

- Sec.
1596b. Foreign language proficiency: National Foreign Language Skills Registry.
1597. Civilian positions: guidelines for reductions.
1598. Assistance to terminated employees to obtain certification and employment as teachers or employment as teachers' aides.
[1599. Renumbered.]
1599a. Financial assistance to certain employees in acquisition of critical skills.
1599b. Employees abroad: travel expenses; health care.
1599c. Health care professionals: enhanced appointment and compensation authority for personnel for care and treatment of wounded and injured members of the armed forces.
1599d. Financial management positions: authority to prescribe professional certification and credential standards.

AMENDMENTS

2011—Pub. L. 112-81, div. A, title X, §1051(b), Dec. 31, 2011, 125 Stat. 1582, added item 1599d and struck out former item 1599d “Professional accounting positions: authority to prescribe certification and credential standards”.

2008—Pub. L. 110-181, div. A, title XVI, §1636(b), Jan. 28, 2008, 122 Stat. 464, added item 1599c and struck out former item 1599c “Appointment in excepted service of certain health care professionals”.

2004—Pub. L. 108-375, div. A, title XI, §1104(b), Oct. 28, 2004, 118 Stat. 2074, added item 1587a.

Pub. L. 108-375, div. A, title X, §1084(g), Oct. 28, 2004, 118 Stat. 2064, amended directory language of Pub. L. 107-314, §1064(a)(2), effective Dec. 2, 2002, as if included in Pub. L. 107-314 as enacted. See 2002 Amendment note below.

2002—Pub. L. 107-314, div. A, title XI, §1104(a)(2), Dec. 2, 2002, 116 Stat. 2661, added item 1599d.

Pub. L. 107-314, div. A, title X, §1064(a)(2), Dec. 2, 2002, 116 Stat. 2654, as amended by Pub. L. 108-375, div. A, title X, §1084(g), Oct. 28, 2004, 118 Stat. 2064, added item 1596b.

2001—Pub. L. 107-107, div. A, title XI, §1104(b), Dec. 28, 2001, 115 Stat. 1238, added item 1599c.

2000—Pub. L. 106-398, §1 [[div. A], title VII, §751(c)(2), title XI, §§1102(b), 1131(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A-194, 1654A-311, 1654A-317, added items 1580a, 1582, 1596, and 1596a and struck out former item 1596 “Foreign language proficiency: special pay”.

1999—Pub. L. 106-65, div. A, title XI, §1103(b)(2), Oct. 5, 1999, 113 Stat. 777, added item 1580.

1998—Pub. L. 105-339, §6(c)(1)(B), Oct. 31, 1998, 112 Stat. 3188, struck out item 1599c “Veterans’ preference requirements: Department of Defense failure to comply treated as a prohibited personnel practice”.

1997—Pub. L. 105-85, div. A, title V, §593(b)(2), title X, §1071(b), Nov. 18, 1997, 111 Stat. 1764, 1898, added items 1585a and 1589.

1996—Pub. L. 104-201, div. A, title X, §1074(a)(7), title XVI, §§1604(b), 1614(b)(2), 1615(a)(2), 1633(c)(2), Sept. 23, 1996, 110 Stat. 2659, 2736, 2739, 2741, 2751, struck out items 1589 “Prohibition on payment of lodging expenses when adequate Government quarters are available”, 1590 “Management of civilian intelligence personnel of the military departments”, and 1599 “Postemployment assistance: certain terminated intelligence employees”, struck out “Sec.” at beginning of item 1599a, and added items 1599b and 1599c.

Pub. L. 104-106, div. A, title X, §1040(d)(2), Feb. 10, 1996, 110 Stat. 433, inserted “: reprisals” after “instrumentalities” in item 1587.

Pub. L. 104-93, title V, §505(b), Jan. 6, 1996, 109 Stat. 974, added item 1599a.

1994—Pub. L. 103-359, title VIII, §806(a)(2), Oct. 14, 1994, 108 Stat. 3442, added item 1599.

