TITLE 32—NATIONAL GUARD

This title was enacted by act Aug. 10, 1956, ch. 1041, §2, 70A Stat. 596

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EDITORIAL NOTES

AMENDMENTS

2004—Pub. L. 108–375, div. A, title V, §512(a)(2), Oct. 28, 2004, 118 Stat. 1880, added item for chapter 9.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 32

Title 32 Former Sections	*Title 32 New Sections*
1	T. 10 §311
2	101; T. 10 §101
3	T. 10 §312
4	305, 313
4a	Rep.
4b	101; T. 10 §101
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5, 6	104
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25	Rep.
26	Elim.
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32	Rep.
33	702
34	Rep.
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36	Rep.
37	Elim.
38	Rep.
39, 39a	703
40	Rep.
42, 42a	709
43	Rep.
44	Elim.
45	712
46	711
47	710
47–1, 47a	Elim.
47b, 48	Rep.
49, 50	708
51	Elim.
61	501
62	502
63	503
64	504
65	505
66, 67	506
68, 69	315
70	Rep.
71	507
72	317
73	Rep.
74	707
75	Rep. See T. 5 §§502, 3551, 5534, 6323(a), (b)
76	Rep. See T. 5 §6323(a), (b)
81	Rep.
81a	T. 10 §§3500, 8500
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82	T. 10 §§3499, 8499
83	T. 10 §§3502, 8502
84	Rep.
85, 86	Elim.
91	326
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97	332, 333
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114	324
115	323; T. 10 §§3820, 8820
121, 122	Rep.
123	304
124	302
125	322
131	Rep.
132, 133	303
134	Rep.
141, 142	Elim.
142a–143a	Rep.
144–148	Rep.
149–152	Elim.
153	Rep.
154 (last proviso of 2d par.)	710
154 (2d par., less last proviso)	T. 31 §698a
154 (last par.)	303, 322, 323
154 (less 2d and last pars.)	Rep. See T. 37 §§206(a), (b), 402(b)
155	Rep.
156	705; T. 10 §§4621, 9621
157	Rep.
158	503
159, 160	Rep.
160a	318, 321; T. 10 §§3687, 3688, 3721, 8687, 8688, 8721
160b	3687 nt.
160c–164	Rep.
164a, 164b	319
164c	Rep.
164d	320; T. 10 §§3723, 8723
164e	Rep.
171	Rep.
172, 173	T. 10 §3015
174	T. 10 §§3541, 8541
175	T. 10 §§3496, 8496
176	T. 31 §698
181	T. 10 §4308
181a	T. 10 §4312
181b	T. 10 §§4312, 4313
181c	T. 10 §4308
181d, 181e	Elim.
182	T. 10 §4307
183	316; T. 10 §4310
184	T. 10 §4310
185	Rep.
186	T. 10 §4309
191	Rep.

192, 193	104 nt.
194(b)	109. Rep. in part.
194 (less (b))	109
195	Rep.
196	713

STATUTORY NOTES AND RELATED SUBSIDIARIES

POSITIVE LAW; CITATION

This title has been made positive law by section 2 of act Aug. 10, 1956, ch. 1041, 70A Stat. 596, which provided in part that: "Title 32 of the United States Code, entitled 'National Guard', is revised, codified, and enacted into law, and may be cited as 'Title 32, United States Code, §—.' "

REPEALS

Act Aug. 10, 1956, ch. 1041, §53, 70A Stat. 641, repealed the sections or parts of sections of the Revised Statutes or Statutes at Large covering provisions codified in this act, "except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this act [Aug. 10, 1956] and except as provided in section 49".

SAVINGS AND SEVERABILITY PROVISIONS

Act Aug. 10, 1956, ch. 1041, §49, 70A Stat. 640, provided that:

"(a) In sections 1–48 of this Act, it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act. However, laws effective after March 31, 1955, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

"(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–48.

"(c) Actions taken and offenses committed under the replaced law shall be considered to have been taken or committed under the corresponding provisions of sections 1–48.

"(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

"(e) In chapter 47 of title 10, United States Code, enacted by section 1 of this Act, no inference of a legislative construction is to be drawn from the part in which any article is placed nor from the catchlines of the part or the article as set out in that chapter.

"(f) The enactment of this Act does not increase or decrease the pay or allowances, including retired pay and retainer pay, of any person.

"(g) The enactment of this Act does not affect the status of persons who, on the effective date of this Act, have the status of warrant officer, of the Army Mine Planter Service."

RESTATEMENT OF SUSPENDED OR TEMPORARILY SUPERSEDED PROVISIONS

Act Aug. 10, 1956, ch. 1041, §50, 70A Stat. 640, provided that: "If on the effective date of this Act a provision of law that is restated in this Act and repealed by section 53 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status."

IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 85–861; LEGISLATIVE PURPOSE; REPEAL OF INCONSISTENT PROVISIONS; CORRESPONDING PROVISIONS; SAVINGS AND SEVERABILITY PROVISIONS; STATUS; REPEALS

Pub. L. 85–861, §34, Sept. 2, 1958, 72 Stat. 1568, provided that:

"(a) In sections 1–32 of this Act, it is the legislative purpose to restate, without substantive change, the law replaced by those sections on the effective date of this Act. However, laws effective after December 31, 1957, that are inconsistent with this Act shall be considered as superseding it to the extent of the inconsistency.

"(b) References that other laws, regulations, and orders make to the replaced law shall be considered to be made to the corresponding provisions of sections 1–32.

"(c) Actions taken under the replaced law shall be considered to have been taken under the corresponding

provisions of sections 1–32.

"(d) If a part of this Act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this Act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

"(e) The enactment of this Act does not increase or decrease the pay or allowances, including retired and retainer pay, of any person."

Pub. L. 85–861, §35, Sept. 2, 1958, 72 Stat. 1568, provided that: "If on the effective date of this Act [Sept. 2, 1958] a provision of law that is restated in this Act and repealed by section 36 would have been in a suspended or temporarily superseded status but for its repeal, the provisions of this Act that restate that provision have the same suspended or temporarily superseded status."

Pub. L. 85–861, §36, Sept. 2, 1958, 72 Stat. 1568, repealed certain laws except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before Sept. 2, 1958.

CHAPTER 1—ORGANIZATION

Sec.

101. Definitions.
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112. Drug interdiction and counter-drug activities.
113. Federal financial assistance for support of additional duties assigned to the Army National Guard.
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EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–65, div. A, title V, §578(k)(3)(B), Oct. 5, 1999, 113 Stat. 631, added items 114 and 115 and struck out former item 114 "Honor guard functions at funerals for veterans".

1997—Pub. L. 105–85, div. A, title III, §386(b), title V, §517(b), Nov. 18, 1997, 111 Stat. 1713, 1734, added items 113 and 114.

1989—Pub. L. 101–189, div. A, title XII, §1207(a)(2), Nov. 29, 1989, 103 Stat. 1566, added item 112.

1971—Pub. L. 92–119, §1(b), Aug. 13, 1971, 85 Stat. 340, substituted "Availability" for "Apportionment" in item 107.

1958—Pub. L. 85–861, §2(4), Sept. 2, 1958, 72 Stat. 1543, added item 111.

§101. Definitions

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

(1) For purposes of other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the term "Territory" includes Guam and the Virgin Islands.

(2) "Armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(3) "National Guard" means the Army National Guard and the Air National Guard.

(4) "Army National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(5) "Army National Guard of the United States" means the reserve component of the Army all of whose members are members of the Army National Guard.

(6) "Air National Guard" means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(7) "Air National Guard of the United States" means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(8) "Officer" means commissioned or warrant officer.

(9) "Enlisted member" means a person enlisted in, or inducted, called, or conscripted into, an armed force in an enlisted grade.

(10) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(11) "Rank" means the order of precedence among members of the armed forces.

(12) "Active duty" means full-time duty in the active military service of the United States. It includes such Federal duty as full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. It does not include full-time National Guard duty.

(13) "Supplies" includes material, equipment, and stores of all kinds.

(14) "Shall" is used in an imperative sense.

(15) "May" is used in a permissive sense. The words "no person may * * *" mean that no person is required, authorized, or permitted to do the act prescribed.

(16) "Includes" means "includes but is not limited to".

(17) "Pay" includes basic pay, special pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(18) "Spouse" means husband or wife, as the case may be.

(19) "Full-time National Guard duty" means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of this title for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 596; Pub. L. 85–861, §2(1), Sept. 2, 1958, 72 Stat. 1542; Pub. L. 86–70, §27, June 25, 1959, 73 Stat. 148; Pub. L. 86–624, §22, July 12, 1960, 74 Stat. 417; Pub. L. 92–492, §2(a), Oct. 13, 1972, 86 Stat. 810; Pub. L. 96–513, title V, §507(a), Dec. 12, 1980, 94 Stat. 2919; Pub. L. 96–600, §3(a), Dec. 24, 1980, 94 Stat. 3493; Pub. L. 98–525, title IV, §414(b)(1), Oct. 19, 1984, 98 Stat. 2519; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(1), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*

101(1)	32:4c (1st 33 words).	June 3, 1916, ch. 134, §62 (1st 36 words of last proviso), 39 Stat. 198.
101(2)	[No source].	
101(3)	32:2. 32:4b.	
101(4)	50:1112(a) (for definition purposes).	June 3, 1916, ch. 134, §117, 39 Stat. 212.
101(5)	10:1835 (less last 16 words). 32:2. 32:4b.	June 3, 1916, ch. 134, §71; added June 15, 1933, ch. 87, §9, 48 Stat. 157; Oct. 12, 1949, ch. 681, §530, 63 Stat.
101(6)	50:1112(b) (for definition purposes).	837; July 9, 1952, ch. 608, §803 (9th par.), 66 Stat. 505.
	[No source].	July 9, 1952, ch. 608, §702 (for
101(7)	[No source].	definition purposes), 66 Stat. 501.
101(8)	[No source].	Sept. 19, 1951, ch. 407, §305 (less last
101(9)	[No source].	16 words), 65 Stat. 330.
101(10)	[No source].	
101(11)	[No source].	
101(12)	[No source].	
101(13)	[No source].	
101(14)	[No source].	
101(15)	[No source].	
101(16)		

The definitions in clauses (2) and (9)–(17) reflect the adoption of terminology which, though undefined in the source statutes restated in this title, represent the closest practicable approximation of the ways in which the terms defined have been most commonly used. Where established uses conflict, a choice has been made.

In clause (1), the definition of "Territory" in 32:4c is executed throughout this revised title by specific reference, where applicable, to the Territories, Puerto Rico, and the Canal Zone.

In clause (2), a definition of "National Guard" is inserted for clarity.

In clause (3)(A), the words "a land force" are substituted for 32:2. The National Defense Act of 1916, §117 (last 66 words), 39 Stat. 212, is not contained in 32:2. It is also omitted from the revised section as repealed by the act of February 28, 1925, ch. 374, §3, 43 Stat. 1081.

In clauses (3) and (4), the word "Army" is inserted to distinguish the organizations defined from their Air Force counterparts.

In clauses (3) and (5), the words "unless the context or subject matter otherwise requires—" and "as provided in this title", in 32:4b, are omitted as surplusage.

In clauses (3)(B) and (5)(B), the words "has its officers appointed" are substituted for the word "officered", in 32:4b.

In clauses (4) and (6), only that much of the description of the composition of the Army National Guard of the United States and the Air National Guard of the United States is used as is necessary to distinguish these reserve components, respectively, from the other reserve components.

In clause (5)(A), the words "an air force" are substituted for the words "for which Federal responsibility has been vested in the Secretary of the Air Force or the Department of the Air Force pursuant to law", in 10:1835, and for 32:2 (less applicability to Army National Guard), to make the definition of "Air National Guard" parallel with the definition of "Army National Guard", and to make explicit the intent of Congress in creating the Air National Guard, that the organized militia henceforth should consist of three mutually exhaustive classes comprising the Army, Air, and Naval militia.

In clause (8), words showing how enlisted members became such are inserted to make clear that enlistment is not the only method of becoming a member in an enlisted grade.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
101(2)	[No source].	[No source].
101(18)	[No source].	[No source].

In clause (2), the term "armed forces" is defined for legislative convenience and is defined the same as that term is defined in section 101(4) of title 10, United States Code.

The definition in clause (18) reflects the adoption of terminology which, though undefined in the source statutes restated in this title, represents the closest practicable approximation of the ways in which the term has been commonly used.

EDITORIAL NOTES

AMENDMENTS

2006—Cl. (1). Pub. L. 109–163 amended cl. (1) generally. Prior to amendment, cl. (1) read as follows: " 'Territory' means any Territory organized after this title is enacted, so long as it remains a Territory. However, for purposes of this title and other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, 'Territory' includes Guam and the Virgin Islands."

1988—Cls. (4), (6). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1984—Cl. (12). Pub. L. 98–525, §414(b)(1)(A), inserted at end "It does not include full-time National Guard duty."

Cl. (19). Pub. L. 98–525, §414(b)(1)(B), added cl. (19).

1980—Cl. (1). Pub. L. 96–600 inserted reference to Guam.

Cl. (12). Pub. L. 96–513 struck out "duty on the active list," after "Federal duty as".

1972—Cl. (1). Pub. L. 92–492 inserted provision including within term "Territory" for purposes of this title and other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, the Virgin Islands.

1960—Cl. (1). Pub. L. 86–624 struck out reference to Hawaii.

1959—Cl. (1). Pub. L. 86–70 struck out reference to Alaska.

1958—Cls. (2) to (18). Pub. L. 85–861 added cls. (2) and (18) and renumbered former cls. (2) to (16) as (3) to (17), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Sept. 15, 1981, see section 701(a) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

TRANSFER OF FUNCTIONS

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

OFFICIAL DESIGNATION OF SALEM, MASSACHUSETTS, AS BIRTHPLACE OF THE NATIONAL GUARD OF THE UNITED STATES

Pub. L. 112–241, §1, Jan. 10, 2013, 126 Stat. 2372, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) In 1629, Captain John Endicott organized the first militia in the Massachusetts Bay Colony in Salem.

"(2) The colonists had adopted the English militia system, which required all males between the ages of 16 and 60 to possess arms and participate in the defense of the community.

"(3) In 1636, the Massachusetts General Court ordered the organization of three militia regiments, designated as the North, South, and East regiments.

"(4) These regiments drilled once a week and provided guard details each evening to sound the alarm in case of attack.

"(5) The East Regiment, the predecessor of the 101st Engineer Battalion, assembled as a regiment for the first time in 1637 on the Salem Common, marking the beginning of the Massachusetts National Guard and the National Guard of the United States.

"(6) Since 1785, Salem's own Second Corps of Cadets (101st and 102nd Field Artillery) has celebrated

the anniversary of that first muster.

"(7) As the policy contained in section 102 of title 32, United States Code, clearly expresses, the National Guard continues its historic mission of providing units for the first line defense of the United States and current missions throughout the world.

"(8) The designation of the City of Salem, Massachusetts, as the Birthplace of the National Guard of the United States will contribute positively to tourism and economic development in the city, create jobs, and instill pride in both the local and State communities.

"(b) DESIGNATION OF SALEM, MASSACHUSETTS, AS NATIONAL GUARD BIRTHPLACE.—In light of the findings made in subsection (a), the City of Salem, Massachusetts, is hereby designated as the Birthplace of the National Guard of the United States.

"(c) RESPONSIBILITIES.—

"(1) MILITARY CEREMONIAL SUPPORT.—The Chief of the National Guard Bureau, in conjunction with the Secretary of the Army, the Secretary of the Air Force, the Council of Governors, and the Adjutant General of the State of Massachusetts, shall provide military ceremonial support at the dedication of any monument, plaque, or other form of official recognition placed in Salem, Massachusetts, celebrating the designation of Salem, Massachusetts, as the Birthplace of the National Guard of the United States.

"(2) FUNDING SOURCE.—Federal funds may not be used to design, procure, prepare, install, or maintain any monument, plaque, or other form of official recognition placed in Salem, Massachusetts, celebrating the designation of Salem, Massachusetts, as the Birthplace of the National Guard of the United States, but the Adjutant General of the State of Massachusetts may accept and expend contributions of non-Federal funds for this purpose."

§102. General policy

In accordance with the traditional military policy of the United States, it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times. Whenever Congress determines that more units and organizations are needed for the national security than are in the regular components of the ground and air forces, the Army National Guard of the United States and the Air National Guard of the United States, or such parts of them as are needed, together with such units of other reserve components as are necessary for a balanced force, shall be ordered to active Federal duty and retained as long as so needed.

(Aug. 10, 1956, ch. 1041, 70A Stat. 597.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
102	50:921(b).	July 9, 1952, ch. 608, §201(b), 66 Stat. 482.

The words "The Congress further declares * * * as expressed in the National Defense Act of 1916 as amended" and "It is the intent of Congress that" are omitted as surplusage. The words "United States" are substituted for the words "our" and "this Nation". The words "more * * * than are in" are substituted for the words "in excess of those". The words "Federal duty" are substituted for the words "military service of the United States". The words "as long as so needed" are substituted for the words "so long as such necessity exists".

§103. Branches and organizations

The Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands includes such members of the staff corps corresponding to the staff corps of the Army as the Secretary of the Army may authorize.

(Aug. 10, 1956, ch. 1041, 70A Stat. 597; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
103	32:9.	July 9, 1918, ch. 143 (proviso of 13th par. under "National Guard"), 40 Stat. 875.

The word "members" is substituted for the words "officers and enlisted men". The word "Regular" is omitted, since the organization is now prescribed for the Army, and the Regular Army is only a personnel category.

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State and Territory, Puerto Rico, and the District of Columbia".

1988—Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§104. Units: location; organization; command

(a) Each State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands may fix the location of the units and headquarters of its National Guard.

(b) Except as otherwise specifically provided in this title, the organization of the Army National Guard and the composition of its units shall be the same as those prescribed for the Army, subject, in time of peace, to such general exceptions as the Secretary of the Army may authorize; and the organization of the Air National Guard and the composition of its units shall be the same as those prescribed for the Air Force, subject, in time of peace, to such general exceptions as the Secretary of the Air Force may authorize.

(c) To secure a force the units of which when combined will form complete higher tactical units, the President may designate the units of the National Guard, by branch of the Army or organization of the Air Force, to be maintained in each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. However, no change in the branch, organization, or allotment of a unit located entirely within a State may be made without the approval of its governor.

(d) To maintain appropriate organization and to assist in training and instruction, the President may assign the National Guard to divisions, wings, and other tactical units, and may detail commissioned officers of the National Guard or of the Regular Army or the Regular Air Force, as the case may be, to command those units. However, the commanding officer of a unit organized wholly within a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may not be displaced under this subsection.

(e) To insure prompt mobilization of the National Guard in time of war or other emergency, the President may, in time of peace, detail a commissioned officer of the Regular Army to perform the duties of chief of staff for each fully organized division of the Army National Guard, and a commissioned officer of the Regular Air Force to perform the duties of the corresponding position for each fully organized wing of the Air National Guard.

(f) Unless the President consents—

(1) an organization of the National Guard whose members have received compensation from the United States as members of the National Guard may not be disbanded; and

(2) the actual strength of such an organization in commissioned officers or enlisted members may not be reduced below the minimum strength prescribed by the President.

(Aug. 10, 1956, ch. 1041, 70A Stat. 598; Pub. L. 100–456, div. A, title XII, §1234(b)(1), (2), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(2)–(4), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
104(a)	32:6.	June 3, 1916, ch. 134, §§64, 65 (proviso), 68, 39 Stat. 198–200.
104(b)	32:5 (1st sentence).	
104(c)	32:5 (less 1st sentence).	
104(d)	32:8.	June 3, 1916, ch. 134, §60; June 4, 1920, ch. 227 subch. I, §36; restated June 15, 1933, ch. 87, §6, 48 Stat. 156.
104(e)	32:10 (proviso).	
104(f)	32:16.	

In subsection (a), the words "within their respective borders" are omitted as surplusage.

In subsection (b), the word "Army" is substituted for the words "Regular Army", since the Army is the category for which the organization is prescribed, and the Regular Army is a personnel category for which no organization is prescribed. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

In subsection (c), the words "by branch of the Army or organization of the Air Force" are substituted for the words "as to branch or arm of service". The words "branch, organization, or allotment of a unit" are substituted for the words "allotment, branch, or arm of units or organizations".

In subsections (d) and (e) the word "commissioned" is inserted, since 32:8 and 10 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

In subsection (d), the word "brigades" is omitted as surplusage.

In subsection (e), the word "tactical" is omitted as surplusage.

In subsection (f), the words "have received compensation from the United States as members of the National Guard" are substituted for the words "shall be entitled to and shall have received compensation under the provisions of this title". The words "actual strength * * * in commissioned officers or enlisted members" are substituted for the words "commissioned or enlisted strength".

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163, §1057(b)(4), substituted "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands" for "State or Territory and Puerto Rico".

Subsec. (c). Pub. L. 109–163, §1057(b)(2), substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State and Territory, Puerto Rico, and the District of Columbia".

Subsec. (d). Pub. L. 109–163, §1057(b)(3), substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

1988—Subsec. (a). Pub. L. 100–456, §1234(b)(2), substituted "Each State or Territory and Puerto Rico" for "Each State and Territory, Puerto Rico, and the Canal Zone".

Subsecs. (c), (d). Pub. L. 100–456, §1234(b)(1), struck out "the Canal Zone," after "Puerto Rico,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

COUNCIL OF GOVERNORS

Pub. L. 110–181, div. A, title XVIII, §1822, Jan. 28, 2008, 122 Stat. 500, provided that: "The President shall establish a bipartisan Council of Governors to advise the Secretary of Defense, the Secretary of Homeland Security, and the White House Homeland Security Council on matters related to the National Guard and civil support missions."

COMPTROLLER GENERAL ASSESSMENTS OF NATIONAL GUARD MANAGEMENT

Pub. L. 107–314, div. A, title V, §511(a), Dec. 2, 2002, 116 Stat. 2536, provided that: "Not later than one year after the date of the enactment of this Act [Dec. 2, 2002], the Comptroller General shall submit to Congress a report on management of the National Guard. The report shall include the following:

"(1) The Comptroller General's assessment of the effectiveness of the implementation of Department of Defense plans for improving management and accounting for personnel strengths in the National Guard, including an assessment of the process that the Department of Defense, the National Guard Bureau, the Army National Guard and State-level National Guard leadership, and leadership in the other reserve components have for identifying and addressing in a timely manner specific units in which nonparticipation rates are significantly in excess of the established norms.

"(2) The Comptroller General's assessment of the effectiveness of the process for Federal recognition of senior National Guard officers and recommendations for improvement to that process.

"(3) The Comptroller General's assessment of the process for, and the nature and extent of, the administrative or judicial corrective action taken by the Secretary of Defense, the Secretary of the Army, and the Secretary of the Air Force as a result of Inspector General investigations or other investigations in which allegations against senior National Guard officers are substantiated in whole or in part.

"(4) The Comptroller General's determination of the effectiveness of the Federal protections provided for members or employees of the National Guard who report allegations of waste, fraud, abuse, or mismanagement and the nature and extent to which corrective action is taken against those in the National Guard who retaliate against such members or employees."

STUDY OF STATE AND FEDERAL MISSIONS OF NATIONAL GUARD

Pub. L. 103–160, div. A, title V, §522, Nov. 30, 1993, 107 Stat. 1655, directed Secretary of Defense to provide for a study of State and Federal missions of National Guard to be carried out by a federally funded research and development center, including consideration of both separate and integrated requirements (including requirements pertaining to personnel, weapons, equipment, and facilities) that derive from those missions, required an interim report not later than May 1, 1994, and a final report not later than Nov. 15, 1994, directed Secretary to submit each report to Congress, not later than 15 days after the date on which it is received by the Secretary, and directed Secretary, together with Secretary of the Army and Secretary of the Air Force, to conduct evaluation of assumptions, analysis, findings, and recommendations of the study and, not later than Feb. 1, 1995, to submit to Congress a report on the evaluation.

RETENTION OF ANCIENT PRIVILEGES AND ORGANIZATION

Act Aug. 10, 1956, ch. 1041, §32, 70A Stat. 633, provided that:

"(a) Any corps of artillery, cavalry, or infantry existing in any of the States on the passage of the Act of May 8, 1792, which by the laws, customs, or usages of those States has been in continuous existence since the passage of that Act, shall be allowed to retain its ancient privileges, subject, nevertheless to all duties required by law of militia: *Provided*, That those organizations may be a part of the National Guard and entitled to all the privileges thereof, and shall conform in all respects to the organization, discipline, and training to the National Guard in time of war: *Provided further*, That for purposes of training and when on active duty in the service of the United States they may be assigned to higher units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving.

"(b) The First Corps Cadets, antedating, and continuously existing in the State of Massachusetts since, the Act of May 8, 1792, now designated as the 126th Tank Battalion, 26th Infantry Division, hereby declared to be a corps as defined in subsection (a) of this Act for all purposes thereof and now incorporated in the Organized Militia and a part of the National Guard of Massachusetts, shall be allowed to retain its ancient privileges and organization. The First Corps Cadets is hereby declared to be entitled to a lieutenant colonel in command and a major second in command; and those officers, when federally recognized, are entitled to the pay provided by law for their respective grades: *Provided*, That nothing in this section or other provisions of law shall be considered to be in derogation of any other ancient privileges to which the First Corps Cadets is entitled under the laws, customs, or usages of the State of Massachusetts."

EXECUTIVE DOCUMENTS

EX. ORD. NO. 13528. ESTABLISHMENT OF THE COUNCIL OF GOVERNORS

Ex. Ord. No. 13528, Jan. 11, 2010, 75 F.R. 2053, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1822 of the National Defense Authorization Act of [sic] 2008 (Public Law 110–181), and in order to strengthen further the partnership between the Federal Government and State governments to protect our Nation and its people and property, it is hereby ordered as follows:

SECTION 1. *Council of Governors.*

(a) There is established a Council of Governors (Council). The Council shall consist of 10 State Governors

appointed by the President (Members), of whom no more than five shall be of the same political party. The term of service for each Member appointed to serve on the Council shall be 2 years, but a Member may be reappointed for additional terms.

(b) The President shall designate two Members, who shall not be members of the same political party, to serve as Co-Chairs of the Council.

SEC. 2. *Functions*. The Council shall meet at the call of the Secretary of Defense or the Co-Chairs of the Council to exchange views, information, or advice with the Secretary of Defense; the Secretary of Homeland Security; the Assistant to the President for Homeland Security and Counterterrorism; the Assistant to the President for Intergovernmental Affairs and Public Engagement; the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs; the Commander, United States Northern Command; the Chief, National Guard Bureau; the Commandant of the Coast Guard; and other appropriate officials of the Department of Homeland Security and the Department of Defense, and appropriate officials of other executive departments or agencies as may be designated by the Secretary of Defense or the Secretary of Homeland Security. Such views, information, or advice shall concern:

(a) matters involving the National Guard of the various States;

(b) homeland defense;

(c) civil support;

(d) synchronization and integration of State and Federal military activities in the United States; and

(e) other matters of mutual interest pertaining to National Guard, homeland defense, and civil support activities.

SEC. 3. *Administration.*

(a) The Secretary of Defense shall designate an Executive Director to coordinate the work of the Council.

(b) Members shall serve without compensation for their work on the Council. However, Members shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.

(c) Upon the joint request of the Co-Chairs of the Council, the Secretary of Defense shall, to the extent permitted by law and subject to the availability of appropriations, provide the Council with administrative support, assignment or detail of personnel, and information as may be necessary for the performance of the Council's functions.

(d) The Council may establish subcommittees of the Council. These subcommittees shall consist exclusively of Members of the Council and any designated employees of a Member with authority to act on the Member's behalf, as appropriate to aid the Council in carrying out its functions under this order.

(e) The Council may establish a charter that is consistent with the terms of this order to refine further its purpose, scope, and objectives and to allocate duties, as appropriate, among members.

SEC. 4. *Definitions*. As used in this order:

(a) the term "State" has the meaning provided in paragraph (15) [now (17)] of section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101(15) [now 101(17)]); and

(b) the term "Governor" has the meaning provided in paragraph (5) of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(5)).

SEC. 5. *General Provisions.*

(a) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to a department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

§105. Inspection

(a) Under regulations prescribed by such Secretary, the Secretary of the Army and the Secretary of the Air Force shall each have an inspection made by inspectors general, or by any other commissioned officers of the Regular Army or the Regular Air Force detailed for that purpose, to determine whether—

(1) the amount and condition of property held by the Army National Guard or Air National Guard are satisfactory;

(2) the Army National Guard or Air National Guard is organized as provided in this title;

(3) the members of the Army National Guard or Air National Guard meet prescribed physical and other qualifications;

(4) the Army National Guard or Air National Guard and its organization are properly uniformed, armed, and equipped and are being trained and instructed for active duty in the field, or for coast defense;

(5) Army National Guard or Air National Guard records are being kept in accordance with this title;

(6) the accounts and records of each property and fiscal officer are properly maintained;

(7) the units of the Army National Guard or Air National Guard meet requirements for deployment; and

(8) the units and members of the Army National Guard or Air National Guard comply with Federal law and policy applicable to the National Guard, including policies issued by the Secretary of Defense, the Secretary of the military department concerned, or the Chief of the National Guard Bureau.

(b) The reports of inspections under subsection (a) are the basis for determining whether the National Guard is entitled to the issue of military property as authorized under this title and to retain that property; and for determining which organizations and persons constitute units and members of the National Guard; and for determining which units of the National Guard meet deployability standards.

(c) The Chief of the National Guard Bureau may have an inspection described in subsection (a) made by inspectors general, or by commissioned officers of the Army National Guard of the United States or the Air National Guard of the United States detailed for that purpose, on behalf of the Secretary of the Army or the Secretary of the Air Force. Any such inspection may be made only with the approval of the Secretary of the Army or the Secretary of the Air Force, as applicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 598; Pub. L. 95–79, title VIII, §804(a), July 30, 1977, 91 Stat. 333; Pub. L. 102–484, div. A, title XI, §1122, Oct. 23, 1992, 106 Stat. 2540; Pub. L. 116–92, div. A, title V, §517, Dec. 20, 2019, 133 Stat. 1349; Pub. L. 117–263, div. A, title V, §514(a), Dec. 23, 2022, 136 Stat. 2565.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
105(a)	32:15 (1st sentence).	June 3, 1916, ch. 134, §93, 39 Stat. 206.
105(b)	32:15 (less 1st sentence).	

In subsection (a), the word "commissioned" is inserted, since 32:15 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

In subsection (a)(2), the words "provided in this title" are substituted for the words "hereinbefore prescribed".

In subsection (a)(4), the words "the Army National Guard and its organizations" are substituted for the words "the organization and the officers and enlisted men thereof". The word "uniformed" is omitted as covered by the word "equipped".

In subsection (b), the words "under subsection (a)" are substituted for the word "such". The words "units and members" are substituted for the word "parts". The words "within the meaning of this title" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a)(8). Pub. L. 117–263 added par. (8).

2019—Subsec. (a). Pub. L. 116–92, §517(a), in introductory provisions, substituted "by such Secretary, the Secretary of the Army and the Secretary of the Air Force shall each have" for "by him, the Secretary of the Army shall have" and "the Regular Army or the Regular Air Force" for "the Regular Army" and struck out ", if necessary," after "inspectors general, or"; in pars. (1) to (5) and (7), substituted "Army National Guard or Air National Guard" for "Army National Guard"; and struck out concluding provisions which read as follows: "The Secretary of the Air Force has a similar duty with respect to the Air National Guard."

Subsec. (c). Pub. L. 116–92, §517(b), added subsec. (c).

1992—Subsec. (a). Pub. L. 102–484, §1122(1), substituted "shall" for "may" in introductory provisions and added par. (7).

Subsec. (b). Pub. L. 102–484, §1122(2), inserted before period at end "; and for determining which units of the National Guard meet deployability standards".

1977—Subsec. (a). Pub. L. 95–79 substituted "Under regulations prescribed by him, the Secretary of the Army may have an inspection made" for "The Secretary of the Army shall have an inspection made at least once a year" and added cl. (6).

§106. Annual appropriations

Sums will be appropriated annually, out of any money in the Treasury not otherwise appropriated, for the support of the Army National Guard and the Air National Guard, including the issue of arms, ordnance stores, quartermaster stores, camp equipage, and other military supplies, and for the payment of other expenses authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 599.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
106	32:21.	June 3, 1916, ch. 134, §67 (1st par.), 39 Stat. 199.

The words "issue of" are substituted for the words "the expense of providing". The words "for issue to the National Guard" and "pertaining to said guard as are or may be" are omitted as surplusage.

§107. Availability of appropriations

(a) Under such regulations as the Secretary concerned may prescribe, appropriations for the National Guard are available for—

(1) the necessary expenses of members of a regular or reserve component of the Army or the Air Force traveling on duty in connection with the National Guard;

(2) the necessary expenses of members of the Regular Army or the Regular Air Force on duty in the National Guard Bureau or with the Army Staff or the Air Staff, traveling to and from annual conventions of the Enlisted Association of the National Guard of the United States, the National Guard Association of the United States, or the Adjutants General Association;

(3) the transportation of supplies furnished to the National Guard as permanent equipment;

(4) the office rent and necessary office expenses of officers of a regular or reserve component of the Army or the Air Force on duty with the National Guard;

(5) the expenses of the National Guard Bureau, including clerical services;

(6) the promotion of rifle practice, including the acquisition, construction, maintenance, and equipment of shooting galleries and suitable target ranges;

(7) such incidental expenses of authorized encampments, maneuvers, and field instruction as the Secretary considers necessary; and

(8) other expenses of the National Guard authorized by law.

