UNITED STATES CODE

*** CURRENT as of 5/29/03 ***

TITLE 38. VETERANS' BENEFITS

PART III. READJUSTMENT AND RELATED BENEFITS

CHAPTER 41. JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

38 USC prec § 4100 (2003)

Preceding § 4100

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:
1962. Act Sept. 19, 1962, P.L. 87-675, § 1(b), 76 Stat. 558, substituted the chapter analysis, including items 2001-2005 for one which read:
 "SUBCHAPTER I. UNEMPLOYMENT COMPENSATION
 "Sec.
 "2004. Information.
 "2006. Regulations.
 "2009. Terminations.
 "SUBCHAPTER II. EMPLOYMENT SERVICE FOR VETERANS
 "2010. Purpose.
 "2011. Assignment of veterans' employment representative.
 "2012. Employees of local offices.
 "2014. Estimate of funds for administration."

1966. Act March 3, 1966, P.L. 89-358, § 6(a), 80 Stat. 27, substituted the chapter heading for one which read:
 "CHAPTER 41. UNEMPLOYMENT BENEFITS FOR VETERANS".

1972. Act Oct. 24, 1972, P.L. 92-540, Title V, § 502(a), 86 Stat. 1094, substituted the chapter heading and analysis for ones which read:
 "CHAPTER 41. JOB COUNSELING AND EMPLOYMENT PLACEMENT SERVICE FOR VETERANS
 "Sec.
 "2003. Employees of local offices.
 "2005. Estimate of funds for administration."


Act Aug. 6, 1991, P.L. 102-83, § 5(b)(1), 105 Stat. 406, revised the analysis of this Chapter by amending the section numbers in accordance with the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).


2000. Act Nov. 1, 2000, P.L. 106-419, Title IV, § 404(a)(8), 114 Stat. 1865, amended the analysis of this chapter by adding item 4110B.


"4103. Directors and Assistant Directors for Veterans' Employment and Training: Regional Administrators.

"410A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives.", and adding item 4112.

38 USCS § 4100 (2003)

§ 4100. Findings

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment and Training.


HISTORY: ANCILLARY LAWS AND DIRECTIVES

Amendments:

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note), in para. (2), inserted "and Training".


Other provisions:

"(a) Requirement for program. During the three-year period beginning on January 1, 1990, the Secretary of Labor (hereafter in this section referred to as the 'Secretary'), in conjunction with the Secretary of Veterans Affairs and the Secretary of Defense, shall conduct a pilot program to furnish employment and training information and services to members of the Armed Forces within 180 days before such members are separated from the Armed Forces.

"(b) Areas to be covered by the program. The Secretary shall conduct the pilot program in at least five, but not more than ten, geographically dispersed States in which the Secretary determines that employment and training services to eligible veterans will not be unduly limited by the provision of such services to members of the Armed Forces under the pilot program.

"(c) Utilization of specific personnel. The Secretary shall utilize disabled veterans' outreach program specialists or local veterans' employment representatives to the maximum extent feasible to furnish employment and training information and services under the pilot program.


"(a) Establishment of Committee. There is established within the Department of Labor a committee to be known as the President's National Hire Veterans Committee (hereinafter in this section referred to as the 'Committee').

"(b) Duties. The Committee shall establish and carry out a national program to do the following:

"(1) To furnish information to employers with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills.

"(2) To facilitate employment of veterans and disabled veterans through participation in America's Career Kit national labor exchange, and other means.

"(c) Membership.

(1) The Secretary of Labor shall appoint 15 individuals to serve as members of the Committee, of whom one shall be appointed from among representatives nominated by each organization described in subparagraph (A) and of whom eight shall be appointed from among representatives nominated by organizations described in subparagraph (B).

"(A) Organizations described in this subparagraph are the following:


"(ii) The National Committee for Employer Support of the Guard and Reserve.

"(iii) Veterans' service organizations that have a national employment program.

"(iv) State employment security agencies.

"(v) One-stop career centers.

"(vi) State departments of veterans affairs.

"(vii) Military service organizations.

"(B) Organizations described in this subparagraph are such businesses, small businesses, industries, companies in the private sector that furnish placement services, civic groups, workforce investment boards, and labor unions as the Secretary of Labor determines appropriate.