1993—Pub. L. 103-160, div. A, title IX, §923(a)(2), Nov. 30, 1993, 107 Stat. 1731, substituted “Civilian faculty members at certain Department of Defense schools: employment and compensation” for “National Defense

University; Foreign Language Center of the Defense Language Institute: civilian faculty members” in item 1595.

1992—Pub. L. 102-484, div. A, title III, §371(b), title IX, §923(a)(2)(B), div. D, title XLIV, §4442(b), Oct. 23, 1992, 106 Stat. 2384, 2474, 2732, substituted “University; Foreign Language Center of the Defense Language Institute” for “University:” in item 1595, substituted “Civilian positions: guidelines for reductions” for “Employees of industrial-type or commercial-type activities: guidelines for future reductions” in item 1597, and added item 1598.

1991—Pub. L. 102-190, div. A, title X, §1003(a)(2), Dec. 5, 1991, 105 Stat. 1456, added item 1581.

Pub. L. 102-25, title VII, §701(e)(4), (8)(B), Apr. 6, 1991, 105 Stat. 114, 115, substituted “Employment of non-citizens” for “Laws relating to employment of non-citizens: not applicable to research and development activities” in item 1584 and struck out “mandatory” after “error in” in item 1594.

1990—Pub. L. 101-510, div. A, title III, §322(a)(2), title XIV, §1484(a), Nov. 5, 1990, 104 Stat. 1529, 1715, redesignated item 1592 “Foreign language proficiency: special pay” as item 1596 and added item 1597.

1989—Pub. L. 101-193, title V, §501(a)(2), Nov. 30, 1989, 103 Stat. 1708, added item 1592 “Foreign language proficiency: special pay”.

Pub. L. 101-189, div. A, title III, §§311(b)(2), 336(a)(2), title VI, §664(b)(2), title XI, §1124(a)(2), Nov. 29, 1989, 103 Stat. 1412, 1419, 1467, 1558, added item 1592 “Prohibition on payment of severance pay to foreign nationals in the event of certain overseas base closures.”, and items 1593 to 1595.

1987—Pub. L. 100-180, div. A, title VI, §617(b)(2), Dec. 4, 1987, 101 Stat. 1097, added item 1591.

1986—Pub. L. 99-569, title V, §504(b), Oct. 27, 1986, 100 Stat. 3199, added item 1590.

1984—Pub. L. 98-525, title XIV, §1401(f)(2), Oct. 19, 1984, 98 Stat. 2618, added item 1589.

1983—Pub. L. 98-94, title XII, §§1253(a)(2), 1266(b), Sept. 24, 1983, 97 Stat. 700, 705, added items 1587 and 1588.

1982—Pub. L. 97-295, §1(19)(B), (20)(C), Oct. 12, 1982, 96 Stat. 1290, struck out items 1581 “Appointment: professional and scientific services” and 1582 “Professional and scientific services: reports to Congress on appointments”, and substituted “pay” for “compensation” in item 1583.

1966—Pub. L. 89-718, §13, Nov. 2, 1966, 80 Stat. 1117, struck out item 1580 “Appointment generally”.

1962—Pub. L. 87-651, title II, §206(b), Sept. 7, 1962, 76 Stat. 520, added item 1580.

1960—Pub. L. 86-585, §2, July 5, 1960, 74 Stat. 327, added item 1586.

1958—Pub. L. 85-577, §1(2), July 31, 1958, 72 Stat. 456, added item 1585.

AVAILABILITY OF FUNDS FOR COMPENSATION OF CERTAIN CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Pub. L. 111-84, div. A, title XI, §1111, Oct. 28, 2009, 123 Stat. 2495, as amended by Pub. L. 111-383, div. A, title X, §1075(d)(16), Jan. 7, 2011, 124 Stat. 4373, provided that:

“(a) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated for the Department of Defense that are available for the purchase of contract services to meet a requirement that is anticipated to continue for five years or more shall be available to provide compensation for civilian employees of the Department to meet the same requirement.

