

706(b)(1) of this title and which has been charged as excess leave).

(2) The officer shall be paid the amount of pay and allowances that is deemed to have accrued to the officer under paragraph (1), reduced by the total amount of his income from wages, salaries, tips, other personal service income, unemployment compensation, and public assistance benefits from any Government agency during the period the officer is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made within 60 days after the date on which the Secretary concerned decides not to remove the officer from active duty.

(3) If an officer is entitled to be paid under this section, but fails to provide sufficient information in a timely manner regarding the officer's income when such information is requested under regulations prescribed under subsection (c), the period of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. The regulations may provide for the method of determining an officer's income during any period the officer is deemed to have accrued pay and allowances, including a requirement that the officer provide income tax returns and other documentation to verify the amount of the officer's income.

(Added Pub. L. 107-314, div. A, title V, §506(b), Dec. 2, 2002, 116 Stat. 2535.)

#### § 708. Educational leave of absence

(a) Under such regulations as the Secretary of Defense may prescribe after consultation with the Secretary of Homeland Security and subject to subsection (b), the Secretary concerned may grant to any eligible member (as defined in subsection (e)) a leave of absence for the purpose of permitting the member to pursue a program of education. The period of a leave of absence granted under this section may not exceed two years, except that the period may exceed two years but may not exceed three years in the case of an eligible member pursuing a program of education in a health care profession.

(b)(1) A member may not be granted a leave of absence under this section unless—

(A) in the case of an enlisted member, the member agrees in writing to extend his current enlistment after completion (or other termination) of the program of education for which the leave of absence was granted for a period of two months for each month of the period of the leave of absence; and

(B) in the case of an officer, the member agrees to serve on active duty after completion (or other termination) of the program of education for which the leave of absence was granted for a period (in addition to any other period of obligated service on active duty) of two months for each month of the period of the leave of absence.

(2) A member may not be granted a leave of absence under this section until he has completed any extension of enlistment or reenlist-

ment, or any period of obligated service, incurred by reason of any previous leave of absence granted under this section.

(c)(1) While on a leave of absence under this section, a member shall be paid basic pay but may not receive basic allowance for housing under section 403 of title 37, basic allowance for subsistence under section 402 of such title, or any other pay and allowances to which he would otherwise be entitled for such period.

(2) A period during which a member is on a leave of absence under this section shall be counted for the purposes of computing the amount of the member's basic pay, for the purpose of determining the member's eligibility for retired pay, and for the purpose of determining the member's time in grade for promotion purposes, but may not be counted for the purposes of completion of the term of enlistment of the member (in the case of an enlisted member) or for purposes of section 3021 of title 38, relating to entitlement to supplemental educational assistance.

(d)(1) In time of war, or of national emergency declared by the President or the Congress after October 19, 1984, the Secretary concerned may cancel any leave of absence granted under this section.

(2) The Secretary concerned may cancel a leave of absence granted to a member under this section if the Secretary determines that the member is not satisfactorily pursuing the program of education for which the leave was granted.

(e) In this section, the term "eligible member" means a member of the armed forces on active duty who is eligible for basic educational assistance under chapter 30 of title 38 and who—

(1) in the case of an enlisted member, has completed at least one term of enlistment and has reenlisted; and

(2) in the case of an officer, has completed the officer's initial period of obligated service on active duty.

(Added Pub. L. 98-525, title VII, §707(a)(1), Oct. 19, 1984, 98 Stat. 2571; amended Pub. L. 100-26, §7(i)(2), (k)(3), Apr. 21, 1987, 101 Stat. 282, 284; Pub. L. 103-337, div. A, title X, §1070(e)(2), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 105-85, div. A, title VI, §603(d)(2)(A), Nov. 18, 1997, 111 Stat. 1782; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-375, div. A, title V, §554, Oct. 28, 2004, 118 Stat. 1913; Pub. L. 109-364, div. A, title X, §1071(g)(3), Oct. 17, 2006, 120 Stat. 2402.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-364 made technical correction to directory language of Pub. L. 108-375, §554(1). See 2004 Amendment note below.

2004—Subsec. (a). Pub. L. 108-375, §554(2), inserted at end "The period of a leave of absence granted under this section may not exceed two years, except that the period may exceed two years but may not exceed three years in the case of an eligible member pursuing a program of education in a health care profession."