"(2) The following shall be ex officio, nonvoting members of the Committee:

"(A) The Secretary of Veterans Affairs.

"(B) The Secretary of Defense.

"(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

"(D) The Administrator of the Small Business Administration.

"(E) The Postmaster General.

"(F) The Director of the Office of Personnel Management.

"(3) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

"(d) Administrative matters.

(1) The Committee shall meet not less frequently than once each calendar quarter.

"(2) The Secretary of Labor shall appoint the chairman of the Committee.

"(3)

(A) Members of the Committee shall serve without compensation.

"(B) Members of the Committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 [5 USCS § § 5701 et seq.] while away from their homes or regular places of business in the performance of the responsibilities of the Committee.
"(4) The Secretary of Labor shall provide staff and administrative support to the Committee to assist it in carrying out its duties under this section. The Secretary shall assure positions on the staff of the Committee include positions that are filled by individuals that are now, or have ever been, employed as one of the following:

"(A) Staff of the Assistant Secretary of Labor for Veterans' Employment and Training under section 4102A of title 38, United States Code as in effect on the date of the enactment of this Act.
"(B) Directors for Veterans' Employment and Training under section 4103 of such title as in effect on such date.
"(C) Assistant Director for Veterans' Employment and Training under such section as in effect on such date.
"(D) Disabled veterans' outreach program specialists under section 4103A of such title as in effect on such date.
"(E) Local veterans' employment representatives under section 4104 of such title as in effect on such date.

"(5) Upon request of the Committee, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of that department or agency to the Committee to assist it in carrying out its duties.

"(6) The Committee may contract with and compensate government and private agencies or persons to furnish information to employers under subsection (b)(1) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"(e) Report. Not later than December 31, 2003, 2004, and 2005, the Secretary of Labor shall submit to Congress a report on the activities of the Committee under this section during the previous fiscal year, and shall include in such report data with respect to placement and retention of veterans in jobs attributable to the activities of the Committee.

"(f) Termination. The Committee shall terminate 60 days after submitting the report that is due on December 31, 2005.

"(g) Authorization of appropriations. There are authorized to be appropriated to the Secretary of Labor from the employment security administration account (established in section 901 of the Social Security Act (42 U.S.C. 1101)) in the Unemployment Trust Fund $3,000,000 for each of fiscal years 2003 through 2005 to carry out this section.


"(a) Study. The Comptroller General of the United States shall conduct a study on the implementation by the Secretary of Labor of the provisions of this Act during the program years that begin during fiscal years 2003 and 2004. The study shall include an assessment of the modifications under sections 2 through 5 of this Act [for full classification, consult USCS Tables volumes] of the provisions of title 38, United States Code, and an evaluation of the impact of those modifications, and of the actions of the President's National Hire Veterans Committee under section 6 of this Act [note to this section], to the provision of employment, training, and placement services provided to veterans under that title.

"(b) Report. Not later than 6 months after the conclusion of the program year that begins during fiscal year 2004, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations as the Comptroller General determines appropriate, including recommendations for legislation or administrative action.”.

NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor–Administration provisions governing the Job Service System, 20 CFR Part 658.

RESEARCH GUIDE

Am Jur:

Forms:
§ 4101. Definitions

For the purposes of this chapter [38 USCS § § 4101 et seq.],--

(1) The term "special disabled veteran" has the same meaning provided in section 4211(1) of this title.

(2) The term "veteran of the Vietnam era" has the same meaning provided in section 4211(2) of this title.

(3) The term "disabled veteran" has the same meaning provided in section 4211(3) of this title.

(4) The term "eligible veteran" has the same meaning provided in section 4211(4) of this title.

(5) The term "eligible person" means--
   (A) the spouse of any person who died of a service-connected disability,
   (B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter [38 USCS § § 4101 et seq.], is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or
   (C) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

(6) The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) The term "employment service delivery system" means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

(8) The term "Secretary" means the Secretary of Labor.

(9) The term "intensive services" means local employment and training services of the type described in section 134(d)(3) of the Workforce Investment Act of 1998 [29 USCS § 2864(d)(3)].


HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:
   The "Wagner-Peyser Act", referred to in this section, is Act June 6, 1933, ch 49, which appears generally as 29 USCS § § 49 et seq. For full classification of such Act, consult USCS Tables volumes.