“(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall prescribe regulations implementing the authority in subsection (a). Such regulations—

“(1) shall ensure that the authority in subsection (a) is utilized to build government capabilities that are needed to perform inherently governmental functions, functions closely associated with inherently governmental functions, and other critical functions;

“(2) shall include a mechanism to ensure that follow-on funding to provide compensation for civilian

employees of the Department to perform functions described in paragraph (1) is provided from appropriate accounts; and

“(3) may establish additional criteria and levels of approval within the Department for the utilization of funds to provide compensation for civilian employees of the Department pursuant to subsection (a).

“(c) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year for which the authority in subsection (a) is in effect, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of such authority. Each report shall cover the preceding fiscal year and shall identify, at a minimum, the following:

“(1) The amount of funds used under the authority in subsection (a) to provide compensation for civilian employees.

“(2) The source or sources of the funds so used.

“(3) The number of civilian employees employed through the use of such funds.

“(4) The actions taken by the Secretary to ensure that follow-on funding for such civilian employees is provided through appropriate accounts.

“(d) TEMPORARY AUTHORITY.—The authority in subsection (a) shall apply to funds authorized to be appropriated for the Department of Defense for fiscal years 2010 through 2019.”

DEPARTMENT OF DEFENSE CIVILIAN LEADERSHIP PROGRAM

Pub. L. 111-84, div. A, title XI, §1112, Oct. 28, 2009, 123 Stat. 2496, provided that:

“(a) LEADERSHIP PROGRAM REQUIRED.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall establish a program of leadership recruitment and development for civilian employees of the Department of Defense, to be known as the ‘Department of Defense Civilian Leadership Program’ (in this section referred to as the ‘program’).

“(2) OBJECTIVES.—The objectives of the program shall be as follows:

“(A) To develop a new generation of civilian leaders for the Department of Defense.

“(B) To recruit individuals with the academic merit, work experience, and demonstrated leadership skills to meet the future needs of the Department.

“(C) To offer rapid advancement, competitive compensation, and leadership opportunities to highly qualified civilian employees of the Department.

“(3) AVAILABLE AUTHORITIES.—In carrying out the program, the Secretary may exercise any authority available to the Office of Personnel Management under section 4703 of title 5, United States Code, except that the Secretary shall not be bound by the limitations in subsection (d) of such section. Nothing in this section shall be construed to authorize the waiver of any part of chapter 71 of title 5, United States Code, or any regulation implementing such chapter, in the carrying out of the program.

“(b) ELIGIBLE INDIVIDUALS.—

“(1) IN GENERAL.—The following individuals shall be eligible to participate in the program:

“(A) Current employees of the Department of Defense.

“(B) Appropriate individuals in the private sector.

“(2) LIMITATION ON NUMBER OF PARTICIPANTS IN PROGRAM.—The total number of individuals who may participate in the program in any fiscal year may not exceed 5,000.

“(3) LIMITATION ON PERIOD OF PARTICIPATION IN PROGRAM.—The maximum period of time that an individual may participate in the program is three years.

“(c) ELEMENTS OF PROGRAM.—

“(1) COMPETITIVE ENTRY.—The selection of individuals for entry into the program shall be made on the basis of a competition conducted at least twice each year. In each competition, participants in the program shall be selected from among applicants determined by the Secretary to be the most highly qualified in terms of academic merit, work experience, and demonstrated leadership skills. Each competition shall provide for entry-level participants and mid-career participants in the program.

“(2) ALLOCATION OF POSITIONS.—The Secretary shall allocate positions in the program among the components of the Department of Defense that—

“(A) offer the most challenging assignments;

“(B) provide the greatest level of responsibility;

and

“(C) demonstrate the greatest need for participants in the program.

“(3) ASSIGNMENTS TO POSITIONS.—Participants in the program shall be assigned to components of the Department that best match their skills and qualifications. Participants in the program may be rotated among components of the Department of Defense at the discretion of the Secretary.