(b) The expenses of enlisted members of the Regular Army or the Regular Air Force on duty with the National Guard shall be paid from appropriations for the Army National Guard or the Air

National Guard, as the case may be, but not from the allotment of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands. Payable expenses include allowances for subsistence and housing under sections 402 and 403 of title 37 and expenses for medicine and medical attendance.

(c) The pay and allowances for the Chief of the National Guard Bureau and officers of the Army National Guard of the United States or the Air National Guard of the United States called to active duty under section 12402 of title 10 shall be paid from appropriations for the pay of the Army National Guard or Air National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 599; Pub. L. 90–83, §4, Sept. 11, 1967, 81 Stat. 220; Pub. L. 92–119, §1(a), Aug. 13, 1971, 85 Stat. 340; Pub. L. 97–258, §2(h), Sept. 13, 1982, 96 Stat. 1061; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 103–337, div. A, title XVI, §1676(a)(1), Oct. 5, 1994, 108 Stat. 3019; Pub. L. 105–85, div. A, title VI, §603(d)(4), Nov. 18, 1997, 111 Stat. 1783; Pub. L. 108–136, div. A, title V, §514(a), Nov. 24, 2003, 117 Stat. 1460; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
107(a)	32:22 (less proviso).	June 3, 1916, ch. 134, §67 (2d par.), 39 Stat. 199; Sept. 22, 1922, ch. 423, §3, 42 Stat. 1034; Apr. 6, 1928, ch. 321, 45 Stat. 406.
107(b)	32:22 (proviso, less words between 5th and 7th semicolons).	
107(c)	32:22 (words between 5th and 7th semicolons of proviso).	

In subsection (a), the words "strengths in enlisted members of the active" are substituted for the words "number of enlisted men in active service". The words between the eighth and ninth semicolons of 32:22, relating to horses and draft animals, are omitted as obsolete, since no animals are now authorized for the National Guard. The words "under section 106 of this title" are inserted, since only appropriations under that revised section are required to be apportioned.

In subsection (b)(1) and (2), the words "actual and" are omitted as surplusage.

In subsection (b)(2), the words "Reserve Officers holding commission in the National Guard" are omitted as covered by the words "officers of a * * * reserve component of the Army or the Air Force". The words "Army General Staff" are substituted for the words "War Department General Staff" to conform to section 3031(b) of title 10.

In subsection (c), the words "under sections 251 and 252 of title 37" are substituted for the words "provided in section 19 of title 37", since allowances for subsistence and quarters are now covered by those sections. The words "shall be paid from appropriations for the National Guard, but not from the allotment of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia" are substituted for the words "shall constitute a charge against the whole sum annually appropriated for the support of the National Guard, and shall be paid therefrom and not from the allotment duly apportioned for any particular State, Territory, or the District of Columbia".

1982 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
32:107(c)	31:698.	Aug. 10, 1956, ch. 1041, §30, 70A Stat. 632.

The work "appropriations" is substituted for "funds appropriated" for consistency in the title.

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of

Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

2003—Subsec. (a)(2). Pub. L. 108–136 substituted "members" for "officers", "Army Staff" for "Army General Staff", and "the Enlisted Association of the National Guard of the United States, the National Guard Association of the United States," for "the National Guard Association of the United States".

1997—Subsec. (b). Pub. L. 105–85 substituted "and housing" for "and quarters".

1994—Subsec. (c). Pub. L. 103–337 substituted "12402" for "3496 or 8496".

1988—Subsec. (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1982—Subsec. (c). Pub. L. 97–258 added subsec. (c).

1971—Pub. L. 92–119, §1(a)(1), substituted "Availability" for "Apportionment" in section catchline.

Subsec. (a). Pub. L. 92–119, §1(a)(2), (3), (4), redesignated subsec. (b) as (a) and substituted "appropriation for the National Guard" for "apportioned appropriation". Former subsec. (a), which provided for apportionment of appropriations for Army National Guard and Air National Guard under prescribed formulas among States, territories, Puerto Rico, Canal Zone, District of Columbia, was struck out.

Subsecs. (b), (c). Pub. L. 92–119, §1(a)(4), redesignated subsec. (c) as (b). Former subsec. (b) redesignated (a) and amended.

1967—Subsec. (c). Pub. L. 90–83 substituted "402 and 403" for "251 and 252".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, §514(b), Nov. 24, 2003, 117 Stat. 1460, provided that: "The amendments made by subsection (a) [amending this section] shall not apply with respect to funds appropriated for a fiscal year before fiscal year 2004."

EFFECTIVE DATE OF 1997 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

DEPARTMENT OF DEFENSE STATE PARTNERSHIP PROGRAM

Pub. L. 113–66, div. A, title XII, §1205, Dec. 26, 2013, 127 Stat. 897, as amended by Pub. L. 114–92, div. A, title XII, §1203(a)–(e), (g)–(i), Nov. 25, 2015, 129 Stat. 1037–1039, related to the Department of Defense State Partnership Program, prior to repeal by Pub. L. 114–328, div. A, title XII, §1246(e), Dec. 23, 2016, 130 Stat. 2521. See section 341 of Title 10, Armed Forces.

LIMITATION ON ACTIVITIES UNDER STATE PARTNERSHIP PROGRAM PENDING COMPLIANCE WITH CERTAIN PROGRAM-RELATED REQUIREMENTS

Pub. L. 112–239, div. A, title XII, §1204, Jan. 2, 2013, 126 Stat. 1982, provided that:

"(a) LIMITATION.—If both requirements specified in subsection (b) are not met as of February 28, 2013, no activities may be carried out under the State Partnership Program after that date until both requirements are met.

"(b) REQUIREMENTS.—The requirements specified in this subsection are the following:

"(1) The requirement for the Secretary of Defense to submit to the appropriate congressional committees the final regulations required by subsection (a) of [former] section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note).

"(2) A requirement for the Secretary of Defense to certify to the appropriate congressional committees that appropriate modifications have been made, and appropriate controls have been instituted, to ensure the compliance of the Program with section 1341 of title 31, United States Code (commonly referred to as the 'Anti-Deficiency Act'), in the future.

"(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' has the meaning given that term in subsection (d) of [former] section 1210 of the National Defense Authorization Act for Fiscal Year 2010."

AVAILABILITY OF APPROPRIATED FUNDS FOR THE STATE PARTNERSHIP PROGRAM

Pub. L. 111–84, div. A, title XII, §1210, Oct. 28, 2009, 123 Stat. 2517, which required the Secretary of

Defense to prescribe regulations regarding appropriated funds for the State Partnership Program, submit the regulations to defense and foreign relations committees, and report to the committees, was repealed by Pub. L. 113–66, div. A, title XII, §1205(h), Dec. 26, 2013, 127 Stat. 899.

§108. Forfeiture of Federal benefits

If, within a time fixed by the President, a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the National Guard of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 103–337, div. A, title IX, §904(c), Oct. 5, 1994, 108 Stat. 2827.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
108	32:24.	June 3, 1916, ch. 134, §116, 39 Stat. 212.

The words "does not comply" are substituted for the words "shall * * * have failed or refused to comply". The words "a requirement of, or regulation prescribed under, this title" are substituted for the words "any requirement of this title, or any regulation promulgated thereunder and in aid thereof by the President or the Secretary of the Army". The words "money or any other aid" are substituted for the words "pecuniary or other aid". The words "or provided by this title or any other" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–337 amended section generally. Prior to amendment, section read as follows: "If, within a time to be fixed by the President, a State does not comply with or enforce a requirement of, or regulation prescribed under, this title its National Guard is barred, wholly or partly as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective at end of 90-day period beginning on Oct. 5, 1994, see section 904(d) of Pub. L. 103–337, set out as an Effective Date note under section 10501 of Title 10, Armed Forces.

§109. Maintenance of other troops

(a) In time of peace, a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may maintain no troops other than those of its National Guard and defense forces authorized by subsection (c).

(b) Nothing in this title limits the right of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands to use its National Guard or its defense forces authorized by subsection (c) within its borders in time of peace, or prevents it from organizing and maintaining police or constabulary.

(c) In addition to its National Guard, if any, a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may, as provided by its laws, organize and maintain defense forces. A defense force established under this section may be used within the jurisdiction concerned, as its chief executive (or commanding general in the case of the District of Columbia) considers necessary, but it may not be called, ordered, or drafted into the armed forces.

(d) A member of a defense force established under subsection (c) is not, because of that

membership, exempt from service in the armed forces, nor is he entitled to pay, allowances, subsistence, transportation, or medical care or treatment, from funds of the United States.

(e) A person may not become a member of a defense force established under subsection (c) if he is a member of a reserve component of the armed forces.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600; Pub. L. 85–861, §2(2), Sept. 2, 1958, 72 Stat. 1542; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 111–383, div. A, title X, §1075(h)(4)(B), Jan. 7, 2011, 124 Stat. 4377.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
109(a)	32:194(a) (1st sentence). 32:194(c) (as applicable to 32:194(a) (1st sentence)). 32:194(a) (less 1st sentence).	June 3, 1916, ch. 134, §61 (less (b)); restated Oct. 21, 1940, ch. 904 (less last 3 provisos); restated Aug. 18, 1941, ch. 363 (less last 3 provisos); restated Oct. 1, 1942, ch. 570 (less (b)); restated June 26, 1944, ch. 279 (less (b)); restated Sept. 27, 1950, ch. 1058 (less (b)), 64 Stat. 1072.
109(b)	32:194(c) (less applicability to 32:194(a) (1st sentence)).	

In subsection (a), the words "those of its National Guard" are substituted for the words "as authorized in accordance with the organization prescribed under this Act".

In subsections (a) and (b), the provisions of 32:194(c) are exhausted by the enumeration of the jurisdictions named.

In subsection (b), the words "Nothing in this title limits" are substituted for the words "Nothing contained in this Act shall be construed to limit".

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
109(c)	32 App.:194(b) (less 4th and last sentences).	Aug. 11, 1955, ch. 802, 69 Stat. 686.
109(d)	32 App.:194(b) (4th sentence).	
109(e)	32 App.:194(b) (last sentence).	

In subsection (c), the words "heretofore authorized by this Act [sic]", "as such", and "in any manner" are omitted as surplusage.

In subsection (d), the words "under any Federal law" are omitted since only Federal law could require service in the armed forces. The word "military" is omitted as surplusage.

In subsection (e), the words "defense force" are substituted for the words "organized militia" for accuracy and to conform to subsection (c). The words "reserve component of the armed forces" are substituted for the words "Reserve Forces as defined in section 901 of Title 50", since that term is not defined in the Armed Forces Reserve Act of 1952.

EDITORIAL NOTES

AMENDMENTS

2011—Subsecs. (a) to (c). Pub. L. 111–383 amended directory language of Pub. L. 109–163, §1057(b)(3). See 2006 Amendment note below.

2006—Subsecs. (a) to (c). Pub. L. 109–163, §1057(b)(3), as amended by Pub. L. 111–383, substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, the Virgin Islands, or the District of Columbia".

1988—Subsecs. (a) to (c). Pub. L. 100–456 struck out "the Canal Zone," after "Virgin Islands,".

1958—Subsecs. (a), (b). Pub. L. 85–861, §2(2)(A), substituted "defense forces authorized by subsection

(c)" for "State defense forces".

Subsecs. (c) to (e). Pub. L. 85–861, §2(2)(B), added subsecs. (c) to (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment made by section 1075(h)(4)(B) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

§110. Regulations

The President shall prescribe regulations, and issue orders, necessary to organize, discipline, and govern the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 600.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
110	32:17.	June 3, 1916, ch. 134, §118, 39 Stat. 213.

The word "rules" is omitted as covered by the word "regulations". The words "National Guard" are substituted for the words "the militia provided for in this title". The words "for the thorough" are omitted as surplusage.

§111. Suspension of certain provisions of this title

In time of war, or of emergency declared by Congress, the President may suspend the operation of any provision of sections 307(e), 309, 310, and 323(d) and (e) [1] of this title with respect to the Army National Guard or the Air National Guard.

(Added Pub. L. 85–861, §2(3), Sept. 2, 1958, 72 Stat. 1543.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
111	50:1199 (as applicable to National Guard).	Sept. 3, 1954, ch. 1257, §209 (as applicable to National Guard), 68 Stat. 1152.

Reference to the exception in section 307(a) is omitted as unnecessary because a suspension of section 307(e) of this title, or of section 8365 or 8366 of Title 10, will in effect suspend that exception so far as it refers to the suspended section. A reference to the remainder of section 307(a) is omitted as unnecessary because the general rule that it states exists independently of that part of the source law for section 307(a) that is suspendible under this section. A reference to section 307(f) is omitted as unnecessary because a suspension of section 307(e) will in effect suspend section 307(f) so far as it applies to section 307(e). 50:1199 (2d sentence) is omitted as inapplicable to the National Guard.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 323(e) of this title, referred to in text, was repealed by Pub. L. 103–337, div. A, title XVI, §1630(2), Oct. 5, 1994, 108 Stat. 2964.

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(11) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

[1] *See References in Text note below.*

§112. Drug interdiction and counter-drug activities

(a) FUNDING ASSISTANCE.—The Secretary of Defense may provide funds to the Governor of a State who submits to the Secretary a State drug interdiction and counter-drug activities plan satisfying the requirements of subsection (c). Such funds shall be used for the following:

(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses, as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of drug interdiction and counter-drug activities.

(2) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of drug interdiction and counter-drug activities.

(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities. However, the use of such funds for the procurement of equipment may not exceed $15,000 per item, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense.

(b) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—(1) Under regulations prescribed by the Secretary of Defense, personnel of the National Guard of a State may, in accordance with the State drug interdiction and counter-drug activities plan referred to in subsection (c), be ordered to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out drug interdiction and counter-drug activities.

(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.

(C) To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform:

(i) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

(ii) National Guard personnel will not degrade their military skills as a result of performing the activities.

(iii) The performance of the activities will not result in a significant increase in the cost of training.

(iv) In the case of drug interdiction and counter-drug activities performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

(3) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

(B) in the case of services, the performance of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.

(c) PLAN REQUIREMENTS.—A State drug interdiction and counter-drug activities plan shall—

(1) specify how personnel of the National Guard of that State are to be used in drug interdiction and counter-drug activities;

(2) certify that those operations are to be conducted at a time when the personnel involved are not in Federal service;

(3) certify that participation by National Guard personnel in those operations is service in addition to training required under section 502 of this title;

(4) certify that any engineer-type activities (as defined by the Secretary of Defense) under the plan will be performed only by units and members of the National Guard;

(5) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general) that the use of the National Guard of the State for the activities proposed under the plan is authorized by, and is consistent with, State law; and

(6) certify that the Governor of the State or a civilian law enforcement official of the State designated by the Governor has determined that any activities included in the plan that are carried out in conjunction with Federal law enforcement agencies serve a State law enforcement purpose.

(d) EXAMINATION OF PLAN.—(1) Before funds are provided to the Governor of a State under this section and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b), the Secretary of Defense shall examine the adequacy of the plan submitted by the Governor under subsection (c). The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance.

(2) Except as provided in paragraph (3), the Secretary shall carry out paragraph (1) in consultation with the Director of National Drug Control Policy.

(3) Paragraph (2) shall not apply if—

(A) the Governor of a State submits a plan under subsection (c) that is substantially the same as a plan submitted for that State for a previous fiscal year; and

(B) pursuant to the plan submitted for a previous fiscal year, funds were provided to the State in accordance with subsection (a) or personnel of the National Guard of the State were ordered to perform full-time National Guard duty in accordance with subsection (b).

(e) END STRENGTH LIMITATION.—(1) Except as provided in paragraph (2), at the end of a fiscal year there may not be more than 4000 members of the National Guard—

(A) on full-time National Guard duty under section 502(f) of this title to perform drug interdiction or counter-drug activities pursuant to an order to duty; or

(B) on duty under State authority to perform drug interdiction or counter-drug activities pursuant to an order to duty with State pay and allowances being reimbursed with funds provided under subsection (a)(1).

(2) The Secretary of Defense may increase the end strength authorized under paragraph (1) by not more than 20 percent for any fiscal year if the Secretary determines that such an increase is necessary in the national security interests of the United States.

(f) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report regarding assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

(1) The number of members of the National Guard excluded under subsection (e) [1] from the computation of end strengths.

(2) A description of the drug interdiction and counter-drug activities conducted under State drug interdiction and counter-drug activities plans referred to in subsection (c) with funds provided under this section.

(3) An accounting of the amount of funds provided to each State.

(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform activities under the State drug interdiction and counter-drug activities plans.

(g) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(h) DEFINITIONS.—For purposes of this section:

(1) The term "drug interdiction and counter-drug activities", with respect to the National Guard of a State, means the use of National Guard personnel in drug interdiction and counter-drug law enforcement activities, including drug demand reduction activities, authorized by the law of the State and requested by the Governor of the State.

(2) The term "Governor of a State" means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(Added Pub. L. 101–189, div. A, title XII, §1207(a)(1), Nov. 29, 1989, 103 Stat. 1564; amended Pub. L. 102–25, title VII, §703, Apr. 6, 1991, 105 Stat. 118; Pub. L. 102–396, title IX, §9099A, Oct. 6, 1992, 106 Stat. 1926; Pub. L. 104–106, div. A, title X, §1021, Feb. 10, 1996, 110 Stat. 426; Pub. L. 104–208, div. C, title VI, §660, Sept. 30, 1996, 110 Stat. 3009–720; Pub. L. 105–85, div. A, title X, §1031, Nov. 18, 1997, 111 Stat. 1880; Pub. L. 105–261, div. A, title X, §1022, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 106–65, div. A, title X, §1021, Oct. 5, 1999, 113 Stat. 746; Pub. L. 108–375, div. A, title IV, §416(k), Oct. 28, 2004, 118 Stat. 1869; Pub. L. 118–31, div. A, title X, §1012, Dec. 22, 2023, 137 Stat. 380.)

EDITORIAL NOTES

REFERENCES IN TEXT

Subsection (e), referred to in subsec. (f)(1), was repealed and subsec. (f) was redesignated (e) by Pub. L. 108–375, div. A, title IV, §416(k)(1), (2), Oct. 28, 2004, 118 Stat. 1869.

PRIOR PROVISIONS

Similar provisions were contained in Pub. L. 100–456, div. A, title XI, §1105, Sept. 29, 1988, 102 Stat. 2047, which was set out as a note under section 374 of Title 10, Armed Forces, prior to repeal by Pub. L. 101–189, §1207(b).

AMENDMENTS

2023—Subsec. (a)(3). Pub. L. 118–31 substituted "$15,000" for "$5,000".

2004—Subsec. (e). Pub. L. 108–375, §416(k)(1), (2), redesignated subsec. (f) as (e) and struck out heading and text of former subsec. (e). Text read as follows: "Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 1993 otherwise

implementing) this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10."

Subsec. (e)(1)(A), (B). Pub. L. 108–375, §416(k)(3), struck out "for a period of more than 180 days" after "order to duty".

Subsecs. (f) to (i). Pub. L. 108–375, §416(k)(2), redesignated subsecs. (g) to (i) as (f) to (h), respectively.

1999—Subsec. (a)(3). Pub. L. 106–65 substituted "per item" for "per purchase order" in second sentence.

1998—Subsec. (a). Pub. L. 105–261, §1022(e)(1), substituted "for the following:" for "for—" in introductory provisions.

Subsec. (a)(1). Pub. L. 105–261, §1022(e)(2), (3), substituted "The pay" for "the pay" and "activities." for "activities;".

Subsec. (a)(2). Pub. L. 105–261, §1022(e)(2), (4), substituted "The operation" for "the operation" and "activities." for "activities; and".

Subsec. (a)(3). Pub. L. 105–261, §1022(a), (e)(2), substituted "The procurement" for "the procurement" and "and equipment, and the leasing of equipment," for "and leasing of equipment" and inserted at end "However, the use of such funds for the procurement of equipment may not exceed $5,000 per purchase order, unless approval for procurement of equipment in excess of that amount is granted in advance by the Secretary of Defense."

Subsec. (b)(2). Pub. L. 105–261, §1022(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "To ensure that the use of units and personnel of the National Guard of a State pursuant to a State drug interdiction and counter-drug activities plan is not detrimental to the training and readiness of such units and personnel, the requirements of section 2012(d) of title 10 shall apply in determining the drug interdiction and counter-drug activities that units and personnel of the National Guard of a State may perform."

Subsec. (b)(3). Pub. L. 105–261, §1022(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Section 508 of this title, regarding the provision of assistance to certain specified youth and charitable organizations, shall apply in any case in which a unit or member of the National Guard of a State is proposed to be used pursuant to a State drug interdiction and counter-drug activities plan to provide to an organization specified in subsection (d) of such section any of the services described in subsection (b) of such section or services regarding counter-drug education."

Subsec. (i)(1). Pub. L. 105–261, §1022(d), inserted ", including drug demand reduction activities," after "drug interdiction and counter-drug law enforcement activities".

1997—Subsec. (b). Pub. L. 105–85, §1031(a), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (c)(4) to (6). Pub. L. 105–85, §1031(b)(1), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (e). Pub. L. 105–85, §1031(d), designated par. (1) as subsec. (e) and struck out par. (2) which read as follows: "The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives an annual report specifying for the period covered by the report the number of members of the National Guard excluded under paragraph (1) from the computation of end strengths."

Subsecs. (g) to (i). Pub. L. 105–85, §1031(c), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1996—Subsec. (a). Pub. L. 104–106, §1021(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under subsection (b) sufficient funds for—

"(1) the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State used for—

"(A) the purpose of drug interdiction and counter-drug activities; and

"(B) the operation and maintenance of the equipment and facilities of the National Guard of that State used for that purpose; and

"(2) the procurement of services and leasing of equipment for the National Guard of that State used for the purpose of drug interdiction and counter-drug activities."

Subsec. (b). Pub. L. 104–106, §1021(e), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 104–106, §1021(c), substituted "A State drug interdiction and counter-drug activities plan" for "A plan referred to in subsection (a)" in introductory provisions and "training" for "annual training" in par. (3) and added pars. (4) and (5).

Pub. L. 104–106, §1021(b)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 104–106, §1021(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated

(g).

Subsec. (d)(1). Pub. L. 104–208 inserted at end "The plan as approved by the Secretary may provide for the use of personnel and equipment of the National Guard of that State to assist the Immigration and Naturalization Service in the transportation of aliens who have violated a Federal or State law prohibiting or regulating the possession, use, or distribution of a controlled substance."

Pub. L. 104–106, §1021(d)(1), inserted "and before members of the National Guard of that State are ordered to full-time National Guard duty as authorized in subsection (b)" after "under this section" and substituted "under subsection (c)" for "under subsection (b)".

Subsec. (d)(3)(A). Pub. L. 104–106, §1021(d)(2)(A), substituted "subsection (c)" for "subsection (b)".

Subsec. (d)(3)(B). Pub. L. 104–106, §1021(d)(2)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: "funds were provided to the State pursuant to such plan."

Subsec. (e)(1). Pub. L. 104–106, §1021(h)(1), substituted "sections 12011 and 12012" for "sections 517 and 524".

Subsec. (e)(2). Pub. L. 104–106, §1021(h)(2), substituted "the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "the Committees on Armed Services of the Senate and House of Representatives".

Subsec. (f). Pub. L. 104–106, §1021(f), added subsec. (f). Former subsec. (f) redesignated (h).

Subsec. (g). Pub. L. 104–106, §1021(b)(2), redesignated subsec. (d) as (g) and transferred it to appear before subsec. (h), as redesignated.

Subsec. (h). Pub. L. 104–106, §1021(b)(1), redesignated subsec. (f) as (h).

Subsec. (h)(1). Pub. L. 104–106, §1021(g), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "The term 'counter-drug activities' includes the use of National Guard personnel, while not in Federal service, in any law enforcement activities authorized by State and local law and requested by the Governor."

1992—Subsec. (e)(1). Pub. L. 102–396 inserted "(or during fiscal year 1993 otherwise implementing)" after "administering".

1991—Subsec. (c)(2). Pub. L. 102–25 substituted "in consultation with the Director of National Drug Control Policy." for "in consultation with—

"(A) the Attorney General of the United States in the case of a plan submitted for fiscal year 1990; and

"(B) the Director of National Drug Control Policy in the case of a plan submitted for subsequent fiscal years."

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (f) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

NATIONAL GUARD COUNTERDRUG SCHOOLS

Pub. L. 109–469, title IX, §901, Dec. 29, 2006, 120 Stat. 3536, as amended by Pub. L. 112–239, div. A, title X, §1008, Jan. 2, 2013, 126 Stat. 1905; Pub. L. 114–328, div. A, title X, §1012, Dec. 23, 2016, 130 Stat. 2385, provided that:

"(a) AUTHORITY TO OPERATE.—Under such regulations as the Secretary of Defense may prescribe, the Chief of the National Guard Bureau may establish and operate, or provide financial assistance to the States to establish and operate, not more than 5 schools (to be known generally as 'National Guard counterdrug schools').

"(b) PURPOSE.—The purpose of the National Guard counterdrug schools shall be the provision by the National Guard of training in drug interdiction and counterdrug activities and drug demand reduction activities to personnel of the following:

"(1) Federal agencies.

"(2) State, local, and tribal law enforcement agencies.

"(3) Community-based organizations engaged in such activities.

"(4) Other non-Federal governmental and private entities and organizations engaged in such activities.

"(c) COUNTERDRUG SCHOOLS SPECIFIED.—The National Guard counterdrug schools operated under the authority in subsection (a) are as follows:

"(1) The Multi-Jurisdictional Counterdrug Task Force Training (MCTFT), St. Petersburg, Florida.

"(2) The Midwest Counterdrug Training Center (MCTC), Johnston, Iowa.

"(3) The Regional Counterdrug Training Academy (RCTA), Meridian, Mississippi.

"(4) The Northeast Regional Counterdrug Training Center (NCTC), Fort Indiantown Gap, Pennsylvania.

"(5) The Western Regional Counterdrug Training Center, Camp Murray, Washington.

"(d) USE OF NATIONAL GUARD PERSONNEL.—

"(1) IN GENERAL.—To the extent provided for in the State drug interdiction and counterdrug activities plan of a State in which a National Guard counterdrug school is located, personnel of the National Guard of that State who are ordered to perform full-time National Guard duty authorized under section 112(b) of title 32, United States Code, may provide training referred to in subsection (b) at that school.

"(2) DEFINITION.—In this subsection, the term 'State drug interdiction and counterdrug activities plan', in the case of a State, means the current plan submitted by the Governor of the State to the Secretary of Defense under section 112 of title 32, United States Code.

"(e) CURRICULUM REVIEW.—The Secretary of Defense shall review the curriculum and program structure of each school established under this section.

"(f) TREATMENT UNDER AUTHORITY TO PROVIDE COUNTERDRUG SUPPORT.—The provisions of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) shall apply to any activities of a National Guard counterdrug school under this section that are for an agency referred to in subsection (a) of such section 1004 and for a purpose set forth in subsection (b) of such section 1004.

"(g) ANNUAL REPORT ON ACTIVITIES.—Not later than February 1 each year, the Secretary of Defense shall submit to Congress a report on the activities of the National Guard counterdrug schools during the preceding year. Each such report shall set forth a description of the activities of each National Guard counterdrug school for the fiscal year preceding the fiscal year during which the report is submitted, including—

"(1) the amount of funding made available and the appropriation account for each National Guard counterdrug school during such fiscal year;

"(2) the cumulative amount of funding made available for each National Guard counterdrug school during five fiscal years preceding such fiscal year;

"(3) a description of the curriculum and training used at each National Guard counterdrug school;

"(4) a description of how the activities conducted at each National Guard counterdrug school fulfilled Department of Defense counterdrug mission;

"(5) a list of the entities described in subsection (b) whose personnel received training at each National Guard counterdrug school; and

"(6) updates, if any, to the Department of Defense regulations prescribed under subsection (a).

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Not more than $30,000,000 may be expended by the Secretary of Defense for purposes of the National Guard counterdrug schools in any fiscal year.

"(2) CONSTRUCTION.—The amount expended pursuant to paragraph (1) for a fiscal year is in addition to any other amount authorized to be appropriated for the Department of Defense for the National Guard for such fiscal year."

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 901(g) of Pub. L. 109–469, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of Title 10, Armed Forces.]

[1] *See References in Text note below.*

§113. Federal financial assistance for support of additional duties assigned to the Army National Guard

(a) AUTHORITY.—The Secretary of the Army may provide financial assistance to a State to support activities carried out by the Army National Guard of the State in the performance of duties that the Secretary has assigned, with the consent of the Chief of the National Guard Bureau, to the

Army National Guard of the State. The Secretary shall determine the amount of the assistance that is appropriate for the purpose.

(b) COVERED ACTIVITIES.—(1) Except as provided in paragraph (2), financial assistance may be provided for the performance of an activity by the Army National Guard under subsection (a) only if—

(A) the activity is carried out in the performance of a responsibility of the Secretary of the Army under paragraph (6), (10), or (11) of section 7013(b) of title 10; and

(B) the Army National Guard was selected to perform the activity under competitive procedures that permit all qualified public-sector and private-sector sources to submit offers and be considered for selection to perform the activity on the basis of the offers, subject to the exceptions provided in section 3204(a) of title 10.

(2) Paragraph (1)(B) does not apply to an activity that, on October 17, 1998, was performed for the Federal Government by employees of the Federal Government or employees of a State.

(c) DISBURSEMENT THROUGH NATIONAL GUARD BUREAU.—The Secretary of the Army shall disburse any contribution under this section through the Chief of the National Guard Bureau.

(d) AVAILABILITY OF FUNDS.—Funds appropriated for the Army for a fiscal year are available for providing financial assistance under this section in support of activities carried out by the Army National Guard during that fiscal year.

(Added Pub. L. 105–85, div. A, title III, §386(a), Nov. 18, 1997, 111 Stat. 1712; amended Pub. L. 105–261, div. A, title III, §375(a), Oct. 17, 1998, 112 Stat. 1992; Pub. L. 106–65, div. A, title X, §1066(d)(4), Oct. 5, 1999, 113 Stat. 773; Pub. L. 108–375, div. A, title VIII, §806, Oct. 28, 2004, 118 Stat. 2010; Pub. L. 115–232, div. A, title VIII, §809(j), Aug. 13, 2018, 132 Stat. 1843; Pub. L. 117–81, div. A, title XVII, §1702(f)(1), Dec. 27, 2021, 135 Stat. 2157.)

EDITORIAL NOTES

AMENDMENTS

2021—Subsec. (b)(1)(B). Pub. L. 117–81 substituted "section 3204(a)" for "section 2304(c)".

2018—Subsec. (b)(1)(A). Pub. L. 115–232 substituted "section 7013(b) of title 10" for "section 3013(b) of title 10".

2004—Subsec. (b)(1)(B). Pub. L. 108–375 inserted before period at end ", subject to the exceptions provided in section 2304(c) of title 10".

1999—Subsec. (b)(2). Pub. L. 106–65 substituted "October 17, 1998" for "the date of the enactment of this subsection".

1998—Subsec. (b). Pub. L. 105–261 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: "Activities supported under this section may include only those activities that are carried out by the Army National Guard in the performance of responsibilities of the Secretary of the Army under paragraphs (6), (10), and (11) of section 3013(b) of title 10."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115–232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115–232, set out as a note preceding section 3001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title III, §375(b), Oct. 17, 1998, 112 Stat. 1993, provided that: "Subsection (b)(1)(B) of section 113 of title 32, United States Code (as added by subsection (a) of this section), does not apply to—

"(1) financial assistance provided under that section before October 1, 1998; or

"(2) financial assistance for an activity that, before May 9, 1998, the Secretary of the Army identified

in writing as being under consideration for supporting with financial assistance under that section."

§114. Funeral honors functions at funerals for veterans

Subject to such regulations and restrictions as may be prescribed by the Secretary concerned, the performance of funeral honors functions by members of the National Guard at funerals for veterans of the armed forces may be treated by the Secretary concerned as a Federal function for which appropriated funds may be used. Any such performance of funeral honors functions at such a funeral may not be considered to be a period of drill or training, but may be performed as funeral honors duty under section 115 of this title.

(Added Pub. L. 105–85, div. A, title V, §517(a)(1), Nov. 18, 1997, 111 Stat. 1733; amended Pub. L. 105–261, div. A, title V, §567(d), Oct. 17, 1998, 112 Stat. 2031; Pub. L. 106–65, div. A, title V, §578(g)(1), (k)(3)(A), Oct. 5, 1999, 113 Stat. 627, 631.)

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–65, in section catchline, substituted "Funeral honors" for "Honor guard" and, in text, substituted "funeral honors functions" for "honor guard functions" in two places and "drill or training, but may be performed as funeral honors duty under section 115 of this title" for "drill or training otherwise required".