Explanatory notes:


Amendments:


1966. Act March 3, 1966 (effective 3/3/66, as provided by § 12(a) of such Act), inserted "or of service after January 31, 1955"

1972. Act Oct. 24, 1972 (effective 90 days after enactment as provided by § 601(b) of such Act, which appears as a note to this section), substituted this section for one which read:

"§ 2001. Purpose

"The Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans of any war or of service after January 31, 1955, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment."

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), redesignated para. (2) as para. (3); and added new para. (2).

1980. Act Oct. 17, 1980, § 503 (effective 10/1/1980 as provided by § 802(e) of such Act, which appears as a note to this section), substituted new para. (1) for one which read: "(1) The term 'eligible veteran' means a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge."; redesignated paras. (2) and (3) as paras. (5) and (6), respectively; and added new paras. (2), (3), and (4).

Act Oct. 17, 1980, § 801(h) (effective 10/1/80, as provided by § 802(h) of such Act, which appears as 38 USCS § 3452 note), in para. (5), as redesignated by § 503 of Act Oct. 17, 1980, in the introductory matter, substituted "The" for "the"; and in para. (6), as redesignated by § 503 of Act Oct. 17, 1980, inserted "the Commonwealth of the Northern Mariana Islands,"

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note) added paras. (7) and (8).

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2001, as 38 USCS § 4101, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

2002. Act Nov. 7, 2002 (effective on enactment, as provided by § 5(c)(2) of such Act, which appears as a note to this section), substituted para. (7) for one which read: "(7) The term 'local employment service office' means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act."

Such Act further (effective on enactment, as provided by § 5(a)(2) of such Act, which appears as a note to this section), added para. (9).

Other provisions:

Savings provisions. Act Sept. 19, 1962, P.L. 87-675, § 1(e), 76 Stat. 559, provided: "Claims for benefits under sections 2001 through 2009 of chapter 41 of title 38, United States Code [former 38 USC §§ 2001-2009], for any benefit week beginning before January 31, 1960, which claims are pending on the date these sections are repealed [repealed Sept. 19, 1962], shall be adjudicated in the same manner and with the same effect as if the sections had not been repealed. For the purpose of administering the program with respect to such claims, all functions, powers, and duties conferred upon the Secretary of Labor by sections 2001 through 2009 are continued in effect, and all rules and Regulations established by the Secretary of Labor pursuant to these sections, and in effect when the sections are repealed, shall remain in full force and effect until modified or suspended."

38 USCS § 4102

§ 4102. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training intensive services program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies and regulations shall be promulgated and administered by an Assistant Secretary of Labor for Veterans’ Employment and Training, established by section 4102A of this title, through a Veterans’ Employment and Training Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized through existing programs, coordination and merger of programs and implementation of new programs,
including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Provisions similar to those contained in this section were contained in former 38 USCS § 2001 prior to the general amendment of this chapter by Act Oct. 24, 1972, P.L. 92-540, Title V, § 502, 86 Stat. 1094.


Amendments:


1972. Act Oct. 24, 1972 (effective 90 days after 10/24/72, as provided by § 601(b) of such Act, which appears as 38 USCS § 4101 note), substituted this section for one which read:

"§ 2002. Assignment of veterans' employment representative

"The Secretary of Labor shall assign to each of the States a veterans' employment representative, who shall be a veteran of any war or of service after January 31, 1955, who at the time of appointment shall have been a bona fide resident of the State for at least two years, and who shall be appointed in accordance with the civil-service laws, and whose compensation shall be fixed in accordance with the Classification Act of 1949. Each such veterans' employment representative shall be attached to the staff of the public employment service in the State to which he has been assigned. He shall be administratively responsible to the Secretary of Labor, for the execution of the Secretary's veterans' placement policies through the public employment service in the State. In cooperation with the public employment service staff in the State, he shall--

"(1) be functionally responsible for the supervision of the registration of veterans of any war or of service after January 31, 1955, in local employment offices for suitable types of employment and for placement of veterans of any war or of service after January 31, 1955, in employment;

"(2) assist in securing and maintaining current information as to the various types of available employment in public works and private industry or business;

"(3) promote the interests of employers in employing veterans of any war or of service after January 31, 1955;

"(4) maintain regular contact with employers and veterans' organizations with a view of keeping employers advised of veterans of any war or of service after January 31, 1955, available for employment and veterans of any war or of service after January 31, 1955, advised of opportunities for employment; and

"(5) assist in every possible way in improving working conditions and the advancement of employment of veterans of any war or of service after January 31, 1955.".

