

**§ 1567a. Mandatory notification of issuance of military protective order to civilian law enforcement**

(a) INITIAL NOTIFICATION.—In the event a military protective order is issued against a member of the armed forces, the commander of the unit to which the member is assigned shall, not later than seven days after the date of the issuance of the order, notify the appropriate civilian authorities of—

- (1) the issuance of the protective order; and
- (2) the individuals involved in the order.

(b) NOTIFICATION IN EVENT OF TRANSFER.—In the event that a member of the armed forces against whom a military protective order is issued is transferred to another unit—

(1) not later than the date of the transfer, the commander of the unit from which the member is transferred shall notify the commander of the unit to which the member is transferred of—

- (A) the issuance of the protective order; and
- (B) the individuals involved in the order; and

(2) not later than seven days after receiving the notice under paragraph (1), the commander of the unit to which the member is transferred shall provide notice of the order to the appropriate civilian authorities in accordance with subsection (a).

(c) NOTIFICATION OF CHANGES OR TERMINATION.—The commander of the unit to which the member is assigned also shall notify the appropriate civilian authorities of—

- (1) any change made in a protective order covered by subsection (a); and
- (2) the termination of the protective order.

(Added Pub. L. 110-417, [div. A], title V, § 562(a), Oct. 14, 2008, 122 Stat. 4470; amended Pub. L. 111-84, div. A, title X, § 1073(a)(17), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 116-92, div. A, title V, § 543(a), Dec. 20, 2019, 133 Stat. 1376.)

**Editorial Notes**

AMENDMENTS

2019—Subsec. (a). Pub. L. 116-92, § 543(a)(1), substituted “, the commander of the unit to which the member is assigned shall, not later than seven days after the date of the issuance of the order, notify” for “and any individual involved in the order does not reside on a military installation at any time during the duration of the military protective order, the commander of the military installation shall notify” in introductory provisions.

Subsec. (b). Pub. L. 116-92, § 543(a)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 116-92, § 543(a)(2), (4), redesignated subsec. (b) as (c) and substituted “commander of the unit to which the member is assigned” for “commander of the military installation”.

2009—Pub. L. 111-84 made technical amendment to section catchline.

**CHAPTER 81—CIVILIAN EMPLOYEES**

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AMENDMENT OF ANALYSIS

*Pub. L. 117-81, div. A, title XI, § 1106(b)(1), Dec. 27, 2021, 135 Stat. 1950, provided that this analysis is amended by striking the item relating to section 1599e “Probationary period for employees”. See 2021 Amendment note below.*

**Editorial Notes**

## AMENDMENTS

2021—Pub. L. 117–81, div. A, title XVII, §1701(w)(1), Dec. 27, 2021, 135 Stat. 2154, struck out item 1599h “Personnel management authority to attract experts in science and engineering”.

Pub. L. 117–81, div. A, title XI, §1106(b)(1), Dec. 27, 2021, 135 Stat. 1950, which directed amendment of this analysis by striking item 1599e “Probationary period for employees”, was executed as if effective on Dec. 31, 2022, concurrent with the repeal of section 1599e by Pub. L. 117–81, div. A, title XI, §1106(a)(1), to reflect the probable intent of Congress.

Pub. L. 116–283, div. A, title II, §241(c)(2), title XI, §1120(d), Jan. 1, 2021, 134 Stat. 3487, 3900, added items 1596c and 1599i.

2016—Pub. L. 114–328, div. A, title XI, §§1104(b), 1121(a)(2), Dec. 23, 2016, 130 Stat. 2447, 2452, added items 1599g and 1599h.

2015—Pub. L. 114–92, div. A, title XI, §§1105(a)(2), 1107(c), Nov. 25, 2015, 129 Stat. 1024, 1027, added items 1599e and 1599f.

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.

**Statutory Notes and Related Subsidiaries****PILOT PROGRAM ON THE USE OF ELECTRONIC PORTFOLIOS TO EVALUATE CERTAIN APPLICANTS FOR TECHNICAL POSITIONS**

Pub. L. 116–283, div. A, title II, §247, Jan. 1, 2021, 134 Stat. 3491, provided that:

“(a) **PILOT PROGRAM.**—Beginning not later than one year after the date of the enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall carry out a pilot program under which certain applicants for technical positions within the Department of Defense will be evaluated, in part, based on electronic portfolios of the applicant’s work, as described in subsection (b).

“(b) **ACTIVITIES.**—Under the pilot program, the human resources manager of each organization of the Department of Defense participating in the program, in consultation with relevant subject matter experts, shall—

“(1) identify a subset of technical positions for which the evaluation of electronic portfolios would be appropriate as part of the hiring process; and

“(2) as appropriate, assess applicants for such positions by reviewing electronic portfolios of the applicants’ best work, as selected by the applicant concerned.

“(c) SCOPE OF PROGRAM.—The Secretary of Defense shall carry out the pilot program under subsection (a) in—

“(1) the Joint Artificial Intelligence Center;

“(2) the Defense Digital Service;

“(3) at least one activity of each military department, as identified by the Secretary of the department concerned; and

“(4) such other organizations and elements of the Department of Defense as the Secretary determines appropriate.

“(d) REPORT.—Not later than two years after the commencement of the pilot program under subsection (a), the Secretary of Defense 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 results of the program. At a minimum, the report shall—

“(1) describe how the use of electronic portfolios in the hiring process affected the timeliness of the hiring process for technical positions in organizations of the Department of Defense participating in the program;

“(2) assess the level of satisfaction of organization leaders, hiring authorities, and subject matter experts with the quality of applicants who were hired based on evaluations of electronic portfolios;

“(3) identify other job series that could benefit from the use of electronic portfolios in the hiring process;

“(4) recommend whether the use of electronic portfolios in the hiring process should be expanded or made permanent; and

“(5) recommend any statutory, regulatory, or policy changes required to support the goals of the pilot program under subsection (a).

“(e) TECHNICAL POSITION DEFINED.—In this section, the term ‘technical position’ means a position in the Department of Defense that—

“(1) requires expertise in artificial intelligence, data science, or software development; and

“(2) is eligible for direct hire authority under section 9905 of title 5, United States Code, or section 2358a of title 10, United States Code [now 10 U.S.C. 4091].

“(f) TERMINATION.—The authority to carry out the pilot program under subsection (a) shall terminate 5 years after the date of the enactment of this Act.”

#### COORDINATION OF SCHOLARSHIP AND EMPLOYMENT PROGRAMS OF THE DEPARTMENT OF DEFENSE

Pub. L. 116-283, div. A, title II, §251, Jan. 1, 2021, 134 Stat. 3496, provided that:

“(a) ESTABLISHMENT OR DESIGNATION OF ORGANIZATION.—The Secretary of Defense shall establish or designate an organization within the Department of Defense which shall have primary responsibility for building cohesion and collaboration across the various scholarship and employment programs of the Department.

“(b) DUTIES.—The organization established or designated under subsection (a) shall have the following duties:

“(1) To establish an interconnected network and database across the scholarship and employment programs of the Department.

“(2) To aid in matching scholarships to individuals pursuing courses of study in high demand skill areas.

“(3) To build a network of current and former program participants for potential engagement or employment with Department activities.