1998—Pub. L. 105–261 designated subsec. (a) as entire section and struck out subsec. (b) which read as follows: "This section does not authorize additional appropriations for any fiscal year. Any expense of the National Guard that is incurred by reason of this section shall be paid from appropriations otherwise available for the National Guard."

§115. Funeral honors duty performed as a Federal function

(a) ORDER TO DUTY.—A member of the Army National Guard of the United States or the Air National Guard of the United States may be ordered to funeral honors duty, with the consent of the member, to prepare for or perform funeral honors functions at the funeral of a veteran under section 1491 of title 10. However, a member of the Army National Guard of the United States or the Air National Guard of the United States may not be ordered to perform funeral honors functions under this section without the consent of the Governor or other appropriate authority of the State concerned. Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37.

(b) SERVICE CREDIT.—A member ordered to funeral honors duty under this section shall be required to perform a minimum of two hours of such duty in order to receive—

(1) service credit under section 12732(a)(2)(E) of title 10; and

(2) as directed by the Secretary concerned, either—

(A) the allowance under section 435 of title 37; or

(B) compensation under section 206 of title 37.

(c) REIMBURSABLE EXPENSES.—A member who performs funeral honors duty under this section may be reimbursed for travel and transportation expenses incurred in conjunction with such duty as authorized under section 452 of title 37 if such duty is performed at a location 50 miles or more from the member's residence.

(d) REGULATIONS.—The exercise of authority under subsection (a) is subject to regulations prescribed by the Secretary of Defense.

(Added Pub. L. 106–65, div. A, title V, §578(g)(2), Oct. 5, 1999, 113 Stat. 627; amended Pub. L. 106–398, §1 [[div. A], title V, §575(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–138; Pub. L. 107–107, div. A, title V, §562(b), Dec. 28, 2001, 115 Stat. 1119; Pub. L. 112–81, div. A, title VI,

§631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112–239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 117–263, div. A, title VI, §626(e), Dec. 23, 2022, 136 Stat. 2629.)

EDITORIAL NOTES

AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263, §626(e)(1), substituted "sections 206 and 435" for "sections 206 and 495".

Subsec. (b)(2)(A). Pub. L. 117–263, §626(e)(2), substituted "section 435" for "section 495".

Subsec. (c). Pub. L. 117–263, §626(e)(3), substituted "section 452" for "chapter 7".

2013—Subsecs. (a), (b)(2)(A). Pub. L. 112–239, §1076(a)(9), made technical amendment to directory language of Pub. L. 112–81, §631(f)(4)(A). See 2011 Amendment note below.

2011—Subsecs. (a), (b)(2)(A). Pub. L. 112–81, §631(f)(4)(A), as amended by Pub. L. 112–239, §1076(a)(9), substituted "495" for "435".

2001—Subsec. (a). Pub. L. 107–107 inserted at end "Performance of funeral honors duty by such a member not on active duty or full-time National Guard duty shall be treated as inactive-duty training (including with respect to travel to and from such duty) for purposes of any provision of law other than sections 206 and 435 of title 37."

2000—Subsec. (b)(2). Pub. L. 106–398 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "if authorized by the Secretary concerned, the allowance under section 435 of title 37."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112–239, div. A, title X, §1076(a), Jan. 2, 2013, 126 Stat. 1947, provided that the amendment made by section 1076(a)(9) is effective Dec. 31, 2011, and as if included in Pub. L. 112–81 as enacted.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–107 applicable to funeral honors duty performed on or after Oct. 30, 2000, see section 562(c) of Pub. L. 107–107, set out as a note under section 12503 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–398 applicable with respect to funeral honors duty performed on or after Oct. 1, 2000, see section 1 [[div. A], title V, §575(c)] of Pub. L. 106–398, set out as a note under section 12503 of Title 10, Armed Forces.

CHAPTER 3—PERSONNEL

Sec.

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317. Command during joint exercises with Federal troops.

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323. Withdrawal of Federal recognition.
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325. Relief from National Guard duty when ordered to active duty.
326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures.
327. Courts-martial of National Guard not in Federal service: convening authority.
328. Active Guard and Reserve duty: Governor's authority.
328a. Active Guard and Reserve duty: State disaster response duty.
329. Prohibition on private funding for interstate deployment.
[330 to 335. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2025—Pub. L. 119–60, div. A, title V, §512(a), Dec. 18, 2025, 139 Stat. 860, added item 328a.

2021—Pub. L. 117–81, div. A, title V, §512(b), Dec. 27, 2021, 135 Stat. 1683, added item 329.

2006—Pub. L. 109–364, div. A, title V, §526(b), Oct. 17, 2006, 120 Stat. 2196, added item 328.

2002—Pub. L. 107–314, div. A, title V, §512(d), Dec. 2, 2002, 116 Stat. 2537, added item 327 and struck out former items 327 "General courts-martial of National Guard not in Federal service", 328 "Special courts-martial of National Guard not in Federal service", 329 "Summary courts-martial of National Guard not in Federal service", 330 "Confinement instead of fine", 331 "Dismissal or dishonorable discharge", 332 "Compelling attendance of accused and witnesses", and 333 "Execution of process and sentence".

1994—Pub. L. 103–337, div. A, title XVI, §1676(a)(4), Oct. 5, 1994, 108 Stat. 3019, substituted "National Guard officers:" for "officers: Army National Guard;" in items 309 and 310.

1986—Pub. L. 99–661, div. A, title VI, §604(f)(2)(B), Nov. 14, 1986, 100 Stat. 3878, struck out item 318 "Compensation for disablement during training", item 319 "Compensation for disablement during training when not covered by section 318 of this title", item 320 "Hospitalization: when Secretary may require", and item 321 "Death gratuity".

1984—Pub. L. 98–525, title IV, §414(b)(2)(B), Oct. 19, 1984, 98 Stat. 2519, struck out item 335 "Status of certain members performing full-time duty".

1983—Pub. L. 98–94, title V, §504(b)(2), Sept. 24, 1983, 97 Stat. 632, added item 335.

1981—Pub. L. 97–124, §3, Dec. 29, 1981, 95 Stat. 1666, struck out item 334 "Payment of malpractice liability of National Guard Medical personnel".

1980—Pub. L. 96–513, title V, §515(1), Dec. 12, 1980, 94 Stat. 2937, inserted "of officers" after "recognition" in item 307.

1976—Pub. L. 94–464, §2(c), Oct. 8, 1976, 90 Stat. 1988, added item 334.

1961—Pub. L. 87–378, §5(2), Oct. 4, 1961, 75 Stat. 808, inserted ", reenlistments, and extensions" in item 302.

1958—Pub. L. 85–861, §2(8), Sept. 2, 1958, 72 Stat. 1544, added items 309 and 310.

STATUTORY NOTES AND RELATED SUBSIDIARIES

REMOVAL OF RESTRICTIONS ON THE TRANSFER OF OFFICERS BETWEEN THE ACTIVE AND INACTIVE NATIONAL GUARD

Pub. L. 113–66, div. A, title V, §512, Dec. 26, 2013, 127 Stat. 752, as amended by Pub. L. 114–328, div. A, title V, §514, Dec. 23, 2016, 130 Stat. 2113, provided that:

"(a) ARMY NATIONAL GUARD.—During the period ending on December 31, 2019, under regulations prescribed by the Secretary of the Army:

"(1) An officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard.

"(2) An officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

"(b) AIR NATIONAL GUARD.—During the period ending on December 31, 2019, under regulations

prescribed by the Secretary of the Air Force:

"(1) An officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard.

"(2) An officer of the Air National Guard transferred to the inactive Air National Guard pursuant to paragraph (1) may be transferred from the inactive Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit."

§301. Federal recognition of enlisted members

To be eligible for Federal recognition as an enlisted member of the National Guard, a person must have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved. He becomes federally recognized upon enlisting in a federally recognized unit or organization of the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
301	50:1113(a) (as applicable to enlisted members).	July 9, 1952, ch. 608, §703(a) (as applicable to enlisted members), 66 Stat. 502.

§302. Enlistments, reenlistments, and extensions

(a) Under regulations to be prescribed by the Secretary concerned, original enlistments in the National Guard may be accepted for—

(1) any specified term, not less than three years, for persons who have not served in an armed force; or

(2) any specified term, not less than one year, for persons who have served in any armed force.

(b) Under regulations to be prescribed by the Secretary concerned, reenlistment in the National Guard may be accepted for any specified period, or, if the person last served in one of the highest five enlisted grades, for an unspecified period.

(c) Enlistments or reenlistments in the National Guard may be extended—

(1) under regulations to be prescribed by the Secretary concerned, at the request of the member, for any period not less than six months; or

(2) by proclamation of the President, if Congress declares an emergency, until six months after termination of that emergency.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87–378, §5(1), Oct. 4, 1961, 75 Stat. 808.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
302	32:124.	June 3, 1916, ch. 134, §69; restated July 11, 1919, ch. 8 (20th par. under "National Guard"); restated June 4, 1920, ch. 227, subch. I, §37; restated June 6, 1924, ch. 275, §4; restated June 15, 1933, ch. 87, §7, 48 Stat. 156; July 9, 1952, ch. 608, §806(a), 66 Stat. 506.

32:124 (1st proviso) is omitted as executed. The word "reenlistments" is substituted for the words

"subsequent enlistments".

EDITORIAL NOTES

AMENDMENTS

1961—Pub. L. 87–378 permitted original enlistments for any specified term, not less than three years, for persons who have not served in an armed force, authorized reenlistments for any specified period, or if the person last served in one of the highest five enlisted grades, for an unspecified period, extensions of enlistments or reenlistments at the request of the member for any period not less than six months after termination of the emergency.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87–378, §6, Oct. 4, 1961, 75 Stat. 808, provided that: "The amendments made by sections 3, 4, and 5 of this Act [amending this section and sections 3261 and 8261 of Title 10, Armed Forces] shall not affect any enlistment, reenlistment, or appointment entered into or made before the effective date of this Act [Oct. 4, 1961]."

§303. Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

(d)(1) Under regulations prescribed by the Secretary of the Army—

(A) an officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard; and

(B) an officer of the Army National Guard transferred to the inactive Army National Guard pursuant to subparagraph (A) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

(2) Under regulations prescribed by the Secretary of the Air Force—

(A) an officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard; and

(B) an officer of the Air National Guard transferred to the inactive Air National Guard pursuant to subparagraph (A) may be transferred from the inactive Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit.

(Aug. 10, 1956, ch. 1041, 70A Stat. 601; Pub. L. 87–649, §14e(1), Sept. 7, 1962, 76 Stat. 502; Pub. L. 96–513, title V, §515(2), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 119–60, div. A, title V, §511, Dec.

18, 2025, 139 Stat. 860.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
303(a)	32:132.	June 3, 1916, ch. 134, §78 (1st and 2d sentences); restated June 4, 1920, ch. 227, subch. I, §42 (less provisos); restated Feb. 28, 1925, ch. 371, §2 (1st and 2d sentences); restated June 15, 1933, ch. 87, §15 (1st and 2d sentences), 48 Stat. 159; July 9, 1952, ch. 608, §806(f), 66 Stat. 507.
303(b)	32:133 (less proviso).	
303(c)	32:154 (1st 26 words of last par.).	June 3, 1916, ch. 134, §110 (1st 30 words of last par.); restated Sept. 22, 1922, ch. 423, §6 (1st 30 words of last par.); restated May 12, 1928, ch. 529 (1st 30 words), 45 Stat. 500.
303(d)	32:133 (proviso).	

In subsection (a), 32:132 (last 23 words) is omitted as covered by section 304 of this title.

In subsection (b), the words "Under such regulations as the Secretary may prescribe" are substituted for the word "likewise".

In subsection (c), the words "in the inactive * * * National Guard" are substituted for the words "not on the active list", since there is no active list prescribed for the National Guard.

In subsection (d), the words "under any enlistment" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (d). Pub. L. 119–60 added subsec. (d).

1980—Subsecs. (c), (d). Pub. L. 96–513 redesignated subsec. (d) as (c).

1962—Subsec. (c). Pub. L. 87–649 repealed subsec. (c) which provided that a person enlisted in inactive Army National Guard or inactive Air National Guard is not entitled to pay under section 301 of title 37.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

§304. Enlistment oath

Each person enlisting in the National Guard shall sign an enlistment contract and subscribe to the following oath:

"I do hereby acknowledge to have voluntarily enlisted this ____ day of _____, 19__, in the _____ National Guard of the State of _____ for a period of ____ year(s) under the conditions prescribed by law, unless sooner discharged by proper authority.

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of

the President of the United States and the Governor of _____ and the orders of the officers appointed over me, according to law and regulations. So help me God."

The oath may be taken before any officer of the National Guard of the State or Territory, or of Puerto Rico, or the District of Columbia, as the case may be, or before any other person authorized by the law of the jurisdiction concerned to administer oaths of enlistment in the National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 87–751, §2, Oct. 5, 1962, 76 Stat. 748; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
304	32:123.	June 3, 1916, ch. 134, §70; restated June 4, 1920, ch. 227, subch. I, §38; restated June 15, 1933, ch. 87, §8, 48 Stat. 156; June 19, 1935, ch. 277, §3, 49 Stat. 391; July 9, 1952, ch. 608, §806(b), 66 Stat. 506.

The words "or affirmation" are omitted as covered by the definition of the word "oath" in section 1 of title 1. The words "Each person" are substituted for the word "Men". The words "_____ National Guard" are substituted for the words "National Guard (Air National Guard)".

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1962—Pub. L. 87–751 substituted "support and defend the Constitution of the United States and of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to them" for "bear true faith and allegiance to the United States of America and to the State of _____: That I will serve them honestly and faithfully against all their enemies whomsoever" and inserted "So help me God."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–751 not to effect any oath taken before one year after Oct. 5, 1962, see section 3 of Pub. L. 87–751, set out as a note under section 502 of Title 10, Armed Forces.

§305. Federal recognition of commissioned officers: persons eligible

(a) The following categories are eligible for Federal recognition as commissioned officers of the National Guard:

(1) Members of the National Guard.

(2) Members of the armed forces.

(3) Former officers of the armed forces.

(4) Former enlisted members of the armed forces who were discharged honorably or under honorable conditions.

(5) Graduates of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the United States Coast Guard Academy, or the United States Merchant Marine Academy.

(6) Graduates of a school, college, university, or officer's training camp who received military instruction under the supervision of a commissioned officer of the Regular Army or the Regular Air Force, and whose fitness for appointment has been certified by that officer.

(7) Civilians who are specially qualified for duty in a technical or staff branch or organization.

(b) To be eligible for Federal recognition under this section with a view to serving as a nurse, a person must be a graduate of a hospital or university training school and a registered nurse.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 85–861, §2(5), Sept. 2, 1958, 72 Stat. 1543; Pub. L. 90–130, §2(1), Nov. 8, 1967, 81 Stat. 383; Pub. L. 108–375, div. A, title V, §505, Oct. 28, 2004, 118 Stat. 1875; Pub. L. 111–383, div. A, title V, §517, Jan. 7, 2011, 124 Stat. 4214.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
305	32:111 (less 37th through 54th words).	June 3, 1916, ch. 134, §74 (less 39th through 56th words); restated June 4, 1920, ch. 227, subch. I, §41 (less 39th through 56th words), 41 Stat. 781.

The word "individual" is inserted for clarity to distinguish the individual Federal recognition that is necessary to membership as an officer from the general Federal recognition that is necessary to all membership in the National Guard (see section 301 of this title).

The words "June 4, 1920" are omitted as obsolete. The words "Only persons selected from the following categories are eligible for individual Federal recognition as commissioned officers" are substituted for the words "Persons commissioned * * * shall not be recognized as such under any of the provisions of this title unless they shall have been selected from the following classes".

In clause (2), the words "reserve officers" are omitted as covered by the words "members of the Army, Navy, Air Force, or Marine Corps".

In clause (4), the words "under honorable conditions" are inserted for clarity.

In clause (5), the words "the United States Air Force Academy" are inserted to reflect the establishment of that institution by the Air Force Academy Act (68 Stat. 47).

In clause (7), the words "staff branch" are substituted for the words "Staff Corps and departments".

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
305(b)	32 App.:4 (less applicability to age).	July 30, 1956, ch. 789, §§2 (less applicability to age), 3, 70 Stat. 729.

The words "who are citizens of the United States" are omitted as covered by section 313(b) of this title. The words "with a view to serving" are substituted for the words "to serve". The words "and have the physical and other qualifications prescribed by the Secretary of the Army" and section 3 of the source statute are omitted as covered by section 307(a)(2) of this title. The applicability of section 3 of the source statute to section 1 of the source statute is omitted as unnecessary.

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (a)(5). Pub. L. 111–383 substituted "the United States Coast Guard Academy, or the United States Merchant Marine Academy" for "or the United States Coast Guard Academy".

2004—Subsec. (a)(2) to (4). Pub. L. 108–375, §505(1), substituted "armed forces" for "Army, Navy, Air Force, or Marine Corps".

Subsec. (a)(5). Pub. L. 108–375, §505(2), substituted "the United States Air Force Academy, or the United States Coast Guard Academy" for "or the United States Air Force Academy".

1967—Subsec. (a). Pub. L. 90–130, §2(1)(A), struck out provision that, except as provided in subsec. (b), only male persons from the enumerated categories were eligible for Federal recognition as commissioned officers of the National Guard.

Subsec. (b). Pub. L. 90–130, §2(1)(B), (C), struck out provision that women are eligible for Federal

recognition as commissioned officers of the National Guard, with a view to serving as nurses or medical specialist, and substituted "person" for "woman" in description of the individual who must be a graduate of a hospital or university training school and a registered nurse in order to be eligible for Federal recognition under this section with a view to serving as a nurse.

1958—Subsec. (a). Pub. L. 85–861, §2(5)(A), designated existing provisions as subsec. (a) and substituted "Except as provided in subsection (b), only male persons" for "Only persons".

Subsec. (b). Pub. L. 85–861, §2(5)(B), added subsec. (b).

§307. Federal recognition of officers: examination; certificate of eligibility

(a) To be eligible for Federal recognition as an officer of the National Guard, a person must—

(1) receive an appointment with a view to filling a vacancy in a federally recognized unit or organization of the National Guard;

(2) have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved; and

(3) except as provided in subsections (d) and (e) of this section, pass an examination for physical, moral, and professional fitness to be prescribed by the President, and subscribe to the oath of office prescribed by section 312 of this title.

(b) The examination prescribed by subsection (a)—

(1) shall be conducted, for the Army National Guard, by a board of three commissioned officers designated by the Secretary of the Army from members of the Regular Army or the Army National Guard of the United States, or both, and for the Air National Guard, by a board of three commissioned officers designated by the Secretary of the Air Force from members of the Regular Air Force or the Air National Guard of the United States, or both; and

(2) may be held before original appointment or promotion.

(c) If such a board finds a person qualified, the Chief of the National Guard Bureau may issue to him a certificate of eligibility for Federal recognition for the office for which he was found qualified. If he is originally appointed or promoted within two years to that office, he is entitled to Federal recognition without further examination, except as to physical condition.

(d) Subject to subsection (a)(1) and (2) and to such physical examination as may be prescribed, Federal recognition shall be extended to each officer of the Army Reserve who has qualified for appointment as an officer of the Army National Guard in his reserve grade. Similarly, Federal recognition shall be extended to each officer of the Air Force Reserve who has qualified for appointment as an officer of the Air National Guard. Federal recognition extended under this subsection is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

(e) Subject to subsection (a)(1) and (2), Federal recognition shall be extended to each officer of the Air Force Reserve who is appointed in a commissioned grade in the Air National Guard to fill a vacancy, if on the date on which he is appointed his reserve grade is the same as the grade in which he is appointed or his name is on a recommended list for promotion to that reserve grade.

(f) Federal recognition extended under subsection (d) or (e) is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 602; Pub. L. 85–861, §2(6), Sept. 2, 1958, 72 Stat. 1543; Pub. L. 92–492, §2(b), Oct. 13, 1972, 86 Stat. 810; Pub. L. 96–535, Dec. 16, 1980, 94 Stat. 3165; Pub. L. 103–337, div. A, title XVI, §1676(a)(2), Oct. 5, 1994, 108 Stat. 3019.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
307(a)	32:113 (1st sentence).	June 3, 1916, ch. 134, §74 (39th

	32:111 (37th through 54th words). 50:1113(a) (as applicable to officers).	through 56th words); restated June 4, 1920, ch. 227, subch. I, §41 (39th through 56th words), 41 Stat. 781. June 3, 1916, ch. 134, §75; restated
307(b)	32:113 (2d sentence and 1st 24 words of 3d sentence). 32:113 (3d sentence, less 1st 24	June 15, 1933, ch. 87, §12, 48 Stat. 158; July 9, 1952, ch. 608, §803 (10th par.), 66 Stat. 505.
307(c)	words). 50:1115(a) (less last 39 words).	
307(d)		July 9, 1952, ch. 608, §§703(a) (as applicable to officers), 705(a) (less last 39 words), 66 Stat. 502.

In subsection (b), the words "prescribed by subsection (a)" are substituted for the words "to determine such qualifications for appointment". The word "designated" is substituted for the word "appointed", since the filling of the positions involved is not an appointment to office in the constitutional sense. The words "of an individual as an officer or warrant officer" are omitted as surplusage.

In subsection (c), the word "originally" is inserted for clarity. The words "If such a board finds a person" are substituted for the words "if the applicant has been found". The words "for individual Federal recognition for the office for which he was found qualified" are inserted for clarity. The words "that office" are substituted for the words "the office for which he was found qualified".

In subsection (d), the words "Notwithstanding the provisions of section 113 of Title 32" are omitted as covered by the words of exception in revised subsection (a). The words "Subject to subsection (a)(1) and (2)" are inserted, since 50:1115(a) (less last 39 words) was not an exception to that part of 50:1113 relating to qualifications prescribed by the Secretary, or to the requirement that only members of federally recognized units can be federally recognized. The words "in his reserve grade" are substituted for the words "in the same grade in which he is appointed as a Reserve officer of the appropriate Armed Force of the United States". The last sentence is inserted for clarity.

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
307(a)	50:1349(b) (1st sentence).	Sept. 3, 1954, ch. 1257, §519(b), 68 Stat. 1179.
307(e)	50:1349(b) (less 1st sentence, and less 36th through 58th words of 2d sentence).	
307(f)	50:1349(b) (36th through 58th words of 2d sentence).	

In subsection (e), the words "to subsection (a)(1) and (2)" are inserted, since 50:1349(b) was not an exception to that part of 50:1113 relating to qualifications prescribed by the Secretary, or to the requirement that only members of federally recognized units can be federally recognized. The words "without the examination prescribed in section 113 of Title 32" are omitted as covered by the words of exception in revised subsection (a). The last 37 words are substituted for 50:1349(b) (last 29 words of 2d sentence; and last sentence).

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103–337 struck out "and sections 8365 and 8366 of title 10" after "of this section".

1980—Subsec. (g). Pub. L. 96–535 struck out subsec. (g) which prohibited extension of Federal recognition to members of the Virgin Islands National Guard in any grade above colonel.

1972—Subsec. (g). Pub. L. 92–492 added subsec. (g).

1958—Subsec. (a)(3). Pub. L. 85–861, §2(6)(A), substituted "subsections (d) and (e) of this section and

sections 8365 and 8366 of title 10" for "subsection (d)".

Subsecs. (e), (f). Pub. L. 85–861, §2(6)(B), added subsecs. (e) and (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF SUBSECTION (E) OF THIS SECTION

For authority of the President to suspend subsec. (e) of this section in time of war or emergency declared by Congress, see section 111 of this title.

§308. Federal recognition of officers: temporary recognition

(a) The Secretary of the Army may authorize the extension of temporary Federal recognition as an officer of the Army National Guard to any person who has passed the examination prescribed in section 307(b) of this title, pending his appointment as a reserve officer of the Army. The Secretary of the Air Force may do likewise for a person who has passed that examination pending his appointment as a reserve officer of the Air Force. Temporary recognition so extended may be withdrawn at any time. If not sooner withdrawn or replaced by permanent recognition upon appointment as a reserve officer in the same grade, it terminates one year after its effective date.

(b) To be eligible for temporary Federal recognition under subsection (a), a person must take an oath that during the period of temporary recognition he will perform his Federal duties as if he had been appointed as a reserve officer of the Army or the Air Force, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 603; Pub. L. 110–181, div. A, title V, §514, Jan. 28, 2008, 122 Stat. 99.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
308(a)	50:1114 (less 2d and 3d sentences).	July 9, 1952, ch. 608, §704 (less 2d sentence), 66 Stat. 502.
308(b)	50:1114 (3d sentence).	

In subsection (a), the words "by regulations" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "as an officer of the Army National Guard to any person" are substituted for the words "to any officer of the National Guard or Air National Guard". The second sentence is inserted for clarity. The words "successfully", "final determination of his eligibility for, and", "in the grade concerned", and "automatically" are omitted as surplusage. 50:1114 (proviso of last sentence) is omitted as surplusage.

In subsection (b), the words "To be eligible for temporary Federal recognition under subsection (a), a person" are substituted for the words "However, a temporary extension of Federal recognition shall be granted only when the officer". The words "the period of temporary recognition" are substituted for the words "such recognition". The words "and obligations required of him" and "in the same grade" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 substituted "one year" for "six months" in last sentence.

§309. Federal recognition of National Guard officers: officers promoted to fill vacancies

Each officer of the National Guard who is promoted to fill a vacancy in a federally recognized unit of the National Guard, and who has been on the reserve active-status list or the active-duty list of the Army or the Air Force for at least one year and has completed the minimum years of service in grade specified in section 14303 of title 10, shall be examined for Federal recognition in the grade to which the officer is promoted.

(Added Pub. L. 85–861, §2(7), Sept. 2, 1958, 72 Stat. 1543; amended Pub. L. 103–337, div. A, title XVI, §1630(1), Oct. 5, 1994, 108 Stat. 2963.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
309	50:1251.	Sept. 3, 1954, ch. 1257, §319, 68 Stat. 1160.

The words "authorized under section 1227(a) of this title" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

1994—Pub. L. 103–337 substituted "National Guard officers: officers" for "officers: Army National Guard; officers" in section catchline and amended text generally. Prior to amendment, text read as follows: "Each officer of the Army National Guard who is promoted to fill a vacancy in a federally recognized unit thereof, and who is eligible for promotion under section 3363(b) of title 10, shall be examined for Federal recognition in the grade to which he is promoted. However, a second lieutenant or first lieutenant of the Army National Guard who has served creditably for at least one year in a position prescribed to be filled by a captain, and who has not previously been federally recognized under this section, may be examined for Federal recognition in the next higher grade without regard to section 3363(b) of title 10."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF THIS SECTION

For authority of the President to suspend this section in time of war or emergency declared by Congress, see section 111 of this title.

§310. Federal recognition of National Guard officers: automatic recognition

(a)(1) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of first lieutenant, effective as of the date on which that officer has completed the service in the grade specified in section 14303(a)(1) of title 10 and has met such other requirements as prescribed by the Secretary concerned under section 14308(b) of that title, if the officer has remained in an active status since the officer was so recommended.

(2) Notwithstanding sections 307 and 309 of this title, if a warrant officer, W–1, of the National Guard is promoted to the grade of chief warrant officer, W–2, to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade of chief warrant officer, W–2, effective as of the date on which that officer has completed the service in the grade prescribed by the Secretary concerned under section 12242 of title 10, if the warrant officer has remained in an active status since the warrant officer was so recommended.

(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve or the Air Force Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the National Guard to fill a vacancy in a federally recognized unit in the National Guard, Federal recognition is automatically extended to that officer in the grade in which the officer is so appointed in the National Guard if the officer has been recommended for promotion under chapter 1405 of title 10 and has remained in an active status since the officer was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the National Guard.

(Added Pub. L. 85–861, §2(7), Sept. 2, 1958, 72 Stat. 1544; amended Pub. L. 103–337, div. A, title XVI, §1630(1), Oct. 5, 1994, 108 Stat. 2964; Pub. L. 112–239, div. A, title V, §512, Jan. 2, 2013, 126 Stat. 1718.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
310(a)	50:1252 (less (2)).	Sept. 3, 1954, ch. 1257, §320, 68 Stat. 1160.
310(b)	50:1252(2).	

In subsections (a) and (b), the words "federally recognized" are inserted for clarity.

In subsection (a), the words "or the date of the promotion, whichever is later" are omitted as inconsistent with section 3820(c) of title 10, requiring the discharge of each second lieutenant who is not promoted by the time he has three years of service. (See opinion of the Judge Advocate General of the Army (JAGA 1957/1019, Jan. 7, 1957).)

EDITORIAL NOTES

AMENDMENTS

2013—Subsec. (a). Pub. L. 112–239 designated existing provisions as par. (1) and added par. (2).

1994—Pub. L. 103–337 substituted "National Guard officers:" for "officers: Army National Guard;" in section catchline and amended text generally. Prior to amendment, text read as follows:

"(a) Notwithstanding sections 307 and 309 of this title, if a second lieutenant of the Army National Guard is promoted to the grade of first lieutenant to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade of first lieutenant, effective as of the date on which he completes three years of service computed under section 3360(a) of title 10.

"(b) Notwithstanding sections 307 and 309 of this title, if an officer of the Army Reserve in a reserve grade above second lieutenant is appointed in the next higher grade in the Army National Guard to fill a vacancy in a federally recognized unit thereof, Federal recognition is automatically extended to him in the grade in which he is so appointed in the Army National Guard, if he has been recommended for promotion to the grade concerned under section 3366, 3367, 3370, or 3383 of title 10 and has remained in an active status since he was so recommended. The extension of Federal recognition under this subsection is effective as of the date when the officer is appointed in the Army National Guard."

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

SUSPENSION OF THIS SECTION

For authority of the President to suspend this section in time of war or emergency declared by Congress, see section 111 of this title.

§312. Appointment oath

Each person who is appointed as an officer of the National Guard shall subscribe to the following

oath:

"I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of _____ against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and of the Governor of the State of _____, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____ in the National Guard of the State of _____ upon which I am about to enter, so help me God."

(Aug. 10, 1956, ch. 1041, 70A Stat. 603.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
312	32:112.	June 3, 1916, ch. 134, §73 (1st par.); restated June 15, 1933, ch. 87, §11 (1st par.), 48 Stat. 157; July 9, 1952, ch. 608, §806(c), 66 Stat. 507.

The words "Each person who is appointed as an" are inserted for clarity.

§313. Appointments and enlistments: age limitations

(a) To be eligible for original enlistment in the National Guard, a person must be at least 17 years of age and under 45, or under 64 years of age and a former member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. To be eligible for reenlistment, a person must be under 64 years of age.

(b) To be eligible for appointment as an officer of the National Guard, a person must—

(1) be a citizen of the United States; and

(2) be at least 18 years of age and under 64.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85–861, §2(9), Sept. 2, 1958, 72 Stat. 1544; Pub. L. 90–130, §2(2), Nov. 8, 1967, 81 Stat. 383.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
313(a)	32:4 (less 22 words before proviso).	June 3, 1916, ch. 134, §58; restated Feb. 28, 1925, ch. 371, §1 (1st par.); restated June 15, 1933, ch. 87, §5 (1st par.), 48 Stat. 155; June 19, 1935, ch. 277, §2, 49 Stat. 391; June 28, 1947, ch. 162, §7 (less applicability to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192; July 9, 1952, ch. 608, §§803 (8th par.), 806(j), 66 Stat. 505, 508.
313(b)	32:4 (22 words before proviso).	

In subsection (a), 32:4 (1st 19 words) is omitted as covered by section 101(3) and (5) of this title. 32:4 (54th through 62d words) is omitted as surplusage. The words "under 64" are substituted for the words "not more than sixty-four" to conform to an opinion of the Judge Advocate General of the Army (JAGA 1953/9033, 3 Dec. 1953). The word "Regular" is inserted before the words "Navy" and "Marine Corps". The words "Regular Air Force" are inserted to complete the coverage of the revised section. The word "reenlistment" is substituted for the words "subsequent enlistment".

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
313(b)	32 App.:4 (as applicable to age).	July 30, 1956, ch. 789, §2 (as applicable to age), 70 Stat. 729.

EDITORIAL NOTES

AMENDMENTS

1967—Subsec. (b)(3). Pub. L. 90–130 struck out cl. (3) which inserted requirement that women appointed with a view to serving as a nurse or medical specialist be at least 21 years of age and under 64 years of age in order to be eligible for appointment as an officer of the National Guard.

1958—Subsec. (b). Pub. L. 85–861 inserted qualifications for appointment of women with a view to serving as nurses or medical specialists.

§314. Adjutants general

(a) There shall be an adjutant general in each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. He shall perform the duties prescribed by the laws of that jurisdiction.

(b) The President shall appoint the adjutant general of the District of Columbia and prescribe his grade and qualifications.

(c) The President may detail as adjutant general of the District of Columbia any retired commissioned officer of the Regular Army or the Regular Air Force recommended for that detail by the commanding general of the District of Columbia National Guard. An officer detailed under this subsection is entitled to the basic pay and allowances of his grade.