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), inserted "and eligible persons" and "and persons".
1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), inserted "by a Deputy Assistant Secretary of Labor for Veterans' Employment, established by section 2002A of this title."

1980. Act Oct. 17, 1980 (effective 10/1/80, as provided by § 802(e) of such Act, which appears as 38 USCS § 4101 note), deleted "Deputy" preceding "Assistant Secretary".


1983. Act Nov. 21, 1983, substituted "an" for "a" following "administered by".

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note) inserted "and Training" in two places.

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2002, as 38 USCS § 4102, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

2002. Act Nov. 7, 2002 (effective on enactment, as provided by § 5(a)(2) of such Act, which appears as 38 USCS § 4101 note), substituted "job and job training intensive services program," for "job and job training counseling service program.".

Such Act further (effective on enactment, as provided by § 5(b)(2) of such Act, which appears as a note to this section), substituted "and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized" for "and veterans of the Vietnam era", and substituted ", including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers." for a concluding period.

Other provisions:


NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor—Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES
This section is referred to in 42 USCS § 1101.

RESEARCH GUIDE
Forms:
§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators

(a) Establishment of position of Assistant Secretary of Labor for Veterans' Employment and Training.

(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall formulate and implement all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title [38 USCS §§ 4100 et seq., 4201 et seq., 4301 et seq.], and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

(2) The employees of the Department of Labor administering chapter 43 of this title [38 USCS §§ 4301 et seq.] shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment and Training.

(3) (A) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes.

(B) No individual may be appointed as a Deputy Assistant Secretary of Labor for Veterans' Employment and Training unless the individual has at least five years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces. For purposes of determining such service of an individual, there shall be excluded any service described in subparagraphs (A), (B), and (C) of section 308(d)(2) of this title.

(b) Program functions. The Secretary shall carry out the following functions:

(1) Except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title [38 USCS §§ 4100 et seq., 4301 et seq.] through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of all veterans and persons eligible for services furnished under this chapter [38 USCS §§ 4100 et seq.].

(2) In order to make maximum use of available resources in meeting such needs, encourage all such programs, and all grantees and contractors under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns owned by veterans or disabled veterans), educational institutions, trade associations, and labor unions.

(3) Ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Secretary of Veterans Affairs with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title [38 USCS §§ 3100 et seq.] and (B) determinations covering veteran population in a State.

(4) Ensure that employment, training, and placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

(5) Subject to subsection (c), make available for use in each State by grant or contract such funds as may be necessary to support--

(A) disabled veterans' outreach program specialists appointed under section 4103A(a)(1) of this title,

(B) local veterans' employment representatives assigned under section 4104(b) of this title, and

(C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 4109 of this title.

(6) Monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5).

(7) Establish, and update as appropriate, a comprehensive performance accountability system (as described in subsection (f)) and carry out annual performance reviews of veterans employment, training, and placement services provided through employment service delivery systems, including through disabled veterans' outreach program.
specialists and through local veterans' employment representatives in States receiving grants, contracts, or awards under this chapter [38 USCS §§ 4100 et seq.].

(c) Conditions for receipt of funds.

(1) The distribution and use of funds under subsection (b)(5) in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

(2) (A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter [38 USCS §§ 4100 et seq.] for the program year, including a description of--

(I) duties assigned by the State to disabled veterans' outreach program specialists and local veterans' employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; and

(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year.

(ii) The veteran population to be served.

(iii) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.

(B) (i) Subject to the succeeding provisions of this subparagraph, of the amount available under subsection (b)(5) for a fiscal year, the Secretary shall make available to each State with an application approved by the Secretary an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulation, including civilian labor force and unemployment data, for the State on an annual basis. The proportion of funding shall reflect the ratio of--

(I) the total number of veterans residing in the State that are seeking employment; to

(II) the total number of veterans seeking employment in all States.

(ii) The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2002, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.

(iii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.

