

1999—Subsec. (b). Pub. L. 106-65 substituted “October 17, 1998” for “the date of the enactment of this section”.

### SUBCHAPTER III—MORALE, WELFARE, AND RECREATION PROGRAMS AND NON-APPROPRIATED FUND INSTRUMENTALITIES

- Sec.
2491. Uniform funding and management of morale, welfare, and recreation programs.
- 2491a. Department of Defense golf courses: limitation on use of appropriated funds.
- 2491b. Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation.
- 2491c. Retention of morale, welfare, and recreation funds by military installations: limitation.
2492. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services.
- 2492a. Limitation on Department of Defense entities competing with private sector in offering personal information services.
2493. Fisher Houses: administration as non-appropriated fund instrumentality.
2494. Nonappropriated fund instrumentalities: furnishing utility services for morale, welfare, and recreation purposes.
2495. Nonappropriated fund instrumentalities: purchase of alcoholic beverages.
- 2495a. Overseas package stores: treatment of United States wines.
- 2495b. Sale or rental of sexually explicit material prohibited.

#### Editorial Notes

##### AMENDMENTS

2009—Pub. L. 111-84, div. A, title VI, §651(b), Oct. 28, 2009, 123 Stat. 2369, added item 2492a.

2004—Pub. L. 108-375, div. A, title VI, §651(c)(1), Oct. 28, 2004, 118 Stat. 1971, added subchapter heading and items 2491 to 2495b.

#### Statutory Notes and Related Subsidiaries

##### TELEPHONE SERVICES FOR MILITARY PERSONNEL SERVING IN COMBAT ZONES

Pub. L. 110-181, div. A, title VIII, §885, Jan. 28, 2008, 122 Stat. 265, as amended by Pub. L. 111-383, div. A, title VI, §641, Jan. 7, 2011, 124 Stat. 4241; Pub. L. 112-81, div. A, title X, §1062(c), Dec. 31, 2011, 125 Stat. 1585, provided that:

“(a) COMPETITIVE PROCEDURES REQUIRED.—

“(1) REQUIREMENT.—When the Secretary of Defense considers it necessary to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall use competitive procedures when entering into a contract to provide those services.

“(2) REVIEW AND DETERMINATION.—Before soliciting bids or proposals for new contracts, or considering extensions to existing contracts, to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones, the Secretary shall review and determine whether it is in the best interest of the Department to require bids or proposals, or adjustments for the purpose of extending a contract, to include options that minimize the cost of the telephone services to individual users while providing individual users the flexibility of using phone cards from other than the prospective contractor.

“(b) EFFECTIVE DATE.—

“(1) REQUIREMENT.—Subsection (a)(1) shall apply to any new contract to provide morale, welfare, and

recreation telephone services for military personnel serving in combat zones that is entered into after the date of the enactment of this Act [Jan. 28, 2008].

“(2) REVIEW AND DETERMINATION.—Subsection (a)(2) shall apply to any new contract or extension to an existing contract to provide morale, welfare, and recreation telephone services for military personnel serving in combat zones that is entered into or agreed upon after the date of the enactment of this Act.

“(c) MORALE, WELFARE, AND RECREATION TELEPHONE SERVICES DEFINED.—In this section, the term ‘morale, welfare, and recreation telephone services’ means unofficial telephone calling center services supporting calling centers provided by the Army and Air Force Exchange Service, Navy Exchange Service Command, Marine Corps exchanges, or any other nonappropriated fund instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.’”

#### § 2491. Uniform funding and management of morale, welfare, and recreation programs

(a) AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

(b) CONDITIONS ON AVAILABILITY.—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

(c) CONVERSION OF EMPLOYMENT POSITIONS.—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.