subtitle.

"(c) APPLICATION.—An employer offering a program of job training that the employer desires to have approved for the purposes of this subtitle shall submit to the implementing official a written application for such approval. Such application shall be in such form as such official shall prescribe.

"(d) CERTIFICATION.—An application under subsection (c) shall include a certification by the employer of the following:

"(1) That the employer is planning that, upon an eligible person’s completion of the program of job training, the employer will employ the eligible person in a position for which the eligible person has been trained and that the employer expects that such a position will be available on a permanent or semipermanent basis to the eligible person at the end of the training period.

"(2) That the wages and benefits to be paid to an eligible person participating in the employer’s program of job training will be not less than the wages and benefits normally paid to other employees participating in the same or a comparable program of job training in the community for the entire period of training of the eligible person.

"(3) That the employment of an eligible person under the program—

"(A) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits); and

"(B) will not be in a job (i) while any other individual is on layoff from the same or any substantially equivalent job, or (ii) the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its work force with the intention of hiring an eligible person in such job under this subtitle.

"(4) That the employer will not employ in the program of job training an eligible person who is already qualified by training and experience for the job for which training is to be provided.

"(5) That the job which is the objective of the training program is one that involves significant training.

"(6) That the training content of the program is adequate, in light of the nature of the occupation for which training is to be provided and of comparable training opportunities in such occupation, to accomplish the training objective certified under paragraph (2) of subsection (e).

"(7) That each participating eligible person will be employed full time in the program of job training.

"(8) That the training period under the proposed program is not longer than the training periods that employers in the community customarily require new employees to complete in order to become competent in the occupation or job for which training is to be provided.

"(9) That there are in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as are needed to accomplish the training objective certified under subsection (e)(2).

"(10) That the employer will keep records adequate to show the progress made by each eligible person participating in the program and otherwise to demonstrate compliance with the requirements established under this subtitle.

"(11) That the employer will furnish each participating eligible person, before the eligible person’s entry into training, with a copy of the employer’s certification under this subsection and will obtain and retain the eligible person’s signed acknowledgment of having received such certification.

"(12) That, as applicable, the employer will provide each participating eligible person with the full oppor-
tunity to participate in a personal interview pursuant to section 4491(b)(1)(B) during the eligible person's normal workday.

"(9) that the program meets such other criteria as the Secretary, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, may determine are essential for the effective implementation of the program established by this subtitle.

"(e) HOURS AND TRAINING CONTENT.—A certification under subsection (d) shall include—

(1) a statement indicating (A) the total number of hours of participation in the program of job training to be offered an eligible person, (B) the length of the program of job training, and (C) the starting rate of wages to be paid to a participant in the program; and

(2) a description of the training content of the program (including any agreement the employer has entered into with an educational institution under section 4489) and of the objective of the training.

"(f) STATUS OF CERTIFIED MATTERS.—(1) Except as provided in paragraph (2), each matter required to be certified to in paragraphs (1) through (11) of subsection (d) shall be considered to be a requirement established under this subtitle.

"(2) (A) For the purposes of section 4487(c), only matters required to be certified in paragraphs (1) through (10) of subsection (d) shall be so considered.

"(B) For the purposes of section 4490, a matter required to be certified under paragraph (12) of subsection (d) shall also be so considered.

"(g) WITHHOLDING APPROVAL; DISAPPROVAL.—In accordance with regulations which the Secretary shall prescribe, the implementing official may withhold approval of an employer's proposed program of job training pending the outcome of an investigation under subsection (d) and, based on the outcome of such an investigation, may disapprove such program.

"(h) ON-JOB TRAINING.—For the purposes of this section, approval of a program of apprenticeship or other on-job training for the purposes of section 3677 of title 38, United States Code, shall be considered to meet all requirements established under the provisions of this subtitle (other than subsection (b) and (d)(3)) for approval of a program of job training.

"SEC. 4487. PAYMENTS TO EMPLOYERS; OVERPAYMENT.

"(a) PAYMENTS.—(1) A payment may not be made to an employer on a quarterly basis if the implementing official determines (pursuant to regulations prescribed by the implementing official) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.

"(2) The implementing official shall withhold 25 percent of each payment due under this subsection with respect to an eligible person. The total amount withheld with respect to an eligible person under this paragraph shall be paid to the employer at the end of the four month period of employment of such person under this subtitle beginning on the date of completion of training, or upon the completion of the 18th month of training under the last training program approved for the person’s pursuit with that employer under this subtitle, whichever is earlier.

"(b) Tools and other work-related materials.—In addition to payments under subsection (a), the implementing official shall reimburse the employer for the cost of tools and other work-related materials necessary for the eligible person's participation in the program of job training in an amount up to $500 if the employer presents to the implementing official a certification signed by the employer and eligible person that—

(1) tools and other work-related materials are necessary for the eligible person's participation in the job training program;

(2) the eligible person bought the tools and other work-related materials, and

(3) the employer paid the eligible person for the cost of the tools and other work-related materials.

"(c) OVERPAYMENTS.—(1) A payment under subsection (a) or (b) may be recovered in the same manner as any other overpayment referred to in paragraph (1) or (2) may be recovered in the same manner as any other debt due the United States. Any overpayment recovered shall be credited to funds available to make payments under this subtitle. If there are no such funds, any overpayment recovered shall be deposited into the Treasury.

"(2) Any overpayment referred to in paragraph (1) or (2) may be recovered in the same manner as any other debt due the United States. Any overpayment recovered shall be credited to funds available to make payments under this subtitle. If there are no such funds, any overpayment recovered shall be deposited into the Treasury.

(3) Any overpayment referred to in paragraph (1) or (2) may be recovered in the same manner as any other debt due the United States. Any overpayment recovered shall be credited to funds available to make payments under this subtitle. If there are no such funds, any overpayment recovered shall be deposited into the Treasury.

(4) LIMITATIONS.—(1) Payment may not be made to an employer for a period of training under this subtitle on behalf of an eligible person under the implementing official after—

(A) from the eligible person, a certification that the eligible person was employed full time by the employer in a program of job training during such period; and
“(B) from the employer, a certification—

“(i) that the eligible person was employed by the employer during that period and that the eligible person’s performance with respect to the first such certification by an employer with respect to an eligible person, the certification shall indicate the date on which the employment of the eligible person began and the starting hourly rate of wages paid to the eligible person (without regard to overtime or premium pay).

“(ii) of the number of hours worked by the eligible person during that period.