(3) (A) (i) As a condition of a grant or contract under this section for a program year, in the case of a State that the Secretary determines has an entered-employment rate for veterans that is deficient for the preceding program year, the State shall develop a corrective action plan to improve that rate for veterans in the State.

(ii) The State shall submit the corrective action plan to the Secretary for approval, and if approved, shall expeditiously implement the plan.

(iii) If the Secretary does not approve a corrective action plan submitted by the State under clause (i), the Secretary shall take such steps as may be necessary to implement corrective actions in the State to improve the entered-employment rate for veterans in that State.

(B) To carry out subparagraph (A), the Secretary shall establish in regulations a uniform national threshold entered-employment rate for veterans for a program year by which determinations of deficiency may be made under subparagraph (A).

(C) In making a determination with respect to a deficiency under subparagraph (A), the Secretary shall take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State.

(4) In determining the terms and conditions of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account--

(A) the results of reviews, carried out pursuant to subsection (b)(7), of the performance of the employment, training, and placement service delivery system in the State, and

(B) the monitoring carried out under this section.

(5) Each grant or contract by which funds are made available to a State shall contain a provision requiring the recipient of the funds--

(A) to comply with the provisions of this chapter [38 USCS §§ 4100 et seq.]; and

38 USCS § 4102A

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(B) on an annual basis, to notify the Secretary of, and provide supporting rationale for, each nonveteran who is employed as a disabled veterans' outreach program specialist and local veterans' employment representative for a period in excess of 6 months.

(6) Each State shall coordinate employment, training, and placement services furnished to veterans and eligible persons under this chapter [38 USCS § 4100 et seq.] with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 and the Wagner-Peyser Act.

(7) With respect to program years beginning during or after fiscal year 2004, one percent of the amount of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for the program year shall be for the purposes of making cash awards under the program of performance incentive awards described in section 4112 of this title in the State.

d) Participation in other federally funded job training programs. The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Investment Act of 1998 and other federally funded employment and training programs.

e) Regional Administrators.

(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

(2) Each such Regional Administrator shall carry out such duties as the Secretary may require to promote veterans employment and reemployment within the region that the Administrator serves.

(f) Establishment of performance standards and outcomes measures.

(1) By not later than 6 months after the date of the enactment of this section [enacted Nov. 7, 2002], the Assistant Secretary of Labor for Veterans' Employment and Training shall establish and implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans' outreach program specialists and local veterans' employment representatives providing employment, training, and placement services under this chapter [38 USCS § 4100 et seq.] in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

(2) Such standards and measures shall--

(A) be consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998 [29 USCS § 2871(b)]; and

(B) be appropriately weighted to provide special consideration for placement of (i) veterans requiring intensive services (as defined in section 4101(9) of this title), such as special disabled veterans and disabled veterans, and (ii) veterans who enroll in readjustment counseling under section 1712A of this title.

g) Authority to provide technical assistance to States. The Secretary may provide such technical assistance as the Secretary determines appropriate to any State that the Secretary determines has, or may have, an entered-employment rate in the State that is deficient, as determined under subsection (c)(3) with respect to a program year, including assistance in the development of a corrective action plan under that subsection.


The "Wagner-Peyser Act", referred to in this section, is Act June 6, 1933, ch 49, which appears generally as 29 USCS § 49 et seq. For full classification of such Act, consult USCS Tables volumes.

The "Workforce Investment Act of 1998", referred to in this section, is Act Aug. 7, 1998, P.L. 105-220, which appears generally as 20 USCS §§ 9201 et seq. and 29 USCS §§ 2801 et seq. For full classification of such Act, consult USCS Tables volumes.

"Title I of the Workforce Investment Act of 1998", referred to in this section, is Title I of Act Aug. 7, 1998, P.L. 105-220, which appears generally as 29 USCS § 2801 et seq. For full classification of such Title, consult USCS Tables volumes.

Effective date of section:
Act Oct. 15, 1976, P.L. 94-502, Title VII, § 703(c), 90 Stat. 2406, provided that this section is effective on December 1, 1976.