“(c) ANNUAL LISTING.—On an annual basis, the organization established or designated under subsection (a) shall publish, on a publicly accessible website of the

Department, a listing of scholarship and employment programs carried out by the Department.”

#### TEMPORARY AUTHORITY TO APPOINT RETIRED MEMBERS OF THE ARMED FORCES TO POSITIONS IN THE DEPARTMENT OF DEFENSE

Pub. L. 116-283, div. A, title XI, §1108, Jan. 1, 2021, 134 Stat. 3891, as amended by Pub. L. 117-81, div. A, title XI, §1103, Dec. 27, 2021, 135 Stat. 1950, provided that:

“(a) IN GENERAL.—Notwithstanding the requirements of section 3326 of title 5, United States Code, the Secretary of Defense may appoint retired members of the Armed Forces to positions in the Department of Defense described in subsection (b).

“(b) POSITIONS.—

“(1) IN GENERAL.—The positions in the Department described in this subsection are positions classified at or below GS-13 under the General Schedule under subchapter III of chapter 53 of title 5, United States Code, or an equivalent level under another wage system, in the competitive service—

“(A)(i) at any defense industrial base facility (as that term is defined in section 2208(u)(3) of title 10, United States Code) that is part of the core logistics capabilities (as described in section 2464(a) of such title); or

“(ii) at any Major Range and Test Facility Base (as that term is defined in section 196(i) of such title) [now 10 U.S.C. 4173(i)]; and

“(B) that have been certified by the Secretary of the military department concerned as lacking sufficient numbers of potential applicants.

“(2) LIMITATION ON DELEGATION OF CERTIFICATION.—The Secretary of a military department may not delegate the authority to make a certification described in paragraph (1)(B) to an individual in a grade lower than colonel, captain in the Navy, or an equivalent grade in the Space Force, or an individual with an equivalent civilian grade.

“(c) REPORT.—Not later than two years after the date of enactment of this Act [Jan. 1, 2021], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on this section and the authority provided by this section. The report shall include the following:

“(1) A description of the use of such authority, including the positions to which appointments are authorized to be made under such authority and the number of retired members appointed to each such position under such authority.

“(2) Any other matters in connection with such section or such authority that the Secretary considers appropriate.

“(d) SUNSET.—Effective on the date that is 3 years after the date of enactment of this Act, the authority provided under subsection (a) shall expire.

“(e) DEFINITIONS.—In this section, the terms ‘member’ and ‘Secretary concerned’ have the meaning given those terms in section 101 of title 37, United States Code.”

#### PILOT PROGRAM ON ENHANCED PAY AUTHORITY FOR CERTAIN HIGH-LEVEL MANAGEMENT POSITIONS IN THE DEPARTMENT OF DEFENSE

Pub. L. 116-283, div. A, title XI, §1119, Jan. 1, 2021, 134 Stat. 3897, provided that:

“(a) PILOT PROGRAM AUTHORIZED.—The Secretary of Defense may carry out a pilot program to assess the feasibility and advisability of using the pay authority specified in subsection (d) to fix the rate of basic pay for positions described in subsection (c) in order to assist the Department of Defense in attracting and retaining personnel with significant experience in high-level management of complex organizations and enterprise functions in order to lead implementation by the Department of the National Defense Strategy.

“(b) APPROVAL REQUIRED.—The pilot program may be carried out only with approval as follows:

“(1) Approval of the Deputy Secretary of Defense, in the case of a position not under the authority, direction, and control of an Under Secretary of Defense and not under the authority, direction, and control of the Under Secretary of a military department.

“(2) Approval of the applicable Under Secretary of Defense, in the case of a position under the authority, direction, and control of an Under Secretary of Defense.

“(3) Approval of the Under Secretary or an Assistant Secretary of the military department concerned, in the case of a position in a military department.

“(c) POSITIONS.—The positions described in this subsection are positions that require expertise of an extremely high level in innovative leadership and management of enterprise-wide business operations, including financial management, health care, supply chain and logistics, information technology, real property stewardship, and human resources, across a large and complex organization.

“(d) RATE OF BASIC PAY.—Without regard to the basic pay authorities in sections 5376, 5382, 5383 and 9903 of title 5, United States Code, the pay authority specified in this subsection is authority as follows:

“(1) Authority to fix the rate of basic pay for a position at a rate not to exceed 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the applicable official under subsection (b).

“(2) Authority to fix the rate of basic pay for a position at a rate in excess of 150 percent of the rate of basic pay payable for level I of the Executive Schedule, upon the approval of the Secretary of Defense.

“(e) LIMITATIONS.—

“(1) IN GENERAL.—The authority in subsection (a) may be used only to the extent necessary to competitively recruit or retain individuals exceptionally well qualified for positions described in subsection (c).

“(2) NUMBER OF POSITIONS.—The authority in subsection (a) may not be used with respect to—

“(A) more than 10 positions in the Office of the Secretary of Defense and components of the Department of Defense other than the military departments at any one time; and

“(B) more than five positions in each military department at any one time.

“(3) TERM OF POSITIONS.—The authority in subsection (a) may be used only for positions having terms less than five years.

“(4) PAST SERVICE.—An individual may not be appointed to a position pursuant to the authority provided by subsection (a) if the individual separated or retired from Federal civil service or service as a commissioned officer of an Armed Force on a date that is less than five years before the date of such appointment of the individual.

“(f) TERMINATION.—

“(1) IN GENERAL.—The authority to fix rates of basic pay for a position under this section shall terminate on October 1, 2025.

“(2) CONTINUATION OF PAY.—Nothing in paragraph (1) shall be construed to prohibit the payment after October 1, 2025, of basic pay at rates fixed under this section before that date for positions whose terms continue after that date.”

#### TECHNOLOGY AND NATIONAL SECURITY FELLOWSHIP

Pub. L. 116-92, div. A, title II, §235, Dec. 20, 2019, 133 Stat. 1279, as amended by Pub. L. 116-283, div. A, title II, §243, Jan. 1, 2021, 134 Stat. 3488, provided that:

“(a) FELLOWSHIP PROGRAM.—

“(1) IN GENERAL.—The Secretary of Defense, acting through the Under Secretary of Defense for Research and Engineering, may establish a civilian fellowship program designed to place eligible individuals within the Department of Defense and Congress to increase the number of national security professionals with science, technology, engineering, and mathematics credentials employed by the Department.

“(2) DESIGNATION.—The fellowship program established under paragraph (1) shall be known as the

‘Technology and National Security Fellowship’ (in this section referred to as the ‘fellows program’).

“(3) ASSIGNMENTS.—Each individual selected for participation in the fellows program shall be assigned to a one year position within—

“(A) the Department of Defense; or

“(B) a congressional office with emphasis on defense and national security matters.

“(4) PAY AND BENEFITS.—To the extent practicable, each individual assigned to a position under paragraph (3)—

“(A) shall be compensated at a rate of basic pay that is not less than the minimum rate of basic pay payable for a position at GS-10 of the General Schedule (subchapter III of chapter 53 of title 5, United States Code) and not more than the maximum rate of basic pay payable for a position at GS-15 of such Schedule; and

“(B) shall be treated as an employee of the United States during the assignment.