(d) The adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands, and officers of the National Guard, shall make such returns and reports as the Secretary of the Army or the Secretary of the Air Force may prescribe, and shall make those returns and reports to the Secretary concerned or to any officer designated by him.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 85–894, Sept. 2, 1958, 72 Stat. 1713; Pub. L. 100–456, div. A, title XII, §1234(b)(1), (5), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–510, div. A, title XIII, §1322(b), Nov. 5, 1990, 104 Stat. 1672; Pub. L. 102–190, div. A, title V, §553, Dec. 5, 1991, 105 Stat. 1371; Pub. L. 109–163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
314(a)	32:11.	Jan. 21, 1903, ch. 196, §12, 32 Stat. 776.
314(b)	32:12.	
314(c)	10:998.	June 6, 1900, ch. 811, 31 Stat. 671.
314(d)	32:13.	June 3, 1916, ch. 134, §66, 39 Stat. 199.
	32:14.	

In subsection (a), the word "appointed" is omitted, since the position is not filled by appointment in some cases. The Act of January 21, 1903, ch. 196, §12 (last 48 words of 1st sentence) are not contained in 32:11. They are also omitted from the revised section as covered by subsection (d) of this section.

In subsection (b), the word "grade" is substituted for the word "rank". The words "To be eligible for appointment as * * * a person must be" are substituted for the words "each * * * shall be". The words "of that jurisdiction" are substituted for the words "of the Territory for which he is appointed".

In subsection (c), the word "Regular" is inserted as an implication of 10:998 (last 2 words). The words "commanding general" are substituted for the words "brigadier general commanding", since the commanding general might hold another grade.

The words "basic pay" are substituted for the words "active service pay" to conform to section 201 of the Career Compensation Act of 1949, 63 Stat. 805 (37 U.S.C. 232). The word "grade" is substituted for the word

"rank".

In subsection (d), the words "at such times and in such form" are omitted as covered by the words "such returns and reports as the Secretary * * * may prescribe".

EDITORIAL NOTES

AMENDMENTS

2006—Subsecs. (a), (d). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State and Territory, Puerto Rico, and the District of Columbia".

1991—Subsec. (b). Pub. L. 102–190 struck out "each Territory and" before "the District of Columbia" in first sentence, and struck out at end "To be eligible for appointment as adjutant general of a Territory, a person must be a citizen of that jurisdiction."

1990—Subsec. (d). Pub. L. 101–510 struck out at end "Each Secretary shall send with his annual report to Congress an abstract of the returns and reports of the adjutants general and such comments as he considers necessary for the information of Congress."

1988—Subsec. (a). Pub. L. 100–456, §1234(b)(1), struck out "the Canal Zone," after "Puerto Rico,".

Subsec. (b). Pub. L. 100–456, §1234(b)(5), struck out ", the Canal Zone," after "each Territory" and "or the Canal Zone" after "a Territory".

Subsec. (d). Pub. L. 100–456, §1234(b)(1), struck out "the Canal Zone," after "Puerto Rico,".

1958—Subsec. (b). Pub. L. 85–894 struck out "Puerto Rico" in two places.

§315. Detail of regular members of Army and Air Force to duty with National Guard

(a) The Secretary of the Army shall detail commissioned officers of the Regular Army to duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force shall detail commissioned officers of the Regular Air Force to duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. With the permission of the President, an officer so detailed may accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable in the President's discretion, without prejudicing his rank and without vacating his regular appointment.

(b) The Secretary of the Army may detail enlisted members of the Regular Army for duty with the Army National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. The Secretary of the Air Force may detail enlisted members of the Regular Air Force for duty with the Air National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 604; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
315(a)	32:68 (less 2d sentence). 32:69.	June 3, 1916, ch. 134, §100, 39 Stat. 208.
315(b)	32:68 (2d sentence).	

In subsection (a), 32:68 (last sentence) is omitted as surplusage, since positive provisions relating to the assignment or detail of retired officers to that duty are covered by section 3504(a) or 8504(a) of title 10. The words "of the active list", in 32:68, are omitted for the same reason. The words "so detailed" are substituted for the words "detailed under section 68 of this title", in 32:69. The words "relative or lineal", in 32:69, are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State and Territory, Puerto Rico, and the District of Columbia" wherever appearing.

1988—Subsecs. (a), (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS AND AUTHORITY UNDER SECTIONS 315 AND 325 OF TITLE 32, UNITED STATES CODE

Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you: (a) the functions and authority of the President contained in section 315 of title 32, United States Code, to permit a commissioned officer of the Regular Army or Regular Air Force to accept a commission in the Army National Guard or the Air National Guard, as the case may be, terminable at your discretion, without prejudicing his or her rank and without vacating his or her regular appointment; and (b) the functions and authority of the President contained in section 325 of title 32, United States Code, to authorize the service of an officer of the Army National Guard or the Air National Guard on active duty without relieving that officer from duty in the National Guard of his or her State, or of the Commonwealth of Puerto Rico, Guam, or the United States Virgin Islands, or the District of Columbia and to give such authorization in advance for the purpose of establishing the succession of command of a unit.

This delegation of functions and authority supersedes and replaces the July 23, 2004, delegation to the Secretary of Defense of the functions and authority of the President contained in section 325 of title 32, United States Code.

You are further authorized and directed to make necessary arrangements to fund the exercise of these functions and authority from the proper appropriation, prescribe regulations to implement these functions and authority, and to publish this memorandum in the Federal Register.

BARACK OBAMA.

§316. Detail of members of Army National Guard for rifle instruction of civilians

The President may detail officers and noncommissioned officers of the Army National Guard to duty as instructors at rifle ranges for the training of civilians in the use of military arms.

(Aug. 10, 1956, ch. 1041, 70A Stat. 605.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
316	32:183.	June 3, 1916, ch. 134, §113 (3d sentence), 39 Stat. 211.

The word "civilians" is substituted for the word "citizenry". The word "capable" is omitted as surplusage.

§317. Command during joint exercises with Federal troops

When any part of the National Guard that is not in Federal service participates in an encampment, maneuver, or other exercise for instruction, together with troops in Federal service, the command of the post, air base, or other place where it is held, and of the troops in Federal service on duty there, remains with the officers in Federal service who command that place and the Federal troops on duty there, without regard to the rank of the officers of the National Guard not in Federal service who are temporarily participating in the exercise.

(Aug. 10, 1956, ch. 1041, 70A Stat. 605.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
317	32:72.	June 3, 1916, ch. 134, §95, 39 Stat. 207.

The words "not in Federal service" are inserted to show that the revised section applies only to joint exercises involving National Guard troops not in Federal service, since 32:72 was enacted before the establishment of the National Guard of the United States, in 1933. The words "troops in Federal service" are substituted for the words "troops of the United States". The words "officers in Federal service who command" are substituted for the words "commander of the United States troops". The words "post, air base, or other place" are substituted for the words "military post, or reservation, or elsewhere". The words "that place and the Federal troops on duty there" are substituted for the words "there or elsewhere" The words "including outdoor target practice" and "field and coast defense instruction" are omitted as surplusage.

STATUTORY NOTES AND RELATED SUBSIDIARIES

USUAL AND CUSTOMARY ARRANGEMENT

Pub. L. 112–81, div. A, title V, §515(c), Dec. 31, 2011, 125 Stat. 1395, provided that:

"(1) DUAL-STATUS COMMANDER.—When the Armed Forces and the National Guard are employed simultaneously in support of civil authorities in the United States, appointment of a commissioned officer as a dual-status commander serving on active duty and duty in, or with, the National Guard of a State under sections 315 or 325 of title 32, United States Code, as commander of Federal forces by Federal authorities and as commander of State National Guard forces by State authorities, should be the usual and customary command and control arrangement, including for missions involving a major disaster or emergency as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). The chain of command for the Armed Forces shall remain in accordance with sections 162(b) and 164(c) of title 10, United States Code.

"(2) STATE AUTHORITIES SUPPORTED.—When a major disaster or emergency occurs in any area subject to the laws of any State, Territory, or the District of Columbia, the Governor of the State affected normally should be the principal civil authority supported by the primary Federal agency and its supporting Federal entities, and the Adjutant General of the State or his or her subordinate designee normally should be the principal military authority supported by the dual-status commander when acting in his or her State capacity.

"(3) RULE OF CONSTRUCTION.—Nothing in paragraphs (1) or (2) shall be construed to preclude or limit, in any way, the authorities of the President, the Secretary of Defense, or the Governor of any State to direct, control, and prescribe command and control arrangements for forces under their command."

[§§318 to 321. Repealed. Pub. L. 99–661, div. A, title VI, §604(f)(2)(A), Nov. 14, 1986, 100 Stat. 3878]

Section 318, acts Aug. 10, 1956, ch. 1041, 70A Stat. 605; Sept. 2, 1958, Pub. L. 85–861, §33(c)(1), 72 Stat. 1567; Sept. 7, 1962, Pub. L. 87–649, §8(a), 76 Stat. 495, related to compensation for members of National Guard for disablement during training.

Section 319, act Aug. 10, 1956, ch. 1041, 70A Stat. 605, related to compensation for members of National Guard for disablement during training when not covered by section 318 of this title.

Section 320, act Aug. 10, 1956, ch. 1041, 70A Stat. 606, related to hospitalization ordered by Secretary of Army or Air Force for members of National Guard.

Section 321, acts Aug. 10, 1956, ch. 1041, 70A Stat. 606; Sept. 2, 1958, Pub. L. 85–861, §2(10), 72 Stat. 1544; Sept. 7, 1962, Pub. L. 87–649, §8(b), 76 Stat. 495, related to death gratuities for members of National Guard.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99–661, set out as an Effective Date of 1986 Amendment note under section 1074a of Title 10, Armed Forces.

§322. Discharge of enlisted members

(a) An enlisted member of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

(b) An enlisted member who is discharged from the National Guard is entitled to a discharge certificate similar in form and classification to the corresponding certificate prescribed for members of the Regular Army or the Regular Air Force, as the case may be.

(c) In time of peace, an enlisted member of the National Guard may be discharged before his enlistment expires, under such regulations as may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be.

(Aug. 10, 1956, ch. 1041, 70A Stat. 606.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
322(a)	32:154 (last par., less 1st 26, and last 26, words).	June 3, 1916, ch. 134, §72; restated June 4, 1920, ch. 227, subch. I, §40; restated June 15, 1933, ch. 87, §10, 48 Stat. 157; July 9, 1952, ch. 608, §806(d), 66 Stat. 507.
322(b)	32:125 (less last 27 words).	
322(c)	32:125 (last 27 words).	June 3, 1916, ch. 134, §110 (last par., less 1st 30, and last 25, words); restated Sept. 22, 1922, ch. 423, §6 (last par., less 1st 30, and last 137, words); restated May 12, 1928, ch. 529 (less 1st 30, and last 25, words), 45 Stat. 500.

Subsection (a) is substituted for 32:154 (last par., less 1st 26, and last 26, words) to reflect an opinion of the Judge Advocate General of the Army (JAGA 1953/9033, 3 Dec. 1953).

In subsection (b), the words "is entitled to a discharge certificate similar in form and classification to the corresponding certificate" are substituted for the words "shall receive a discharge in writing in such form and with such classification as is or shall be". The words "service in" are omitted as surplusage.

In subsection (c), the words "his enlistment expires" are substituted for the words "the expiration of terms of enlistment".

§323. Withdrawal of Federal recognition

(a) Whenever a member of the National Guard ceases to have the qualifications prescribed under section 301 of this title or ceases to be a member of a federally recognized unit or organization of the National Guard, his Federal recognition shall be withdrawn.

(b) Under regulations to be prescribed by the President, the capacity and general fitness of an officer of the National Guard for continued Federal recognition may be investigated at any time by an efficiency board composed of commissioned officers of—

(1) the Regular Army or the Army National Guard of the United States, or both, who out-rank him and who are detailed by the Secretary of the Army, if he is a member of the Army National

Guard; or

(2) the Regular Air Force or the Air National Guard of the United States, or both, who outrank him and who are detailed by the Secretary of the Air Force, if he is a member of the Air National Guard.

If the findings of the board are unfavorable to the officer and are approved by the President, his Federal recognition shall be withdrawn.

(c) If a member of the Army National Guard of the United States or the Air National Guard of the United States is transferred to the Army Reserve or the Air Force Reserve, as the case may be, under section 12105, 12213(a), or 12214(a) of title 10, his Federal recognition is withdrawn.

(d) The Federal recognition of a reserve commissioned officer of the Army or the Air Force who is—

(1) federally recognized as an officer of the National Guard; and

(2) subject to involuntary transfer to the Retired Reserve, transfer to an inactive status list, or discharge under chapter 1407, 1409, or 1411 of title 10;

shall, if not sooner withdrawn, be withdrawn on the date of such involuntary transfer or discharge.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 85–861, §§2(11), 33(c)(2), Sept. 2, 1958, 72 Stat. 1546, 1567; Pub. L. 103–337, div. A, title XVI, §§1630(2), 1676(a)(3), Oct. 5, 1994, 108 Stat. 2964, 3019.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(a)	32:154 (last 26 words of last par.).	June 3, 1916, ch. 134, §76 (1st sentence, and 1st 24 words of 2d sentence); restated June 15, 1933, ch. 87, §13 (1st sentence, and 1st 24 words of 2d sentence), 48 Stat. 158.
323(b)	32:115 (1st sentence, and 1st 24 words of 2d sentence).	
	50:1116 (last 15 words of 1st sentence).	
323(c)		June 3, 1916, ch. 134, §110 (last 25 words of last par.); restated Sept. 22, 1922, ch. 423, §6 (last 137 words of last par.); restated May 12, 1928, ch. 529 (last 25 words), 45 Stat. 501.
		July 9, 1952, ch. 608, §706 (last 15 words of 1st sentence), 66 Stat. 503.

In subsection (a) the words "ceases to have the qualifications prescribed under section 300 of this title" are substituted for 32:154 (last 26 words of last par.), since it is implicit that a member who could not be paid would lose his federally recognized status (see JAGA 1953/9033, 3 Dec. 1953). The last 23 words of subsection (a) are inserted as a necessary implication of the rule stated in section 309(c) of this title.

In subsection (b), the words "or warrant officer" are omitted, since section 101(9) of this title defines "officer" to include warrant officers. The word "detailed" is substituted for the word "appointed", since the filling of the positions involved is not appointment to an office in the constitutional sense. The word "commissioned" is inserted after the words "composed of", since the word "officer" alone, in 32:115, referred to a commissioned officer only (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)). The words "who outrank him" are substituted for the words "senior in rank to the officer under investigation".

In subsection (c), the opening clause is substituted for the words "such transfer". The words "his Federal recognition is withdrawn" are substituted for the words "shall terminate his federally recognized National Guard or Air National Guard status".

1958 ACT

Section of title 32	*Source (U.S. Code)*	*Source (Statutes at Large)*
323(d)	50:1261 (as applicable to Federal recognition).	Sept. 3, 1954, ch. 1257, §§324 (as applicable to Federal recognition),
323(e)	50:1352(e)(1) (56th through 63d words). 50:1352(e)(2) (78th through 85th words).	522(e)(1) (56th through 63d words). (e)(2) (78th through 85th words), 68 Stat. 1161, 1181.

The change [in subsec. (b)(1) and (2)] is necessary to exclude from the efficiency board commissioned officers of the Army Reserve or Air Force Reserve, in accordance with the source law, the first sentence of section 76 of the Act of June 3, 1916, chapter 134 (formerly 32 U.S.C. 115 (1st sentence)).

In subsection (d), the words "notwithstanding section 115 of title 32" are omitted as surplusage.

In subsection (e), the words "if appropriate" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–337, §1676(a)(3), substituted "12105, 12213(a), or 12214(a)" for "3259, 3352(a), 8259, or 8352(a)".

Subsecs. (d), (e). Pub. L. 103–337, §1630(2), added subsec. (d) and struck out former subsecs. (d) and (e) which read as follows:

"(d) Except as provided in sections 1005 and 1006 of title 10, the Federal recognition of a second lieutenant of the Army National Guard who is discharged under section 3820(c) of title 10 for failure of promotion shall be withdrawn on the date of that discharge.

"(e) Except as provided in sections 1005 and 1006 of title 10, the Federal recognition of a reserve officer of the Air Force who is not recommended for promotion under section 8368(c)(1) or (2) of title 10, or who is found to be not qualified for Federal recognition under section 8368(d) or (e) of title 10, shall be withdrawn."

1958—Subsec. (b)(1). Pub. L. 85–861, §33(c)(2), substituted "the Regular Army or the Army National Guard of the United States, or both" for "a regular or reserve component of the Army".

Subsec. (b)(2). Pub. L. 85–861, §33(c)(2), substituted "the Regular Air Force or the Air National Guard of the United States, or both" for "a regular or reserve component of the Air Force".

Subsecs. (d), (e). Pub. L. 85–861, §2(11), added subsecs. (d) and (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1676(a)(3) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1630(2) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(c)(2) of Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of Title 10, Armed Forces.

SUSPENSION OF SUBSECTION (D) OF THIS SECTION

For authority of the President to suspend subsec. (d) of this section in time of war or emergency declared by Congress, see section 111 of this title.

§324. Discharge of officers; termination of appointment

(a) An officer of the National Guard shall be discharged when—

(1) he becomes 64 years of age; or

(2) his Federal recognition is withdrawn.

The official who would be authorized to appoint him shall give him a discharge certificate.

(b) Subject to subsection (a), the appointment of an officer of the National Guard may be terminated or vacated as provided by the laws of the State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, of whose National Guard he is a member.

(c) Notwithstanding subsection (a)(1), an officer of the National Guard serving as a chaplain, medical officer, dental officer, nurse, veterinarian, Medical Service Corps officer, or biomedical sciences officer may be retained, with the officer's consent, until the date on which the officer becomes 68 years of age.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 100–456, div. A, title XII, §1234(b)(6), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(5), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 110–417, [div. A], title V, §516(b), Oct. 14, 2008, 122 Stat. 4442; Pub. L. 111–383, div. A, title X, §1075(h)(4)(C), Jan. 7, 2011, 124 Stat. 4377.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
324(a)	32:114 (less 1st sentence).	June 3, 1916, ch. 134, §77; restated
324(b)	32:114 (1st sentence).	June 15, 1933, ch. 87, §14; restated June 19, 1935, ch. 277, §4, 49 Stat. 391; July 9, 1952, ch. 608, §803 (11th par.), 66 Stat. 505.

In subsection (a), the words "shall be discharged" are substituted for the words "shall thereupon cease to be a member thereof" since an official is required to give the officer a discharge certificate. The words "becomes 64 years of age" are substituted for the words "upon reaching the age of sixty-four years". The words "his Federal recognition is withdrawn" are substituted for the words "When Federal recognition is withdrawn * * * as provided in section 115 of this title".

In subsection (b), the words "Subject to subsection (a)" are inserted for clarity. The words "as provided by the laws" are substituted for the words "in such manner as * * * shall provide by law".

EDITORIAL NOTES

AMENDMENTS

2011—Subsec. (b). Pub. L. 111–383 amended directory language of Pub. L. 109–163, §1057(b)(5). See 2006 Amendment note below.

2008—Subsec. (c). Pub. L. 110–417 added subsec. (c).

2006—Subsec. (b). Pub. L. 109–163, §1057(b)(5), as amended by Pub. L. 111–383, substituted "State of whose National Guard he is a member, or by the laws of the Commonwealth of Puerto Rico, or the District of Columbia, Guam, or the Virgin Islands, of whose National Guard he is a member" for "State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico or the District of Columbia, if he is a member of its National Guard".

1988—Subsec. (b). Pub. L. 100–456 struck out ", the Canal Zone," after "Puerto Rico".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title X, §1075(h), Jan. 7, 2011, 124 Stat. 4377, provided that the amendment made by section 1075(h)(4)(C) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109–163 as enacted.

§325. Relief from National Guard duty when ordered to active duty

(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each member of the Army National Guard of the United States or the Air National Guard of the United States who is ordered to active duty is relieved from duty in the National Guard of his State, or of the Commonwealth of

Puerto Rico, Guam, or the Virgin Islands or the District of Columbia, as the case may be, from the effective date of his order to active duty until he is relieved from that duty.

(2) An officer of the Army National Guard of the United States or the Air National Guard of the United States is not relieved from duty in the National Guard of his State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands or the District of Columbia, under paragraph (1) while serving on active duty if—

(A) the President authorizes such service in both duty statuses; and

(B) the Governor of his State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, consents to such service in both duty statuses.

(b) ADVANCE AUTHORIZATION AND CONSENT.—The President and the Governor of a State or Territory, or of the Commonwealth of Puerto Rico, or the commanding general of the District of Columbia National Guard, as applicable, may give the authorization or consent required by subsection (a)(2) with respect to an officer in advance for the purpose of establishing the succession of command of a unit.

(c) RETURN TO STATE STATUS.—So far as practicable, members, organizations, and units of the Army National Guard of the United States or the Air National Guard of the United States ordered to active duty shall be returned to their National Guard status upon relief from that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Pub. L. 100–456, div. A, title XII, §1234(b)(6), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 108–136, div. A, title V, §516, Nov. 24, 2003, 117 Stat. 1461; Pub. L. 109–163, div. A, title X, §1057(b)(6), Jan. 6, 2006, 119 Stat. 3442; Pub. L. 110–417, [div. A], title V, §517, Oct. 14, 2008, 122 Stat. 4442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
325(a)	50:1120.	July 9, 1952, ch. 608, §§710, 712(b) (less last 17 words), 66 Stat. 503, 504.
325(b)	50:1122(b) (less last 17 words).	

In subsection (a), the words "in the service of the United States" are omitted as surplusage. The words "effective date of his order to active duty until he is relieved from that duty" are substituted for the words "active-duty date of the orders and for as long as they remain on active duty in the service of the United States". 50:1120 (last sentence) is omitted as surplusage, since the persons involved are members of the Army or the Air Force.

In subsection (b), the words "upon relief from that duty" are substituted for the words "upon being relieved from active duty". The words "their National Guard status" are substituted for the words "to the National Guard and Air National Guard in their respective States, Territories, and the District of Columbia".

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110–417, §517(a), struck out "in command of a National Guard unit" after "active duty" in introductory provisions.

Subsecs. (b), (c). Pub. L. 110–417, §517(b), added subsec. (b) and redesignated former subsec. (b) as (c).

2006—Subsec. (a). Pub. L. 109–163 substituted "State, or of the Commonwealth of Puerto Rico, Guam, or the Virgin Islands" for "State or Territory, or of Puerto Rico" in par. (1) and introductory provisions of par. (2) and "State or Territory or Puerto Rico" in par. (2)(B).

2003—Subsec. (a). Pub. L. 108–136, §516(a), substituted "(a) RELIEF REQUIRED.—(1) Except as provided in paragraph (2), each" for "(a) Each" and added par. (2).

Subsec. (b). Pub. L. 108–136, §516(b), inserted heading.

1988—Subsec. (a). Pub. L. 100–456 struck out ", the Canal Zone," after "Puerto Rico".

EXECUTIVE DOCUMENTS

DELEGATION OF FUNCTIONS

Functions and authority of President under this section delegated to the Secretary of Defense, see Memorandum of President of the United States, Apr. 14, 2011, 76 F.R. 22003, set out as a note under section 315 of this title.

NATIONAL GUARD SUPPORT FOR 2004 DEMOCRATIC AND REPUBLICAN NATIONAL CONVENTIONS AND OTHER APPROPRIATE EVENTS

Memorandum of President of the United States, July 23, 2004, 69 F.R. 46397, which delegated to the Secretary of Defense the functions and authority of the President under this section, was superseded by Memorandum of President of the United States, Apr. 14, 2011, 69 F.R. 22003, set out as a note under section 315 of this title.

§326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts. Punishments shall be as provided by the laws of the respective States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 107–314, div. A, title V, §512(a), Dec. 2, 2002, 116 Stat. 2537; Pub. L. 109–163, div. A, title X, §1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
326	32:91.	June 3, 1916, ch. 134, §102, 39 Stat. 208.

The words "not in Federal service" are substituted for the words "Except in organizations in the service of the United States". The words "have the jurisdiction and powers" are substituted for the words "and have cognizance of the same subjects, and possess like powers". The words "of three kinds, namely", "provided for by the laws and regulations governing", "proceedings of courts-martial of the National Guard", and "modes of" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "States and Territories, Puerto Rico, and the District of Columbia".

2002—Pub. L. 107–314 inserted at end "Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia."

§327. Courts-martial of National Guard not in Federal service: convening authority

(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(b) In the National Guard not in Federal service—

(1) general courts-martial may be convened by the President;

(2) special courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

(3) summary courts-martial may be convened—

(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Pub. L. 100–456, div. A, title XII, §1234(b)(4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 107–314, div. A, title V, §512(b), Dec. 2, 2002, 116 Stat. 2537; Pub. L. 109–163, div. A, title X, §1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, §103, 39 Stat.
327(b)	32:92 (less 1st 46 words).	208.

In subsection (a), the words "Federal service" are substituted for the words "service of the United States".

In subsection (b), the words "A general court-martial may sentence to—" are substituted for the words "and such courts shall have the power to impose * * * to sentence". The words "any combination of these punishments" are substituted for the words "or any two or more of such punishments may be combined in the sentences imposed by such courts".

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted "States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "States and Territories, Puerto Rico, and the District of Columbia".

2002—Pub. L. 107–314 amended section catchline and text generally. Prior to amendment, text read as follows:

"(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory or Puerto Rico or by the commanding general of the National Guard of the District of Columbia.

"(b) A general court-martial may sentence to—

"(1) a fine of not more than $200;

"(2) forfeiture of pay and allowances;

"(3) a reprimand;

"(4) dismissal or dishonorable discharge;

"(5) reduction of a noncommissioned officer to the ranks; or

"(6) any combination of these punishments."

1988—Subsec. (a). Pub. L. 100–456 substituted "Territory or Puerto Rico" for "Territory, Puerto Rico, or the Canal Zone,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

MODELS FOR STATE CODE OF MILITARY JUSTICE AND STATE MANUAL FOR COURTS-MARTIAL

Pub. L. 107–314, div. A, title V, §512(e), Dec. 2, 2002, 116 Stat. 2537, provided that:

"(1) The Secretary of Defense shall prepare a model State code of military justice and a model State manual for courts-martial to recommend to the States for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report that was issued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

"(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

"(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

"(4) Not later than one year after the date of the enactment of this Act [Dec. 2, 2002], the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

"(5) In this subsection, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam."

§328. Active Guard and Reserve duty: Governor's authority

(a) AUTHORITY.—The Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, with the consent of the Secretary concerned, may order a member of the National Guard to perform Active Guard and Reserve duty, as defined by section 101(d)(6) of title 10, pursuant to section 502(f) of this title.

(b) DUTIES.—A member of the National Guard performing duty under subsection (a) may perform the additional duties specified in section 502(f)(2) of this title to the extent that the performance of those duties does not interfere with the performance of the member's primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components.

(c) WAIVER AUTHORITY.—(1) Notwithstanding section 101(d)(6)(A) of title 10 and subsection (b) of this section, the Governor of a State or the Commonwealth of Puerto Rico, Guam, or the Virgin Islands, or the commanding general of the District of Columbia National Guard, as the case may be, may, at the request of the Secretary concerned, order a member of the National Guard to perform Active Guard and Reserve duty for purposes of performing training of the regular components of the armed forces as the primary duty.

(2) Training performed under paragraph (1) must be in compliance with the requirements of section 502(f)(2)(B)(i) of this title.

(3) No more than 100 personnel may be granted a waiver by a Secretary concerned under paragraph (1) at a time.

(4) The authority under paragraph (1) shall terminate on October 1, 2024.

(Added Pub. L. 109–364, div. A, title V, §526(a), Oct. 17, 2006, 120 Stat. 2196; amended Pub. L. 117–263, div. A, title V, §515(a), Dec. 23, 2022, 136 Stat. 2566.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 328, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, related to special courts-martial of the

National Guard not in Federal service, prior to repeal by Pub. L. 107–314, div. A, title V, §512(c), Dec. 2, 2002, 116 Stat. 2537, applicable with respect to courts-martial convened after Dec. 2, 2002.

AMENDMENTS

2022—Subsec. (c). Pub. L. 117–263 added subsec. (c).

§328a. Active Guard and Reserve duty: State disaster response duty

(a) AUTHORITY.—The chief executive of a State who has declared an emergency in such State due to a disaster, may, with the consent of the Secretary of Defense, order a member of the National Guard of such State, who is performing Active Guard and Reserve duty pursuant to section 328 of this title, to perform duties in response to, or in preparation for, such disaster. Duty performed under this section shall be referred to as "State disaster response duty".

(b) REQUIREMENTS.—State disaster response duty performed pursuant to this section—

(1) shall be on a reimbursable basis, in accordance with subsection (c);

(2) may be performed to the extent that the performance of such duty does not interfere with the performance of the member's primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components; and

(3) shall not exceed a total of 14 days per member per calendar year, except that the Secretary of Defense may, if the chief executive so requests before the end of the 14th such day, authorize an extension of the duration of such duty, not to exceed an additional—

(A) 7 days, if the Secretary determines that such extension is appropriate; and

(B) 46 days if the Secretary determines that such duty is in support of the response to a catastrophic incident, as that term is defined in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).

(c) REIMBURSEMENT.—(1) The Secretary of the military department concerned shall charge a State for the fully burdened costs of manpower for each day of State disaster response duty performed pursuant to this section.

(2) Such charges shall be paid from the funds of the State of the requesting chief executive or from any other non-Federal funds.

(3) Any amounts received by a Secretary of a military department under this section shall be credited, at the discretion of the Secretary of Defense, to—

(A) the appropriation, fund, or account used to pay such costs; or

(B) an appropriation, fund, or account available for the purposes for which such costs were incurred.

(4) If the State of the requesting chief executive is more than 90 days in arrears in reimbursing the Secretary of the military department concerned for State disaster response duty performed pursuant to this section, such duty may not be performed—

(A) unless authorized by the Secretary of Defense; and

(B) after the requesting chief executive obligates funds for the amount in arrears.

(d) LIMITATION OF LIABILITY.—While performing State disaster response duty under this section, a member of the National Guard is not an instrumentality of the United States with respect to any act or omission in carrying out such duty. The United States shall not be responsible for any claim or judgment arising from the use of a member of the National Guard under this section.

(e) DEFINITIONS.—In this section:

(1) The term "Active Guard and Reserve duty" has the meaning given such term in section 101 of title 10.

(2) The term "State" has the meaning given such term in section 901 of this title.

(Added Pub. L. 119–60, div. A, title V, §512(a), Dec. 18, 2025, 139 Stat. 860.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 119–60, div. A, title V, §512(b), Dec. 18, 2025, 139 Stat. 861, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 18, 2025], the Secretary of Defense shall prescribe regulations under section 328a of such title, as added by subsection (a)."

§329. Prohibition on private funding for interstate deployment

A member of the National Guard may not be ordered to cross a border of a State to perform duty (under this title or title 10) if such duty is paid for with private funds, unless such duty is in response to a major disaster or emergency under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(Added Pub. L. 117–81, div. A, title V, §512(a), Dec. 27, 2021, 135 Stat. 1682.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 329, act Aug. 10, 1956, ch. 1041, 70A Stat. 608, which related to summary courts-martial of National Guard not in Federal service, was repealed by Pub. L. 107–314, div. A, title V, §512(c)(1), Dec. 2, 2002, 116 Stat. 2537.

[§§330 to 333. Repealed. Pub. L. 107–314, div. A, title V, §512(c)(1), Dec. 2, 2002, 116 Stat. 2537]

Section 330, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, related to confinement instead of fine for a court-martial in the National Guard not in Federal service.

Section 331, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(3), Sept. 29, 1988, 102 Stat. 2059, related to sentence of dismissal or dishonorable discharge in the National Guard not in Federal service.

Section 332, act Aug. 10, 1956, ch. 1041, 70A Stat. 609, authorized the president of a court-martial or a summary court officer to compel attendance of accused and witnesses in the National Guard not in Federal service.

Section 333, acts Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059, related to execution of process and sentence of courts-martial in the National Guard not in Federal service.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Pub. L. 107–314, div. A, title V, §512(c)(2), Dec. 2, 2002, 116 Stat. 2537, provided that: "The provisions of law repealed by paragraph (1) [repealing sections 328 to 333 of this title] shall continue to apply with respect to courts-martial convened in the National Guard not in Federal service before the date of the enactment of this Act [Dec. 2, 2002]."

[§334. Repealed. Pub. L. 97–124, §3, Dec. 29, 1981, 95 Stat. 1666]

Section, added Pub. L. 94–464, §2(b), Oct. 8, 1976, 90 Stat. 1986; amended Pub. L. 96–513, title V, §515(3), Dec. 12, 1980, 94 Stat. 2937, provided for the payment of malpractice liability of National Guard Medical personnel. See sections 1089(a) of Title 10, Armed Forces, and 2671 of Title 28, Judiciary and Judicial Procedure.