Amendments:
1980. Act Oct. 17, 1980 (effective 10/1/80, as provided by § 802(e) of such Act, which appears as 38 USCS § 4101 note), in the catchline, deleted "Deputy" preceding "Assistant Secretary"; and in the section, deleted "Deputy" preceding "Assistant Secretary".
1983. Act Nov. 21, 1983, substituted "an" for "a" following "Labor".
1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, except as provided by § 16(b)(1)(A) of such Act, which appears as 38 USCS § 3104 note) substituted the section heading for one which read: "§ 2002A. Assistant Secretary of Labor for Veterans' Employment"; designated the existing provisions as subsec. (a), in subsec. (a) as so designated, inserted "and Training" in two places and substituted "Secretary" for "Secretary of Labor"; and added subsecs. (b)-(e).
1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2000A, as 38 USCS § 4102A, amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101), and substituted "Secretary" for "Administrator" wherever appearing.
1994. Act Nov. 2, 1994, in subsec. (a), designated the existing provisions as para. (1), in para. (1) as so designated, substituted "(A)" and "(B)" for "(1)" and "(2)", respectively, and added para. (2).

Such Act further, in subsec. (e), substituted "Regional Administrator" for "Regional Secretary" wherever appearing.
1996. Act Oct. 9, 1996, in subsec. (e)(1), added the sentence beginning "Each Regional Administrator appointed . . .".
1998. Act Oct. 21, 1998 (effective on enactment as provided by § 405(g)(1) of Subtitle IV of Title VIII of § 101(f) of Division A of such Act, which appears as 5 USC §§ 3502 note), in subsec. (d), substituted "the Job Training Partnership Act and title I of the Workforce Investment Act of 1998" for "the Job Training Partnership Act".
1998. Act Oct. 21, 1998 (effective on 7/1/2000, as provided by § 405(g)(2)(B) of Subtitle VIII of Title IV of § 101(f) of Division A of such Act, which appears as 5 USC §§ 3502 note), in subsec. (d), deleted "the Job Training Partnership Act and" preceding "title I".
2002. Act Nov. 7, 2002 (effective and applicable as provided by § 4(a)(4) of such Act, which appears as a note to this section), substituted this section for one which read:
"§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators

(a)

(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary with respect to the formulation and implementation of all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans. The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment and Training.

(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.
"(b) The Secretary shall--

"(1) except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

"(2) in order to make maximum use of available resources in meeting such needs, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Secretary of Veterans Affairs with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (29 U.S.C. 1721 note);

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

"(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under section 4103A(a)(1) of this title, and (ii) local veterans' employment representatives assigned under section 4104(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 4109 of this title;

"(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5) of this subsection; and

"(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of sections 4103A(a)(1) and 4104(a)(4), respectively, of this title.

"(c)

(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

"(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account (A) the results of the evaluations, carried out pursuant to section 4103(c)(15) of this title, of the performance of local employment offices in the State, and (B) the monitoring carried out under this section.

"(3) Each grant or contract by which funds are made available in a State shall contain a provision requiring the recipient of the funds to comply with the provisions of this chapter.

"(d) The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Investment Act of 1998 and other federally funded employment and training programs.

"(e)

(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region. A person may not be assigned after October 9, 1996, as such a Regional Administrator unless the person is a veteran.

"(2) Each such Regional Administrator shall be responsible for--

"(A) ensuring the promotion, operation, and implementation of all veterans' employment and training programs and services within the region;

"(B) monitoring compliance with section 4212 of this title with respect to veterans' employment under Federal contracts within the region;

"(C) protecting and advancing veterans' reemployment rights within the region; and
"(D) coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving funds under grants from or contracts with the Department of Labor within the region."

Other provisions:

Transition provisions. Act Oct. 17, 1980, P.L. 96-466, Title V, § 504(b), (c), 94 Stat. 2203 (effective 10/1/80, as provided by § 802(e) of such Act), provided:

"(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment.

"(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section, shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by the amendments made by subsection (a) [amending 38 USCS prec. § 4101 and 38 USCS § 4102 and 4102A])."

Effective date and applicability of Nov. 7, 2002 amendments. Act Nov. 7, 2002, P.L. 107-288, § 4(a)(4), 116 Stat. 2042, provides: "The amendments made by this subsection [amending 38 USCS § § 4102A, 4103, 4107(b), and the chapter analysis preceding 38 USCS § 4100, and repealing 38 USCS § 4104A] shall take effect on the date of the enactment of this Act, and apply for program and fiscal years under chapter 41 of title 38, United States Code [38 USCS § § 4100 et seq.], beginning on or after such date.".