“(b) ELIGIBLE INDIVIDUALS.—

“(1) ELIGIBILITY FOR DOD ASSIGNMENT.—Subject to subsection (e), an individual eligible for an assignment in the Department of Defense under subsection (a)(3)(A) is an individual who—

“(A) is a citizen of the United States; and

“(B) either—

“(i) expects to be awarded a bachelor’s degree, associate’s degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work not later than 180 days after the date on which the individual submits an application for participation in the fellows program;

“(ii) possesses a bachelor’s degree, associate’s degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work; or

“(iii) is an employee of the Department of Defense and possesses a bachelor’s degree, associate’s degree, or graduate degree that, as determined by the Secretary, focuses on science, technology, engineering, or mathematics course work.

“(2) ELIGIBILITY FOR CONGRESSIONAL ASSIGNMENT.—Subject to subsection (e), an individual eligible for an assignment in a congressional office under subsection (a)(3)(B) is an individual who—

“(A) meets the requirements specified in paragraph (1); and

“(B) has not less than 3 years of relevant work experience in the field of science, technology, engineering, or mathematics.

“(3) BACKGROUND CHECK REQUIREMENT.—No individual may participate in the fellows program without first undergoing a background check that the Secretary of Defense considers appropriate for participation in the program.

“(c) APPLICATION.—Each individual seeking to participate in the fellows program shall submit to the Secretary an application therefor at such time and in such manner as the Secretary shall specify.

“(d) COORDINATION.—In carrying out this section, the Secretary may consider working through the following entities:

“(1) The National Security Innovation Network.

“(2) Universities.

“(3) Science and technology reinvention laboratories and test and evaluation centers of the Department of Defense.

“(4) Other organizations of the Department of Defense or public and private sector organizations, as determined appropriate by the Secretary.

“(e) MODIFICATIONS TO FELLOWS PROGRAM.—The Secretary may modify the terms and procedures of the fellows program in order to better achieve the goals of the program and to support workforce needs of the Department of Defense.

“(f) CONSULTATION.—The Secretary may consult with the heads of the agencies, components, and other elements of the Department of Defense, Members and

committees of Congress, and such institutions of higher education and private entities engaged in work on national security and emerging technologies as the Secretary considers appropriate for purposes of the fellows program, including with respect to assignments in the fellows program.”

JOHN S. MCCAIN STRATEGIC DEFENSE FELLOWS PROGRAM

Pub. L. 115-232, div. A, title IX, §932, Aug. 13, 2018, 132 Stat. 1935, as amended by Pub. L. 116-92, div. A, title IX, §906, Dec. 20, 2019, 133 Stat. 1559; Pub. L. 117-81, div. A, title IX, §906, Dec. 27, 2021, 135 Stat. 1872, provided that:

“(a) FELLOWSHIP PROGRAM.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Aug. 13, 2018], the Secretary of Defense shall establish within the Department of Defense a civilian fellowship program designed to provide leadership development and the commencement of a career track toward senior leadership in the Department.

“(2) DESIGNATION.—The fellowship program shall be known as the ‘John S. McCain Strategic Defense Fellows Program’ (in this section referred to as the ‘fellows program’).

“(b) ELIGIBILITY.—An individual is eligible for participation in the fellows program if the individual—

“(1) is a citizen of the United States or a lawful permanent resident of the United States in the year in which the individual applies for participation in the fellows program; and

“(2) either—

“(A) possesses a graduate degree from an accredited institution of higher education in the United States that was awarded not later than two years before the date of the acceptance of the individual into the fellows program; or

“(B) will be awarded a graduate degree from an accredited institution of higher education in the United States not later than six months after the date of the acceptance of the individual into the fellows program.

“(c) APPLICATION.—

“(1) APPLICATION REQUIRED.—Each individual seeking to participate in the fellows program shall submit to the Secretary of Defense an application therefor at such time and in such manner as the Secretary shall specify.

“(2) ELEMENTS.—Each application of an individual under this subsection shall include the following:

“(A) Transcripts of educational achievement at the undergraduate and graduate level.

“(B) A resume.

“(C) Proof of citizenship or lawful permanent residence.

“(D) An endorsement from the applicant’s graduate institution of higher education.

“(E) An academic writing sample.

“(F) Letters of recommendation addressing the applicant’s character, academic ability, and any extracurricular activities.

“(G) A personal statement by the applicant explaining career areas of interest and motivations for service in the Department.

“(H) Such other information as the Secretary considers appropriate.

“(d) SELECTION.—

“(1) IN GENERAL.—Each year, the Secretary of Defense shall select participants in the fellows program from among applicants for the fellows program for such year who qualify for participation in the fellows program based on character, commitment to public service, academic achievement, extracurricular activities, and such other qualifications for participation in the fellows program as the Secretary considers appropriate.

“(2) NUMBER.—The number of individuals selected to participate in the fellows program in any year may not exceed the numbers as follows:

“(A) Ten individuals from each geographic region of the United States as follows:

“(i) The Northeast.

“(ii) The Southeast.

“(iii) The Midwest.

“(iv) The Southwest.

“(v) The West.

“(B) Ten additional individuals.

“(3) BACKGROUND INVESTIGATION.—An individual selected to participate in the fellows program may not participate in the program unless the individual successfully undergoes a background investigation applicable to the position to which the individual will be assigned under the fellows program and otherwise meets such requirements applicable to assignment to a sensitive position within the Department that the Secretary considers appropriate.

“(e) ASSIGNMENT.—

“(1) IN GENERAL.—Each individual who participates in the fellows program shall be assigned to a position in one of the following:

“(A) The Office of the Secretary of Defense.

“(B) An office of the Secretary of a military department.

“(2) POSITION REQUIREMENTS.—Each Secretary of a military department, [sic] each Under Secretary of Defense, and other officials, as designated by the Secretary of Defense, within the Office of the Secretary of Defense (as defined in section 131 of title 10, United States Code) who report directly to the Secretary of Defense shall submit to the Secretary of Defense each year the qualifications and skills to be demonstrated by participants in the fellows program to qualify for assignment under this subsection for service in a position of the office of such Secretary, Under Secretary, or official within the Office of the Secretary of Defense.

“(3) ASSIGNMENT TO POSITIONS.—The Secretary of Defense shall each year assign participants in the fellows program to positions in the offices of the Secretaries of the military departments, and the offices of the Under Secretaries of Defense and other officials within the Office of the Secretary of Defense described in paragraph (2). In making such assignments, the Secretary of Defense shall seek to best match the qualifications and skills of participants in the fellows program with the requirements of positions available for assignment. Each participant so assigned shall serve as a special assistant to the Secretary, Under Secretary of Defense, or other official within the Office of the Secretary of Defense to whom assigned.

“(4) LIMITATION ON NUMBER ASSIGNABLE TO SECRETARIES OF MILITARY DEPARTMENTS.—The number of participants in the fellows program who are assigned to the office of a Secretary of a military department in any year may not exceed five participants.

“(5) TERM.—The term of each assignment under the fellows program shall be one year.

“(6) PAY AND BENEFITS.—An individual assigned to a position under the fellows program shall be compensated at the rate of compensation for employees at level GS-10 of the General Schedule, and shall be treated as an employee of the United States during the term of assignment, including for purposes of eligibility for health care benefits and retirement benefits available to employees of the United States.