With respect to the first such certification by an employer after the date of the issuance of the certificate. The period were satisfactory; and

“(a) VETERANS EDUCATION PROGRAMS.—(1) Assistance may not be paid under this subtitle to an employer on behalf of an eligible person during that period. Such official may not be paid under this subtitle to an employer on behalf of an eligible person for which a request for payment is made after two years after the date on which that period of training ends.

“SEC. 4888. ENTRY INTO PROGRAM OF JOB TRAINING.

“(a) In General.—Notwithstanding any other provision of this subtitle, the implementing official shall withhold or deny approval of an eligible person’s entry into an approved program of job training if such official determines that funds are not available to make payments under this subtitle on behalf of the eligible person to the employer offering that program. Before the entry of an eligible person into an approved program of job training of an employer for purposes of assistance under this subtitle, the employer shall notify such official of the employer’s intention to employ an eligible person. The eligible person may begin such program of job training with the employer on the day the notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person’s entry into that program of job training in accordance with this section.

“(1) Period Prior to Commencement of Participation Under Certificate.—An eligible person who is issued a certificate of eligibility for participation in a program of job training under this subtitle shall commence participation in such a program not more than 180 days after the date of the issuance of the certificate. The date on which a certificate is furnished to an eligible person shall be stated on the certificate.

“SEC. 4889. PROVISION OF TRAINING THROUGH EDUCATIONAL INSTITUTIONS.

“(a) An employer may enter into an agreement with an educational institution that has been approved for the purposes of chapter 106 of title 10, United States Code, or any other institution offering a program of job training, as approved by the Secretary of Veterans Affairs, in order that such institution may provide a program of job training (or a portion of such a program) to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

“(b) A disapproval under paragraph (1) shall remain in effect until such time as the implementing official determines that adequate remedial action has been taken.

“SEC. 4981. INSPECTION OF RECORDS; INVESTIGATIONS.

“(a) Records.—The records and accounts of employers pertaining to eligible persons on behalf of whom assistance has been paid under this subtitle, as well as other records that the implementing official determines to be necessary to ascertain compliance with the requirements established under this subtitle, shall be available at reasonable times for examination by authorized representatives of the Federal Government.

“(b) Compliance Monitoring.—Such official may monitor employers and eligible persons participating in programs of job training under this subtitle to determine compliance with the requirements established under this subtitle.

“(c) Investigations.—Such official may investigate any matter such official considers necessary to determine compliance with the requirements established under this subtitle. The investigations authorized by this subsection may include examining records (including making certified copies of records), questioning employees, and entering into any premises or onto any site where any part of a program of job training is conducted under this subtitle, or where any of the records of the employer offering or providing such program are kept.

“(d) Department of Labor. Functions may be administered under subsections (b) and (c) in accordance with an agreement between the Secretary and the Secretary of Labor providing for the administration of such subsections (or any portion of such subsections) by the Department of Labor. Under such an agreement, any entity of the Department of Labor specified in the agreement may administer such subsections.

“SEC. 4982. COORDINATION WITH OTHER PROGRAMS.

“(a) VETERANS EDUCATION PROGRAMS.—(1) Assistance may not be paid under this subtitle to an employer on behalf of an eligible person for any period of time described in paragraph (2) and to such eligible person under chapter 30, 31, 32, 35, or 36 of title 38, United States Code, or chapter 106 of title 10, United States Code, for the same period of time.

“(2) A period of time referred to in paragraph (1) is the period of time beginning on the date on which the eligible person enters into an approved program of job training previously approved for the purposes of this subtitle is disproportionately low because of deficiencies in the quality of such programs, such official shall disapprove participation in such programs on the part of eligible persons who had begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionatelylow because of such deficiencies, such official shall take into account appropriate data, including—

“(A) the quarterly data provided by the Secretary of Labor with respect to the number of eligible persons who receive counseling in connection with training under this subtitle, are referred to employers under this subtitle, participate in job training under this subtitle, and complete such training or do not complete such training, and the reasons for non-completion; and

“(B) data compiled through the particular employer’s compliance surveys.

“(2) With respect to a disapproval under paragraph (1), the implementing official shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

“(b) Assistance may not be paid under this subtitle to an employer on behalf of an eligible person during that period. Such official shall take into account appropriate data, including—

“(A) the quarterly data provided by the Secretary of Labor with respect to the number of eligible persons who receive counseling in connection with training under this subtitle, are referred to employers under this subtitle, participate in job training under this subtitle, and complete such training or do not complete such training, and the reasons for non-completion; and

“(B) data compiled through the particular employer’s compliance surveys.

“(2) With respect to a disapproval under paragraph (1), the implementing official shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

“SEC. 4983. DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN CERTAIN EMPLOYER PROGRAMS.

“(a) Failure To Meet Requirements.—If the implementing official finds at any time that a program of job training previously approved for the purposes of this subtitle thereafter fails to meet any of the requirements established under this subtitle, such official may immediately disapprove further participation by eligible persons in that program. Such official shall provide to the employer concerned, and to each eligible person participating in the employer’s program, a statement of the reasons for, and an opportunity for a hearing with respect to, such disapproval. The employer and each eligible person shall be notified of such disapproval, the reasons for such disapproval, and the opportunity for a hearing. Notification shall be by a certified or registered letter, and a return receipt shall be secured.

“(b) Rate of Completion.—(1) If the implementing official determines that the rate of eligible persons successful completion of an employer’s programs of job training previously approved for the purposes of this subtitle is disproportionately low because of deficiencies in the quality of such programs, such official shall disapprove participation in such programs on the part of eligible persons who had begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, such official shall take into account appropriate data, including—

“(A) the quarterly data provided by the Secretary of Labor with respect to the number of eligible persons who receive counseling in connection with training under this subtitle, are referred to employers under this subtitle, participate in job training under this subtitle, and complete such training or do not complete such training, and the reasons for non-completion; and

“(B) data compiled through the particular employer’s compliance surveys.

“(2) With respect to a disapproval under paragraph (1), the implementing official shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

“(3) A disapproval under paragraph (1) shall remain in effect until such time as the implementing official determines that adequate remedial action has been taken.
training of an employer for purposes of assistance under this subtitle and ending on the last date for which such assistance is payable.

"(b) OTHER TRAINING AND EMPLOYMENT.—Assistant may not be paid under this subtitle to an employer on behalf of an eligible person for any period if the employer receives for that period any other form of assistance on account of the training or employment of the eligible person, including assistance under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.] or a credit under section 51 of the Internal Revenue Code [26 U.S.C. 51] (relating to credit for employment of certain new employees).