“(4) INITIAL COMPENSATION.—The initial compensation of participants in the program shall be determined by the Secretary based on the qualifications of such participants and applicable market conditions.

“(5) EDUCATION AND TRAINING.—The Secretary shall provide participants in the program with training, mentoring, and educational opportunities that are appropriate to facilitate the development of such participants into effective civilian leaders for the Department of Defense.

“(6) OBJECTIVE, MERIT-BASED PRINCIPLES FOR PERSONNEL DECISIONS.—The Secretary shall make personnel decisions under the program in accordance with such objective, merit-based criteria as the Secretary shall prescribe in regulations for purposes of the program. Such criteria shall include, but not be limited to, criteria applicable to the following:

“(A) The selection of individuals for entry into the program.

“(B) The assignment of participants in the program to positions in the Department of Defense.

“(C) The initial compensation of participants in the program.

“(D) The access of participants in the program to training, mentoring, and educational opportunities under the program.

“(E) The consideration of participants in the program for selection into the senior management, functional, and technical workforce of the Department.

“(7) CONSIDERATION FOR SENIOR MANAGEMENT, FUNCTIONAL, AND TECHNICAL WORKFORCE.—Any participant in the program who, as determined by the Secretary, demonstrates outstanding performance shall be afforded priority in consideration for selection into the appropriate element of the senior management, functional, and technical workforce of the Department of Defense (as defined in section 115b(f) [now 115b(g)] of title 10, United States Code).”

DIRECT HIRE AUTHORITY AT PERSONNEL DEMONSTRATION LABORATORIES FOR CERTAIN CANDIDATES

Pub. L. 110-417, [div. A], title XI, §1108, Oct. 14, 2008, 122 Stat. 4618, as amended by Pub. L. 111-383, div. A, title XI, §1101(a), Jan. 7, 2011, 124 Stat. 4381; Pub. L. 112-81, div. A, title XI, §1103, Dec. 31, 2011, 125 Stat. 1612, provided that:

“(a) AUTHORITY.—The Secretary of Defense may appoint qualified candidates possessing an advanced degree to positions described in subsection (b) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, other than sections 3303 and 3328 of such title.

“(b) APPLICABILITY.—This section applies with respect to candidates for scientific and engineering positions within any laboratory designated by section

1105(a) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2486; 10 U.S.C. 2358 note) as a Department of Defense science and technology reinvention laboratory.

“(c) LIMITATION.—(1) Authority under this section may not, in any calendar year and with respect to any laboratory, be exercised with respect to a number of candidates greater than the number equal to 5 percent of the total number of scientific and engineering positions within such laboratory that are filled as of the close of the fiscal year last ending before the start of such calendar year.

“(2) For purposes of this subsection, positions and candidates shall be counted on a full-time equivalent basis.

“(d) EMPLOYEE DEFINED.—As used in this section, the term ‘employee’ has the meaning given such term by section 2105 of title 5, United States Code.

[Amendment by section 1101(a)(1) of Pub. L. 111–383 to section 1108(b) of Pub. L. 110–417, set out above, effective Oct. 28, 2009, and amendment by section 1101(a)(2) of Pub. L. 111–383 to section 1108(c) of Pub. L. 110–417, set out above, effective Jan. 7, 2011, see section 1101(d) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 9902 of Title 5, Government Organization and Employees.]

EMPLOYMENT FOR RESETTLED IRAQIS

Pub. L. 110–417, [div. A], title XII, §1235, Oct. 14, 2008, 122 Stat. 4641, provided that:

“(a) IN GENERAL.—The Secretary of Defense and the Secretary of State are authorized to jointly establish and operate a temporary program to offer employment as translators, interpreters, or cultural awareness instructors to individuals described in subsection (b). Individuals described in such subsection may be appointed to temporary positions of one year or less outside Iraq with either the Department of Defense or the Department of State, without competition and without regard for the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code. Such individuals may also be hired as personal services contractors by either of such Departments to provide translation, interpreting, or cultural awareness instruction, except that such individuals so hired shall not by virtue of such employment be considered employees of the United States Government, except for purposes of chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

“(b) ELIGIBILITY.—Individuals referred to in subsection (a) are Iraqi nationals who—

“(1) have received a special immigrant visa issued pursuant to section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) [8 U.S.C. 1101 note] or section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) [8 U.S.C. 1157 note]; and

“(2) are lawfully present in the United States.