“(7) EDUCATION LOAN REPAYMENT.—To the extent that funds are provided in advance in appropriations Acts, the Secretary of Defense may repay any loan of a participant in the fellows program if the loan is described by subparagraph (A), (B), or (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of loans under this paragraph may require a minimum service agreement, as determined by the Secretary.

“(f) CAREER DEVELOPMENT.—

“(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the fellows program—

“(A) receive opportunities and support appropriate for the commencement of a career track

within the Department leading toward a future position of senior leadership within the Department, including ongoing mentorship support through appropriate personnel from entities within the Department such as the Defense Business Board and the Defense Innovation Board; and

“(B) are provided appropriate opportunities for employment and advancement within the Department upon successful completion of the fellows program, including, if appropriate, opportunities to work at Department installations or Field Activities for between 12 and 24 months.

“(2) RESERVATION OF POSITIONS.—In carrying out paragraph (1)(B), the Secretary shall reserve for participants who successfully complete the fellows program not fewer than 30 positions in the excepted service within the Department that are suitable for the commencement of a career track toward senior leadership within the Department. Any position so reserved shall not be subject to or covered by any reduction in headquarters personnel required under any other provision of law.

“(3) NONCOMPETITIVE APPOINTMENT.—Upon the successful completion of the assignment of a participant in the fellows program in a position pursuant to subsection (e), the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, appoint the participant to a position reserved pursuant to paragraph (2) if the Secretary determines that such appointment will contribute to the development of highly qualified future senior leaders for the Department. An individual appointed pursuant to this paragraph shall not count against the limitation on the number of Office of the Secretary of Defense personnel in section 143 of title 10, United States Code, or any similar limitation in law on the number of personnel in headquarters of the Department that would otherwise apply to the office or headquarters to which appointed.

“(4) PUBLICATION OF SELECTION.—The Secretary shall publish on an Internet website of the Department available to the public the names of the individuals selected to participate in the fellows program.

“(g) OUTREACH.—The Secretary of Defense shall undertake appropriate outreach to inform potential participants in the fellows program of the nature and benefits of participation in the fellows program.

“(h) REGULATIONS.—The Secretary of Defense shall carry out this section in accordance with such regulations as the Secretary may prescribe for purposes of this section.

“(i) FUNDING.—Of the amounts authorized to be appropriated for each fiscal year for the Department of Defense for operation and maintenance, Defense-wide, \$10,000,000 may be available to carry out the fellows program in such fiscal year.”

**PILOT PROGRAMS ON APPOINTMENT IN THE EXCEPTED SERVICE IN THE DEPARTMENT OF DEFENSE OF PHYSICALLY DISQUALIFIED FORMER CADETS AND MIDSHIPMEN**

Pub. L. 115-91, div. A, title V, §549, Dec. 12, 2017, 131 Stat. 1399, as amended by Pub. L. 115-232, div. A, title VIII, §809(b)(4), Aug. 13, 2018, 132 Stat. 1840, provided that:

“(a) PILOT PROGRAMS AUTHORIZED.—

“(1) IN GENERAL.—Each Secretary of a military department may carry out a pilot program under which former cadets or midshipmen described in paragraph (2) (in this section referred to as ‘eligible individuals’) under the jurisdiction of such Secretary may be appointed by the Secretary of Defense in the excepted service under section 3320 of title 5, United States Code, in the Department of Defense.

“(2) CADETS AND MIDSHIPMEN.—Except as provided in paragraph (3), a former cadet or midshipman described in this paragraph is any former cadet at the United States Military Academy or the United States Air Force Academy, and any former midshipman at the United States Naval Academy, who—

“(A) completed the prescribed course of instruction and graduated from the applicable service academy; and

“(B) is determined to be medically disqualified to complete a period of active duty in the Armed Forces prescribed in an agreement signed by such cadet or midshipman in accordance with section 7448, 8459, or 9448 of title 10, United States Code.

“(3) EXCEPTION.—A former cadet or midshipman whose medical disqualification as described in paragraph (2)(B) is the result of the gross negligence or misconduct of the former cadet or midshipman is not an eligible individual for purposes of appointment under a pilot program.

“(b) PURPOSE.—The purpose of the pilot programs conducted under this section is to evaluate the feasibility and advisability of permitting eligible individuals who cannot accept a commission or complete a period of active duty in the Armed Forces prescribed by the Secretary of the military department concerned to fulfill an obligation for active duty service in the Armed Forces through service as a civilian employee of the Department of Defense.

“(c) POSITIONS.—

“(1) IN GENERAL.—The positions to which an eligible individual may be appointed under a pilot program conducted under this section are existing positions within the Department of Defense in grades up to GS-9 under the General Schedule under section 5332 of title 5, United States Code (or equivalent). The authority in subsection (a) does not authorize the creation of additional positions, or create any vacancies to which eligible individuals may be appointed under a pilot program.

“(2) TERM POSITIONS.—Any appointment under a pilot program shall be to a position having a term of five years or less.

“(d) SCOPE OF AUTHORITY.—

“(1) RECRUITMENT AND RETENTION OF ELIGIBLE INDIVIDUALS.—The authority in subsection (a) may be used only to the extent necessary to recruit and retain on a non-competitive basis cadets and midshipmen who are relieved of an obligation for active duty in the Armed Forces due to becoming medically disqualified from serving on active duty in the Armed Forces, and may not be used to appoint any other individuals in the excepted service.

“(2) VOLUNTARY ACCEPTANCE OF APPOINTMENTS.—A pilot program conducted under this section may not be used as an implicit or explicit basis for compelling an eligible individual to accept an appointment in the excepted service in accordance with this section.

“(e) RELATIONSHIP TO REPAYMENT PROVISIONS.—Completion of a term appointment pursuant to a pilot program conducted under this section shall relieve the eligible individual concerned of any repayment obligation under section 303a(e) or 373 of title 37, United States Code, with respect to the agreement of the individual described in subsection (a)(2)(B).

“(f) TERMINATION.—

“(1) IN GENERAL.—The authority to appoint eligible individuals in the excepted service under a pilot program conducted under this section shall expire on the date that is four years after the date of the enactment of this Act [Dec. 12, 2017].

“(2) EFFECT ON EXISTING APPOINTMENTS.—The termination by paragraph (1) of the authority in subsection (a) shall not affect any appointment made under that authority before the termination date specified in paragraph (1) in accordance with the terms of such appointment.

“(g) REPORTING REQUIREMENT.—

“(1) REPORT REQUIRED.—Not later than the date that is three years after the date of the enactment of this Act [Dec. 12, 2017], each Secretary of a military department shall submit to the appropriate congressional committees a report containing an evaluation of the effectiveness of the pilot program conducted by such Secretary under this section, including the number of eligible individuals appointed as civilian em-

ployees of the Department of Defense under the program and the retention rate for such employees.

“(2) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the Committee on Armed Services and the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Armed Services and the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives.”

**DIRECT HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR PERSONNEL TO ASSIST IN BUSINESS TRANSFORMATION AND MANAGEMENT INNOVATION**

Pub. L. 115-91, div. A, title XI, §1101, Dec. 12, 2017, 131 Stat. 1627, provided that:

“(a) AUTHORITY.—The Secretary of Defense may appoint in the Department of Defense individuals described in subsection (b) without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, for the purpose of assisting and facilitating the efforts of the Department in business transformation and management innovation.