STATUTORY NOTES AND RELATED SUBSIDIARIES

AMENDMENT AFTER REPEAL

Pub. L. 97–258, §3(h)(1), Sept. 13, 1982, 96 Stat. 1065, purported to substitute "section 1304 of title 31" for "section 1302 of the Act of July 27, 1956, (31 U.S.C. 724a)" in subsec. (a) of section 334 of this title, without reference to the earlier repeal of that section by Pub. L. 97–124, §3, Dec. 29, 1981, 95 Stat. 1666.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to claims arising on or after Dec. 29, 1981, see section 4 of Pub. L. 97–124, set out as an Effective Date of 1981 Amendment note under section 1089 of Title 10, Armed Forces.

[§335. Repealed. Pub. L. 98–525, title IV, §414(b)(2)(A), Oct. 19, 1984, 98 Stat. 2519]

Section, added Pub. L. 98–94, title V, §504(b)(1), Sept. 24, 1983, 97 Stat. 632, related to status of certain members of the National Guard performing full-time duty.

CHAPTER 5—TRAINING

Sec.

501. Training generally.
502. Required drills and field exercises.
503. Participation in field exercises.
504. National Guard schools and small arms competitions.
505. Army and Air Force schools and field exercises.
506. Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard.
507. Instruction in firing; supply of ammunition.
508. Assistance for certain youth and charitable organizations.
509. National Guard Youth Challenge Program of opportunities for civilian youth.
510. Authorization for FireGuard Program.

EDITORIAL NOTES

AMENDMENTS

2023—Pub. L. 118–31, div. A, title V, §515(b), Dec. 22, 2023, 137 Stat. 249, added item 510.

2004—Pub. L. 108–375, div. A, title V, §594(b)(2), Oct. 28, 2004, 118 Stat. 1936, substituted "National Guard Youth Challenge" for "National Guard Challenge" in item 509.

1997—Pub. L. 105–85, div. A, title X, §1076(b), Nov. 18, 1997, 111 Stat. 1914, added item 509.

1994—Pub. L. 103–337, div. A, title III, §385(b), Oct. 5, 1994, 108 Stat. 2742, added item 508.

§501. Training generally

(a) The discipline, including training, of the Army National Guard shall conform to that of the Army. The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard shall be conducted by the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands in conformity with this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 609; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(7), Jan. 6, 2006, 119 Stat. 3442.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
501(a)	32:61 (1st 24 words).	June 3, 1916, ch. 134, §91, 39 Stat.

501(b)	32:61 (less 1st 24 words).	206.

In subsection (a), the words "that of" are substituted for the words "the system which is or may be prescribed for". The word "Army" is substituted for the words "Regular Army", since the Army is the category for which the discipline and training is prescribed and the Regular Army is a personnel category for which no discipline and training is prescribed. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted "States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "States and Territories, Puerto Rico, and the District of Columbia".

1988—Subsec. (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

STATUTORY NOTES AND RELATED SUBSIDIARIES

ACCREDITATION OF NATIONAL GUARD MARKSMANSHIP TRAINING CENTER

Pub. L. 119–60, div. A, title V, §549, Dec. 18, 2025, 139 Stat. 876, provided that:

"(a) ACCREDITATION.—The Secretary of the Army may accredit the National Guard Marksmanship Training Center (hereinafter, 'NGMTC'), located at Robinson Maneuver Training Center, Arkansas, as a U.S. Army Training and Doctrine Command institution.

"(b) VALIDATION.—Upon accreditation, the Secretary may designate the Small Arms Weapons Expert and Squad Designated Marksman programs of instruction taught at NGMTC as Training Operations Management Activity validated, National Guard-centric courses.

"(c) ADDITIONAL SKILL IDENTIFIER.—The Secretary may award the Master Marksman Training additional skill identifier to members of the Army National Guard who successfully complete both programs specified in subsection (b).

"(d) BRIEFING.—Not later than April 1, 2026, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] a briefing regarding—

"(1) the determination of the Secretary whether to use the authorities under subsections (a) through (c);

"(2) any progress of the Secretary in integrating such programs into the Army Program Objective Memorandum; and

"(3) the determination of the Secretary whether to establish a Modified Table of Organization and Equipment requirement associated with the additional skill identifier described in subsection (c) to ensure enduring demand and sustainment.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to transfer operational control, administrative authority, or ownership of the facility of the National Guard Marksmanship Training Center from the Army National Guard to the Department of Defense, the Department of the Army, or the National Guard Bureau."

PILOT PROGRAM ON REGIONAL CYBERSECURITY TRAINING CENTER FOR THE ARMY NATIONAL GUARD

Pub. L. 115–232, div. A, title XVI, §1651, Aug. 13, 2018, 132 Stat. 2139, as amended by Pub. L. 116–283, div. A, title XVII, §1743, Jan. 1, 2021, 134 Stat. 4135; Pub. L. 117–81, div. A, title XV, §1502, Dec. 27, 2021, 135 Stat. 2021, provided that:

"(a) PILOT PROGRAM.—The Secretary of the Army may carry out a pilot program under which the Secretary establishes a National Guard training center to provide collaborative interagency education and training for members of the Army National Guard.

"(b) CENTER.—

"(1) TRAINING AND COOPERATION.—If the Secretary carries out the pilot program under subsection (a), the Secretary should ensure that the training center established under such subsection—

"(A) educates and trains members of the Army National Guard quickly and efficiently by concurrently training cyber protection teams and cyber network defense teams on a common standard in order to defend—

"(i) the information network of the Department of Defense in a State environment;

"(ii) while acting under title 10, United States Code, the information networks of State governments; and

"(iii) critical infrastructure;

"(B) fosters interagency cooperation by—

"(i) co-locating members of the Army National Guard with personnel of departments and agencies of the Federal Government and State governments; and

"(ii) providing an environment to develop interagency relationship to coordinate responses and recovery efforts during and following a cyber attack;

"(C) collaborates with academic institutions to develop and implement curriculum for interagency education and training within the classroom; and

"(D) coordinates with the Persistent Cyber Training Environment of the Army Cyber Command in devising and implementing interagency education and training using physical and information technology infrastructure.

"(2) LOCATIONS.—If the Secretary carries out the pilot program under subsection (a), the Secretary may select one National Guard facility at which to carry out the pilot program. The Secretary may select a facility that is located in an area that meets the following criteria:

"(A) The location has a need for cyber training, as measured by both the number of members of the Army National Guard that would apply for such training and the number of units of the Army National Guard that verify the unit would apply for such training.

"(B) The location has high capacity information and telecommunications infrastructure, including high speed fiber optic networks.

"(C) The location has personnel, technology, laboratories, and facilities to support proposed activities and has the opportunity for ongoing training, education, and research.

"(c) ACTIVITIES.—If the Secretary carries out the pilot program under subsection (a), the Secretary should ensure that the pilot program includes the following activities:

"(1) Providing joint education and training and accelerating training certifications for working in a cyber range.

"(2) Integrating education and training between the National Guard, law enforcement, and emergency medical and fire first responders.

"(3) Providing a program to continuously train the cyber network defense teams to not only defend the information network of the Department of Defense, but to also provide education and training on how to use defense capabilities of the team in a State environment.

"(4) Developing curriculum and educating the National Guard on the different missions carried out under titles 10 and 32, United States Code, in order to enhance interagency coordination and create a common operating picture.

"(d) NOTIFICATION REQUIRED.—If the Secretary carries out the pilot program under subsection (a), the Secretary shall provide immediate notification to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] that includes information relating to the resources required to carry out such pilot program, identification of units to be trained, the location of such training, and a description of agreements with Federal, State, local, and private sector entities.

"(e) SUNSET.—The authority provided under this section shall expire on August 31, 2024."

NATIONAL GUARD SUPPORT ON WILDFIRE RESPONSE

Pub. L. 117–81, div. A, title V, §515, Dec. 27, 2021, 135 Stat. 1683, as amended by Pub. L. 117–263, div. A, title V, §516, Dec. 23, 2022, 136 Stat. 2566, related to National Guard support on wildfire response, prior to repeal by Pub. L. 118–31, div. A, title V, §515(c), Dec. 22, 2023, 137 Stat. 249.

Pub. L. 115–91, div. A, title III, §351, Dec. 12, 2017, 131 Stat. 1367, as amended by Pub. L. 117–263, div. A, title III, §385, Dec. 23, 2022, 136 Stat. 2544; Pub. L. 119–60, div. A, title III, §314, Dec. 18, 2025, 139 Stat. 804, provided that: "The Secretary of the Army and the Secretary of the Air Force, in consultation with the Chief of the National Guard Bureau, shall provide support for the training of appropriate personnel of the National Guard on wildfire prevention and response. In carrying out this section, the Secretaries—

"(1) shall give a preference to personnel assigned to military installations with the highest wildfire suppression needs, as determined by the Secretaries; and

"(2) may consult with the Executive Board of the National Interagency Fire Center."

DEMONSTRATION PROJECT TO INCREASE RESERVE COMPONENT INTERNET ACCESS AND SERVICES IN RURAL COMMUNITIES

Pub. L. 106–398, §1 [[div. A], title III, §390], Oct. 30, 2000, 114 Stat. 1654, 1654A–90, provided that:

"(a) AUTHORIZATION AND PURPOSE OF PROJECT.—The Secretary of the Army, acting through the Chief of the National Guard Bureau, may carry out a demonstration project in rural communities that are unserved or underserved by the telecommunications medium known as the Internet to provide or increase Internet access and services to units and members of the National Guard and other reserve components located in these communities.

"(b) PROJECT ELEMENTS.—In carrying out the demonstration project, the Secretary may—

"(1) establish and operate distance learning classrooms in communities described in subsection (a), including any support systems required for such classrooms; and

"(2) provide Internet access and services in such classrooms through GuardNet, the telecommunications infrastructure of the National Guard.

"(c) REPORT.—Not later than February 1, 2005, the Secretary shall submit to Congress a report on the demonstration project. The report shall describe the activities conducted under the demonstration project and include any recommendations for the improvement or expansion of the demonstration project that the Secretary considers appropriate."

PILOT PROGRAM TO USE NATIONAL GUARD PERSONNEL IN MEDICALLY UNDERSERVED COMMUNITIES

Pub. L. 102–484, div. A, title III, §376, Oct. 23, 1992, 106 Stat. 2385, as amended by Pub. L. 103–160, div. A, title III, §365, Nov. 30, 1993, 107 Stat. 1629; Pub. L. 103–337, div. A, title III, §384, Oct. 5, 1994, 108 Stat. 2741, provided that:

"(a) PILOT PROGRAM.—The Chief of the National Guard Bureau shall enter into an agreement, approved by the Secretary of Defense, with each of the Governors of one or more States to carry out a pilot program during fiscal years 1993, 1994, and 1995 to provide training and professional development opportunities for members of the National Guard through the provision of health care to residents of medically underserved communities in those States with the use of personnel and equipment of the National Guard.

"(b) FUNDING ASSISTANCE.—Amounts made available from Department of Defense accounts for operation and maintenance and for pay and allowances to carry out the pilot program shall be apportioned by the Chief of the National Guard Bureau among those States with which the Chief has entered into approved agreements. In addition to such amounts, the Chief of the National Guard Bureau may authorize any such State, in order to carry out the pilot program during a fiscal year, to use funds received as part of the operation and maintenance allotments and the pay and allowances allotments for the National Guard of the State for that fiscal year.

"(c) SUPPLIES AND EQUIPMENT.—(1) Funds made available from Department of Defense operation and maintenance accounts to carry out the pilot program may be used for the purchase of supplies and equipment necessary for the provision of health care under the pilot program.

"(2) In addition to supplies and equipment provided through the use of funds under paragraph (1), supplies and equipment described in such paragraph that are furnished by a State, a Federal agency, a private agency, or an individual may be used to carry out the pilot program.

"(d) MAINTENANCE OF EFFORT.—The Chief of the National Guard Bureau shall ensure that each agreement under subsection (a) provides that the provision of services under the pilot program will supplement and increase the level of services that would be provided with non-Federal funds in the absence of such services, and will in no event supplant services provided with non-Federal funds.

"(e) COORDINATION AMONG PROGRAMS.—In carrying out the pilot program under subsection (a), the Chief of the National Guard Bureau shall consult with the Secretary of Health and Human Services for the purpose of ensuring that the provision of services under the pilot program are not redundant with the services of programs of such Secretary.

"(f) SERVICE OF PARTICIPANTS.—Service in the pilot program by a member of the National Guard shall be considered training in the member's Federal status as a member of the National Guard of a State under section 270 [see 10147] of title 10, United States Code, and section 502 of title 32, United States Code.

"(g) REPORT.—The Secretary of Defense shall, not later than January 1, 1995, submit to the Congress a report on the effectiveness of the pilot program and any recommendations with respect to the pilot program.

"(h) DEFINITIONS.—In this section:

"(1) The term 'health care' includes the following services:

"(A) Medical care services.

"(B) Dental care services.

"(C) Transportation, by air ambulance or other means, for medical reasons.

"(2) The term 'Governor', with respect to the District of Columbia, means the commanding general of the District of Columbia National Guard.

"(3) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands."

NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM

Pub. L. 104–106, div. A, title V, §573, Feb. 10, 1996, 110 Stat. 355, continued the authority to carry out the pilot program under section 1091 of Pub. L. 102–484 for 18 months beyond Feb. 10, 1996, and limited the number of programs authorized to be carried out.

Pub. L. 102–484, div. A, title X, §1091, Oct. 23, 1992, 106 Stat. 2519, as amended by Pub. L. 103–82, title I, §104(e)(1)(A), (C), Sept. 21, 1993, 107 Stat. 846; Pub. L. 103–160, div. A, title XI, §1174, Nov. 30, 1993, 107 Stat. 1767; Pub. L. 103–382, title III, §391(o), Oct. 20, 1994, 108 Stat. 4024; Pub. L. 105–85, div. A, title X, §1073(d)(2)(B), Nov. 18, 1997, 111 Stat. 1905, authorized a pilot program known as the National Guard Civilian Youth Opportunities Program during fiscal years 1993 through 1995 to provide help to selected secondary school dropouts through military-based training. See section 509 of this title.

§502. Required drills and field exercises

(a) Under regulations to be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, each company, battery, squadron, and detachment of the National Guard, unless excused by the Secretary concerned, shall—

(1) assemble for drill and instruction, including indoor target practice, at least 48 times each year; and

(2) participate in training at encampments, maneuvers, outdoor target practice, or other exercises, at least 15 days each year.

However, no member of such unit who has served on active duty for one year or longer shall be required to participate in such training if the first day of such training period falls during the last one hundred and twenty days of his required membership in the National Guard.

(b) An assembly for drill and instruction may consist of a single ordered formation of a company, battery, squadron, or detachment, or, when authorized by the Secretary concerned, a series of ordered formations of parts of those organizations. However, to have a series of formations credited as an assembly for drill and instruction, all parts of the unit must be included in the series within 90 consecutive days.

(c) The total attendance at the series of formations constituting an assembly shall be counted as the attendance at that assembly for the required period. No member may be counted more than once or receive credit for more than one required period of attendance, regardless of the number of formations that he attends during the series constituting the assembly for the required period.

(d) No organization may receive credit for an assembly for drill or indoor target practice unless—

(1) the number of members present equals or exceeds the minimum number prescribed by the President;

(2) the period of military duty or instruction for which a member is credited is at least one and one-half hours; and

(3) the training is of the type prescribed by the Secretary concerned.

(e) An appropriately rated member of the National Guard who performs an aerial flight under competent orders may receive credit for attending drill for the purposes of this section, if the flight prevented him from attending a regularly scheduled drill.

(f)(1)Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may—

(A) without his consent, but with the pay and allowances provided by law; or

(B) with his consent, either with or without pay and allowances;

be ordered to perform training or other duty in addition to that prescribed under subsection (a).

(2) The training or duty ordered to be performed under paragraph (1) may include the following:

(A) Support of operations or missions undertaken by the member's unit at the request of the

President or Secretary of Defense.

(B) Support of training operations and training missions assigned in whole or in part to the National Guard by the Secretary concerned, but only to the extent that such training missions and training operations—

(i) are performed in the United States or the Commonwealth of Puerto Rico or possessions of the United States; and

(ii) are only to instruct active duty military, foreign military (under the same authorities and restrictions applicable to active duty troops), Department of Defense contractor personnel, or Department of Defense civilian employees.

(3) Duty without pay shall be considered for all purposes as if it were duty with pay.

(Aug. 10, 1956, ch. 1041, 70A Stat. 610; Pub. L. 88–621, §1(1), Oct. 3, 1964, 78 Stat. 999; Pub. L. 90–168, §4, Dec. 1, 1967, 81 Stat. 526; Pub. L. 92–156, title III, §303(b), Nov. 17, 1971, 85 Stat. 425; Pub. L. 103–160, div. A, title V, §524(b), Nov. 30, 1993, 107 Stat. 1657; Pub. L. 109–364, div. A, title V, §525(c), Oct. 17, 2006, 120 Stat. 2195.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
502(a)	32:62 (1st sentence, less proviso).	June 3, 1916, ch. 134, §92; restated June 3, 1924, ch. 244, §2; restated Oct. 14, 1940, ch. 875, §2, 54 Stat. 1135; Mar. 25, 1948, ch. 157, §5(a), 62 Stat. 90.
502(b)	32:62 (proviso of 1st sentence).	
502(c)	32:62 (last sentence, less 1st, 2d, and 3d provisos).	
	32:62 (1st proviso of last sentence).	
502(d)		
502(e)	32:62 (2d and 3d provisos of last sentence).	

In subsection (a), the words "including target practice" and "such company, troop, battery, or detachment shall have been * * * from participation in any part thereof" are omitted as surplusage.

In subsections (a) and (b), the word "troop" is omitted as obsolete.

In subsection (b), the words "parts of those organizations" are substituted for the words "subdivisions or parts thereof". The words "but in the latter case", "of subdivisions or groups", "comprehend", and "the time limit of" are omitted as surplusage.

In subsection (c), the word "member" is substituted for the words "officer, warrant officer, or enlisted man". The words "series of formations" are substituted for the words "separate consecutive formations announced". The words "regardless of the number of formations that he attends during the series" are substituted for the words "even though he may have attended more than one of the formations". The words "sum", "actual military", and "of time" are omitted as surplusage. 32:62 (4th proviso of last sentence) is omitted as superseded by section 683 of title 10. 32:62 (last proviso of last sentence) is omitted as superseded by section 501(b) of the Career Compensation Act of 1949, 63 Stat. 826 (37 U.S.C. 301(b)).

In subsection (d), the word "members" is substituted for the words "officers and enlisted men". The words "for which a member is credited" are substituted for the words "participated in by each officer and enlisted man at each assembly at which he shall be credited as having been present". The words "for duty at such assembly", "actual", and "character of" are omitted as surplusage.

In subsection (e), the word "member" is substituted for the words "officer or enlisted man". The words "Air Corps * * * assigned to an Air Corps unit thereof, or * * * an officer or enlisted man of the Medical Department of the said National Guard regularly attached to an Air Corps unit of the National Guard by appropriate authority" are omitted, since the revised subsection applies only to members who perform flights under competent orders and who are thereby prevented from attending a regular drill.

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (f). Pub. L. 109–364 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), struck out "Duty without pay shall be considered for all purposes as if it were duty with pay." at end, and added pars. (2) and (3).

1993—Subsec. (b). Pub. L. 103–160 substituted "90 consecutive days" for "30 consecutive days" in second sentence.

1971—Subsec. (a). Pub. L. 92–156 inserted exception to training requirements where member served on active duty for one year or more if the training period falls during last one hundred and twenty days of required membership in National Guard.

1967—Subsec. (b). Pub. L. 90–168 substituted 30 consecutive days for seven consecutive days of the same calendar month as the time within which all parts of the unit must be included in a series of formations in order to be credited as an assembly for drill and instruction.

1964—Subsec. (f). Pub. L. 88–621 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–168 effective first day of first calendar month following date of enactment of Pub. L. 90–168, which was approved Dec. 1, 1967, see section 7 of Pub. L. 90–168, set out as a note under section 138 of Title 10, Armed Forces.

EXECUTIVE DOCUMENTS

MEMORANDUM TO EXTEND FEDERAL SUPPORT TO GOVERNORS' USE OF THE NATIONAL GUARD TO RESPOND TO COVID–19 AND TO INCREASE REIMBURSEMENT AND OTHER ASSISTANCE PROVIDED TO STATES

Memorandum of President of the United States, Jan. 21, 2021, 86 F.R. 7481, provided:

Memorandum for the Secretary of Defense [and] the Secretary of Homeland Security

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the "Stafford Act"), and section 502 of title 32, United States Code, I hereby order as follows:

SECTION 1. *Policy*. Consistent with the nationwide emergency declaration concerning the coronavirus disease 2019 (COVID–19) pandemic on March 13, 2020, it is the policy of my Administration to combat and respond to COVID–19 with the full capacity and capability of the Federal Government to protect and support our families, schools, and businesses, and to assist State, local, Tribal, and territorial governments to do the same, to the extent authorized by law.

SEC. 2. *Support of Operations or Missions to Prevent and Respond to the Spread of COVID–19*. (a) The Secretary of Defense shall, to the maximum extent feasible and consistent with mission requirements (including geographic proximity), request pursuant to 32 U.S.C. 502(f) that all State and territorial governors order National Guard forces to perform duty to fulfill mission assignments, on a fully reimbursable basis, that the Federal Emergency Management Agency (FEMA) issues to the Department of Defense for the purpose of supporting State, local, Tribal, and territorial emergency assistance efforts under the Stafford Act.

(b) FEMA shall fund 100 percent of the cost of activities associated with all mission assignments for the use of the National Guard under 32 U.S.C. 502(f) to respond to COVID–19, as authorized by sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act.

(c) This section supersedes prior Presidential Memoranda requesting the use of the National Guard to respond to the COVID–19 emergency to the extent they are inconsistent with this memorandum.

SEC. 3. *Assistance for Category B Emergency Protective Measures*. (a) In accordance with sections 403 (42 U.S.C. 5170b) and 502 (42 U.S.C. 5192) of the Stafford Act, FEMA shall, as appropriate and consistent with applicable law, make available under Category B of the Public Assistance program such assistance as may be required by States (including territories and the District of Columbia), local governments, and Tribal governments to provide for the safe opening and operation of eligible schools, child-care facilities, healthcare facilities, non-congregate shelters, domestic violence shelters, transit systems, and other eligible applicants. Such assistance may include funding for the provision of personal protective equipment and disinfecting services and supplies.

(b) FEMA shall make assistance under this section available at a 100 percent Federal cost share until September 30, 2021.

SEC. 4. *Advanced Reimbursement*. To make reimbursements for approved work under the Stafford Act to respond to COVID–19 available more quickly, FEMA shall expedite reimbursement for eligible emergency work projects and, as appropriate and consistent with applicable law, provide an advance of the Federal share on a percentage of the expected reimbursement from FEMA-approved projects.

SEC. 5. *One-Hundred Percent Cost Share Termination*. The 100 percent Federal cost share for use of National Guard forces authorized by section 2(b) of this memorandum shall extend to, and shall be available for, orders of any length authorizing duty through September 30, 2021.

SEC. 6. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

J.R. BIDEN, JR.

§503. Participation in field exercises

(a)(1) Under such regulations as the President may prescribe, the Secretary of the Army and the Secretary of the Air Force, as the case may be, may provide for the participation of the National Guard in encampments, maneuvers, outdoor target practice, or other exercises for field or coast-defense instruction, independently of or in conjunction with the Army or the Air Force, or both.

(2) Paragraph (1) includes authority to provide for participation of the National Guard in conjunction with the Army or the Air Force, or both, in joint exercises for instruction to prepare the National Guard for response to civil emergencies and disasters.

(b) Amounts necessary for the pay, subsistence, transportation, and other proper expenses of any part of the National Guard of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands participating in an exercise under subsection (a) may be set aside from funds allocated to it from appropriations for field or coast-defense instruction.

(c) Members of the National Guard participating in an exercise under subsection (a) may, after being mustered, be paid for the period beginning with the date of leaving home and ending with the date of return, as determined in advance. If otherwise correct, such a payment passes to the credit of the disbursing officer.

(Aug. 10, 1956, ch. 1041, 70A Stat. 610; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 104–106, div. A, title V, §517, Feb. 10, 1996, 110 Stat. 309; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
503(a)	32:63 (1st 56 words).	June 3, 1916, ch. 134, §§94 (less last 43 words after semicolon), 98, 39 Stat. 206, 207.
503(b)	32:63 (less 1st 56 words).	
503(c)	32:158.	

In subsection (a), the words "the whole or any part" and "any part of" are omitted as surplusage. The word "Army" is substituted for the words "Regular Army", since the Army is the category that participates in the exercises, and the Regular Army is a personnel category only. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

In subsection (b), the words "Amounts necessary" are substituted for the words "such portion of said funds

as may be necessary". The words "participating in an exercise under subsection (a)" are substituted for the words "as shall participate in such encampments, maneuvers, or other exercises, including outdoor target practice, for field and coast-defense instruction". The words "allocated to it from appropriations for field or coast-defense instruction" are substituted for the words "appropriated for that purpose and allocated to any State, Territory, or the District of Columbia".

In subsection (c), the words "Members of the National Guard participating in an exercise under subsection (a)" are substituted for the words "When any portion of the National Guard shall participate in encampments, maneuvers, or other exercises, including outdoor target practice, for field or coast-defense instruction, under the provisions of this title". The words "duly", "at any time", "rendezvous", "both dates inclusive", and "making the same" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

1996—Subsec. (a). Pub. L. 104–106 designated existing provisions as par. (1) and added par. (2).

1988—Subsec. (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§504. National Guard schools and small arms competitions

(a) Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, members of the National Guard may—

(1) attend schools conducted by the Army or the Air Force, as appropriate;

(2) conduct or attend schools conducted by the National Guard; or

(3) participate in small arms competitions.

(b) Activities authorized under subsection (a) for members of the National Guard of a State or territory, Puerto Rico, or the District of Columbia may be held inside or outside its boundaries.

(Aug. 10, 1956, ch. 1041, 70A Stat. 611; Pub. L. 88–621, §1(2), Oct. 3, 1964, 78 Stat. 999; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
504(a)	32:64 (1st sentence).	June 3, 1916, ch. 134, §97 (less last sentence); restated May 28, 1926, ch. 417, §2 (less last sentence), 44 Stat. 674.
504(b)	32:64 (less 1st sentence).	

In subsection (a), the word "members" is substituted for the words "officers, warrant officers, and enlisted men". The words "for the purpose" and "for that purpose" are omitted as surplusage.

In subsection (b), the words "Assemblies under subsection (a)" are substituted for the words "such assemblages". The words "for members of the National Guard of a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia * * * inside or outside of its boundaries" are substituted for the words "either within or without the State, Territory, or District of Columbia, to which the members of the National Guard designated to attend them shall belong".

EDITORIAL NOTES

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1964—Pub. L. 88–621 substituted provisions authorizing the Secretaries of the Army and of the Air Force to issue regulations, for provisions authorizing the President to issue regulations, and provided that members of the National Guard may conduct or attend schools conducted by the National Guard.

§505. Army and Air Force schools and field exercises

Under such regulations as the President may prescribe and upon the recommendation of the governor of any State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands or of the commanding general of the National Guard of the District of Columbia, the Secretary of the Army may authorize a limited number of members of its Army National Guard to—

(1) attend any service school except the United States Military Academy, and to pursue a regular course of study at the school; or

(2) be attached to an organization of the branch of the Army corresponding to the organization of the Army National Guard to which the member belongs, for routine practical instruction at or near an Army post during field training or other outdoor exercise.

Similarly, the Secretary of the Air Force may authorize a limited number of members of the Air National Guard to—

(1) attend any service school except the United States Air Force Academy, and to pursue a regular course of study at the school; or

(2) be attached to an organization of the Air Force corresponding to the organization of the Air National Guard to which the member belongs, for routine practical instruction at an air base during field training or other outdoor exercise.

(Aug. 10, 1956, ch. 1041, 70A Stat. 611; Pub. L. 100–456, div. A, title XII, §1234(b)(4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(4), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
505	32:65.	June 3, 1916, ch. 134, §99 (1st 133 words); restated Sept. 22, 1922, ch. 423, §5 (1st 129 words); restated May 28, 1926, ch. 417, §3 (1st 133 words), 44 Stat. 674.

The words "branch of the Army corresponding" are substituted for the words "same arm, corps, or department", to conform to sections 3063 and 3064 of title 10. In the second sentence, the words "organization of the Air Force corresponding" are substituted for the words "same arm, corps, or department", since the Air Force is not organized by statute into branches, arms, corps, or departments. The word "members" is substituted for the words "officers, warrant officers, and enlisted men". The words "service school" are substituted for the words "military-service school of the United States". Reference to the United States Air Force Academy is inserted to reflect its establishment by the Air Force Academy Act (63 Stat. 47).

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands" for "State or Territory or Puerto Rico" in introductory provisions.

1988—Pub. L. 100–456, which directed the substitution of "Territory or Puerto Rico" for "Territory, Puerto Rico, or the Canal Zone," in subsec. (a), was executed to the introductory provisions of this section as the probable intent of Congress.

§506. Assignment and detail of members of Regular Army or Regular Air Force for instruction of National Guard

(a) The President shall assign for instruction of the National Guard such members of the Regular Army or the Regular Air Force as he considers necessary.

(b) The Secretary of the Army may detail members of the Regular Army to attend an encampment, maneuver, or other exercise, for field or coast-defense instruction of the Army National Guard. Similarly, the Secretary of the Air Force may detail members of the Regular Air Force to attend exercises for field or coast-defense instruction of the Air National Guard. Members so detailed shall instruct the members of the National Guard at the exercise, as directed by the Secretary concerned, or as requested by the governor or commanding officer of the National Guard there assembled.

(Aug. 10, 1956, ch. 1041, 70A Stat. 611.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
506(a)	32:66.	June 3, 1916, ch. 134, §81 (1st sentence of 2d par., less 1st 7 words); added June 4, 1920, ch. 227, subch. I, §44 (5th sentence, less 1st 6 words); restated Sept. 22, 1922 ch. 423, §4 (6th sentence, less 1st 6 words); restated Feb. 28, 1925, ch. 371, §3 (6th sentence, less 1st 6 words); restated June 15, 1933, ch. 87, §16 (1st sentence of 2d par., less 1st 7 words), 48 Stat. 160.
506(b)	32:67.	June 3, 1916, ch. 134, §96, 39 Stat. 207.

In subsection (a), the words "members of the Regular Army and the Regular Air Force" are substituted for the words "officers of the Regular Army" and "enlisted men of the Regular Army".

In subsection (b), the words "members" is substituted for the words "officers and enlisted men". The words "one or more", "information", and "encampment, maneuver, or other" are omitted as surplusage.

§507. Instruction in firing; supply of ammunition

Ammunition for instruction in firing and for target practice may be furnished, in such amounts as may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, to units of the National Guard encamped at a post, camp, or air base. The instruction shall be under the direction of a commissioned officer selected for that purpose by the proper military commander.

(Aug. 10, 1956, ch. 1041, 70A Stat. 612.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
507	32:71.	Jan. 21, 1903, ch. 196, §21, 32 Stat. 779.

The words "post camp, or air base" are substituted for the words "military post or camp". The words "such amounts" are omitted as surplusage. The words "National Guard" are substituted for the words "troops of the militia", since the source statute historically applied only to the organized militia (see opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952)). The word "commissioned" is inserted, since 32:71 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

§508. Assistance for certain youth and charitable organizations

(a) AUTHORITY TO PROVIDE SERVICES.—Members and units of the National Guard may provide the services described in subsection (b) to an eligible organization in conjunction with training required under this chapter in any case in which—

(1) the provision of such services does not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit;

(2) the services to be provided are not commercially available, or any commercial entity that would otherwise provide such services has approved, in writing, the provision of such services by the National Guard;

(3) National Guard personnel will enhance their military skills as a result of providing such services; and

(4) the provision of the services will not result in a significant increase in the cost of the training.

(b) AUTHORIZED SERVICES.—The services authorized to be provided under subsection (a) are as follows:

(1) Ground transportation.
(2) Air transportation in support of Special Olympics.
(3) Administrative support services.
(4) Technical training services.
(5) Emergency medical assistance and services.
(6) Communications services.

(c) OTHER AUTHORIZED ASSISTANCE.—Facilities and equipment of the National Guard, including military property of the United States issued to the National Guard and General Services Administration vehicles leased to the National Guard, and General Services Administration vehicles leased to the Department of Defense, may be used in connection with providing services to any eligible organization under this section.

(d) ELIGIBLE ORGANIZATIONS.—The organizations eligible to receive services under this section are as follows:

(1) The Boy Scouts of America.
(2) The Girl Scouts of America.
(3) The Boys Clubs of America.
(4) The Girls Clubs of America.
(5) The Young Men's Christian Association.
(6) The Young Women's Christian Association.
(7) The Civil Air Patrol.
(8) The United States Olympic Committee.
(9) The Special Olympics.
(10) The Campfire Boys.
(11) The Campfire Girls.
(12) The 4–H Club.
(13) The Police Athletic League.
(14) Any other youth or charitable organization designated by the Secretary of Defense.