"(c) PREVIOUS COMPLETION OF PROGRAM.—Assistant may not be paid under this subtitle on behalf of an eligible person who has completed a program of job training under this subtitle.

"(d) PROMOTION.—(1) In carrying out section 318(b) of the United States Code, the Secretary of Veterans Affairs shall take all feasible steps to establish and encourage, for eligible persons who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training under this subtitle.

"(2) The Secretary of Veterans Affairs, in cooperation with the implementing official (unless the Secretary of Veterans Affairs is the implementing official), shall take all feasible steps to ensure that, in the cases of eligible persons who are eligible to have payments made on their behalf under both this subtitle and section 318(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the eligible person's best interests, to make payments to employers on behalf of such eligible persons.

"SEC. 4493. COUNSELING.

"(a) IN GENERAL.—The implementing official shall, upon request, provide, by contract or otherwise, employment counseling services to any eligible person eligible to participate under this subtitle in order to assist such eligible person in selecting a suitable program of job training under this subtitle.

"(b) CASE MANAGER.—(1) The implementing official shall provide for a program under which—

"(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 4103(a) of title 38, United States Code, is assigned as a case manager for each eligible person participating in a program of job training under this subtitle;

"(B) the eligible person has an in-person interview with the case manager not later than 60 days after entering into a program of training under this subtitle; and

"(C) periodic (not less frequent than monthly) contact is maintained with each such eligible person for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the eligible person to appropriate counseling, if necessary, (iii) facilitating the eligible person's successful completion of such program, and (iv) following up with the employer and the eligible person in order to determine the eligible person's progress in the program and the outcome regarding the eligible person's participation in and successful completion of the program.

"(2) No case manager shall be assigned pursuant to paragraph (1)(A) if—

"(A) for an eligible person if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the implementing official determines that there is no need for a case manager for such eligible person; or

"(B) in the case of the employees of an employer, if the implementing official determines that—

"(i) the employer has an appropriate and effective employee assistance program that is available to all eligible persons participating in the employer's programs of job training under this subtitle; or

"(ii) the rate of eligible persons' successful completion of the employer's programs of job training under this subtitle, either cumulatively or during the previous program year, is 60 percent or higher.

"(3) The implementing official shall provide, to the extent feasible, a program of counseling or other services designed to resolve difficulties that may be encountered by eligible persons during their training under this subtitle. Such counseling or other services shall be similar to the counseling or other services provided under sections 1712A, 3697A, 4103A, 4104, (former) 7723, and (former) 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.

"(c) CASE MANAGER REQUIRED.—Before an eligible person who voluntarily terminates from a program of job training under this subtitle or is involuntarily terminated from such program by the employer is encouraged to be provided with a further certificate, or renewal of certification, of eligibility for participation under this subtitle, such eligible person must be provided with the implementing official, with a case manager.

"SEC. 4494. INFORMATION AND OUTREACH; USE OF AGENCY RESOURCES.

"(a) IN GENERAL.—(1) The Secretary, the Secretary of Labor, and the Secretary of Veterans Affairs shall jointly provide for an outreach and public information program—

"(A) to inform eligible persons about the employment and job training opportunities available under this subtitle and under other provisions of law; and

"(B) to inform private industry and business concerns (including small business concerns), public agencies and organizations, educational institutions, trade associations, and labor unions about the job training opportunities available under, and the advantages of participating in, the program established by this subtitle.

"(2) The Secretary, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, shall promote the development of employment and job training opportunities for eligible persons by encouraging potential employers to make programs of job training under this subtitle available for eligible persons, by advising other appropriate Federal departments and agencies of the program established by this subtitle, and by advising employers of applicable responsibilities under chapters 41 and 42 of title 38, United States Code, with respect to eligible persons.

"(b) COORDINATION.—The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall coordinate the outreach and public information program under subsection (a)(1), and job development activities under subsection (a)(2), with job counseling, with job development, and other services provided for under chapters 41 and 42 of title 38, United States Code, and with other similar services offered by other public agencies and organizations.

"(c) AGENCY RESOURCES.—(1) The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall make available such personnel as are necessary to facilitate the effective implementation of this subtitle.

"(2) In carrying out the responsibilities of the Secretary of Labor under this subtitle, the Secretary of Labor shall make maximum use of the services of Directors and Assistant Directors for Veterans' Employment and Training, disabled veterans' outreach program specialists, and employees of local offices, appointed pursuant to sections 4103, 4103A, and 4104 of title 38, United States Code. To the extent that the implementing official withholds approval of eligible persons' applications under this subtitle pursuant to section 4495(b)(2)(B), the Secretary of Labor shall take steps to assist such eligible persons in taking advantage of opportunities that may be available to them under any other program carried out with funds provided by the Secretary of Labor.

"(d) SMALL BUSINESS.—The implementing official shall request and obtain from the Administrator of the Small Business Administration a list of small business
concerns and shall, on a regular basis, update such list. Such list shall be used to identify and promote possible training and employment opportunities for eligible persons.

‘‘(e) Assistance To Participate.—The Secretary of Veterans Affairs, and the Secretary of Labor shall assist eligible persons and employers desiring to participate under this subtitle in making application and completing necessary certifications.

‘‘(f) Collection of Certain Information.—The Secretary of Labor shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans’ Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of eligible persons who receive counseling services pursuant to section 4493, who are referred to employers participating under this subtitle, who complete such programs, and the reasons for eligible persons’ noncompletion.

‘‘Sec. 4495. Authorization of Appropriations.

‘‘(a) In General.—Of the amounts authorized to be appropriated in section 301 [106 Stat. 2360] for Defense Agencies, $75,000,000 shall be made available for the purpose of making payments to employers under this subtitle. Of the amounts made available pursuant to section 1302(a) of the National Defense Authorization Act for Fiscal Year 1994 [Pub. L. 103–160, 107 Stat. 1783], $25,000,000 shall be made available for the purpose of making payments to employers under this subtitle. The Secretary of Veterans Affairs and the Secretary of Labor shall submit an estimate to the Secretary of the amount needed to carry out any agreement entered into under section 4484(a), including administrative costs referred to in paragraph (3). Such agreements shall include administrative procedures to ensure the prompt and timely payments to employers by the implementing official.

‘‘(2) Amounts made available pursuant to this section for a fiscal year shall remain available until the end of the second fiscal year following the fiscal year in which such amounts were appropriated.