“(b) COVERED INDIVIDUALS.—The individuals described in this subsection are individuals who have all of the following:

“(1) A management or business background.

“(2) Experience working with large or complex organizations.

“(3) Expertise in management and organizational change, data analytics, or business process design.

“(c) LIMITATION ON NUMBER.—The number of individuals appointed pursuant to this section at any one time may not exceed 10 individuals.

“(d) NATURE OF APPOINTMENT.—Any appointment under this section shall be on a term basis, and shall be subject to the term appointment regulations in part 316 of title 5, Code of Federal Regulations (other than requirements in such regulations relating to competitive hiring). The term of any such appointment shall be specified by the Secretary at the time of the appointment.

“(e) BRIEFINGS.—

“(1) IN GENERAL.—Not later than September 30, 2019, and September 30, 2021, the Secretary shall brief the appropriate committees of Congress on the exercise of the authority in this section.

“(2) ELEMENTS.—Each briefing under this subsection shall include the following:

“(A) A description and assessment of the results of the use of such authority as of the date of such briefing.

“(B) Such recommendations as the Secretary considers appropriate for extension or modification of such authority.

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

“(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Armed Services and the Committee on Government Oversight and Reform [probably means Committee on Oversight and Government Reform, now Committee on Oversight and Reform] of the House of Representatives.

“(f) SUNSET.—

“(1) IN GENERAL.—The authority to appoint individuals in this section shall expire on September 30, 2021.

“(2) CONSTRUCTION WITH EXISTING APPOINTMENTS.—The expiration in paragraph (1) of the authority in this section shall not be construed to terminate any appointment made under this section before the date of expiration that continues according to its term as of the date of expiration.”

**PILOT PROGRAM ON ENHANCED PERSONNEL MANAGEMENT SYSTEM FOR CYBERSECURITY AND LEGAL PROFESSIONALS IN THE DEPARTMENT OF DEFENSE**

Pub. L. 115-91, div. A, title XI, §1110, Dec. 12, 2017, 131 Stat. 1631, provided that:

“(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall carry out within the Department of Defense a pilot program to assess the feasibility and advisability of an enhanced personnel management system in accordance with this section for cybersecurity and legal professionals in the Department described in subsection (b) who enter civilian service with the Department on or after January 1, 2020.

“(b) CYBERSECURITY AND LEGAL PROFESSIONALS.—

“(1) IN GENERAL.—The cybersecurity and legal professionals described in this subsection are the following:

“(A) Civilian cybersecurity professionals in the Department of Defense consisting of civilian personnel engaged in or directly supporting planning, commanding and controlling, training, developing, acquiring, modifying, and operating systems and capabilities, and military units and intelligence organizations (other than those funded by the National Intelligence Program) that are directly engaged in or used for offensive and defensive cyber and information warfare or intelligence activities in support thereof.

“(B) Civilian legal professionals in the Department occupying legal or similar positions, as determined by the Secretary of Defense for purposes of the pilot program, that require eligibility to practice law in a State or territory of the United States.

“(2) INAPPLICABILITY TO SES POSITIONS.—The pilot program shall not apply to positions within the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code.

“(c) DIRECT-APPOINTMENT AUTHORITY.—

“(1) INAPPLICABILITY OF GENERAL CIVIL SERVICE APPOINTMENT AUTHORITIES TO APPOINTMENTS.—Under the pilot program, the Secretary of Defense, with respect to the Defense Agencies, and the Secretary of the military department concerned, with respect to the military departments, may appoint qualified candidates as cybersecurity and legal professionals without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

“(2) APPOINTMENT ON DIRECT-HIRE BASIS.—Appointments under the pilot program shall be made on a direct-hire basis.

“(d) TERM APPOINTMENTS.—

“(1) RENEWABLE TERM APPOINTMENTS.—Each individual shall serve with the Department of Defense as a cybersecurity or legal professional under the pilot program pursuant to an initial appointment to service with the Department for a term of not less than 2 years nor more than 8 years. Any term of appointment under the pilot program may be renewed for one or more additional terms of not less than 2 years nor more than 8 years as provided in subsection (h).

“(2) LENGTH OF TERMS.—The length of the term of appointment to a position under the pilot program shall be prescribed by the Secretary of Defense taking into account the national security, mission, and other applicable requirements of the position. Positions having identical or similar requirements or terms may be grouped into categories for purposes of the pilot program. The Secretary may delegate any authority in this paragraph to a commissioned officer of the Armed Forces in pay grade O-7 or above or an employee in the Department in the Senior Executive Service.

“(e) NATURE OF SERVICE UNDER APPOINTMENTS.—

“(1) TREATMENT OF PERSONNEL APPOINTED AS EMPLOYEES.—Except as otherwise provided by this section, individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program pursuant to appointments under this section shall be considered employees (as specified in section 2105 of title 5, United States Code) for purposes of the provisions of title 5, United States Code, and other applicable provisions of law, including, in particular, for purposes as follows:

“(A) Eligibility for participation in the Federal Employees’ Retirement System under chapter 84 of

title 5, United States Code, subject to the provisions of section 8402 of such title and the regulations prescribed pursuant to such section.

“(B) Eligibility for enrollment in a health benefits plan under chapter 89 of title 5, United States Code (commonly referred as the ‘Federal Employees Health Benefits Program’).

“(C) Eligibility for and subject to the employment protections of subpart F of part III of title 5, United States Code, relating to merit principles and protections.

“(D) Eligibility for the protections of chapter 81, of title 5, United States Code, relating to workers compensation.

“(2) SCOPE OF RIGHTS AND BENEFITS.—In administering the pilot program, the Secretary of Defense shall specify, and from time to time update, a comprehensive description of the rights and benefits of individuals serving with the Department under the pilot program pursuant to this subsection and of the provisions of law under which such rights and benefits arise.

“(f) COMPENSATION.—

“(1) BASIC PAY.—Individuals serving with the Department of Defense as cybersecurity or legal professionals under the pilot program shall be paid basic pay for such service in accordance with a schedule of pay prescribed by the Secretary of Defense for purposes of the pilot program.

“(2) TREATMENT AS BASIC PAY.—Basic pay payable under the pilot program shall be treated for all purposes as basic pay paid under the provisions of title 5, United States Code.

“(3) PERFORMANCE AWARDS.—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such performance awards for outstanding performance as the Secretary shall prescribe for purposes of the pilot program. The performance awards may include a monetary bonus, time off with pay, or such other awards as the Secretary considers appropriate for purposes of the pilot program. The award of performance awards under the pilot program shall be based in accordance with such policies and requirements as the Secretary shall prescribe for purposes of the pilot program.

“(4) ADDITIONAL COMPENSATION.—Individuals serving with the Department as cybersecurity or legal professionals under the pilot program may be awarded such additional compensation above basic pay as the Secretary (or the designees of the Secretary) consider appropriate in order to promote the recruitment and retention of highly skilled and productive cybersecurity and legal professionals to and with the Department.