“(c) FUNDING.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall be funded from the annual general operating budget of the Department of Defense.

“(2) EXCEPTION.—The Secretary of State shall reimburse the Department of Defense for any costs associated with individuals described in subsection (b) whose work is for or on behalf of the Department of State.

“(d) RULE OF CONSTRUCTION REGARDING ACCESS TO CLASSIFIED INFORMATION.—Nothing in this section may be construed as affecting in any manner practices and procedures regarding the handling of or access to classified information.

“(e) INFORMATION SHARING.—The Secretary of Defense and the Secretary of State shall work with the Secretary of Homeland Security and the Office of Refugee Resettlement of the Department of Health and Human Services to ensure that individuals described in subsection (b) are informed of the program established under subsection (a).

“(f) REGULATION.—The Secretary of Defense, jointly with the Secretary of State and with the concurrence of the Director of the Office of Personnel Management, shall prescribe such regulations as are necessary to carry out the program established under subsection (a), including ensuring the suitability for employment described in subsection (a) of individuals described in subsection (b), determining the number of positions, and establishing pay scales and hiring procedures.

“(g) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the program established under subsection (a) shall terminate on December 31, 2014.

“(2) EARLIER TERMINATION.—If the Secretary of Defense, jointly with the Secretary of State, determines that the program established under subsection (a) should terminate before the date specified in paragraph (1), the Secretaries may terminate the program if the Secretaries notify Congress in writing of such termination at least 180 days before such termination.”

STRATEGIC HUMAN CAPITAL PLAN FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Pub. L. 110–181, div. A, title VIII, §851, Jan. 28, 2008, 122 Stat. 247, which required that, in updates of the strategic human capital plan, the Secretary of Defense was to include a separate section focused on the defense acquisition workforce, was repealed by Pub. L. 111–84, div. A, title XI, §1108(c)(3), Oct. 28, 2009, 123 Stat. 2492.

Pub. L. 109–163, div. A, title XI, §1122, Jan. 6, 2006, 119 Stat. 3452, which required the Secretary of Defense to develop and submit to the Committees on Armed Services of the Senate and House of Representatives a strategic human capital plan to shape and improve the civilian employee workforce of the Department of Defense, along with updates and the assessment of the Secretary of the progress of the Department in implementing the plan, and required the Comptroller General to submit to the Committees on Armed Services a report on the plan, was repealed by Pub. L. 111–84, div. A, title XI, §1108(c)(1), Oct. 28, 2009, 123 Stat. 2491.

§ 1580. Emergency essential employees: designation

(a) CRITERIA FOR DESIGNATION.—The Secretary of Defense or the Secretary of the military department concerned may designate as an emergency essential employee any employee of the Department of Defense, whether permanent or temporary, the duties of whose position meet all of the following criteria:

(1) It is the duty of the employee to provide immediate and continuing support for combat operations or to support maintenance and repair of combat essential systems of the armed forces.

(2) It is necessary for the employee to perform that duty in a combat zone after the evacuation of nonessential personnel, including any dependents of members of the armed forces, from the zone in connection with a war, a national emergency declared by Congress or the President, or the commencement of combat operations of the armed forces in the zone.

(3) It is impracticable to convert the employee’s position to a position authorized to be filled by a member of the armed forces because of a necessity for that duty to be performed without interruption.

(b) ELIGIBILITY OF EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES.—A nonappropriated fund instrumentality employee is eligible for designation as an emergency essential employee under subsection (a).