‘‘(3) Of the amounts made available pursuant to this section for a fiscal year, six percent of such amounts may be used for the purpose of administering this subtitle, including reimbursing expenses incurred.

‘‘(b) Availability of Deobligated Funds.—Notwithstanding any other provision of law, any funds made available pursuant to this section for a fiscal year which are obligated for the purpose of making payments under section 4487 on behalf of an eligible person (including funds so obligated which previously had been obligated for such purpose on behalf of another eligible person and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the implementing official for obligations for such purpose. The further obligation of such funds by such official for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.

‘‘Sec. 4496. Time Periods for Application and Initiation of Training.

‘‘Assistance may not be paid to an employer under this subtitle—

‘‘(1) on behalf of an eligible person who initially applies for a program of job training under this subtitle after September 30, 1996; or

‘‘(2) for any such program which begins after March 31, 1997.


‘‘(a) Contingent Amendment.—If a transfer is made in accordance with section 4501(c) of the full amount of the amount provided under section 4496(a) for the program established under section 4484(a), then, effective as of the date of the enactment of this Act (Oct. 23, 1992), the first sentence of section 4484(a) is amended by striking ‘‘the Secretary shall carry out’’ and inserting ‘‘the Secretary may carry out’’.

‘‘(b) Publication in the Federal Register.—If the transfer described in subsection (a) is made, then the Secretary of Defense shall promptly publish in the Federal Register a notice of such transfer. Such notice shall specify the date on which such transfer occurred.

‘‘(c) Amendment of Appropriations Acts.—[Section 610(a)(2)(B) of Pub. L. 103–446 provided that: ‘‘The amendment made by subparagraph (A) [amending section 4486(d)(2) of Pub. L. 102–444, set out above] shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 [subtitle G of title XLIV of Pub. L. 102–444, set out above] beginning on the date of the enactment of this Act [Nov. 2, 1994].’’] [For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 469(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]
interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

(g) DEFINITIONS.—In this section, the term ‘public service and community service organization’ includes the following organizations:

(1) Any organization that provides the following services:

(A) Elementary, secondary, or postsecondary school teaching or administration.

(B) Support of such teaching or school administration.

(C) Law enforcement.

(D) Public health care.

(E) Social services.

(F) Any other public or community service.

(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).

(h) COAST GUARD.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Homeland Security shall implement the requirements of this section for the Coast Guard.


AMENDMENTS


EFFECTIVE DATE OF 2002 AMENDMENT
Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 1141 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT
Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.
(a) In General.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary concerned who are being separated from active duty and the spouses of such members. Such services shall be provided to a member within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide preseparation counseling to a member described in paragraph (4)(A) of such section.

(2) The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section.

(b) Elements of Program.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities, (C) instruction in resume preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101–237.

(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans' service organizations, that may be of assistance to such members after separation from the armed forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

(4) Inform such members that the Department of Defense and the Department of Homeland Security are required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in those areas (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

(7) Work with military and veterans' service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.

(c) Participation.—The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.

(d) Use of Personnel and Organizations.—In carrying out the program established under this section, the Secretaries may—

(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans' employment representatives, and other employment service personnel funded by the Department of Labor to the extent that the Secretary of Labor determines that such use will not significantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

(2) use military and civilian personnel of the Department of Defense and the Department of Homeland Security;

(3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;

(4) use representatives of military and veterans' service organizations;

(5) enter into contracts with public entities;

(6) enter into contracts with private entities, particularly with qualified private entities that have experience with instructing members of the armed forces eligible for assistance under the program carried out under this section on—

(A) private sector culture, resume writing, career networking, and training on job search technologies;

(B) academic readiness and educational opportunities; or

(C) other relevant topics; and

(7) take other necessary action to develop and furnish the information and services to be provided under this section.

(e) Participation in Apprenticeship Programs.—As part of the program carried out under this section, the Secretary of Defense and the Secretary of Homeland Security may permit a member of the armed forces eligible for assistance under the program to participate in an apprenticeship program registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"); 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.), or a pre-apprenticeship
program that provides credit toward a program registered under such Act, that provides members of the armed forces with the education, training, and services necessary to transition to meaningful employment that leads to economic self-sufficiency.


AMENDMENT OF SUBSECTION (c)

Pub. L. 112–56, title II, §221(a), (c), Nov. 21, 2011, 125 Stat. 715, 716, provided that, effective on the date that is 1 year after Nov. 21, 2011, subsection (c) of this section is amended to read as follows:

(c) Participation.—(1) Except as provided in paragraph (2), the Secretary of Defense and the Secretary of Homeland Security shall require the participation in the program carried out under this section of the members eligible for assistance under the program.

(2) The Secretary of Defense and the Secretary of Homeland Security may, under regulations such Secretaries shall prescribe, waive the participation requirement of paragraph (1) with respect to—

(A) such groups or classifications of members as the Secretaries determine, after consultation with the Secretary of Labor and the Secretary of Veterans Affairs, for whom participation is not and would not be of assistance to such members based on the Secretaries’ articulable justification that there is extraordinarily high reason to believe the exempted members are unlikely to face major re-adjustment, health care, employment, or other challenges associated with transition to civilian life; and

(B) individual members possessing specialized skills who, due to unavoidable circumstances, are needed to support a unit’s imminent deployment.

See 2011 Amendment note below.

REFERENCES IN TEXT

Section 408 of Public Law 101–237, referred to in subsec. (e), is set out as a note under section 4100 of Title 38, Veterans’ Benefits.

The National Apprenticeship Act, referred to in subsec. (e), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, which is classified generally to chapter 4C (§50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

AMENDMENTS

2011—Subsec. (c). Pub. L. 112–56, §221(a), amended subsec. (c) generally. Prior to amendment, text read as follows: “The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.”

Subsec. (d)(5). Pub. L. 112–56, §224(1), substituted “public entities;” for “public or private entities; and”.

Subsec. (d)(6), (7). Pub. L. 112–56, §224(2), (3), added par. (6) and redesignated former par. (6) as (7).


2001—Subsec. (a)(1). Pub. L. 107–107, §1048(e)(1)(A), struck out at end “The agreement shall be entered into no later than 60 days after the date of the enactment of this section.”

Subsec. (e). Pub. L. 107–107, §1048(e)(1)(B), struck out heading and text of subsec. (e). Text read as follows: “(1) There is authorized to be appropriated to the Department of Labor to carry out this section $11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995.”