(Added Pub. L. 103–337, div. A, title III, §385(a), Oct. 5, 1994, 108 Stat. 2741.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

References to the United States Olympic Committee deemed to refer to the United States Olympic and Paralympic Committee, see section 220502(c) of Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

§509. National Guard Youth Challenge Program of opportunities for civilian youth

(a) PROGRAM AUTHORITY AND PURPOSE.—The Secretary of Defense may use the National Guard to conduct a civilian youth opportunities program, to be known as the "National Guard Youth Challenge Program", which shall consist of at least a 22-week residential program and a 12-month post-residential mentoring period. The Program shall seek to improve life skills and employment potential of participants by providing military-based training and supervised work experience, together with the core program components of assisting participants to receive a high school diploma or its equivalent, leadership development, promoting fellowship and community service, developing life coping skills and job skills, and improving physical fitness and health and hygiene.

(b) CONDUCT OF THE PROGRAM.—(1) The Secretary of Defense shall provide for the conduct of the Program in such States as the Secretary considers to be appropriate.

(2) The Secretary shall carry out the Program using—

(A) funds appropriated directly to the Secretary of Defense for the Program, except that the amount of funds appropriated directly to the Secretary and expended for the Program in fiscal year 2001 or 2002 may not exceed $62,500,000; and

(B) nondefense funds made available or transferred to the Secretary of Defense by other Federal agencies to support the Program.

(3) Federal funds made available or transferred to the Secretary of Defense under paragraph (2)(B) by other Federal agencies to support the Program may be expended for the Program in excess of the fiscal year limitation specified in paragraph (2)(A).

(4) The Secretary of Defense shall remain the executive agent to carry out the Program regardless of the source of funds for the Program or any transfer of jurisdiction over the Program within the executive branch. As provided in subsection (a), the Secretary may use the National Guard to conduct the Program.

(c) PROGRAM AGREEMENTS.—(1) To carry out the Program in a State, the Secretary of Defense shall enter into an agreement with the Governor of the State or, in the case of the District of Columbia, with the commanding general of the District of Columbia National Guard, under which the Governor or the commanding general will establish, organize, and administer the Program in the State.

(2) The agreement may provide for the Secretary to provide funds to the State for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the Program.

(d) MATCHING FUNDS REQUIRED.—(1) The amount of assistance provided by the Secretary of Defense to a State program of the Program for a fiscal year under this section may not exceed 75 percent of the costs of operating the State program during that fiscal year.

(2) The limitation in paragraph (1) may not be construed as a limitation on the amount of assistance that may be provided to a State program of the Program for a fiscal year from sources other than the Department of Defense.

(e) PERSONS ELIGIBLE TO PARTICIPATE IN PROGRAM.—A school dropout from secondary school shall be eligible to participate in the Program. The Secretary of Defense shall prescribe the standards and procedures for selecting participants from among school dropouts.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (c) and subject to the approval of the Secretary of Defense, a person selected for training in the Program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.
(F) Clothing.
(G) Recreational services and supplies.
(H) Other services.
(I) Subject to paragraph (2), a temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) In the case of a person selected for training in the Program who afterwards becomes a member of the Civilian Community Corps under subtitle E of title I of the National and Community Service Act of 1990 (42 U.S.C. 12611 et seq.), the person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of that Corps. The person may receive the temporary stipend after completing service in the Corps unless the person elects to receive benefits provided under subsection (f) or (g) of section 158 of such Act (42 U.S.C. 12618).

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State in which the Program is conducted may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for the Program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of this title for not longer than the period of the Program.

(2) A Governor participating in the Program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the Program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out the Program in that State.

(3) Civilian employees of the National Guard performing services for the Program and contractor personnel performing such services may be required, when appropriate to achieve the purposes of the Program, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the Program.

(2) Equipment and facilities of the Department of Defense may be used by the National Guard for purposes of carrying out the Program.

(3) Activities under the Program shall be considered noncombat activities of the National Guard for purposes of section 710 of this title.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the Program shall be considered an employee of the United States for the purposes of the following provisions of law:
(A) Subchapter I of chapter 81 of title 5 (relating to compensation of Federal employees for work injuries).
(B) Section 1346(b) and chapter 171 of title 28 and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(A) to a person referred to in paragraph (1)—
(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a Program agreement referred to in subsection (c), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;
(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS–2 of the General Schedule under section 5332 of title 5; and
(C) the entitlement of a person to receive compensation for a disability shall begin on the day following the date on which the person's participation in the Program is terminated.

(3) A person referred to in paragraph (1) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) SUPPLEMENTAL RESOURCES.—To carry out the Program in a State, the Governor of the

State or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard may supplement funds made available under the Program out of other resources (including gifts) available to the Governor or the commanding general. The Governor or the commanding general may accept, use, and dispose of gifts or donations of money, other property, or services for the Program.

(k) REPORT.—Within 90 days after the end of each fiscal year, the Secretary of Defense shall submit to Congress a report on the design, conduct, and effectiveness of the Program during the preceding fiscal year. In preparing the report, the Secretary shall coordinate with the Governor of each State in which the Program is carried out and, if the Program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(l) DEFINITIONS.—In this section:

(1) The term "State" includes the Commonwealth of Puerto Rico, the territories, and the District of Columbia.

(2) The term "school dropout" means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(3) The term "Program" means the National Guard Youth Challenge Program carried out pursuant to this section.

(m) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the Program. The regulations shall address at a minimum the following:

(1) The terms to be included in the Program agreements required by subsection (c).

(2) The qualifications for persons to participate in the Program, as required by subsection (e).

(3) The benefits authorized for Program participants, as required by subsection (f).

(4) The status of National Guard personnel assigned to duty in support of the Program under subsection (g).

(5) The conditions for the use of National Guard facilities and equipment to carry out the Program, as required by subsection (h).

(6) The status of Program participants, as described in subsection (i).

(7) The procedures to be used by the Secretary when communicating with States about the Program.

(Added Pub. L. 105–85, div. A, title X, §1076(a), Nov. 18, 1997, 111 Stat. 1911; amended Pub. L. 106–65, div. A, title V, §579, Oct. 5, 1999, 113 Stat. 631; Pub. L. 106–246, div. B, title I, §120, July 13, 2000, 114 Stat. 533; Pub. L. 106–398, §1 [[div. A], title V, §577(a)–(c)], Oct. 30, 2000, 114 Stat. 1654, 1654A–140; Pub. L. 107–107, div. A, title V, §596(a), Dec. 28, 2001, 115 Stat. 1126; Pub. L. 107–314, div. A, title X, §1062(g)(1), Dec. 2, 2002, 116 Stat. 2651; Pub. L. 108–375, div. A, title V, §594(a), (b)(1), Oct. 28, 2004, 118 Stat. 1935, 1936; Pub. L. 110–417, [div. A], title V, §594(a), Oct. 14, 2008, 122 Stat. 4475; Pub. L. 111–84, div. A, title V, §593(a), Oct. 28, 2009, 123 Stat. 2337; Pub. L. 115–232, div. A, title V, §519, Aug. 13, 2018, 132 Stat. 1754.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (f)(2), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127. Subtitle E of title I of the Act is classified generally to division E (§12611 et seq.) of subchapter I of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (h)(2), (3). Pub. L. 115–232 added par. (2) and redesignated former par. (2) as (3).

2009—Subsec. (d)(1). Pub. L. 111–84 substituted "75 percent of the costs" for "60 percent of the costs".

2008—Subsec. (d). Pub. L. 110–417 amended subsec. (d) generally. Prior to amendment, text read as follows: "The amount of assistance provided under this section to a State program of the Program may not exceed—

"(1) for fiscal year 1998, 75 percent of the costs of operating the State program during that year;

"(2) for fiscal year 1999, 70 percent of the costs of operating the State program during that year;

"(3) for fiscal year 2000, 65 percent of the costs of operating the State program during that year; and

"(4) for fiscal year 2001 and each subsequent fiscal year, 60 percent of the costs of operating the State program during that year."

2004—Pub. L. 108–375, §594(b)(1), amended section catchline generally, substituting "National Guard Youth" for "National Guard".

Subsec. (a). Pub. L. 108–375, §594(a)(1), substituted "National Guard Youth Challenge Program" for "National Guard Challenge Program" the first place it appeared and "Program" for "National Guard Challenge Program" the second place it appeared.

Subsec. (b)(1). Pub. L. 108–375, §594(a)(2), substituted "Program" for "National Guard Challenge Program".

Subsec. (b)(2). Pub. L. 108–375, §594(a)(2),(3), substituted "Program" for "National Guard Challenge Program" in introductory provisions and for "program" wherever appearing in subpars. (A) and (B).

Subsec. (b)(3). Pub. L. 108–375, §594(a)(2),(3), substituted "Program" for "National Guard Challenge Program" before "may be expended" and for "program" before "in excess".

Subsec. (b)(4). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" before "regardless" in first sentence and for "program" before "or any transfer" and "within" in first sentence and before period at end in second sentence.

Subsecs. (c) to (f). Pub. L. 108–375, §594(a)(2), substituted "Program" for "National Guard Challenge Program" wherever appearing in text.

Subsec. (g)(1). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" before "is conducted" in first sentence and for "program" before period at end of first and second sentences.

Subsec. (g)(2). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" after "Governor participating in the" and after "in carrying out the" and substituted "Program" for "program" after "National Guard is participating in the".

Subsec. (g)(3). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" after "performing services for the" and for "program" after "purposes of the".

Subsecs. (h), (i)(1). Pub. L. 108–375, §594(a)(2), substituted "Program" for "National Guard Challenge Program" wherever appearing.

Subsec. (i)(2)(A). Pub. L. 108–375, §594(a)(3), substituted "Program" for "program".

Subsec. (i)(2)(C). Pub. L. 108–375, §594(a)(2), substituted "Program" for "National Guard Challenge Program".

Subsec. (j). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" after "To carry out the" in first sentence and before period at end of second sentence and substituted "Program" for "program" before "out of other resources" in first sentence.

Subsec. (k). Pub. L. 108–375, §594(a)(2), (3), substituted "Program" for "National Guard Challenge Program" after "effectiveness of the" in first sentence and after "State in which the" in second sentence and substituted "Program" for "program" before "is carried out in the District of Columbia" in second sentence.

Subsec. (l)(3). Pub. L. 108–375, §594(a)(4), added par. (3).

Subsec. (m). Pub. L. 108–375, §594(a)(2), substituted "Program" for "National Guard Challenge Program" in introductory provisions.

Subsec. (m)(1) to (7). Pub. L. 108–375, §594(a)(3), substituted "Program" for "program" wherever appearing.

2002—Subsec. (b). Pub. L. 107–314 amended Pub. L. 106–398, §577(b)(2). See 2000 Amendment note below.

2001—Subsec. (b)(2)(A). Pub. L. 107–107, §596(a)(1), substituted "in fiscal year 2001 or 2002" for "in a fiscal year".

Subsec. (b)(4). Pub. L. 107–107, §596(a)(2), added par. (4).

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title V, §577(a)], struck out ", acting through the Chief of the National Guard Bureau," after "The Secretary of Defense".

Subsec. (b). Pub. L. 106–398, §1 [[div. A], title V, §577(b)(1), (3)], inserted "(1)" before "The Secretary of Defense" and added pars. (2) and (3).

Pub. L. 106–398, §1 [[div. A], title V, §577(b)(2)], as amended by Pub. L. 107–314, struck out ", except that Department of Defense expenditures under the program may not exceed $62,500,000 for any fiscal year" before period at end.

Pub. L. 106–246 substituted "Department of Defense" for "Federal".

Subsec. (m). Pub. L. 106–398, §1 [[div. A], title V, §577(c)], added subsec. (m).

1999—Subsec. (a). Pub. L. 106–65, §579(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: "The Secretary of Defense, acting through the Chief of the National Guard Bureau, may conduct a National Guard civilian youth opportunities program (to be known as the 'National Guard Challenge Program') to use the National Guard to provide military-based training, including supervised work experience in community service and conservation projects, to civilian youth who cease to attend secondary school before graduating so as to improve the life skills and employment potential of such youth."

Subsec. (b). Pub. L. 106–65, §579(b), substituted "$62,500,000" for "$50,000,000".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title V, §593(b), Oct. 28, 2009, 123 Stat. 2337, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2009, and shall apply with respect to fiscal years beginning on or after that date."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title V, §594(b), Oct. 14, 2008, 122 Stat. 4475, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date."

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title X, §1062(g), Dec. 2, 2002, 116 Stat. 2651, provided that the amendment made by section 1062(g)(1) of Pub. L. 107–314 is effective as of Oct. 30, 2000, and as if included in Pub. L. 106–398 as enacted.

§510. Authorization for FireGuard Program

(a) IN GENERAL.—The Secretary of Defense may use members of the National Guard to carry out a program to aggregate, analyze, and assess multi-source remote sensing information for interagency partnerships in the detection and monitoring of wildfires, and to support any emergency response to such wildfires. Such a program shall be known as the "FireGuard Program".

(b) CONTRACTS AND AGREEMENTS.—(1) The Secretary of Defense may enter into a contract or cooperative agreement with a qualified individual or entity for the performance of duties to supplement members of the National Guard in carrying out the FireGuard Program under subsection (a).

(2) In association with a contract or cooperative agreement entered into under paragraph (1) with a qualified individual or entity, the Chief of the National Guard Bureau, in coordination with relevant State, local, and commercial entities, shall execute a memorandum of understanding with the qualified individual or entity, which shall clearly delineate the roles, responsibilities, functions, timelines, and end dates for the transition of the duties to be performed under the contract or cooperative agreement.

(3) In this subsection, the term "qualified individual or entity" means—

(A) any individual who possesses a requisite security clearance for handling classified remote sensing data for the purpose of wildfire detection and monitoring; or

(B) any corporation, firm, partnership, company, nonprofit, Federal agency or sub-agency, or State or local government, with contractors or employees who possess a requisite security clearance for handling such data.

(Added Pub. L. 118–31, div. A, title V, §515(a), Dec. 22, 2023, 137 Stat. 248; amended Pub. L. 118–159, div. A, title III, §352(a), Dec. 23, 2024, 138 Stat. 1857.)

EDITORIAL NOTES

AMENDMENTS

2024—Pub. L. 118–159 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

CHAPTER 7—SERVICE, SUPPLY, AND PROCUREMENT

Sec.

701. Uniforms, arms, and equipment to be same as Army or Air Force.
702. Issue of supplies.
703. Purchases of supplies by States from Army or Air Force.
704. Accountability: relief from upon order to active duty.
705. Purchase of uniforms and equipment by officers of National Guard from Army or Air Force.
706. Return of arms and equipment upon relief from Federal service.
707. Use of public buildings for offices by instructors.
708. Property and fiscal officers.
709. Technicians: employment, use, status.
710. Accountability for property issued to the National Guard.
711. Disposition of obsolete or condemned property.
712. Disposition of proceeds of condemned stores issued to National Guard.
713. Official mail: free transmission.
714. Final settlement of accounts: deceased members.
715. Property loss; personal injury or death: activities under certain sections of this title.
716. Claims for overpayment of pay and allowances, and travel and transportation allowances.
[717. Repealed.]

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163, div. A, title V, §589(b)(2), Jan. 6, 2006, 119 Stat. 3279, struck out item 717 "Presentation of recognition items for retention purposes".

2004—Pub. L. 108–375, div. A, title V, §520(b)(2), Oct. 28, 2004, 118 Stat. 1887, added item 717.

1985—Pub. L. 99–224, §3(b), Dec. 28, 1985, 99 Stat. 1742, substituted "and travel" for "other than travel" in item 716.

1980—Pub. L. 96–328, §1(b)(2), Aug. 8, 1980, 94 Stat. 1027, substituted "Accountability for property issued to the National Guard" for "Reports of survey" in item 710.

1972—Pub. L. 92–453, §2(2), Oct. 2, 1972, 86 Stat. 759, added item 716.

1968—Pub. L. 90–486, §2(2), Aug. 13, 1968, 82 Stat. 756, substituted "Technicians: employment, use status" for "Caretakers and clerks" in item 709.

1960—Pub. L. 86–740, §1(2), Sept. 13, 1960, 74 Stat. 879, added item 715.

1958—Pub. L. 85–861, §2(13), Sept. 2, 1958, 72 Stat. 1546, added item 714.

§701. Uniforms, arms, and equipment to be same as Army or Air Force

So far as practicable, the same types of uniforms, arms, and equipment as are issued to the Army shall be issued to the Army National Guard, and the same types of uniforms, arms, and equipment as are issued to the Air Force shall be issued to the Air National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 612.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
701	32:31.	June 3, 1916, ch. 134, §82; restated June 15, 1933, ch. 87, §17, 48 Stat.

		160.

The words "shall be issued" are substituted for the words "shall * * * be uniformed, armed, and equipped with". The words "as are issued" are substituted for the words "as are or shall be provided". The word "Army" is substituted for the words "Regular Army", since the Army is the category to which uniforms, arms, and equipment are issued, and the Regular Army is a personnel category only. Similarly, the words "Air Force" are used instead of the words "Regular Air Force".

§702. Issue of supplies

(a) Under such regulations as the President may prescribe, the Secretary of the Army and the Secretary of the Air Force may buy or manufacture and, upon requisition of the governor of any State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands or the commanding general of the National Guard of the District of Columbia, issue to its Army National Guard and Air National Guard, respectively, the supplies necessary to uniform, arm, and equip that Army National Guard or Air National Guard for field duty.

(b) Whenever the Secretary concerned is satisfied that the Army National Guard or the Air National Guard, as the case may be, of any State or Territory, Puerto Rico, or the District of Columbia is properly organized, armed, and equipped for field duty, funds allotted to that jurisdiction for its Army National Guard or Air National Guard may be used to buy any article issued by the Army or the Air Force, as the case may be.

(c) Under such regulations as the President may prescribe, the issue of new types of equipment, small arms, or field guns to the National Guard of any State or Territory, Puerto Rico, or the District of Columbia shall be without charge against appropriations for the National Guard.

(d) No property may be issued to the National Guard of a State or Territory, Puerto Rico, or the District of Columbia, unless that jurisdiction makes provision, satisfactory to the Secretary concerned, for its protection and care.

(Aug. 10, 1956, ch. 1041, 70A Stat. 612; Pub. L. 100–456, div. A, title XII, §1234(b)(1), (4), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(4), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
702(a)	32:33 (less provisos).	June 3, 1916, ch. 134, §§83, 84, 39
702(b)	32:33 (last proviso).	Stat. 203, 204.
702(c)	32:35.	
702(d)	32:33 (1st proviso).	

In subsection (a), the word "supplies" is substituted for the detailed description of stores, material, and equipment, since under section 101(12) of this title, "supplies" includes stores, material, and equipment. The words "may buy or manufacture" are substituted for the words "is authorized to procure * * * by purchase or manufacture". The words "within the limits of available appropriations made by Congress" and "from time to time" are omitted as surplusage.

In subsection (b), the words "the Secretary concerned is satisfied" are substituted for the words "it shall be shown to the satisfaction of the Secretary of the Army". The words "buy any article issued by the Army or the Air Force" are substituted for the words "purchase, from the Department of the Army, of any article issued by any of the supply departments of the Army".

In subsection (c), the words "the issue of" are substituted for the words "whenever * * * shall have been issued * * * shall be furnished". The words "shall be without charge" are substituted for the words "without charging the cost or value thereof or any expense connected therewith". The words "provided for the support" are omitted as surplusage.

In subsection (d), the words "No property may be issued to * * * unless that jurisdiction" are substituted for the words *"Provided*, That as a condition precedent to the issue of any property as provided for by this title" and "desiring such issue".

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands" for "State or Territory or Puerto Rico".

1988—Subsec. (a). Pub. L. 100–456, §1234(b)(4), substituted "Territory or Puerto Rico" for "Territory, Puerto Rico, or the Canal Zone,".

Subsecs. (b) to (d). Pub. L. 100–456, §1234(b)(1), struck out "the Canal Zone," after "Puerto Rico,".

§703. Purchases of supplies by States from Army or Air Force

(a) Subject to the approval of the Secretary of the Army, any State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may buy from the Department of the Army, for its National Guard or the officers thereof, supplies and military publications furnished to the Army, in addition to other supplies issued to its Army National Guard. On the same basis, it may buy similar property from the Department of the Air Force. A purchase under this subsection shall be for cash, at cost plus transportation.

(b) In time of actual or threatened war, the United States may requisition for military use any property bought under subsection (a). Credit for the return in kind of property so requisitioned shall be given to the State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands from which it is received.

(c) Proceeds of sales by the Department of the Army and the Department of the Air Force under this section shall be credited to the appropriations from which the property was purchased, shall not be covered into the Treasury, and may be used to replace property sold under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 613; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
703(a)	32:39 (1st sentence).	June 3, 1916, ch. 134, §86, 39 Stat. 204.
703(b)	32:39 (proviso of last sentence).	
	32:39a.	June 23, 1910, ch. 370, 36 Stat. 603.
703(c)	32:39 (less 1st sentence, and less proviso of last sentence).	

In subsection (a), the words "stores * * * materiel" are omitted as covered by the word "supplies". The words "other supplies issued" are substituted for the words "those issued under the provisions of this title". The words "at cost plus transportation" are substituted for the words "at the price at which they shall be listed to the Army, with cost of transportation added".

In subsection (b), 32:39a (less last 23 words) is omitted as obsolete and superseded by 32:39 (proviso of last sentence). The Act of June 23, 1910, ch. 370 (less proviso), not contained in 32:39a, is omitted from the revised section as executed. The words "bought under subsection (a)" are substituted for the words "so purchased". The words "for military use" are substituted for the words "for use in the military service thereof". The words "and when so requisitioned by the United States and delivered" and "ultimate" are omitted as surplusage.

In subsection (c), the words "Proceeds of sales by the Department of the Army and the Department of the Air Force under this section" are substituted for the words "The funds received from such sale". The words "from which the property was purchased" are substituted for the words "to which they shall belong". The words "may be used to replace property sold under this section" are substituted for the words "shall be available until expended to replace therewith the supplies sold to the States in the manner herein authorized".

EDITORIAL NOTES

AMENDMENTS

2006—Subsecs. (a), (b). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

1988—Subsecs. (a), (b). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§704. Accountability: relief from upon order to active duty

Upon ordering any part of the Army National Guard of the United States or the Air National Guard of the United States to active duty, the President may, upon such terms as he may prescribe, relieve the State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, of accountability for property of the United States previously issued to it for the use of that part.

(Aug. 10, 1956, ch. 1041, 70A Stat. 613; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
704	50:1121.	July 9, 1952, ch. 608, §711, 66 Stat. 504.

The words "to active duty" are substituted for the words "into the active military service of the United States". The word "conditions" is omitted as covered by the word "terms". The word "previously" is substituted for the word "theretofore". The word "liability" is omitted as covered by the word "accountability". The words "that part" are substituted for the words "such portion of the National Guard of the United States or of the Air National Guard of the United States".

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

1988—Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§705. Purchase of uniforms and equipment by officers of National Guard from Army or Air Force

Officers of the Army National Guard not in Federal service may buy articles of individual clothing and equipment from the Department of the Army, under such regulations as the Secretary of the Army may prescribe. On the same basis, officers of the Air National Guard not in Federal service may buy those items from the Department of the Air Force. Purchases under this section shall be for cash, at average current costs, including overhead, as determined by the Secretary concerned.

(Aug. 10, 1956, ch. 1041, 70A Stat. 613.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
705	32:156.	June 3, 1916, ch. 134, §109; restated June 4, 1920, ch. 227, subch. 1, §47; restated June 3, 1924, ch. 244, §3; restated Oct. 14, 1940, ch. 875, §3, 54 Stat. 1136; Mar. 25, 1948, ch. 157, §5(b), 62 Stat. 91; Oct. 12, 1949, ch. 681, §501(f)(2) and (3) (as

		applicable to §109 of the Act of June 3, 1916, ch. 134), 63 Stat. 827; July 9, 1952, ch. 608, §803 (12th par.), 66 Stat. 505.

The reference to 10:1106 is omitted, since that section related only to sales of uniforms and equipment to cadets at the United States Military Academy. The reference to 10:904 is omitted as covered by the language of the revised section. The words "at average current costs, including overhead, as determined by the Secretary concerned" are inserted to reflect sections 4621 and 9621 of title 10, which apply to all sales of individual clothing and equipment. The words "articles of individual clothing and equipment" are substituted for the words "uniforms, accouterments, and equipment". The words "active and inactive", "on proper identification", and "rules and" are omitted as surplusage.

§706. Return of arms and equipment upon relief from Federal service

So far as practicable, whenever units, organizations, or members of the National Guard are returned to their National Guard status under section 325(b) [1] of this title, arms and equipment that the Secretary concerned determines are sufficient to accomplish their peacetime mission shall be returned with them.

(Aug. 10, 1956, ch. 1041, 70A Stat. 613.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
706	50:1122(b) (last 17 words.)	July 9, 1952, ch. 608, §712(b) (last 17 words), 66 Stat. 504.

The words "So far as practicable" are inserted, since sufficient arms and equipment might not be available.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 325(b) of this title, referred to in text, was redesignated section 325(c) of this title by Pub. L. 110–417, [div. A], title V, §517(b)(1), Oct. 14, 2008, 122 Stat. 4442.

[1] *See References in Text note below.*

§707. Use of public buildings for offices by instructors

Whenever practicable, instructors of the National Guard shall use State armories or other public buildings for offices.

(Aug. 10, 1956, ch. 1041, 70A Stat. 614.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
707	32:74.	May 12, 1917, ch. 12 (10th proviso under "National Guard"), 40 Stat. 68.

The word "instructors" is substituted for the words "inspector-instructors", since there are no longer any "inspector-instructors".

§708. Property and fiscal officers

(a) The Governor of each State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, and the commanding general of the National Guard of the District of Columbia, shall, in consultation with the Chief of the National Guard Bureau, appoint, designate or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the National Guard of that jurisdiction who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the property and fiscal officer of that jurisdiction. If the officer is not on active duty, the President may order him to active duty, with his consent, to serve as a property and fiscal officer.

(b) Each property and fiscal officer shall—

(1) receipt and account for all funds and property of the United States in the possession of the National Guard for which he is property and fiscal officer; and

(2) make returns and reports concerning those funds and that property, as required by the Secretary concerned.

(c) When he ceases to hold that assignment, a property and fiscal officer resumes his status as an officer of the National Guard.

(d) The Secretaries shall prescribe a maximum grade, commensurate with the functions and responsibilities of the office, but not above colonel, for the property and fiscal officer of the United States for the National Guard of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(e) The Secretary of the Army and the Secretary of the Air Force shall prescribe joint regulations necessary to carry out subsections (a)–(d).

(f) A property and fiscal officer may intrust money to an officer of the National Guard to make disbursements as his agent. Both the officer to whom money is intrusted, and the property and disbursing officer intrusting the money to him, are pecuniarily responsible for that money to the United States. The agent officer is subject, for misconduct as an agent, to the liabilities and penalties prescribed by law in like cases for the property and fiscal officer for whom he is acting.

(Aug. 10, 1956, ch. 1041, 70A Stat. 614; Pub. L. 92–310, title II, §207, June 6, 1972, 86 Stat. 203; Pub. L. 95–79, title VIII, §804(b), July 30, 1977, 91 Stat. 333; Pub. L. 96–513, title V, §515(4), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–189, div. A, title VI, §653(g), Nov. 29, 1989, 103 Stat. 1463; Pub. L. 109–163, div. A, title X, §1057(b)(2), (4), Jan. 6, 2006, 119 Stat. 3441; Pub. L. 116–92, div. A, title V, §518, Dec. 20, 2019, 133 Stat. 1350.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
708(a)	32:49 (last sentence; and 2d sentence, less last 24 words). 32:49 (3d and 4th sentences).	June 3, 1916, ch. 134, §67 (last par.), 39 Stat. 200; July 9, 1918, ch. 143, subch. III (last par.); restated July 6, 1954, ch. 462, 58 Stat. 451.
708(b)	32:49 (last 24 words of 2d sentence).	June 3, 1924, ch. 244, §5, 43 Stat. 365; July 6, 1954, ch. 462, 68 Stat. 451.
708(c)	32:49 (5th and 6th sentences).	
708(d)	32:49 (last sentence, less 1st 18 words).	
708(e)		
708(f)	32:49 (1st 18 words of last sentence).	
708(g)	32:50.	

In subsection (b)(1), the words "the duties of that assignment" are substituted for the words "his duties as

property and fiscal officer". The words "be required to" are omitted as surplusage.

In subsection (b)(2), the words "of the National Guard for which he is property and fiscal officer" are substituted for the words "of the National Guard or Air National Guard of the State, Territory, or District of Columbia".

In subsection (c), 32:49 (5th sentence) is omitted, since the officer concerned would be entitled, under section 201 of the Career Compensation Act of 1949 (37 U.S.C. 232), to the pay and allowances of the grade in which he is serving.

In subsection (e), the words "The Secretaries shall prescribe" are substituted for the words "which rules and regulations shall establish". The word "duties" is omitted as surplusage.

In subsection (f), the words "rules and" and "the provisions of" are omitted as surplusage.

In subsection (g), the words "Under such regulations as may be prescribed by the Secretary of the Army" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions. The words "an officer" are substituted for the words "other officers", since, under revised subsection (a), the property and fiscal officer is not required to be an officer of the National Guard. The words "accountable for public moneys" and "as agent" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

2019—Subsec. (a). Pub. L. 116–92 inserted ", in consultation with the Chief of the National Guard Bureau," after "shall".

2006—Subsec. (a). Pub. L. 109–163, §1057(b)(4), substituted "State, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands" for "State or Territory and Puerto Rico".

Subsec. (d). Pub. L. 109–163, §1057(b)(2), substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State or Territory, Puerto Rico, and the District of Columbia".

1989—Subsec. (a). Pub. L. 101–189 substituted "The Governor of each State or Territory and Puerto Rico" for "The governor of each State and Territory, Puerto Rico, and the Canal Zone".

1988—Subsec. (d). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1980—Subsec. (b). Pub. L. 96–513 redesignated pars. (2) and (3) as (1) and (2), respectively.

1977—Subsec. (d). Pub. L. 95–79, §804(b)(1), (2), redesignated subsec. (e) as (d). Former subsec. (d), which authorized inspections at least once a year by Inspectors General of the departments concerned, was struck out.

Subsec. (e). Pub. L. 95–79, §804(b)(2), (3), redesignated subsec. (f) as (e) and substituted "(d)" for "(e)". Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 95–79, §804(b)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively.

1972—Subsec. (b)(1). Pub. L. 92–310 repealed provisions which related to the bond required of property and fiscal officers.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

§709. Technicians: employment, use, status

(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject to subsections (b) and (c), persons may be employed as technicians in—

(1) the organizing, administering, instructing, or training of the National Guard;

(2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and

(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):

(A) Support of operations or missions undertaken by the technician's unit at the request of the President or the Secretary of Defense.

(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.

(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

(i) active-duty members of the armed forces;

(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

(iii) Department of Defense contractor personnel; or

(iv) Department of Defense civilian employees.

(b) Except as authorized in subsection (c), a person employed under subsection (a) must meet each of the following requirements:

(1) Be a military technician (dual status) as defined in section 10216(a) of title 10.

(2) Be a member of the National Guard.

(3) Hold the military grade specified by the Secretary concerned for that position.

(4) While performing duties as a military technician (dual status), wear the uniform appropriate for the member's grade and component of the armed forces.

(c)(1) A person may be employed under subsection (a) as a non-dual status technician (as defined by section 10217 of title 10) if the technician position occupied by the person has been designated by the Secretary concerned to be filled only by a non-dual status technician.

(2) The total number of non-dual status technicians in the National Guard is specified in section 10217(c)(2) of title 10.

(d) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title to employ and administer the technicians authorized by this section.

(e) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed in that position is required under subsection (b) to be a member of the National Guard.

(f) Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned—

(1) a person employed under subsection (a) who is a military technician (dual status) and otherwise subject to the requirements of subsection (b) who—

(A) is separated from the National Guard or ceases to hold the military grade specified by the Secretary concerned for that position shall be promptly separated from military technician (dual status) employment by the adjutant general of the jurisdiction concerned; and

(B) fails to meet the military security standards established by the Secretary concerned for a member of a reserve component under his jurisdiction may be separated from employment as a military technician (dual status) and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned;

(2) a technician may, at any time, be separated from his technician employment for cause by the adjutant general of the jurisdiction concerned;

(3) a reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by the adjutant general of the jurisdiction concerned;

(4) a right of appeal which may exist with respect to paragraph (1), (2), or (3) shall not extend beyond the adjutant general of the jurisdiction concerned when the appeal concerns activity occurring while the member is in a military pay status, or concerns fitness for duty in the reserve components;

(5) with respect to an appeal concerning any activity not covered by paragraph (4), the provisions of sections 7511, 7512, and 7513 of title 5, and section 717 of the Civil Rights Act of 1991 [1] (42 U.S.C. 2000e–16) shall apply; and

(6) a technician shall be notified in writing of the termination of his employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or

probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.

(g)(1) Except as provided in subsection (f), sections 2108, 3502, 7511, and 7512 of title 5 do not apply to a person employed under this section.

(2) In addition to the sections referred to in paragraph (1), section 6323(a)(1) of title 5 also does not apply to a person employed under this section who is performing active Guard and Reserve duty (as that term is defined in section 101(d)(6) of title 10).