“(g) PROBATIONARY PERIOD.—The following terms of appointment shall be treated as a probationary period under the pilot program:

“(1) The first term of appointment of an individual to service with the Department of Defense as a cybersecurity or legal professional, regardless of length.

“(2) The first term of appointment of an individual to a supervisory position in the Department as a cybersecurity or legal professional, regardless of length and regardless of whether or not such term of appointment to a supervisory position is the first term of appointment of the individual concerned to service with the Department as a cybersecurity or legal professional.

“(h) RENEWAL OF APPOINTMENTS.—

“(1) IN GENERAL.—The Secretary of Defense shall prescribe the conditions for the renewal of appointments under the pilot program. The conditions may apply to one or more categories of positions, positions on a case-by-case basis, or both.

“(2) PARTICULAR CONDITIONS.—In prescribing conditions for the renewal of appointments under the pilot program, the Secretary shall take into account the following (in the order specified):

“(A) The necessity for the continuation of the position concerned based on mission requirements and other applicable justifications for the position.

“(B) The service performance of the individual serving in the position concerned, with individuals with satisfactory or better performance afforded preference in renewal.

“(C) Input from employees on conditions for renewal.

“(D) Applicable private and public sector labor market conditions.

“(3) SERVICE PERFORMANCE.—The assessment of the service performance of an individual under the pilot program for purposes of paragraph (2)(B) shall consist of an assessment of the ability of the individual to effectively accomplish mission goals for the position concerned as determined by the supervisor or manager of the individual based on the individual’s performance evaluations and the knowledge of and review by such supervisor or manager (developed in consultation with the individual) of the individual’s performance in the position. An individual’s tenure of service in a position or the Department of Defense may not be the primary element of the assessment.

“(i) PROFESSIONAL DEVELOPMENT.—The pilot program shall provide for the professional development of individuals serving with the Department of Defense as cybersecurity and legal professionals under the pilot program in a manner that—

“(1) creates opportunities for education, training, and career-broadening experiences, and for experimental opportunities in other organizations within and outside the Federal Government; and

“(2) reflects the differentiated needs of personnel at different stages of their careers.

“(j) SABBATICALS.—

“(1) IN GENERAL.—The pilot program shall provide for an individual who is in a successive term after the first 8 years with the Department of Defense as a cybersecurity or legal professional under the pilot program to take, at the election of the individual, a paid or unpaid sabbatical from service with the Department for professional development or education purposes. The length of a sabbatical shall be any length not less than 6 months nor more than 1 year (unless a different period is approved by the Secretary of the military department or head of the organization or element of the Department concerned for purposes of this subsection). The purpose of any sabbatical shall be subject to advance approval by the organization or element in the Department in which the individual is currently performing service. The taking of a sabbatical shall be contingent on the written agreement of the individual concerned to serve with the Department for an appropriate length of time at the conclusion of the term of appointment in which the sabbatical commences, with the period of such service to be in addition to the period of such term of appointment.

“(2) NUMBER OF SABBATICALS.—An individual may take more than one sabbatical under this subsection.

“(3) REPAYMENT.—Except as provided in paragraph (4), an individual who fails to satisfy a written agreement executed under paragraph (1) with respect to a sabbatical shall repay the Department an amount equal to any pay, allowances, and other benefits received by the individual from the Department during the period of the sabbatical.

“(4) WAIVER OF REPAYMENT.—An agreement under paragraph (1) may include such conditions for the waiver of repayment otherwise required under paragraph (3) for failure to satisfy such agreement as the Secretary specifies in such agreement.

“(k) REGULATIONS.—The Secretary of Defense shall administer the pilot program under regulations prescribed by the Secretary for purposes of the pilot program.

“(l) TERMINATION.—

“(1) IN GENERAL.—The authority of the Secretary of Defense to appoint individuals for service with the



Department of Defense as cybersecurity or legal professionals under the pilot program shall expire on December 31, 2029.

“(2) EFFECT ON EXISTING APPOINTMENTS.—The termination of authority in paragraph (1) shall not be construed to terminate or otherwise affect any appointment made under this section before December 31, 2029, that remains valid as of that date.

“(m) IMPLEMENTATION.—

“(1) INTERIM FINAL RULE.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall prescribe an interim final rule to implement the pilot program.

“(2) FINAL RULE.—Not later than 180 days after prescribing the interim final rule under paragraph (1) and considering public comments with respect to such interim final rule, the Secretary shall prescribe a final rule to implement the pilot program.

“(3) OBJECTIVES.—The regulations prescribed under paragraphs (1) and (2) shall accomplish the objectives set forth in subsections (a) through (j) and otherwise ensure flexibility and expedited appointment of cybersecurity and legal professionals in the Department of Defense under the pilot program.

“(n) REPORTS.—

“(1) REPORTS REQUIRED.—Not later than January 30 of each of 2022, 2025, and 2028, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the carrying out of the pilot program. Each report shall include the following:

“(A) A description and assessment of the carrying out of the pilot program during the period since the commencement of the pilot program or the previous submittal of a report under this subsection, as applicable.

“(B) A description and assessment of the successes in and impediments to carrying out the pilot program system during such period.

“(C) Such recommendations as the Secretary considers appropriate for legislative action to improve the pilot program and to otherwise improve civilian personnel management of cybersecurity and legal professionals by the Department of Defense.

“(D) In the case of the report submitted in 2028, an assessment and recommendations by the Secretary on whether to make the pilot program permanent.

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

“(A) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(B) the Committee on Armed Services and the Committee on Oversight and Government Reform [now Committee on Oversight and Reform] of the House of Representatives.”

#### TEMPORARY AND TERM APPOINTMENTS IN THE COMPETITIVE SERVICE IN THE DEPARTMENT OF DEFENSE

Pub. L. 114-328, div. A, title XI, §1105, Dec. 23, 2016, 130 Stat. 2447, provided that:

“(a) APPOINTMENT.—

“(1) IN GENERAL.—The Secretary of Defense may make a temporary appointment or a term appointment in the Department when the need for the services of an employee in the Department is not permanent.

“(2) EXTENSION.—The Secretary may extend a temporary appointment or a term appointment made under paragraph (1).

“(b) APPOINTMENTS FOR CRITICAL HIRING NEEDS.—

“(1) IN GENERAL.—If there is a critical hiring need, the Secretary of Defense may make a noncompetitive temporary appointment or a noncompetitive term appointment in the Department of Defense, without regard to the requirements of sections 3327 and 3330 of title 5, United States Code, for a period that is not more than 18 months.

“(2) NO EXTENSION AVAILABLE.—An appointment made under paragraph (1) may not be extended.

“(c) REGULATIONS.—The Secretary may prescribe regulations to carry out this section.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘temporary appointment’ means the appointment of an employee in the competitive service for a period that is not more than one year.

“(2) The term ‘term appointment’ means the appointment of an employee in the competitive service for a period that is more than one year and not more than five years, unless the Secretary of Defense, before the appointment of the employee, authorizes a longer period.”

#### DIRECT-HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR POST-SECONDARY STUDENTS AND RECENT GRADUATES

Pub. L. 114-328, div. A, title XI, §1106, Dec. 23, 2016, 130 Stat. 2447, as amended by Pub. L. 115-232, div. A, title XI, §1102, Aug. 13, 2018, 132 Stat. 2001, provided that:

“(a) HIRING AUTHORITY.—Without regard to sections 3309 through 3318, 3327, and 3330 of title 5, United States Code, the Secretary of Defense may recruit and appoint qualified recent graduates and current post-secondary students to competitive service positions in professional and administrative occupations within the Department of Defense.