(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section $6,500,000 for each of fiscal years 1993, 1994, and 1995.”

1994—Subsec. (a)(1). Pub. L. 103–337, §543(b)(1), inserted “the Secretary of Transportation,” and substituted “concerned” for “of a military department”.

Subsec. (a)(2). Pub. L. 103–337, §543(b)(2), inserted “the Secretary of Transportation,” after “Secretary of Defense”.

Subsec. (b)(4). Pub. L. 103–337, §543(b)(3), substituted “Department of Defense and the Department of Transportation are” for “Department of Defense is”.

Subsec. (c). Pub. L. 103–337, §543(b)(4), inserted “and the Secretary of Transportation” after “Secretary of Defense”.

Subsec. (d)(2). Pub. L. 103–337, §543(b)(5), inserted “and the Department of Transportation” after “Department of Defense”.


Subsec. (e)(1). Pub. L. 102–484, §469(1), substituted “$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995” for “$1,000,000 for fiscal year 1991 and $9,000,000 for each of fiscal years 1992 and 1993”.

Subsec. (e)(2). Pub. L. 102–484, §469(2), substituted “$6,500,000 for each of fiscal years 1993, 1994, and 1995” for “$1,000,000 for fiscal year 1991 and $4,000,000 for each of fiscal years 1992 and 1993”.


Subsec. (b)(3). Pub. L. 102–190, §1061(a)(6)(B), substituted “veterans service organization” and “armed forces” for “Armed Forces”.

Subsec. (b)(6). Pub. L. 102–190, §1061(a)(6)(C), substituted “those areas” for “such areas”.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 221(a) of Pub. L. 112–56 effective on the date that is 1 year after Nov. 21, 2011, see section 221(c) of Pub. L. 112–56, set out as a note under section 1142 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1094(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

INDIVIDUALIZED ASSESSMENT FOR MEMBERS OF THE ARMED FORCES UNDER TRANSITION ASSISTANCE ON EQUIVALENCE BETWEEN SKILLS DEVELOPED IN MILITARY OCCUPATIONAL SPECIALTIES AND QUALIFICATIONS REQUIRED FOR CIVILIAN EMPLOYMENT WITH THE PRIVATE SECTOR

Pub. L. 112–56, title II, §222, Nov. 21, 2011, 125 Stat. 716, provided that:
“(a) STUDY ON EQUIVALENCE REQUIRED.—

“(1) IN GENERAL.—The Secretary of Labor shall, in consultation with the Secretary of Defense and the Secretary of Veterans Affairs, enter into a contract with a qualified organization to conduct a study to identify any equivalences between the skills developed by members of the Armed Forces through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences and the qualifications required for various positions of civilian employment in the private sector.

“(2) COOPERATION OF FEDERAL AGENCIES.—The departments and agencies of the Federal Government, including the Office of Personnel Management, the General Services Administration, the Government Accountability Office, the Department of Education, and other appropriate departments and agencies, shall cooperate with the contractor under paragraph (1) to conduct the study required under that paragraph.

“(3) REPORT.—Upon completion of the study conducted under paragraph (1), the contractor under that paragraph shall submit to the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor a report setting forth the results of the study. The report shall include such information as the Secretaries shall specify in the contract under paragraph (1) for purposes of this section.

“(4) TRANSMITTAL TO CONGRESS.—The Secretary of Labor shall transmit to the appropriate committees of Congress the report submitted under paragraph (3), together with such comments on the report as the Secretary considers appropriate.

“(5) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ means—

“(A) the Committee on Veterans’ Affairs, the Committee on Armed Services, and the Committee on Health, Education, Labor, and Pension of the Senate; and

“(B) the Committee on Veterans’ Affairs, the Committee on Armed Services, and the Committee on Education and the Workforce of the House of Representatives.

“(b) PUBLICATION.—The secretaries described in subsection (a)(1) shall ensure that the equivalences identified under subsection (a)(1) are—

“(1) made publicly available on an Internet website; and

“(2) regularly updated to reflect the most recent findings of the secretaries with respect to such equivalences.

“(c) INDIVIDUALIZED ASSESSMENT OF CIVILIAN POSITIONS AVAILABLE THROUGH MILITARY EXPERIENCES.—The Secretary of Defense shall ensure that each member of a reserve component of the Armed Forces who is participating in the Transition Assistance Program (TAP) of the Department of Defense receives, as part of such member’s participation in that program, an individualized assessment of the various positions of civilian employment in the private sector for which such member may be qualified as a result of the skills developed by such member through various military occupational specialties (MOS), successful completion of resident training courses, attaining various military ranks or rates, or other military experiences. The assessment shall be performed using the results of the study conducted under subsection (a) and such other information as the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, considers appropriate for that purpose.

“(d) FURTHER USE IN EMPLOYMENT-RELATED TRANSITION ASSISTANCE.—

“(1) TRANSMITTAL OF ASSESSMENT.—The Secretary of Defense shall make the individualized assessment provided for under subsection (a) available electronically to the Secretary of Veterans Affairs and the Secretary of Labor.

“(2) USE IN ASSISTANCE.—The Secretary of Veterans Affairs and the Secretary of Labor may use an individualized assessment with respect to an individual under paragraph (1) for employment-related assistance in the transition from military service to civilian life provided the individual by such Secretary and to otherwise facilitate and enhance the transition of the individual from military service to civilian life.

“(e) EFFECTIVE DATE.—This section shall take effect on the date that is one year after the date of enactment of this Act [Nov. 21, 2011].”

IMPLEMENTATION REPORTS

Pub. L. 101–510, div. A, title V, §502(c), Nov. 5, 1990, 104 Stat. 1557, directed the Secretary of Labor to submit to Congress a report, not later than 90 days after Nov. 5, 1990, setting forth the agreement entered into to carry out this section, and a report, not later than one year after Nov. 5, 1990, containing an evaluation of the program carried out under this section.

§ 1145. Health benefits

(a) TRANSITIONAL HEALTH CARE.—(1) For the time period described in paragraph (4), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) except as provided in paragraph (3), medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

(A) A member who is involuntarily separated from active duty.

(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.

(E) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).

(F) A member who is separated from active duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

(3) In the case of a member described in paragraph (2)(B), the dental care to which the member is entitled under this subsection shall be the dental care to which a member of the uniformed services on active duty for more than 30 days is entitled under section 1074 of this title.