(h) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Secretary concerned may prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

(i) The Secretary concerned may not prescribe for purposes of eligibility for Federal recognition under section 301 of this title a qualification applicable to technicians employed under subsection (a) that is not applicable pursuant to that section to the other members of the National Guard in the same grade, branch, position, and type of unit or organization involved.

(j) In this section:

(1) The term "military pay status" means a period of service where the amount of pay payable to a technician for that service is based on rates of military pay provided for under title 37.

(2) The term "fitness for duty in the reserve components" refers only to military-unique service requirements that attend to military service generally, including service in the reserve components or service on active duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 614; Pub. L. 87–224, §2, Sept. 13, 1961, 75 Stat. 496; Pub. L. 90–486, §2(1), Aug. 13, 1968, 82 Stat. 755; Pub. L. 92–119, §2, Aug. 13, 1971, 85 Stat. 340; Pub. L. 96–513, title V, §515(5)–(7), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 103–160, div. A, title V, §§523(a), 524(c), (d), Nov. 30, 1993, 107 Stat. 1656, 1657; Pub. L. 103–337, div. A, title X, §1070(b)(2), (d)(5), Oct. 5, 1994, 108 Stat. 2856, 2858; Pub. L. 104–106, div. A, title X, §1038(a), Feb. 10, 1996, 110 Stat. 432; Pub. L. 105–85, div. A, title V, §522(c), Nov. 18, 1997, 111 Stat. 1735; Pub. L. 106–65, div. A, title V, §524, Oct. 5, 1999, 113 Stat. 599; Pub. L. 109–364, div. A, title V, §525(d), Oct. 17, 2006, 120 Stat. 2195; Pub. L. 114–328, div. A, title V, §§512(a), (b), 513, Dec. 23, 2016, 130 Stat. 2112, 2113.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
709(a)	32:42 (1st par.). 32:42a (less 28 words before 1st proviso).	June 3, 1916, ch. 134, §90; restated June 4, 1920, ch. 227, subch. I, §46; restated Mar. 1, 1922, ch. 90;
709(b)	32:42 (2d par., and last sentence of 4th par.).	restated June 6, 1924, ch. 275, §5; restated May 28, 1926, ch. 417, §1;
709(c)	32:42 (3d par.).	Apr. 21, 1928, ch. 397; June 19,
709(d)	32:42 (4th par., less last sentence).	1935, ch. 277, §6; June 13, 1940, ch.
709(e)	32:42 (last par., less proviso). 32:42a (28 words before 1st proviso).	343 (1st proviso under "National Guard"); restated Oct. 14, 1940, ch. 875, §1, 54 Stat. 1134.
709(f)	32:42 (proviso of last par.).	June 25, 1938, ch. 688, 52 Stat. 1173.

In subsection (a), the words "may be spent" are substituted for the words "shall be available". The reference to animals for military purposes and forage, bedding, and other supplies and services for them, is omitted as obsolete, since animals are not now authorized for the National Guard. The word "persons" is substituted for the word "help". The words "Army National Guard" and "Air National Guard" are substituted for the words

"organizations of all kinds". The words "the support of" are omitted as surplusage. The words "A caretaker employed under this subsection" are substituted for the words "Moneys hereafter appropriated under the provisions of this title for compensation of help for care of material, animals, armament, and equipment, in the hands of the National Guard of the several States, Territories, and the District of Columbia shall be available for the hire of caretakers". The words "and other duties that do not interfere with the performance of his duties as caretaker" are substituted for 32:42a (1st proviso). 32:42a (2d and 3d provisos) is omitted as executed.

In subsection (b), the words "However, if a unit has more than one caretaker" are substituted for the words "but if there are as many as two caretakers in any unit". The words "under this section", in the first sentence of the revised subsection, are inserted for clarity. The words "under this section", in the second sentence of the revised subsection, are substituted for the words "paid to caretakers who belong to the National Guard, as herein authorized". The words "under any of the provisions of this title" are omitted as surplusage.

In subsection (c), the words "or organizations thereof" are omitted as surplusage.

In subsection (d), the words "one commissioned officer * * * in a grade below major * * * for each pool set up under subsection (c) and for each squadron of the Air National Guard" are substituted for the words "one such officer not above the grade of captain for each heavier-than-air squadron; and one such officer not above the grade of captain for each pool".

In subsection (e), the words "Funds appropriated by Congress" are substituted for the words "Funds hereafter appropriated under the provisions of this title for the support of", in 32:42, and "such moneys", in 32:42a. The words "are in addition to" are substituted for the words "shall be supplemental to", in 32:42, and "may be used as supplemental to", in 32:42a.

In subsection (f), the words "authorized to be employed under this section" are substituted for the words "authorized to be employed". The words "person to employ them" are substituted for the words "by whom they shall be employed". The words "by regulations" are omitted, since the Secretary has inherent authority to issue regulations appropriate to exercising his statutory functions.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 717 of the Civil Rights Act of 1991, referred to in subsec. (f)(5), probably means section 717 of the Civil Rights Act of 1964, Pub. L. 88–352, title VII, as added Pub. L. 92–261, §11, Mar. 24, 1972, 86 Stat. 111, which is classified to section 2000e–16 of Title 42, The Public Health and Welfare. The Civil Rights Act of 1991 does not contain a section 717.

AMENDMENTS

2016—Subsec. (f)(4). Pub. L. 114–328, §512(a)(1)(A), substituted "when the appeal concerns activity occurring while the member is in a military pay status, or concerns fitness for duty in the reserve components;" for "; and".

Subsec. (f)(5), (6). Pub. L. 114–328, §512(a)(1)(B), (C), added par. (5) and redesignated former par. (5) as (6).

Subsec. (g). Pub. L. 114–328, §§512(a)(2), 513, designated existing provisions as par. (1), substituted "Except as provided in subsection (f), sections" for "Sections", and added par. (2).

Subsec. (j). Pub. L. 114–328, §512(b), added subsec. (j).

2006—Subsec. (a)(1). Pub. L. 109–364, §525(d)(1)(A), substituted "organizing, administering, instructing, or" for "administration and".

Subsec. (a)(3). Pub. L. 109–364, §525(d)(1)(B)–(3), added par. (3).

1999—Pub. L. 106–65 amended section catchline and text generally, revising and restating provisions relating to employment, use, and status of technicians.

1997—Subsec. (b). Pub. L. 105–85 substituted "A technician" for "Except as prescribed by the Secretary concerned, a technician".

1996—Subsec. (b). Pub. L. 104–106 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Except as prescribed by the Secretary concerned, a technician employed under subsection (a) shall, while so employed, be a member of the National Guard and hold the military grade specified by the Secretary concerned for that position."

1994—Subsec. (e)(6). Pub. L. 103–337, §1070(d)(5)(A), substituted "30 days before" for "thirty days prior to".

Pub. L. 103–337, §1070(b)(2), made technical correction to directory language of Pub. L. 103–160, §524(c). See 1993 Amendment note below.

Subsec. (g)(2). Pub. L. 103–337, §1070(d)(5)(B), substituted "paragraph (1)" for "clause (1) of this

subsection".

1993—Subsec. (e)(6). Pub. L. 103–160, §524(c), as amended by Pub. L. 103–337, §1070(b)(2), inserted ", unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment," after "termination of his employment as a technician and".

Subsec. (h). Pub. L. 103–160, §524(d), struck out subsec. (h) which read as follows: "In no event shall the number of technicians employed under this section at any one time exceed 53,100."

Subsec. (i). Pub. L. 103–160, §523(a), added subsec. (i).

1980—Subsec. (f). Pub. L. 96–513, §515(5), struck out ", United States Code," after "title 5".

Subsec. (g). Pub. L. 96–513, §515(6), substituted "6101(a) of title 5" for "6102 of title 5, United States Code," in two places, "5332 of title 5" for "5332 of title 5, United States Code" and "5543 of title 5" for "5543 of title 5, United States Code,".

Subsec. (h). Pub. L. 96–513, §515(7), struck out limitation of 49,200 technicians employed during the fiscal year beginning July 1, 1971.

1971—Subsec. (h). Pub. L. 92–119 increased number of technicians employable under section from 42,500 to 53,100 with exception that such number is fixed at 49,200 for fiscal year beginning July 1, 1971.

1968—Pub. L. 90–486 substituted "Technicians: employment, use, status" for "Caretakers and clerks" in section catchline.

Subsec. (a). Pub. L. 90–486 substituted provisions that persons may be employed as technicians in administration and training of National Guard and maintenance and repair of supplies issued to National Guard or armed forces for provisions that authorized the Secretaries of the Army and the Air Force to hire, out of funds allotted to them for the Army National Guard and the Air National Guard, respectively competent persons to care for material, armament, and equipment of the Army National Guard and Air National Guard, and provisions that a caretaker so employed may also perform clerical duties incidental to his employment and other duties that do not interfere with performance of his duties as caretaker.

Subsec. (b). Pub. L. 90–486 substituted provisions requiring, except as prescribed by the Secretary concerned, any technician employed to be a member of the National Guard and hold the military grade specified by the Secretary concerned for that position for provisions permitting civilians as well as enlisted men to be employed as caretakers, provided that if a unit has more than one caretaker, one of them must be an enlisted member, and provisions that any compensation under this section is in addition to compensation otherwise provided for a member of the National Guard.

Subsec. (c). Pub. L. 90–486 substituted provisions authorizing the Secretary concerned to designate adjutants general to employ and administer the technicians authorized by this section for provisions authorizing the Secretary concerned to place in a common pool for care, maintenance, and storage the material, armament, and equipment of the Army National Guard or Air National Guard, with proviso that not more than 15 caretakers be employed for each pool.

Subsec. (d). Pub. L. 90–486 substituted provisions that a technician employed under subsec. (a) is an employee of the particular department concerned, and an employee of the United States, with proviso that a position authorized by this section is outside competitive service if technician so employed is required under subsec. (b) to be a member of the National Guard, for provisions that one commissioned officer of the National Guard in a grade below major may be employed for each pool set up and for each squadron of the Air National Guard.

Subsec. (e). Pub. L. 90–486 substituted provisions authorizing the adjutant general of the jurisdiction concerned to separate from technicians employment any technician for the specified grounds, provisions requiring the technician concerned to be notified in writing of the termination of his employment at least 30 days prior to the termination date of such employment, and provisions granting a limited right of appeal from such termination, for provisions appropriating funds by Congress for the National Guard as additional to funds appropriated by the several states and territories, etc., and provisions making such funds available for the hire of caretakers and clerks.

Subsec. (f). Pub. L. 90–486 substituted provisions making inapplicable sections 2108, 3502, 7511, and 7512 of Title 5 to any person employed under this section for provisions authorizing the Secretary concerned to fix the salaries of clerks and caretakers and to designate the person to employ them, and provisions authorizing compensation to include the amounts of the employer's contributions to retirement systems.

Subsecs. (g), (h). Pub. L. 90–486 added subsecs. (g) and (h).

1961—Subsec. (f). Pub. L. 87–224 provided that the authorized compensation may include employer's contributions to retirement systems, and that such contributions shall not exceed 6½ per centum of the compensation upon which based.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–65 effective 180 days after the date of receipt by Congress of the plan required by section 523(d) of Pub. L. 105–85, set out as a note under section 10217 of Title 10, Armed Forces, or a report by the Secretary of Defense providing an alternative proposal to the plan required by section 523(d), see section 525 of Pub. L. 106–65, set out as a note under section 10217 of Title 10.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–337, div. A, title X, §1070(b), Oct. 5, 1994, 108 Stat. 2856, provided that the amendment made by that section is effective as of Nov. 30, 1993, and as if included in the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, as enacted.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90–486, §11, Aug. 13, 1968, 82 Stat. 760, provided that: "This Act [see Short Title note below] becomes effective January 1, 1969, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after January 1, 1969."

SHORT TITLE

Pub. L. 90–486, §1, Aug. 13, 1968, 82 Stat. 755, provided: "That this Act [amending this section and section 715 of this title, sections 2105, 8332, 8334, and 8339 of Title 5, Government Organization and Employees, sections 3848, 3851, 8848, and 8851 of Title 10, Armed Forces, and section 418 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section] may be cited as the 'National Guard Technicians Act of 1968'."

MILITARY EDUCATION FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS

Pub. L. 101–189, div. A, title V, §506(a)–(c), Nov. 29, 1989, 103 Stat. 1438, 1439, which related to attendance by civilian technicians of Army National Guard in Battle Skills Course and military promotions, courses and training meeting requirements of reserve component noncommissioned officers education program, and submission by Secretary of the Army to committees of Congress of a plan to use State and National Guard Bureau regional academies to provide portion of Reserve Component Noncommissioned Officers Education System specifically related to military occupational specialties, was repealed by Pub. L. 103–160, div. A, title V, §523(b)(2), Nov. 30, 1993, 107 Stat. 1656.

Pub. L. 100–456, div. A, title V, §523, Sept. 29, 1988, 102 Stat. 1974, as amended by Pub. L. 101–189, div. A, title V, §506(d), Nov. 29, 1989, 103 Stat. 1439; Pub. L. 101–510, div. A, title XIV, §1484(l)(2), Nov. 5, 1990, 104 Stat. 1719, which related to training of civilian technicians of Army National Guard at National Guard schools, was repealed by Pub. L. 103–160, div. A, title V, §523(b)(1), Nov. 30, 1993, 107 Stat. 1656.

[Pub. L. 103–160, div. A, title V, §523(c), Nov. 30, 1993, 107 Stat. 1656, provided that: "A civilian technician of the Army National Guard serving in an active status on the date of the enactment of this Act [Nov. 30, 1993] who under the provisions of law repealed by subsection (b) [repealing section 523 of Pub. L. 100–456 and section 506(a)–(c) of Pub. L. 101–189, formerly set out as notes above] (or under other Department of the Army policy in effect on the day before such date of enactment) was granted credit on the technician's military record for the completion of certain education and training courses shall retain such credit, notwithstanding the provisions of subsections (a) [amending this section] and (b), for a period determined by the Secretary of the Army. Such a period may not terminate, in the case of any such civilian technician, before the effective date of such civilian technician's next mililitary [sic] promotion."]

RETIREMENT CREDIT FOR CERTAIN FORMER NATIONAL GUARD TECHNICIANS

Pub. L. 99–661, div. A, title VI, §654, Nov. 14, 1986, 100 Stat. 3890, provided that:

"(a) CIVIL SERVICE RETIREMENT CREDIT.—A period of service performed under section 709 of title 32, United States Code (or under a prior corresponding provision of law), before January 1, 1969, which would not otherwise be creditable under subchapter III of chapter 83 of title 5, United States Code, because of the antepenultimate sentence of section 8332(b) of such title, shall be considered creditable service under such subchapter, notwithstanding such sentence, in the case of an individual described in subsection (b).

"(b) COVERED INDIVIDUALS.—Subsection (a) applies in the case of an individual who—

"(1) before the end of the 14-month period beginning on the date of the enactment of this Act [Nov. 14, 1986], files appropriate written application with the Office of Personnel Management in accordance with regulations under subsection (c);

"(2) at the time of filing application under paragraph (1), is employed by the United States and is subject to subchapter III of chapter 83 of title 5, United States Code (other than under section 8344 of such title); and

"(3) before the date of the separation on which entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, is based, makes an appropriate deposit under section 8334(c) of such title with respect to the period of service involved, based on the percentage of basic pay for such service which would be required under such section if such service had been performed as an employee under such subchapter.

"(c) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out subsection (a). Such regulations shall be prescribed not later than 60 days after the date of the enactment of this Act [Nov. 14, 1986]."

SAVINGS PROVISION FOR ACCRUED CLAIMS; CONVERSION TO FEDERAL EMPLOYEE STATUS; CREDIT FOR PAST SERVICE; LEAVE CREDIT

Pub. L. 90–486, §3, Aug. 13, 1968, 82 Stat. 756, as amended by Pub. L. 101–530, §2, Nov. 6, 1990, 104 Stat. 2338, provided that:

"(a) A claim accrued under section 715 of title 32, United States Code, before the effective date of this Act [see effective date note above] by reason of the act or omission of a person employed under section 709 of title 32, United States Code, may, if otherwise allowable, be settled and paid under section 715 of title 32, United States Code.

"(b) Except as provided in this Act and in the amendments made by this Act [see Short Title note above] and notwithstanding any law, rule, regulation, or decision to the contrary, the positions of persons employed under section 709 of title 32, United States Code, existing on the day before the effective date of this Act, and the persons holding those positions on that day, shall, on and after that effective date, be considered to be positions in and employees of the Department of the Army or the Department of the Air Force, as the case may be, and employees of the United States to the same extent as other positions in and employees of the Department of the Army or the Department of the Air Force. Such positions shall be outside the competitive service, if, as a condition of employment, the persons employed therein were, on the day before the effective date of this Act, required to be members of the Army National Guard or the Air National Guard.

"(c) All service under section 709 of title 32, United States Code, or prior corresponding provision of law, performed before the effective date of this Act shall be included and credited in the determination of length of service for the purposes of leave, Federal employees death and disability compensation, group life and health insurance, severance pay, tenure, and status.

"(d) Annual leave and sick leave to which a technician was entitled on the day before the conversion of his position, as provided in subsection (b) of this section, shall be credited to him in his new position."

[Pub. L. 101–530, §3(b), Nov. 6, 1990, 104 Stat. 2339, provided that:

["(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 [amending section 3 of Pub. L. 90–486, set out above] applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act [Nov. 6, 1990] and only to determine—

["(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

["(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

["(2) EXCEPTION.—

["(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act [Nov. 6, 1990], for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term 'annuitant', as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

["(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of

such title) of such individual's choice, if—

["(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

["(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation."]

PERSONS EMPLOYED PRIOR TO JANUARY 1, 1969, WHOSE EMPLOYMENT WAS COVERED BY CIVIL SERVICE RETIREMENT PROVISIONS

Pub. L. 90–486, §5(d), Aug. 13, 1968, 82 Stat. 758, provided that: "Clause (4) of subsection (a) of this section [amending section 8332(b) of Title 5, Government Organization and Employees] and subsections (b) and (c) of this section [amending section 8334(c) and adding section 8339(l) of title 5] do not apply to any person employed prior to the effective date of this Act [see Effective Date note above] under section 709 of title 32, United States Code, whose employment under that section was covered by subchapter III of chapter 83 of title 5, United States Code."

ELECTION TO REMAIN UNDER STATE RETIREMENT SYSTEM; REEMPLOYED TECHNICIANS; CONTINUATION OF FEDERAL CONTRIBUTIONS

Pub. L. 90–486, §6, Aug. 13, 1968, 82 Stat. 758, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(a) Notwithstanding section 709(d) of title 32, United States Code, a person who, on the date of enactment of this Act [Aug. 13, 1968], is employed under section 709 of title 32, United States Code, and is covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, may elect, not later than the effective date of this Act [see Effective Date note above], not to be covered by subchapter III of chapter 83 of title 5, United States Code, and with the consent of the State concerned or Commonwealth of Puerto Rico, to remain covered by the employee retirement system of, or plan sponsored by, that State or the Commonwealth of Puerto Rico. Unless such an election, together with a statement of approval by the State concerned or the Commonwealth of Puerto Rico, is filed with the Secretary of the Army or the Secretary of the Air Force, as appropriate, on or before the effective date of this Act, the person concerned is covered by subchapter III of chapter 83 of title 5, United States Code, as of that date.

"(b) A member of the National Guard of a State or the Commonwealth of Puerto Rico who was employed as a technician under section 709 of title 32, United States Code, or prior corresponding provision of law, who—

"(1) was involuntarily ordered to active duty after January 1, 1968, from that employment and has not been released from that duty prior to the effective date of this Act [see Effective Date note above]; or

"(2) is on active duty under section 265 [see 10211], 3015, 3033, 3496 [see 12402], 8033 or 8496 [see 12402] of title 10, United States Code, on the effective date of this Act;

and was covered by a retirement system or plan of a State or the Commonwealth of Puerto Rico, may, if he is reemployed within sixty days under section 709 of title 32, United States Code, make the election described in subsection (a) of this section, within thirty days following the date of his reemployment.

"(c) In the case of any person who files a valid election under this section to remain covered by an employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, the United States may pay the amount of the employer's contributions to that system or plan that become due for periods beginning on or after the effective date of this Act [see Effective Date note above]. However, the payment by the United States, including any contribution that may be made by the United States toward the employer's tax imposed by section 3111 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended (26 U.S.C. 3111), may not exceed the amount which the employing agency would otherwise contribute on behalf of the person to the Civil Service Retirement and Disability Fund under section 8334(a) of title 5, United States Code. Notwithstanding section 8332(b) of title 5, United States Code, as amended by section 5 of this Act, the service under section 709 of title 32, United States Code, or prior corresponding provision of law, of a person who has made an election to remain covered by the employee retirement system of, or plan sponsored by, a State or the Commonwealth of Puerto Rico, shall not be creditable toward eligibility for or amount of annuity under subchapter III of chapter 83 of title 5, United States Code. A person who retires pursuant to his valid election shall not be eligible for any rights, benefits, or privileges to which retired civilian employees of the United States may be entitled."

COMPENSATION RATES; CONVERSION AND ADJUSTMENT OF COMPENSATION TO THE GENERAL SCHEDULE

Pub. L. 90–486, §8, Aug. 13, 1968, 82 Stat. 759, provided that:

"(a) Except as provided in section 709(g) of title 32, United States Code, the Secretary concerned shall fix

the rate of basic compensation of positions existing on the date of enactment of this Act [Aug. 13, 1968] in accordance with the General Schedule set forth in section 5332, or under the appropriate prevailing rate schedule in accordance with section 5341 of title 5, United States Code, as applicable. In fixing such rate—

"(1) If the technician is receiving a rate of basic compensation which is less than the minimum rate of the appropriate grade of the General Schedule, or which is less than the minimum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, his basic compensation shall be increased to that minimum rate.

"(2) If the technician is receiving a rate of basic compensation which is equal to a rate of the appropriate grade of the General Schedule, or which is equal to a rate of the appropriate grade or compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at that rate of the General Schedule, or at that rate under the prevailing rate schedule, as applicable.

"(3) If the technician is receiving a rate of basic compensation which is between two rates of the appropriate grade of the General Schedule, or which is between two rates of the appropriate grade or compensation level under the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall receive basic compensation at the higher of those two rates under the General Schedule or appropriate prevailing rate schedule, as applicable.

"(4) If the technician is receiving a rate of basic compensation which is in excess of the maximum rate of the appropriate grade of the General Schedule, or which is in excess of the maximum rate of the appropriate grade or compensation level of the appropriate prevailing rate schedule, as applicable, in which his position is placed, he shall continue to receive basic compensation without change in rate until—

"(A) he leaves that position, or

"(B) he is entitled to receive basic compensation at a higher rate,

but, when any such position becomes vacant, the rate of basic compensation of any subsequent appointee thereto shall be fixed in the manner provided by applicable law and regulation.

"(b) The conversion of positions and employees to appropriate grades of the General Schedule set forth in section 5332 of title 5, United States Code, and the initial adjustment of rates of basic compensation of those positions and technicians, provided for by this Act [see Short Title note above], shall not be considered to be transfers or promotions within the meaning of section 5334(b) of title 5, United States Code, and the regulations issued thereunder.

"(c) Each technician on the effective date of this Act [see Effective Date note above], whose position is converted to the General Schedule set forth in section 5332 of title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, who prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section, has earned, but has not been credited with, an increase in that rate, shall be granted credit for such increase before his rate of basic compensation is initially adjusted under that subsection.

"(d) Each technician on the effective date of this Act whose position is converted to the General Schedule set forth in section 5332 of title 5, United States Code, or to the appropriate prevailing rate schedule, as applicable, shall be granted credit, for purposes of his first step increase under the General Schedule or prevailing rate schedule, for all satisfactory service performed by him since his last increase in compensation prior to the initial adjustment of his rate of basic compensation under subsection (a) of this section.

"(e) An increase in rate of basic compensation by reason of the enactment of subsection (a) of this section shall not be considered to be an equivalent increase with respect to step increases for technicians whose positions are converted to the General Schedule set forth in section 5332 of title 5, United States Code, or the appropriate prevailing rate schedule under authority of this section."

REGULATIONS: APPROVAL BY SECRETARY OF DEFENSE; UNIFORMITY

Pub. L. 90–486, §10, Aug. 13, 1968, 82 Stat. 760, provided that: "Regulations prescribed by the Secretary of the Army and Secretary of the Air Force under this Act [see Short Title note above] shall be approved by the Secretary of Defense and shall, so far as practicable, be uniform."

NUMBER OF CARETAKERS FOR AIR NATIONAL GUARD

Pub. L. 90–580, title II, Oct. 17, 1968, 82 Stat. 1124, provided that the number of caretakers authorized to be employed under this section may be such as is deemed necessary by the Secretary of the Air Force and that they may be employed without regard to their military rank as members of the Air National Guard.

Similar provisions were contained in the following prior acts:

Sept. 29, 1967, Pub. L. 90–96, title II, 81 Stat. 236.

Oct. 15, 1966, Pub. L. 89–687, title II, 80 Stat. 985.

Sept. 29, 1965, Pub. L. 89–213, title II, 79 Stat. 868.
Aug. 19, 1964, Pub. L. 88–466, title II, 78 Stat. 469.
Oct. 17, 1963, Pub. L. 88–149, title II, 77 Stat. 259.
Aug. 9, 1962, Pub. L. 87–577, title II, 76 Stat. 323.
Aug. 17, 1961, Pub. L. 87–144, title II, 75 Stat. 370.
July 7, 1960, Pub. L. 86–601, title II, 74 Stat. 344.
Aug. 18, 1959, Pub. L. 86–166, title II, 73 Stat. 372.
Aug. 22, 1958, Pub. L. 85–724, title V, 72 Stat. 723.
Aug. 2, 1957, Pub. L. 85–117, title V, 71 Stat. 322.
July 2, 1956, ch. 488, title V, 70 Stat. 466.
July 13, 1955, ch. 358, title V, 69 Stat. 313.
June 30, 1954, ch. 432, title VI, 68 Stat. 349.
Aug. 1, 1953, ch. 305, title V, 67 Stat. 349.
July 10, 1952, ch. 630, title V, 66 Stat. 530.
Oct. 18, 1951, ch. 512, title V, 65 Stat. 444.
Sept. 6, 1950, ch. 896, Ch. X, title V, 64 Stat. 751.
Oct. 29, 1949, ch. 787, title V, 63 Stat. 1017.

NUMBER OF CARETAKERS FOR ARMY NATIONAL GUARD

Pub. L. 90–580, title II, Oct. 17, 1968, 82 Stat. 1124, provided that the number of caretakers authorized to be employed under this section and those necessary to provide reimbursable services for the military departments, may be such as is deemed necessary by the Secretary of the Army.

Similar provisions were contained in the following prior acts:
Sept. 29, 1967, Pub. L. 90–96, title II, 81 Stat. 236.
Oct. 15, 1966, Pub. L. 89–687, title II, 80 Stat. 984.
Sept. 29, 1965, Pub. L. 89–213, title II, 79 Stat. 867.
Aug. 19, 1964, Pub. L. 88–446, title II, 78 Stat. 469.
Oct. 17, 1963, Pub. L. 88–149, title II, 77 Stat. 258.
Aug. 9, 1962, Pub. L. 87–577, title II, 76 Stat. 322.
Aug. 17, 1961, Pub. L. 87–144, title II, 75 Stat. 369.
July 7, 1960, Pub. L. 86–601, title II, 74 Stat. 343.
Aug. 18, 1959, Pub. L. 86–166, title II, 73 Stat. 371.
Aug. 22, 1958, Pub. L. 85–724, title III, 72 Stat. 715.
Aug. 2, 1957, Pub. L. 85–117, title III, 71 Stat. 315.
July 2, 1956, ch. 488, title III, 70 Stat. 458.
July 13, 1955, ch. 358, title III, 69 Stat. 305.
June 30, 1954, ch. 432, title IV, 68 Stat. 340.
Aug. 1, 1953, ch. 305, title III, 67 Stat. 340.
July 10, 1952, ch. 630, title III, 66 Stat. 522.
Oct. 18, 1951, ch. 512, title III, 65 Stat. 435.
Sept. 6, 1950, ch. 896, Ch. X, title III, 64 Stat. 740.
Oct. 29, 1949, ch. 787, title III, 63 Stat. 1000.
June 24, 1948, ch. 632, 62 Stat. 662.
July 30, 1947, ch. 357, title I, 61 Stat. 564.
July 16, 1946, ch. 583, 60 Stat. 556.

[1] *See References in Text note below.*

§710. Accountability for property issued to the National Guard

(a) All military property issued by the United States to the National Guard remains the property of the United States.

(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far

as practicable, regulations prescribed under this section shall be uniform among the components of each service.

(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be paid from its funds or from any other non-Federal funds.

(d) If property surveyed under this section is found to be unserviceable or unsuitable, the Secretary concerned or his designated representative shall direct its disposition by sale or otherwise. The proceeds of the following under this subsection shall be deposited in the Treasury under section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934:

(1) A sale.

(2) A stoppage against a member of the National Guard.

(3) A collection from a person, or from a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, to reimburse the United States for the loss or destruction of, or damage to, the property.

(e) If a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, neglects or refuses to pay for the loss or destruction of, or damage to, property charged against it under subsection (c), the Secretary concerned may bar it from receiving any part of appropriations for the Army National Guard or the Air National Guard, as the case may be, until the payment is made.

(f)(1) Instead of the procedure prescribed by subsections (b), (c), and (d), property issued to the National Guard that becomes unserviceable through fair wear and tear in service may, under regulations to be prescribed by the Secretary concerned, be sold or otherwise disposed of after an inspection, and a finding of unserviceability because of that wear and tear, by a commissioned officer designated by the Secretary. The State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, is relieved of accountability for that property.

(2) In designating an officer to conduct inspections and make findings for purposes of paragraph (1), the Secretary concerned shall designate—

(A) in the case of the Army National Guard, a commissioned officer of the Regular Army or a commissioned officer of the Army National Guard who is also a commissioned officer of the Army National Guard of the United States; and

(B) in the case of the Air National Guard, a commissioned officer of the Regular Air Force or a commissioned officer of the Air National Guard who is also a commissioned officer of the Air National Guard of the United States.

(Aug. 10, 1956, ch. 1041, 70A Stat. 615; Pub. L. 85–861, §33(c)(3), Sept. 2, 1958, 72 Stat. 1567; Pub. L. 96–328, §1(a), (b)(1), Aug. 8, 1980, 94 Stat. 1027; Pub. L. 96–513, title V, §515(8), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 97–258, §3(h)(2), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 103–160, div. A, title V, §524(e), Nov. 30, 1993, 107 Stat. 1657; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES
1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
710(a)	32:47 (1st sentence).	June 3, 1916, ch. 134, §87; June 3,
710(b)	32:47 (2d sentence).	1924, ch. 244, §1; restated Feb. 28,
710(c)	32:47 (3d sentence).	1925, ch. 371, §4; restated Aug. 27,
	32:154 (last proviso of 2d par.).	1954, ch. 1014, 68 Stat. 880.
	32:47 (last sentence, less	June 3, 1916, ch. 134, §110 (last
710(d)	proviso).	proviso of 2d par.); restated Sept. 22,
	32:47 (1st proviso of last	1922, ch. 423, §6 (last proviso of 2d
710(e)	sentence).	par.); restated Apr. 6, 1928, ch. 322
	32:47 (last proviso of last	(last proviso), 45 Stat. 408.
710(f)	sentence).	

In subsection (a), the words "as herein provided" are omitted as surplusage.

In subsections (b) and (f), the word "commissioned" is inserted, since 32:47 historically applied only to commissioned officers (see opinion of the Judge Advocate General of the Army (JAGA 1953/4078, 6 May 1953)).

In subsection (b), the words "by use in service or from any other cause" and "surveying" are omitted as surplusage. The words "a survey of the circumstances thereof" are substituted for the word "it".

In subsection (c), the first 12 words of the second sentence are substituted for 32:47 (38th through 77th words of 2d sentence). Clause (2) is substituted for 32:154 (last proviso of 2d par.).

In subsection (d), the last sentence is substituted for 32:47 (words between semicolon and 1st colon of last sentence).

In subsection (e), the words "charged against it under subsection (c)" are substituted for the words "changed against such State, Territory, or the District of Columbia by the Secretary of the Army after survey by a disinterested officer appointed as hereinbefore provided". The words "may bar it from receiving" are substituted for the words "is authorized to debar such State, Territory, or the District of Columbia from further participation in any and all".

In subsection (f), the words "Instead of the procedure prescribed by subsections (b)–(d)" are substituted for the words "and to constitute as to such property a discretional substitute for the examination, report, and disposition provided for elsewhere in this section". The words "a finding of unserviceability because of that wear and tear" are substituted for the words "finding to that effect".

1958 ACT

This change corrects a typographical error.

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934, referred to in subsec. (d), is section 4(b)(22) of act June 26, 1934, ch. 756, 48 Stat. 1228, which was classified to section 725c(b)(22) of former Title 31, and was omitted from the Code in the general revision and reenactment of Title 31, Money and Finance, by Pub. L. 97–258, Sept. 13, 1982, 96 Stat. 877.