“(b) LIMITATION ON APPOINTMENTS.—Subject to subsection (c)(2), the total number of employees appointed by the Secretary under subsection (a) during a fiscal year may not exceed the number equal to 25 percent of the number of hires made into professional and administrative occupations of the Department at the GS-11 level and below (or equivalent) under competitive examining procedures during the previous fiscal year.

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall administer this section in accordance with regulations prescribed by the Secretary for purposes of this section.

“(2) LOWER LIMIT ON APPOINTMENTS.—The regulations may establish a lower limit on the number of individuals appointable under subsection (a) during a fiscal year than is otherwise provided for under subsection (b), based on such factors as the Secretary considers appropriate.

“(3) PUBLIC NOTICE AND ADVERTISING.—To the extent practical, as determined by the Secretary, the Secretary shall publicly advertise positions available under this section. In carrying out the preceding sentence, the Secretary shall—

“(A) take into account merit system principles, mission requirements, costs, and organizational benefits of any advertising of positions; and

“(B) advertise such positions in the manner the Secretary determines is most likely to provide diverse and qualified candidates and ensure potential applicants have appropriate information relevant to the positions available.

“(d) SUNSET.—The authority provided under this section shall terminate on September 30, 2025.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘current post-secondary student’ means a person who—

“(A) is currently enrolled in, and in good academic standing at, a full-time program at an institution of higher education;

“(B) is making satisfactory progress toward receipt of a baccalaureate or graduate degree; and

“(C) has completed at least one year of the program.

“(2) The term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(3) The term ‘recent graduate’, with respect to appointment of a person under this section, means a person who was awarded a degree by an institution of higher education not more than two years before the date of the appointment of such person, except that in the case of a person who has completed a period of obligated service in a uniformed service of more than four years, such term means a person who was award-

ed a degree by an institution of higher education not more than four years before the date of the appointment of such person.”

**DIRECT HIRE AUTHORITY FOR FINANCIAL MANAGEMENT EXPERTS IN THE DEPARTMENT OF DEFENSE WORKFORCE**

Pub. L. 114-328, div. A, title XI, §1110, Dec. 23, 2016, 130 Stat. 2450, as amended by Pub. L. 115-91, div. A, title XI, §1106(a), Dec. 12, 2017, 131 Stat. 1629; Pub. L. 115-232, div. A, title XI, §1113, Aug. 13, 2018, 132 Stat. 2013, provided that:

“(a) **AUTHORITY.**—Each Secretary concerned may appoint qualified candidates possessing a finance, accounting, management, or actuarial science degree, or a related degree or equivalent experience, to positions specified in subsection (c) for a Department of Defense component without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code.

“(b) **SECRETARY CONCERNED.**—For purposes of this section, the Secretary concerned is as follows:

“(1) The Secretary of Defense with respect to each Department of Defense component listed in subsection (f) other than the Department of the Army, the Department of the Navy, and the Department of the Air Force.

“(2) The Secretary of a military department with respect to such military department.

“(c) **POSITIONS.**—The positions specified in this subsection are the positions within the Department of Defense workforce as follows:

“(1) Financial management positions.

“(2) Accounting positions.

“(3) Auditing positions.

“(4) Actuarial positions.

“(5) Cost estimation positions.

“(6) Operational research positions.

“(7) Business and business administration positions.

“(d) **LIMITATION.**—Authority under this section may not, in any calendar year and with respect to any Department of Defense component, be exercised with respect to a number of candidates greater than the number equal to 10 percent of the total number of the financial management, accounting, auditing, and actuarial positions within the financial management workforce of such Department of Defense component that are filled as of the close of the fiscal year last ending before the start of such calendar year.

“(e) **NATURE OF APPOINTMENT.**—Any appointment under this section shall be treated as an appointment on a full-time equivalent basis, unless such appointment is made on a term or temporary basis.

“(f) **DEPARTMENT OF DEFENSE COMPONENT DEFINED.**—In this section, the term ‘Department of Defense component’ means the following:

“(1) The Office of the Secretary of Defense.

“(2) A Defense Agency.

“(3) The Office of the Chairman of the Joint Chiefs of Staff.

“(4) The Joint Staff.

“(5) A combatant command.

“(6) The Office of the Inspector General of the Department of Defense.

“(7) A Field Activity of the Department of Defense.

“(8) The Department of the Army.

“(9) The Department of the Navy.

“(10) The Department of the Air Force.

“(g) **TERMINATION.**—The authority to make appointments under this section shall not be available after December 31, 2022.”

[Pub. L. 115-91, div. A, title XI, §1106(a)(1), Dec. 12, 2017, 131 Stat. 1629, which directed amendment of section 1110(a) of Pub. L. 114-328, set out above, by substituting ‘a Department of Defense component’ for ‘the Defense Agencies or the applicable military Department’, was executed by making the substitution for ‘the Defense Agencies or the applicable military

department’, to reflect the probable intent of Congress.]

**TEMPORARY DIRECT HIRE AUTHORITY FOR DOMESTIC DEFENSE INDUSTRIAL BASE FACILITIES, THE MAJOR RANGE AND TEST FACILITIES BASE, AND THE OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION**

Pub. L. 114-328, div. A, title XI, §1125, Dec. 23, 2016, 130 Stat. 2457, as amended by Pub. L. 115-91, div. A, title XI, §1102(a), Dec. 12, 2017, 131 Stat. 1628; Pub. L. 116-92, div. A, title XI, §1107(a), Dec. 20, 2019, 133 Stat. 1597, provided that:

“(a) **DEFENSE INDUSTRIAL BASE FACILITY AND MRTFB.**—During each of fiscal years 2017 through 2025, the Secretary of Defense may appoint, 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, qualified candidates to positions in the competitive service at any defense industrial base facility or the Major Range and Test Facilities Base.

“(b) **OFFICE OF THE DIRECTOR OF OPERATIONAL TEST AND EVALUATION.**—During fiscal years 2017 through 2021, the Secretary of Defense may, acting through the Director of Operational Test and Evaluation, appoint qualified candidates possessing an advanced degree to scientific and engineering positions within the Office of the Director of Operational Test and Evaluation 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.

“(c) **DEFINITION OF DEFENSE INDUSTRIAL BASE FACILITY.**—In this section, the term ‘defense industrial base facility’ means any Department of Defense depot, arsenal, or shipyard located within the United States.”