(4) Except as provided in paragraph (7), transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty. For purposes of the pre-
ceding sentence, in the case of a member on active duty as described in subparagraph (B), (C), or (D) of paragraph (2) who, without a break in service, is extended on active duty for any reason, the 180-day period shall begin on the date on which the member is separated from such extended active duty.

(5)(A) The Secretary concerned shall require a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) to undergo a physical examination immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) has otherwise undergone a physical examination within 12 months before the scheduled date of separation from active duty, the requirement for a physical examination under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member's unit commander.

(6)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (5), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

(B) Assistance provided to a member under paragraph (1) shall include the following:

(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

(II) any other care, treatment, and services.

(ii) Information on the private sector sources of treatment that are available to the member in the member’s community.

(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.

(7)(A) A member who has a medical condition relating to service on active duty that warrants further medical care that has been identified during the member’s 180-day transition period, which condition can be resolved within 180 days as determined by a Department of Defense physician, shall be entitled to receive medical and dental care for that medical condition, and that medical condition only, as if the member were a member of the armed forces on active duty for 180 days following the diagnosis of the condition.

(B) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (A) to the medical and dental care referred to in that subparagraph.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member’s discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member:

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8955a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8955a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as
eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) DEFINITION.—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(e) COAST GUARD.—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents.


(e)(1). Pub. L. 107–96, § 736(c)(1), struck out “during the period beginning on October 1, 1990, and ending on December 31, 2001” after “armed forces”.


(e)(3). Pub. L. 107–96, § 736(a)(2), (4), redesignated par. (2) as (3) and struck out “involuntarily” before “separated” wherever appearing.


1992—Subsec. (b)(4) to (6). Pub. L. 102–484, § 4407(a)(2), substituted “one-year period” for “one-year period”.


1992—Subsec. (b)(4) to (6). Pub. L. 102–484, § 4407(a)(2), substituted “one-year period” for “one-year period”.


AMENDMENTS


2002—Subsec. (a)(3). Pub. L. 108–375, § 706(a)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is separated as follows:

“(A) For members separated with less than six years of active service, 60 days.

“(B) For members separated with six or more years of active service, 120 days.”


section 1145(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to members of the Armed Forces separated from active duty after the date of the enactment of this Act (Oct. 14, 2008)."


Effective Date of 2002 Amendment

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 1101 of this title.

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–317 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

Application of Amendments by Pub. L. 102–484 to Existing Contracts
For provisions relating to the application of the amendments by section 4407 of Pub. L. 102–484 to conversion health policies provided under subsec. (b) of this section and in effect on Oct. 23, 1992, see section 4407(c) of Pub. L. 102–484, set out as a note under section 1086a of this title.

Transitional Provision
Section 4008(b) of Pub. L. 102–484 provided that: “The Secretary of Defense shall provide a period for the enrollment for health benefits coverage under this section (enacting section 1087a of this title and provisions set out as notes under this section and section 1086a of this title) by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before the October 1, 1994, implementation date of section 1078a of such title, as added by subsection (a).”

Termination of Applicability of Other Conversion Health Policies
For provisions prohibiting purchase of, and allowing cancellation of, conversion health policies under subsec. (b) of this section on or after Oct. 1, 1994, see section 4408(c) of Pub. L. 102–484, set out as a note under section 1086a of this title.

Temporary Extension of Transitional Health Care Benefits


§ 1146. Commissary and exchange benefits

(a) Members involuntarily separated from active duty.—The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the same period.

(b) Members involuntarily separated from selected reserve.—The Secretary of Defense shall prescribe regulations to allow a member of the Selected Reserve of the Ready Reserve who is involuntarily separated from the Selected Reserve as a result of the exercise of the force shaping authority of the Secretary concerned under section 647 of this title or other force shaping authority during the period beginning on October 1, 2007, and ending on December 31, 2012, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Homeland Security shall implement this provision for Coast Guard members involuntarily separated during the same period.

(c) Members receiving sole survivorship discharge.—A member of the armed forces who receives a sole survivorship discharge (as defined in section 1174(i) of this title) is entitled to continue to use commissary and exchange stores and morale, welfare, and recreational facilities in the same manner as a member on active duty during the two-year period beginning on the later of the following dates:

(1) The date of the separation of the member.

(2) The date on which the member is first notified of the member’s entitlement to benefits under this section.


Amendments

Subsec. (b). Pub. L. 111–383, §§ 1075(b)(16)(B), redesignated subsec. (b) relating to benefits for members receiving sole survivorship discharge as (c).

Subsec. (c). Pub. L. 111–383, § 1075(b)(16)(B), (C), redesignated subsec. (b) relating to benefits for members receiving sole survivorship discharge as (c), struck out “Benefits for” before “Members” in heading, and substituted “armed forces” for “Armed Forces” in introductory provisions and “the members’ entitlement” for “the members entitlement” in par. (2).

of Defense” for “The Secretary of Defense” and added subsec. (b) relating to benefits for members receiving sole survivorship discharge.

Pub. L. 110–317 inserted “(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—” before “The Secretary of Defense”, substituted “October 1, 2007, and ending on December 31, 2012” for “October 1, 1990, and ending on December 31, 2001”, in first sentence and “the same period” for “the period beginning on October 1, 1994, and ending on December 31, 2001” in second sentence, and added subsec. (b) relating to members involuntarily separated from the Selected Reserve.


1998—Pub. L. 105–261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990” and “during the period beginning on October 1, 1994, and ending on September 30, 2001” for “during the five-year period beginning on October 1, 1994”.

1994—Pub. L. 103–337 inserted at end “The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the five-year period beginning October 1, 1994.”

1993—Pub. L. 103–160 substituted “nine-year period for “five-year period”.

Effective Date of 2008 Amendment

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

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

§ 1147. Use of military family housing

(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—(1) The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual’s household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

(2) The Secretary of Transportation may prescribe regulations to permit members of the Coast Guard who are involuntarily separated during the period beginning on October 1, 1994, and ending on December 31, 2001, to continue for not more than 180 days after the date of such separation to reside (along with others of the member’s household) in military family housing provided or leased by the Coast Guard to the individual as a member of the armed forces.

(b) RENTAL CHARGES.—The Secretary concerned, pursuant to such regulations, shall require a reasonable rental charge for the continued use of military family housing under subsection (a), except that such Secretary may waive all or any portion of such charge in any case of hardship.