Pub. L. 108-375, §554(1), as amended by Pub. L. 109-364, struck out "for a period of not to exceed two years" after "leave of absence".

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

1997—Subsec. (c)(1). Pub. L. 105–85 substituted “basic allowance for housing under section 403 of title 37, basic allowance for subsistence under section 402 of such title,” for “basic allowance for quarters or basic allowance for subsistence”.

1994—Subsec. (c)(2). Pub. L. 103–337 substituted “section 3021 of title 38” for “section 1421 of title 38”.

1987—Subsec. (d)(1). Pub. L. 100–26, §7(i)(2), substituted “October 19, 1984” for “the date of the enactment of this section”.

Subsec. (e). Pub. L. 100–26, §7(k)(3), inserted “the term” after “In this section,”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, §1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(3) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

##### 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 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

##### EFFECTIVE DATE

Pub. L. 98–525, title VII, §707(b), Oct. 19, 1984, 98 Stat. 2572, provided that: “Section 708 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1985.”

#### § 709. Emergency leave of absence

(a) EMERGENCY LEAVE OF ABSENCE.—The Secretary concerned may grant a member of the armed forces emergency leave of absence for a qualifying emergency.

(b) LIMITATIONS.—An emergency leave of absence under this section—

(1) may be granted only once for any member;

(2) may be granted only to prevent the member from entering unearned leave status or excess leave status; and

(3) may not extend for a period of more than 14 days.

(c) QUALIFYING EMERGENCY.—In this section, the term “qualifying emergency”, with respect to a member of the armed forces, means a circumstance that—

(1) is due to—

(A) a medical condition of a member of the immediate family of the member; or

(B) any other hardship that the Secretary concerned determines appropriate for purposes of this section; and

(2) is verified to the Secretary’s satisfaction based upon information or opinion from a source in addition to the member that the Secretary considers to be objective and reliable.

(d) MILITARY DEPARTMENT REGULATIONS.—Regulations prescribed under this section by the Secretaries of the military department shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.

(e) DEFINITIONS.—In this section:

(1) The term “unearned leave status” means leave approved to be used by a member of the armed forces that exceeds the amount of leave credit that has been accrued as a result of the member’s active service and that has not been previously used by the member.

(2) The term “excess leave status” means leave approved to be used by a member of the armed forces that is unearned leave for which a member is unable to accrue leave credit during the member’s current term of service before the member’s separation.

(Added Pub. L. 107–314, div. A, title V, §572(a), Dec. 2, 2002, 116 Stat. 2557.)

#### § 709a. Expenses incurred in connection with leave canceled due to contingency operations: reimbursement

(a) AUTHORIZATION TO REIMBURSE.—The Secretary concerned may reimburse a member of the armed forces under the jurisdiction of the Secretary for travel and related expenses (to the extent not otherwise reimbursable under law) incurred by the member as a result of the cancellation of previously approved leave when—

(1) the leave is canceled in connection with the member’s participation in a contingency operation; and

(2) the cancellation occurs within 48 hours of the time the leave would have commenced.

(b) REGULATIONS.—The Secretary of Defense and, in the case of the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security shall prescribe regulations to establish the criteria for the applicability of subsection (a).

(c) CONCLUSIVENESS OF SETTLEMENT.—The settlement of an application for reimbursement under subsection (a) is final and conclusive.

(Added Pub. L. 114–328, div. A, title V, §522(a), Dec. 23, 2016, 130 Stat. 2115.)

#### § 710. Career flexibility to enhance retention of members

(a) PROGRAMS AUTHORIZED.—Each Secretary of a military department may carry out programs under which members of the regular components and members on Active Guard and Reserve duty of the armed forces under the jurisdiction of such Secretary may be inactivated from active service in order to meet personal or professional needs and returned to active service at the end of such period of inactivation from active service.

(b) PERIOD OF INACTIVATION FROM ACTIVE SERVICE; EFFECT OF INACTIVATION.—(1) The period of inactivation from active service under a program under this section of a member participating in the program shall be such period as the Secretary of the military department concerned shall specify in the agreement of the member under subsection (c), except that such period may not exceed three years.

(2) Any service by a Reserve officer while participating in a program under this section shall be excluded from computation of the total years of service of that officer pursuant to section 14706(a) of this title.