**TEMPORARY PERSONNEL FLEXIBILITIES FOR DOMESTIC DEFENSE INDUSTRIAL BASE FACILITIES AND MAJOR RANGE AND TEST FACILITIES BASE CIVILIAN PERSONNEL**

Pub. L. 114-328, div. A, title XI, §1132, Dec. 23, 2016, 130 Stat. 2457, as amended by Pub. L. 115-91, div. A, title XI, §1107(a), Dec. 12, 2017, 131 Stat. 1630; Pub. L. 117-81, div. A, title XI, §1113, Dec. 27, 2021, 135 Stat. 1953, provided that:

“(a) **IN GENERAL.**—Notwithstanding chapter 33 of title 5, United States Code, or any other provision of law relating to the examination, certification, and appointment of individuals in the competitive service, during fiscal years 2017 through 2026, an employee of a defense industrial base facility or the Major Range and Test Facilities Base serving under a time-limited appointment in the competitive service is eligible to compete for a permanent appointment in the competitive service at (A) any such facility, Base, or any other component of the Department of Defense when such facility, Base, or component (as the case may be) is accepting applications from individuals within the facility, Base, or component’s workforce under merit promotion procedures, or (B) any agency when the agency is accepting applications from individuals outside its own workforce under merit promotion procedures of the applicable agency, if—

“(1) the employee was appointed initially under open, competitive examination under subchapter I of chapter 33 of such title to the time-limited appointment;

“(2) the employee has served under 1 or more time-limited appointments by a defense industrial base facility or the Major Range and Test Facilities Base for a period or periods totaling more than 24 months without a break of 2 or more years; and

“(3) the employee’s performance has been at an acceptable level of performance throughout the period or periods (as the case may be) referred to in paragraph (2).

“(b) **WAIVER OF AGE REQUIREMENT.**—In determining the eligibility of a time-limited employee under this section to be examined for or appointed in the competi-

tive service, the Office of Personnel Management or other examining agency shall waive requirements as to age, unless the requirement is essential to the performance of the duties of the position.

“(c) STATUS.—An individual appointed under this section—

“(1) becomes a career-conditional employee, unless the employee has otherwise completed the service requirements for career tenure; and

“(2) acquires competitive status upon appointment.

“(d) FORMER EMPLOYEES.—A former employee of a defense industrial base facility or the Major Range and Test Facilities Base who served under a time-limited appointment and who otherwise meets the requirements of this section shall be deemed a time-limited employee for purposes of this section if—

“(1) such employee applies for a position covered by this section within the period of 2 years after the most recent date of separation; and

“(2) such employee’s most recent separation was for reasons other than misconduct or performance.

“(e) BENEFITS.—Any employee of a defense industrial base facility or the Major Range and Test Facilities Base serving under a time-limited appointment in the competitive service shall be provided with benefits that are comparable to the benefits provided to similar employees not serving under time-limited appointments at the defense industrial base facility or the Major Range and Test Facilities Base concerned, including professional development opportunities, eligibility for awards programs, and designation as status applicants for purposes of eligibility for positions in the civil service.

“(f) DATA COLLECTION REQUIREMENT.—The Secretary of Defense shall develop and implement a plan to collect and analyze data on the pilot program for the purposes of—

“(1) developing and sharing best practices; and

“(2) providing information to the leadership of the Department and Congress on the implementation of the pilot program and related policy issues.

“(g) BRIEFING.—Not later than 90 days after the end of each of fiscal years 2022 through 2026, the Secretary of Defense shall provide a briefing to the Committee on Armed Services of the House of Representatives, the Committee on Armed Services of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate including—

“(1) a description of the effect of this section on the management of civilian personnel at domestic defense industrial base facilities and Major Range and Test Facilities Base during the most recently ended fiscal year; and

“(2) the number of employees—

“(A) hired under such section during such fiscal year; and

“(B) expected to be hired under such section during the fiscal year in which the briefing is provided.

“(h) DEFINITION OF DEFENSE INDUSTRIAL BASE FACILITY.—In this section, the term ‘defense industrial base facility’ means any Department of Defense depot, arsenal, or shipyard located within the United States.”

#### COMPLIANCE WITH LAW REGARDING AVAILABILITY OF FUNDING FOR CIVILIAN PERSONNEL

Pub. L. 113-66, div. A, title XI, §1108, Dec. 26, 2013, 127 Stat. 889, provided that:

“(a) REGULATIONS.—No later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall prescribe regulations implementing the authority in subsection (a) of section 1111 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 10 U.S.C. 1580 note prec.).

“(b) COORDINATION.—The Under Secretary of Defense (Comptroller), in consultation with the Under Secretary of Defense for Personnel and Readiness, shall be responsible for coordinating the preparation of the regulations required under subsection (a).

“(c) LIMITATIONS.—The regulations required under subsection (a) shall not be restricted by any civilian full-time equivalent or end-strength limitation, nor shall such regulations require offsetting civilian pay funding, civilian full-time equivalents, or civilian end-strengths.”

#### 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 midcareer 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 [former] section 115b(f) 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; Pub. L. 117-81, div. A, title II, §215(d)(5), Dec. 27, 2021, 135 Stat. 1594, which authorized the Secretary of Defense to appoint qualified candidates to certain scientific and engineering positions within a Department of Defense science and technology reinvention laboratory, was repealed by Pub. L. 117-81, div. A, title II, §212(b), Dec. 27, 2021, 135 Stat. 1588. See section 4091(f) of this title.

#### 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 Sec-

retary 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 NON-APPROPRIATED FUND INSTRUMENTALITIES.—A

nonappropriated fund instrumentality employee is eligible for designation as an emergency essential employee under subsection (a).

(c) DEFINITIONS.—In this section:

(1) The term “combat zone” has the meaning given that term in section 112(c)(2) of the Internal Revenue Code of 1986.

(2) The term “nonappropriated fund instrumentality employee” has the meaning given that term in section 1587(a)(1) of this title.

(Added Pub. L. 106-65, div. A, title XI, §1103(b)(1), Oct. 5, 1999, 113 Stat. 776.)

**Editorial Notes**

REFERENCES IN TEXT

Section 112(c)(2) of the Internal Revenue Code of 1986, referred to in subsec. (c)(1), is classified to section 112(c)(2) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 1580, added Pub. L. 87-651, title II, §206(a), Sept. 7, 1962, 76 Stat. 519, related to appointment of civilian employees by the Secretary of Defense, prior to repeal by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 663.

**§ 1580a. Emergency essential employees: notification of required participation in anthrax vaccine immunization program**

The Secretary of Defense shall—

(1) prescribe regulations for the purpose of ensuring that any civilian employee of the Department of Defense who is determined to be an emergency essential employee and who is required to participate in the anthrax vaccine immunization program is notified of the requirement to participate in the program and the consequences of a decision not to participate; and

(2) ensure that any individual who is being considered for a position as such an employee is notified of the obligation to participate in the program before being offered employment in such position.

(Added Pub. L. 106-398, §1 [[div. A], title VII, §751(c)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-194.)

**§ 1581. Foreign National Employees Separation Pay Account**

(a) ESTABLISHMENT AND PURPOSE.—There is established on the books of the Treasury an account to be known as the “Foreign National Employees Separation Pay Account, Defense”. The account shall be used for the accumulation of funds to finance obligations of the United States for separation pay for foreign nationals referred to in subsection (e).

(b) DEPOSITS INTO ACCOUNT.—The Secretary of Defense shall deposit into the account from applicable appropriations all amounts obligated for separation pay for foreign nationals referred to in subsection (e).

(c) PAYMENTS FROM ACCOUNT.—Amounts in the account shall remain available for expenditure in accordance with the purpose for which obligated until expended.

(d) DEOBLIGATED FUNDS.—Any amount in the account that is deobligated shall be available for a period of two years from the date of