Amendments


1998—Subsec. (a)(1). Pub. L. 105–261, § 561(j)(1), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (a)(2). Pub. L. 105–261, § 561(j)(2), substituted “during the period beginning on October 1, 1994, and ending on September 30, 2001” for “during the five-year period beginning on October 1, 1994”.

1994—Subsec. (a). Pub. L. 103–337 designated existing provisions as par. (1) and added par. (2).


Effective Date of 1994 Amendment
Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

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

§ 1148. Relocation assistance for personnel overseas

The Secretary of Defense and the Secretary of Homeland Security shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to the maximum extent possible, computerized job relocation assistance and job search information.


Amendments


1994—Pub. L. 103–337 inserted “and the Secretary of Transportation” after “Secretary of Defense”. "$1148
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Effective Date of 2002 Amendment
Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

§ 1149. Excess leave and permissive temporary duty
Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security with respect to the Coast Guard, the Secretary concerned shall grant a member of the armed forces who is to be involuntarily separated such excess leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member’s carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.


Amendments
1994—Subsec. (a). Pub. L. 103–337 inserted “or the Secretary of Transportation with respect to the Coast Guard” after “Secretary of Defense” and struck out “of the military department” before “concerned”.

Effective Date of 2002 Amendment

§ 1150. Affiliation with Guard and Reserve units: waiver of certain limitations

(a) Preference for Certain Persons.—A person who is separated from the armed forces during the period beginning on October 1, 1990, and ending on December 31, 2001, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

(b) Limited waiver of strength limitations.—Under regulations prescribed by the Secretary of Defense, a person covered by subsection (a) who enters a National Guard or Reserve unit pursuant to an application described in such subsection may be retained in that unit for up to three years without regard to reserve-component strength limitations so long as the individual maintains good standing in that unit.

(c) Coast Guard.—This section shall apply to the Coast Guard in the same manner and to the same extent as it applies to the Department of Defense. The Secretary of Homeland Security shall prescribe regulations to implement this section for the Coast Guard.


Amendments
1996—Subsec. (a). Pub. L. 105–261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Effective Date of 2002 Amendment
Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

Effective Date of 1994 Amendment
Amendment by Pub. L. 103–337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103–337, set out as a note under section 1141 of this title.

§ 1151. Retention of assistive technology and services provided before separation

(a) Authority.—A member of the armed forces who is provided an assistive technology or assistive technology device for a severe or debilitating illness or injury incurred or aggravated by such member while on active duty may, under regulations prescribed by the Secretary of Defense, be authorized to retain such assistive technology or assistive technology device upon the separation of the member from active service.

(b) Definitions.—In this section, the terms “assistive technology” and “assistive technology device” have the meaning given those terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).


§1152. Assistance to eligible members and former members to obtain employment with law enforcement agencies

(a) Placement Program.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement with the Attorney General to establish or participate in a program to assist eligible members and former members of the armed forces to obtain employment as law enforcement officers with eligible law enforcement agencies following the discharge or release of such members or former members from active duty. Eligible law enforcement agencies shall consist of State law enforcement agencies, local law enforcement agencies, and Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior).

(b) Eligible Members.—Any individual who, during the 6-year period beginning on October 1, 1993, is a member of the armed forces and is separated with an honorable discharge or service on active duty characterized as honorable by the Secretary concerned shall be eligible to participate in a program covered by an agreement referred to in subsection (a).

(c) Selection.—In the selection of applicants for participation in a program covered by an agreement referred to in subsection (a), preference shall be given to a member or former member who—

(1) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–89; 10 U.S.C. 1293 note); and

(2) has a military occupational specialty, training, or experience related to law enforcement (such as service as a member of the military police) or satisfies such other criteria for selection as the Secretary, the Attorney General, or a participating eligible law enforcement agency prescribed in accordance with the agreement.

(d) Grants to Facilitate Employment.—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may provide funds to the Attorney General for grants under this section to reimburse participating eligible law enforcement agencies for costs, including salary and fringe benefits, of employing members or former members pursuant to a program referred to in subsection (a).

(2) No grant with respect to an eligible member or former member may exceed a total of $50,000.

(3) Any grant with respect to an eligible member or former member shall be disbursed within 5 years after the date of the placement of a member or former member with a participating eligible law enforcement agency.

(4) Preference in awarding grants through existing law enforcement hiring programs shall be given to State or local law enforcement agencies or Indian tribes that agree to hire eligible members and former members.

(e) Administrative Expenses.—Ten percent of the amount, if any, appropriated for a fiscal year to carry out the program established pursuant to subsection (a) may be used to administer the program.

(f) Requirement for Appropriation.—No person may be selected to participate in the program established pursuant to subsection (a) unless a sufficient amount of appropriated funds is available at the time of the selection to satisfy the obligations to be incurred by the United States under an agreement referred to in subsection (a) that applies with respect to the person.

(g) Authority to Expand Placement to Include Firefighters.—(1) The Secretary may expand the placement activities authorized by subsection (a) to include the placement of eligible members and former members and eligible civilian employees of the Department of Defense as firefighters or members of rescue squads or ambulance crews with public fire departments.

(2) The expansion authorized by this subsection may be made through a program covered by an agreement referred to in subsection (a), if feasible, or in such other manner as the Secretary considers appropriate.

(3) A civilian employee of the Department of Defense shall be eligible to participate in the expanded placement activities authorized under this subsection if the employee, during the six-year period beginning October 1, 1993, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense.


Amendments


1997—Subsec. (g). Pub. L. 105–85 inserted “(1)” before “The Secretary may”.

1996—Subsec. (g). Pub. L. 104–201, in heading, substituted “Authority To Expand Placement To Include Firefighters” for “Conditional Expansion of Placement to Include Firefighters”, in par. (1), substituted “The Secretary may” for “(1) Subject to paragraph (2), the Secretary may”, and in par. (2), struck out “The Secretary may implement the expansion authorized by
§ 1153

1153. Assistance to separated members to obtain employment with health care providers

(a) PLACEMENT PROGRAM.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may establish a program to assist eligible members of the armed forces to obtain employment with health care providers upon their discharge or release from active duty. (b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member shall be eligible for selection to participate in the program established under subsection (a) if the member—

(A) is selected for involuntary separation, is approved for separation under section 1174a or 1175 of this title, or retires pursuant to the authority provided in section 4403 of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992 (division D of Public Law 102–484; 10 U.S.C. 1293 note) during the six-year period beginning on October 1, 1993;

(B) has received an associate degree, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

(C) has a military occupational specialty, training, or experience related to health care, is likely to be able to obtain such training in a short period of time (as determined by the Secretary concerned), or satisfies such other criteria for selection as the Secretary concerned may prescribe.