AMENDMENTS

2006—Subsecs. (c), (d)(3), (e), (f)(1). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia" wherever appearing.

1993—Subsec. (f). Pub. L. 103–160 designated existing provisions as par. (1), substituted "subsections (b), (c), and (d)" for "subsections (b)–(d)", struck out "of the Regular Army or the Regular Air Force, as the case may be," after "commissioned officer", and added par. (2).

1988—Subsecs. (c), (d)(3), (e), (f). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

1982—Subsec. (d). Pub. L. 97–258 struck out "(31 U.S.C. 725c(b)(22))" after "1934".

1980—Pub. L. 96–328, §1(b)(1), substituted "Accountability for property issued to the National Guard" for "Reports of survey" in section catchline.

Subsec. (b). Pub. L. 96–328, §1(a), substituted provisions authorizing the Secretary of the Army, regarding the Army National Guard, and the Secretary of the Air Force, regarding the Air National Guard, to prescribe regulations for accounting for property issued by the United States to each service and for fixing responsibility

for that property and requiring, as far as practicable, that the regulations prescribed be uniform among the components of each service for provisions authorizing, that if property issued to the National Guard is lost, damaged, or destroyed, or becomes unserviceable or unsuitable, a survey of the circumstances involved be conducted by a disinterested commissioned officer of the Regular Army, Army National Guard, Regular Air Force, or Air National Guard, as the case may be, and a report of the survey sent to the Secretary concerned or an officer designated by that Secretary to receive those reports.

Subsec. (c). Pub. L. 96–328, §1(a), substituted provisions authorizing the Secretary concerned to charge liability for property lost, damaged, or destroyed to a member of the Army National Guard or Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be charged, to remit or cancel the liability of a member for good cause, and to charge a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia when such loss is incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction for provisions authorizing the Secretary concerned to relieve a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia of liability for loss, damage, or destruction of property unless such loss occurred through negligence.

Subsec. (d). Pub. L. 96–513 substituted "4(b)(22) of the Permanent Appropriation Repeal Act, 1934 (31 U.S.C. 725c(b)(22))" for "725c(b)(22) of title 31".

1958—Subsec. (c). Pub. L. 85–861 substituted "of further" for "or further".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

Pub. L. 96–328, §2, Aug. 8, 1980, 94 Stat. 1028, provided that: "The amendment made by subsection (a) of the first section of this Act [amending subsecs. (b) and (c) of this section] shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act [Aug. 8, 1980]."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85–861, set out as a note under section 101 of Title 10, Armed Forces.

§711. Disposition of obsolete or condemned property

Each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands shall, upon receiving new property issued to its National Guard to replace obsolete or condemned issues of property, return the replaced property to the Department of the Army or the Department of the Air Force, as the case may be, or otherwise dispose of it, as the Secretary concerned directs. No money credit may be allowed for property disposed of under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(2), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
711	32:46.	June 3, 1916, ch. 134, §85, 39 Stat. 204.

The words "to its National Guard" are inserted for clarity. The word "it" is substituted for the words "all property so replaced or condemned". The last sentence is substituted for 32:46 (last 8 words).

EDITORIAL NOTES

AMENDMENTS

2006—Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands" for "State and Territory, Puerto Rico, and the District of Columbia".

1988—Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§712. Disposition of proceeds of condemned stores issued to National Guard

The following shall be covered into the Treasury:

(1) The proceeds from sales of condemned stores issued to the National Guard of a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, and not charged against its allotment.

(2) The net proceeds from collections made from any person to reimburse the United States for the loss or destruction of, or damage to, property described in clause (1).

(3) Stoppage against members of the National Guard for the loss or destruction of, or damage to, property described in clause (1).

(Aug. 10, 1956, ch. 1041, 70A Stat. 616; Pub. L. 100–456, div. A, title XII, §1234(b)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, §1057(b)(3), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
712	32:45.	June 3, 1916, ch. 134, §88, 39 Stat. 205; Oct. 31, 1951, ch. 654, §3(5), 65 Stat. 708.

The introductory clause is substituted for the words "shall be covered into the Treasury of the United States" and "as shall also". The words "United States" are substituted for the word "Government". The words "members of the National Guard" are substituted for the words "officers and enlisted men".

EDITORIAL NOTES

AMENDMENTS

2006—Par. (1). Pub. L. 109–163 substituted "State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands" for "State or Territory, Puerto Rico, or the District of Columbia".

1988—Par. (1). Pub. L. 100–456 struck out "the Canal Zone," after "Puerto Rico,".

§713. Official mail: free transmission

Units and headquarters of the National Guard, whether or not in Federal service, have the same privilege of free mailing of official matter as the Department of Defense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 617.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
713	32:196.	Aug. 1, 1953, ch. 305, §643, 67 Stat. 357.

The word "Hereafter" is omitted as executed. The words "and the Air National Guard" are omitted, since "National Guard", as defined in section 101(2) of this title, includes the Army National Guard and the Air National Guard. The words "Federal service" are substituted for the words "active service of the United States". The words "mailing of official matter" are substituted for the words "transmission of official mail matter".

§714. Final settlement of accounts: deceased members

(a) In the settlement of the accounts of a member of the National Guard who dies after December 31, 1955, an amount due from the armed force of which he was a member shall be paid to the person highest on the following list living on the date of death:

(1) Beneficiary designated by him in writing to receive such an amount, if the designation is received, before the deceased member's death, at the place named in regulations to be prescribed by the Secretary concerned.

(2) Surviving spouse.

(3) Children and their descendants, by representation.

(4) Father and mother in equal parts or, if either is dead, the survivor.

(5) Legal representative.

(6) Person entitled under the law of the domicile of the deceased member.

(b) Designations and changes of designation of beneficiaries under subsection (a)(1) are subject to regulations to be prescribed by the Secretary concerned. So far as practicable, these regulations shall be uniform with those prescribed for the armed forces under section 2771(b) of title 10.

(c) Under such regulations as the Secretary concerned may prescribe, payments under subsection (a) shall be made by the Department of the Army or the Department of the Air Force, as the case may be.

(d) A payment under this section bars recovery by any other person of the amount paid.

(Added Pub. L. 85–861, §2(12), Sept. 2, 1958, 72 Stat. 1546; amended Pub. L. 87–46, June 16, 1961, 75 Stat. 92; Pub. L. 104–316, title II, §202(q), Oct. 19, 1996, 110 Stat. 3844.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
714(a)	37:361. 37:362. 37:365.	July 12, 1955, ch. 328, §§1–3, 4 (less proviso), 5 (1st sentence), 69 Stat. 295, 296.
714(b)	37:364 (less proviso).	
714(c)	37:363 (less last sentence).	
714(d)	37:363 (last sentence).	

In subsection (a), the definition of the term "Department", in 37:361, is omitted as unnecessary, since the particular departments referred to are spelled out in the revised text. The definition of the term "uniformed services", in 37:361, is omitted as covered by the word "member" in this revised section. Clauses (1)–(6) are substituted for the last 5 clauses of 37:362. The words "regulations to be prescribed by the Secretary concerned" are substituted for the words "regulations of the Department concerned", since the "Department", as such, cannot issue regulations.

In subsection (a)(2), the words "Surviving spouse" are substituted for the words "widow or widower". As defined in section 101(18) of this title, "spouse" includes a widower.

In subsection (b), the words "are subject to" are substituted for the words "shall be made under".

In subsection (c), the word "Under" is substituted for the words "Subject to". The words "rules and" are omitted as surplusage.

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–316, in first sentence, substituted "Secretary concerned" for "Comptroller General" and struck out at end "Payment under clause (6) of subsection (a) shall be made—

"(1) upon settlement by the General Accounting Office; or

"(2) as otherwise authorized by the Comptroller General."

1961—Subsec. (c). Pub. L. 87–46 substituted "Payment under clause (6) of subsection (a) shall be made—

"(1) upon settlement by the General Accounting Office; or

"(2) as otherwise authorized by the Comptroller General."

for "Payments under clauses (2)–(6) of subsection (a) may be paid only after settlement by the General Accounting Office."

STATUTORY NOTES AND RELATED SUBSIDIARIES

DESIGNATION OF BENEFICIARY MADE BEFORE JANUARY 1, 1956

Designation of beneficiary made before Jan. 1, 1956, considered as the designation of a beneficiary for the purposes of this section, see note set out under section 2771 of Title 10, Armed Forces.

§715. Property loss; personal injury or death: activities under certain sections of this title

(a) Under such regulations as the Secretary of the Army or Secretary of the Air Force may prescribe, he or, subject to appeal to him, the Judge Advocate General of the armed force under his jurisdiction, if designated by him, may settle and pay in an amount not more than $100,000 a claim against the United States for—

(1) damage to, or loss of, real property, including damage or loss incident to use and occupancy;

(2) damage to, or loss of, personal property, including property bailed to the United States or the National Guard and including registered or insured mail damaged, lost, or destroyed by a criminal act while in the possession of the National Guard; or

(3) personal injury or death; either caused by a member of the Army National Guard or the Air National Guard, as the case may be, while engaged in training or duty under section 316, 502, 503, 504, or 505 of this title or any other provision of law for which he is entitled to pay under section 206 of title 37, or for which he has waived that pay, and acting within the scope of his employment; or otherwise incident to noncombat activities of the Army National Guard or the Air National Guard, as the case may be, under one of those sections.

(b) A claim may be allowed under subsection (a) only if—

(1) it is presented in writing within two years after it accrues, except that if the claim accrues in time of war or armed conflict or if such a war or armed conflict intervenes within two years after it accrues, and if good cause is shown, the claim may be presented not later than two years after the war or armed conflict is terminated;

(2) it is not covered by section 2734 of title 10 or section 2672 of title 28;

(3) it is not for personal injury or death of such a member or a person employed under section 709 of this title, whose injury or death is incident to his service;

(4) the damage to, or loss of, property, or the personal injury or death, was not caused wholly or partly by a negligent or wrongful act of the claimant, his agent, or his employee, or, if so caused, allowed only to the extent that the law of the place where the act or omission complained of occurred would permit recovery from a private individual under like circumstances; and

(5) it is substantiated as prescribed in regulations of the Secretary concerned.

For the purposes of clause (1), the dates of the beginning and end of an armed conflict are the dates established by concurrent resolution of Congress or by a determination of the President.

(c) Payment may not be made under this section for reimbursement for medical, hospital, or burial services furnished at the expense of the United States or of any State or the District of Columbia or Puerto Rico.

(d) If the Secretary concerned considers that a claim in excess of $100,000 is meritorious, and the claim otherwise is payable under this section, the Secretary may pay the claimant $100,000 and report any meritorious amount in excess of $100,000 to the Secretary of the Treasury for payment under section 1304 of title 31.

(e) Except as provided in subsection (d), no claim may be paid under this section unless the amount tendered is accepted by the claimant in full satisfaction.

(f) Under regulations prescribed by the Secretary concerned, an officer or employee under the

jurisdiction of the Secretary may settle a claim that otherwise would be payable under this section in an amount not to exceed $25,000. A decision of the officer or employee who makes a final settlement decision under this section may be appealed by the claimant to the Secretary concerned or an officer or employee designated by the Secretary for that purpose.

(g) Notwithstanding any other provision of law, the settlement of a claim under this section is final and conclusive.

(h) In this section, "settle" means consider, ascertain, adjust, determine, and dispose of a claim, whether by full or partial allowance or disallowance.

(Added Pub. L. 86–740, §1(1), Sept. 13, 1960, 74 Stat. 878; amended Pub. L. 87–649, §8(b), Sept. 7, 1962, 76 Stat. 495; Pub. L. 90–486, §2(3), Aug. 13, 1968, 82 Stat. 756; Pub. L. 90–525, §6, Sept. 26, 1968, 82 Stat. 878; Pub. L. 91–312, §3, July 8, 1970, 84 Stat. 412; Pub. L. 92–445, Sept. 29, 1972, 86 Stat. 745; Pub. L. 93–336, §3, July 8, 1974, 88 Stat. 292; Pub. L. 98–564, §4, Oct. 30, 1984, 98 Stat. 2919; Pub. L. 104–316, title II, §202(r), Oct. 19, 1996, 110 Stat. 3844.)

EDITORIAL NOTES

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–316 substituted "Secretary of the Treasury" for "Comptroller General".

1984—Subsec. (a). Pub. L. 98–564, §4(1), substituted "$100,000" for "$25,000".

Subsec. (d). Pub. L. 98–564, §4(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "If the Secretary of the military department concerned considers that a claim in excess of $25,000 is meritorious and would otherwise be covered by this section, he may pay the claimant $25,000 and report the excess to Congress for its consideration".

Subsec. (f). Pub. L. 98–564, §4(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "In any case where the amount to be paid is not more than $5,000, the authority contained in subsection (a) may be delegated to any officer of the Army or the Air Force, as the case may be, who has been delegated authority under section 2733(g) of title 10, to settle similar claims, subject to appeal to the Secretary concerned, or his designee for that purpose".

1974—Subsecs. (a), (d). Pub. L. 93–336, §3(1), (2), substituted "$25,000" for "$15,000".

Subsec. (f). Pub. L. 93–336, §3(3), substituted "$5,000" for "$2,500".

1972—Subsec. (b)(4). Pub. L. 92–445 inserted provision that claim may be allowed to extent that law of place where act or omission complained of occurred would permit recovery from a private individual under similar circumstances, when damage to or loss of property, or personal injury or death was caused wholly or partly by a negligent or wrongful act of claimant, his agent, or his employee.

1970—Subsecs. (a), (d). Pub. L. 91–312 substituted "$15,000" for "$5,000".

1968—Subsec. (a). Pub. L. 90–486 struck out "caused by a person employed under section 709 of this title acting within the scope of his employment;" after "acting within the scope of his employment;".

Subsec. (f). Pub. L. 90–525 increased limitation on amount of settlement from $1,000 to $2,500 and provided for appeals to Secretary concerned, or his designee, from determinations delegating authority to settle claims to an officer of the Army or the Air Force.

1962—Subsec. (a)(3). Pub. L. 87–649 substituted "section 206 of title 37" for "section 301 of title 37".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90–486, set out as a note under section 709 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Effective Date note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

SAVINGS PROVISION FOR CLAIMS ARISING BEFORE JANUARY 1, 1969

Settlement and payment of claims arising under this section before January 1, 1969, see section 3(a) of Pub. L. 90–486, set out as a note under section 709 of this title.

§716. Claims for overpayment of pay and allowances, and travel and transportation allowances

(a) A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances, to or on behalf of a member or former member of the National Guard, the collection of which would be against equity and good conscience and not in the best interest of the United States, may be waived in whole or in part by—

(1) the Director of the Office of Management and Budget; or

(2) the Secretary concerned, as defined in section 101(5) of title 37, when—

(A) the claim is in an amount aggregating not more than $10,000; and

(B) the waiver is made in accordance with standards which the Director of the Office of Management and Budget shall prescribe.

(b) The Director of the Office of Management and Budget or the Secretary concerned, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the member or any other person having an interest in obtaining a waiver of the claim; or

(2) if application for waiver is received in his office after the expiration of five years immediately following the date on which the erroneous payment was discovered.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the department concerned at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that department for that refund within two years following the effective date of the waiver. The Secretary concerned shall pay from current applicable appropriations that refund in accordance with this section.

(d) In the audit and settlement of accounts of any accountable officer or official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is considered a valid payment for all purposes.

(f) This section does not affect any authority under any other law to litigate, settle, compromise, or waive any claim of the United States.

(Added Pub. L. 92–453, §2(1), Oct. 2, 1972, 86 Stat. 759; amended Pub. L. 96–513, title V, §515(9), Dec. 12, 1980, 94 Stat. 2937; Pub. L. 99–224, §3(a), Dec. 28, 1985, 99 Stat. 1742; Pub. L. 102–190, div. A, title VI, §657(c), Dec. 5, 1991, 105 Stat. 1393; Pub. L. 104–316, title I, §116, Oct. 19, 1996, 110 Stat. 3835; Pub. L. 109–364, div. A, title VI, §671(b), Oct. 17, 2006, 120 Stat. 2270.)

EDITORIAL NOTES

AMENDMENTS

2006—Subsec. (a)(2)(A). Pub. L. 109–364, §671(b)(1), substituted "$10,000" for "$1,500".

Subsec. (b)(2). Pub. L. 109–364, §671(b)(2), substituted "five" for "three".

1996—Subsec. (a)(1). Pub. L. 104–316, §116(1)(A), substituted "Director of the Office of Management and Budget" for "Comptroller General".

Subsec. (a)(2). Pub. L. 104–316, §116(1)(B), inserted "and" at end of subpar. (A), redesignated subpar. (C) as (B) and substituted "Director of the Office of Management and Budget" for "Comptroller General", and struck out former subpar. (B) which read as follows: "the claim is not the subject of an exception made by the Comptroller General in the account of any accountable officer or official; and".

Subsec. (b). Pub. L. 104–316, §116(2), substituted "The Director of the Office of Management and Budget"

for "Comptroller General" in introductory provisions.

1991—Subsec. (a)(2)(A). Pub. L. 102–190 substituted "$1,500" for "$500".

1985—Pub. L. 99–224, §3(a)(1), substituted "and travel" for "other than travel" in section catchline.

Subsec. (a). Pub. L. 99–224, §3(a)(2), substituted "made before, on, or after October 2, 1972, or arising out of an erroneous payment of travel and transportation allowances" for ", other than travel and transportation allowances, made before or after October 2, 1972".

Subsec. (b)(2). Pub. L. 99–224, §3(a)(3), struck out "of pay or allowances, other than travel and transportation allowances," before "was discovered".

1980—Subsec. (a). Pub. L. 96–513 substituted "October 2, 1972" for "the effective date of this section".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–364 effective Mar. 1, 2007, see section 671(c) of Pub. L. 109–364, set out as a note under section 2774 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–316 effective 60 days after Oct. 19, 1996, see section 101(e) of Pub. L. 104–316, set out as a note under section 4593 of Title 2, The Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–224 applicable to any claim arising out of an erroneous payment of travel and transportation allowances made on or after Dec. 28, 1985, see section 4 of Pub. L. 99–224, set out as a note under section 5584 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

[§717. Repealed. Pub. L. 109–163, div. A, title V, §589(b)(2), Jan. 6, 2006, 119 Stat. 3279]

Section, added Pub. L. 108–375, div. A, title V, §520(b)(1), Oct. 28, 2004, 118 Stat. 1886, related to presentation of recognition items for retention purposes.

CHAPTER 9—HOMELAND DEFENSE ACTIVITIES

Sec.

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§901. Definitions

In this chapter:

(1) The term "homeland defense activity" means an activity undertaken for the military protection of the territory or domestic population of the United States, or of infrastructure or other assets of the United States determined by the Secretary of Defense as being critical to national security, from a threat or aggression against the United States.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

STATUTORY NOTES AND RELATED SUBSIDIARIES

GUIDANCE FOR USE OF UNMANNED AIRCRAFT SYSTEMS BY NATIONAL GUARD

Pub. L. 118–31, div. A, title X, §1086, Dec. 22, 2023, 137 Stat. 419, provided that:

"(a) UPDATED GUIDANCE REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Dec. 22, 2023], the Secretary of Defense shall issue updated guidance on the use of unmanned aircraft systems by the National Guard for covered activities.

"(b) BRIEFING.—Not later than 60 days after the date on which the Secretary issues the updated guidance under subsection (a), the Secretary shall provide to the Committees on Armed Services of the Senate and House of Representatives. [sic] Such briefing shall include—

"(1) an explanation of whether the updated guidance is more restrictive than guidance on the use of other types of aircraft for covered activities; and

"(2) if the updated guidance is more restrictive, an explanation for the reasons why such guidance is more restrictive.

"(c) COVERED ACTIVITIES DEFINED.—In this section, the term 'covered activities' means any of the following:

"(1) Emergency operations.

"(2) Search and rescue operations.

"(3) Defense support to civil authorities.

"(4) Support provided under section 502(f) of title 32, United States Code."

IMPLEMENTATION OF CERTAIN RECOMMENDATIONS REGARDING USE OF UNMANNED AIRCRAFT SYSTEMS BY THE NATIONAL GUARD

Pub. L. 117–81, div. A, title V, §514, Dec. 27, 2021, 135 Stat. 1683, provided that: "Not later than September 30, 2022, the Secretary of Defense shall implement recommendations of the Secretary described in section 519C(a)(2) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) [134 Stat. 3596]."

PILOT PROGRAM ON REMOTE PROVISION BY NATIONAL GUARD TO NATIONAL GUARDS OF OTHER STATES OF CYBERSECURITY TECHNICAL ASSISTANCE IN TRAINING, PREPARATION, AND RESPONSE TO CYBER INCIDENTS

Pub. L. 116–283, div. A, title XVII, §1725, Jan. 1, 2021, 134 Stat. 4112, provided that:

"(a) PILOT PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary of Defense may conduct a pilot program to assess the feasibility and advisability of the development of a capability in support of Department of Defense missions within the National Guard through which a National Guard of a State remotely provides National Guards of other States (whether or not in the same Armed Force as the providing National Guard) with cybersecurity technical assistance in training, preparation, and response to cyber incidents.

"(2) TERMINATION.—The authorization under paragraph (1) to conduct the pilot program expires 24 months after the date of the enactment of this Act [Jan. 1, 2021].

"(b) ASSESSMENT PRIOR TO COMMENCEMENT.—For purposes of the pilot program described in subsection (a), the Secretary of Defense shall, prior to commencing the pilot program, for purposes of evaluating existing platforms, technologies, and capabilities under subsection (c), and for establishing eligibility and participation requirements under such subsection—

"(1) conduct an assessment of—

"(A) existing cyber response capacities of the Army National Guard or Air National Guard, as applicable, in each State; and

"(B) any existing platform, technology, or capability of a National Guard that provides the capability described in subsection (a)(1);

"(2) determine whether a platform, technology, or capability referred to in subparagraph (B) is suitable for expansion for purposes of the pilot program; and

"(3) assess potential benefits or impact on the missions, the Total Force, the Cyber Operations Forces, and the cyber infrastructure of the Department of Defense.

"(c) ELEMENTS.—The pilot program described in subsection (a) may include the following:

"(1) A technical capability that enables the National Guard of a State to remotely provide cybersecurity technical assistance to National Guards of other States, without the need to deploy outside its home State.

"(2) The development of policies, processes, procedures, and authorities for use of such a capability, including with respect to the following:

"(A) The roles and responsibilities of both requesting and deploying National Guards with respect to such technical assistance, taking into account the matters specified in subsection (g).

"(B) Necessary updates to the Defense Cyber Incident Coordinating Procedure, or any other applicable Department of Defense instruction, for purposes of implementing such a capability.

"(C) Program management and governance structures for deployment and maintenance of such a capability.

"(D) Security when performing remote support, including in matters such as authentication and remote sensing.

"(3) The conduct, in consultation with the Secretary of Homeland Security and the Director of the Federal Bureau of Investigation, the heads of other Federal agencies, and appropriate non-Federal entities, as appropriate, of at least one exercise to demonstrate such a capability, which exercise shall include the following:

"(A) Participation of not fewer than the National Guards of two different States.

"(B) Circumstances designed to test and validate the policies, processes, procedures, and authorities developed pursuant to paragraph (2).

"(d) USE OF EXISTING TECHNOLOGY.—The Secretary of Defense may use an existing platform, technology, or capability to provide the technical capability described in subsection (a)(1) under the pilot program.

"(e) ELIGIBILITY AND PARTICIPATION REQUIREMENTS.—The Secretary of Defense shall, in consultation with the Chief of the National Guard Bureau, establish requirements with respect to eligibility and participation of National Guards in the pilot program.

"(g) [sic] CONSTRUCTION WITH CERTAIN CURRENT AUTHORITIES.—

"(1) COMMAND AUTHORITIES.—Nothing in this section may be construed as affecting or altering the command authorities otherwise applicable to any unit of the National Guard participating in the pilot program.

"(2) EMERGENCY MANAGEMENT ASSISTANCE COMPACT.—Nothing in this section may be construed as affecting or altering any current agreement under the Emergency Management Assistance Compact, or any other State agreements, or as determinative of the future content of any such agreement.

"(h) EVALUATION METRICS.—The Secretary of Defense shall establish metrics to evaluate the effectiveness of the pilot program.

"(i) TERM.—The pilot program under subsection (b) shall terminate not later than the date that is three years after the date of the commencement of the pilot program.

"(j) REPORTS.—

"(1) INITIAL REPORT.—Not later than 180 days after the date of the commencement of the pilot program, the Secretary of Defense shall submit to the appropriate committees of Congress and the Secretary of Homeland Security an initial report setting forth a description of the pilot program and such other matters in connection with the pilot program as the Secretary considers appropriate.

"(2) FINAL REPORT.—Not later than 180 days after the termination of the pilot program, the Secretary of Defense shall submit to the appropriate committees of Congress and the Secretary of Homeland Security a final report on the pilot program. The final report shall include the following:

"(A) A description of the pilot program, including any partnerships entered into under the pilot program.

"(B) A summary of the assessment performed prior to the commencement of the pilot program in accordance with subsection (b).

"(C) A summary of the evaluation metrics established in accordance with subsection (h), including how the pilot program contributes directly to Department of Defense missions.

"(D) An assessment of the effectiveness of the pilot program, and of the capability described in subsection (c)(1) under the pilot program.

"(E) A description of costs associated with the implementation and conduct of the pilot program.

"(F) A recommendation as to the value of the pilot program, including whether to authorize a permanent program modeled on the pilot program, including whether the pilot program duplicates the remote operating concept and capabilities of active duty cyber operations forces.

"(G) An estimate of the costs of making the pilot program permanent and expanding it nationwide

in accordance with the recommendation in subparagraph (F).

"(H) Such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

"(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 of the House of Representatives; and

"(B) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate.

"(k) STATE DEFINED.—In this section, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands."

CYBER CAPABILITIES AND INTEROPERABILITY OF THE NATIONAL GUARD

Pub. L. 116–283, div. A, title XVII, §1729, Jan. 1, 2021, 134 Stat. 4118, provided that:

"(a) EVALUATION.—

"(1) IN GENERAL.—Not later than 180 days after the date of the 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], the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives an evaluation of the statutes, rules, regulations and standards that pertain to the use of the National Guard for the response to and recovery from significant cyber incidents.

"(2) CONSIDERATION OF INPUTS.—In conducting the evaluation under paragraph (1), the Secretary of Defense shall consult with the Secretary of Homeland Security and may solicit and consider inputs from the following:

"(A) The heads of Federal agencies determined appropriate by the Secretary of Defense.

"(B) State governors.

"(C) The heads of other non-Federal entities as determined appropriate by the Secretary of Defense.

"(b) ELEMENTS OF EVALUATION.—The evaluation required under subsection (a) shall include review of the following:

"(1) Regulations promulgated under section 903 of title 32, United States Code, to clarify when and under what conditions the National Guard could respond to a cyber attack as a homeland defense activity under section 902 of such title.

"(2) Guidance promulgated regarding how units of the National Guard shall collaborate with relevant civil, law enforcement, and cybersecurity agencies when conducting a homeland defense activity under section 902 of title 32, United States Code.

"(c) UPDATE TO CERTAIN REGULATIONS AND GUIDANCE.—If the Secretary of Defense determines such is appropriate based on the evaluation required under subsection (a) and the review described in subsection (b), the Secretary shall update—

"(1) the regulations referred to in subsection (b)(1); and

"(2) the guidance referred to in subsection (b)(2).

"(d) UPDATE TO THE NATIONAL CYBER INCIDENT RESPONSE PLAN.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense, may update the National Cyber Incident Response Plan to address any changes made by the Secretary of Defense to the roles and responsibilities of the National Guard for the response to and recovery from significant cyber incidents.

"(e) JOINT BRIEFINGS.—Not later than 300 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall jointly brief the congressional defense committees, the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives on the following:

"(1) The results of the evaluation required under subsection (a)(1), including the utilization of any input provided to the Secretary of Defense pursuant to subsection (a)(2).

"(2) Any updated regulations or guidance in accordance with subsection (c).

"(3) Any update by the Secretary of Homeland Security to the National Cyber Incident Response Plan pursuant to subsection (d).

"(4) How the Department of Defense, including the National Guard, and the Department of Homeland Security, including the Cybersecurity and Infrastructure Security Agency and the Federal Emergency

Management Agency, will collaborate with each other and with relevant law enforcement, State governments, and other non-Federal entities when responding to and recovering from significant cyber incidents.

"(f) DEFINITION.—The term 'significant cyber incident' means a cyber incident that results, or several related cyber incidents that result, in demonstrable harm to—

"(1) the national security interests, foreign relations, or economy of the United States; or

"(2) the public confidence, civil liberties, or public health and safety of the American people."

§902. Homeland defense activities: funds

The Secretary of Defense may provide funds to a Governor to employ National Guard units or members to conduct homeland defense activities that the Secretary determines to be necessary and appropriate for participation by the National Guard units or members, as the case may be.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1878; amended Pub. L. 109–364, div. A, title X, §1071(b)(1), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 115–232, div. A, title X, §1081(b), Aug. 13, 2018, 132 Stat. 1985.)

EDITORIAL NOTES

AMENDMENTS

2018—Pub. L. 115–232 substituted "the Secretary determines" for "the Secretary, determines".

2006—Pub. L. 109–364 struck out "(a)" before "The Secretary".

§903. Regulations

The Secretary of Defense shall prescribe regulations to implement this chapter.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

§904. Homeland defense duty

(a) FULL-TIME NATIONAL GUARD DUTY.—All duty performed under this chapter shall be considered to be full-time National Guard duty under section 502(f) of this title. Members of the National Guard performing full-time National Guard duty in the Active Guard and Reserve Program may support or execute homeland defense activities performed by the National Guard under this chapter.

(b) DURATION.—The period for which a member of the National Guard performs duty under this chapter shall be limited to 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

(c) RELATIONSHIP TO REQUIRED TRAINING.—A member of the National Guard performing duty under this chapter shall, in addition to performing such duty, participate in the training required under section 502(a) of this title. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing the duty under this chapter. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State for homeland defense activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland defense activities that units and personnel of the National Guard of a State may perform:

(1) The performance of the activities is not to affect adversely the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the

military functions of the member or unit.

(2) The performance of the activities is not to degrade the military skills of the members of the National Guard performing those activities.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1878.)

§905. Funding assistance

In the case of any homeland defense activity for which the Secretary of Defense determines under section 902 of this title that participation of units or members of the National Guard of a State is necessary and appropriate, the Secretary may provide funds to that State in an amount that the Secretary determines is appropriate for the following costs of the participation in that activity from funds available to the Department for related purposes:

(1) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that State.

(2) The operation and maintenance of the equipment and facilities of the National Guard of that State.

(3) The procurement of services and equipment, and the leasing of equipment, for the National Guard of that State.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1879.)

§906. Requests for funding assistance

A Governor of a State may request funding assistance for the homeland defense activities of the National Guard of that State from the Secretary of Defense. Any such request shall include the following:

(1) The specific intended homeland defense activities of the National Guard of that State.

(2) An explanation of why participation of National Guard units or members, as the case may be, in the homeland defense activities is necessary and appropriate.

(3) A certification that homeland defense activities are to be conducted at a time when the personnel involved are not in Federal service.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1879.)

§907. Relationship to State duty

Nothing in this chapter shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform functions authorized to be performed by the National Guard by the laws of the State concerned.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1879.)

§908. Annual report

(a) REQUIREMENT FOR REPORT.—After the end of any fiscal year during which any assistance was provided or activities were carried out under this chapter, the Secretary of Defense shall submit to the congressional defense committees a report regarding any assistance provided and activities carried out under this chapter during that fiscal year. The report for a fiscal year shall be submitted not later than March 31 of the year following the year in which such fiscal year ended.

(b) CONTENT.—The report for a fiscal year shall include the following matters:

(1) The numbers of members of the National Guard excluded under subsection (i)(13) of section 115 of title 10 from being counted for the purpose of end-strengths authorized pursuant to subsection (a)(1) of such section.

(2) A description of the homeland defense activities conducted with funds provided under this chapter.

(3) An accounting of the amount of the funds provided to each State.

(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland defense activities under this chapter.

(5) A description of the effect of any equipment shortfall on the ability of the National Guard of a State to perform a homeland defense activity.

(Added Pub. L. 108–375, div. A, title V, §512(a)(1), Oct. 28, 2004, 118 Stat. 1879; amended Pub. L. 109–364, div. A, title X, §1071(b)(2), Oct. 17, 2006, 120 Stat. 2400; Pub. L. 112–81, div. A, title X, §1065(a), Dec. 31, 2011, 125 Stat. 1588; Pub. L. 119–60, div. A, title V, §513, Dec. 18, 2025, 139 Stat. 862.)

EDITORIAL NOTES

AMENDMENTS

2025—Subsec. (b)(5). Pub. L. 119–60 added par. (5).

2011—Subsec. (a). Pub. L. 112–81 substituted "After the end of any fiscal year during which any assistance was provided or activities were carried out under this chapter," for "After the end of each fiscal year,".

2006—Subsec. (b)(1). Pub. L. 109–364 substituted "(i)(13)" for "(i)".