(2) For purposes of this section, a former member of the armed forces who did not meet the minimum educational qualification criterion set forth in paragraph (1)(B) for placement assistance before discharge or release from active duty shall be considered to be a member satisfying such educational qualification criterion upon satisfying that criterion within five years after discharge or release from active duty.

(3) A member who is discharged or released from service under other than honorable conditions shall not be eligible to participate in the program.

(c) SELECTION OF PARTICIPANTS.—(1) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, shall select members to participate in the program established under subsection (a) on the basis of applications submitted to the Secretary concerned not later than one year after the date of the discharge or release of the members from active duty or, in the case of an applicant becoming educationally qualified for teacher placement assistance in accordance with subsection (b)(2), not later than one year after the date on which the applicant becomes educationally qualified. An application shall be in such form and contain such information as the Secretaries may require.

(2) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may not select a member to participate in the program unless the Secretary concerned has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsection (d) with respect to that member.

(3)(A) The Secretaries shall provide under the program for identifying, during each fiscal year in the period referred to in subsection (b)(2), noncommissioned officers who, on or before the end of such fiscal year, will have completed 10 or more years of continuous active duty, who have the potential to perform competently in employment positions with health care providers, but who do not satisfy the minimum educational qualification criterion under subsection (b)(1)(B) for placement assistance.

(B) The Secretaries shall inform noncommissioned officers identified under subparagraph (A) of the opportunity to qualify in accordance with subsection (b)(2) for placement assistance under the program.

(d) GRANTS TO FACILITATE EMPLOYMENT.—(1) The Secretary of Defense and the Secretary of Homeland Security may enter into an agreement with a health care provider to assist eligible members selected under subsection (c) to obtain suitable employment with the health care provider. Under such an agreement, a health care provider shall agree to employ a participant in the program on a full-time basis for at least five years.

(2) Under an agreement referred to in paragraph (1), the Secretary concerned shall agree to pay to the health care provider involved an amount based upon the basic salary paid by the health care provider to the participant. The rate of payment by the Secretary concerned shall be as follows:

(A) For the first year of employment, 50 percent of the basic salary, except that the payment may not exceed $25,000.

(B) For the second year of employment, 40 percent of the basic salary, except that the payment may not exceed $10,000.

(C) For the third year of employment, 30 percent of the basic salary, except that the payment may not exceed $7,500.

(D) For the fourth year of employment, 20 percent of the basic salary, except that the payment may not exceed $5,000.

(E) For the fifth year of employment, 10 percent of the basic salary, except that the payment may not exceed $2,500.

(3) Payments required under paragraph (2) may be made by the Secretary concerned in
such installments as the Secretary concerned may determine.

(4) If a participant who is placed under this program leaves the employment of the health care provider before the end of the five years of required employment service, the provider shall reimburse the Secretary concerned in an amount that bears the same ratio to the total amount already paid under the agreement as the unserved portion bears to the five years of required service.

(5) The Secretary concerned may not make a grant under this subsection to a health care provider if the Secretary concerned determines that the provider terminated the employment of another employee in order to fill the vacancy so created with a participant in this program.

(e) AGREEMENTS WITH STATES.—(1) In addition to the agreements referred to in subsection (d)(1), the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard, may enter into an agreement directly with a State to allow the State to arrange the placement of participants in the program with health care providers. Paragraphs (2) through (5) of subsection (d) shall apply with respect to any placement made through such an agreement.

(2) The Secretary concerned may reserve up to 10 percent of the funds made available to carry out the program for a fiscal year for the placement of participants through agreements entered into under paragraph (1).

(f) DEFINITIONS.—In this section, the term "State" includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.


AMENDMENTS


1994—Subsec. (a). Pub. L. 103–337, § 543(e)(1), inserted "and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense".

Subsec. (b)(1). Pub. L. 103–337, § 543(e)(2), struck out "by the Secretary of Defense" after "selection" in introductory provisions and inserted "concerned" after "Secretary" in two places in subpar. (C).

Subsec. (c)(1). Pub. L. 103–337, § 543(e)(3), inserted "and the Secretary of Transportation with respect to the Coast Guard," after "Secretary of Defense" and "concerned" after "to the Secretary" and substituted "Secretaries may" for "Secretary may".

Subsec. (c)(2). Pub. L. 103–337, § 543(e)(4), inserted "of Defense, and the Secretary of Transportation with respect to the Coast Guard," after "The Secretary" and "concerned" after "unless the Secretary".

Subsec. (c)(3). Pub. L. 103–337, § 543(e)(5), substituted "Secretary" for "Secretary" in subpars. (A) and (B).

Subsec. (d)(1). Pub. L. 103–337, § 543(e)(6)(A), inserted "and the Secretary of Transportation" after "Secretary of Defense".

Subsec. (d)(2) to (5). Pub. L. 103–337, § 543(e)(6)(B), inserted "concerned" after "Secretary" wherever appearing.

Subsec. (e)(1). Pub. L. 103–337, § 543(e)(7)(A), inserted "and the Secretary of Transportation with respect to the Coast Guard," after "the Secretary of Defense".

Subsec. (e)(2). Pub. L. 103–337, § 543(e)(7)(B), inserted "concerned" after "The Secretary".

Effective Date of 2002 Amendment

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

CHAPTER 59—SEPARATION

8 sec. Commissioned officers: limitations on dismissal.

[1162, 1163. Repealed.]

1164. Warrant officers: separation for age.

1165. Regular warrant officers: separation during three-year probationary period.

1166. Regular warrant officers: elimination for unfitness or unsatisfactory performance.

1167. Members under confinement by sentence of court-martial: separation after six months confinement.

1168. Discharge or release from active duty: limitations.

1169. Regular enlisted members: limitations on discharge.

1170. Regular enlisted members: minority discharge.

1172. Enlisted members: during war or emergency; discharge.

1173. Enlisted members: discharge for hardship.

1174. Separation pay upon involuntary discharge or release from active duty.

1174a. Special separation benefits programs.

1175. Voluntary separation incentive.

1175a. Voluntary separation pay and benefits.

1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.

1177. Members diagnosed with or reasonably asserting post-traumatic stress disorder or traumatic brain injury: medical examination required before administrative separation.

1178. System and procedures for tracking separations resulting from refusal to participate in anthrax vaccine immunization program.

AMENDMENTS