NOTES:

CODE OF FEDERAL REGULATIONS

Employment and Training Administration, Department of Labor—Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES

Assistant Secretaries of Labor, generally 29 USCS § 553.

Administration by Assistant Secretary for Veterans' Employment and Training of employment programs for veterans under Job Training Partnership Act 29 USCS § 1721.

This section is referred to in 38 USCS § § 4102, 4103A, 4104, 4106, 4107.

RESEARCH GUIDE

Am Jur:
§ 4103. Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel

(a) Directors and Assistant Directors.

1. The Secretary shall assign to each State a representative of the Veterans' Employment and Training Service to serve as the Director for Veterans' Employment and Training, and shall assign full-time Federal clerical or other support personnel to each such Director.

2. Each Director for Veterans' Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.

3. Full-time Federal clerical or other support personnel assigned to Directors for Veterans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 [5 USCS §§ 5101 et seq. and 5331 et seq.].

(b) Additional Federal personnel. The Secretary may also assign as supervisory personnel such representatives of the Veterans' Employment and Training Service as the Secretary determines appropriate to carry out the employment, training, and placement services required under this chapter [38 USCS § 4100 et seq.], including Assistant Directors for Veterans' Employment and Training.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:
The "provisions of title 5 governing appointment in the competitive service", referred to in this section, appear generally as 5 USCS § 2101 et seq.

Explanatory notes:

Provisions similar to those contained in this section were contained in former 38 USCS § 2002 prior to the general amendment of this chapter by Act Oct. 24, 1972, P.L. 92-540, Title V, § 502, 86 Stat. 1094.


Amendments:
1966. Act March 3, 1966 (effective 3/3/66, as provided by § 12(a) of such Act), inserted "of service after January 31, 1955"

1972. Act Oct. 24, 1972 (effective 90 days after 10/24/72, as provided by § 601(b) of such Act, which appears as 38 USCS § 4101 note), substituted this section for one which read:

"§ 2003. Employees of local offices

"Where deemed necessary by the Secretary of Labor, there shall be assigned by the administrative head of the employment service in the State one or more employees, preferably veterans of any war or of service after January 31, 1955, of the staffs of local employment service offices, whose services shall be primarily devoted to discharging the duties prescribed for the veterans' employment representative."

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), in the introductory matter, substituted "250,000 veterans and eligible persons" for "250,000 veterans" and substituted "veterans' and eligible persons'" for "veterans'"; in paras. (1) and (2), inserted "and eligible persons" wherever appearing; in para. (3), inserted "or an eligible person's"; in para. (4), inserted "and eligible persons" and "and persons"; and in paras. (5) and (6), inserted "and eligible persons" wherever appearing.

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), in the introductory matter, substituted "the Secretary" for "he" preceding "shall determine", inserted "or by prime sponsors under the Comprehensive Employment and Training Act", and substituted "such representative's" for "his"; in para. (5), deleted "and" following "employment and training;"; redesignated para. (6) as para. (7); and added new para. (6).

1980. Act Oct. 17, 1980 (effective 10/1/80, as provided by § 802(e), (h) of such Act), in the introductory matter, inserted "(and shall assign full-time clerical support to each such representative)", deleted ", United States Code," following "provisions of title 5", inserted "system" following "public employment service" wherever appearing, and substituted "employment" for "manpower" preceding "and training programs"; and in para. (6), inserted ", disabled veterans, and veterans of the Vietnam era."


Such Act further substituted the catchline for one which read: "§ 2003. Assignment of veterans' employment representative"; and substituted subsecs. (a), (b), and the provisions of subsec. (c) preceding para. (1) for provisions which read: "The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative (and shall assign full-time clerical support to each such representative), and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans and eligible persons of the State veterans population, and such additional assistant veterans' employment representatives as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service system in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' and eligible persons' counseling and placement policies through the public employment service and in cooperation with employment and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State. In cooperation with the public employment service system staff and the staffs of each such other program in the State, the veterans' employment representative and such representative's assistants shall--"; and, in subsec. (c), substituted para. (6) for one which read: "promote the participation of veterans in Comprehensive Employment and Training Act programs and monitor the implementation and operation of Comprehensive Employment and Training Act programs to assure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive special consideration when required; and", in para. (7), substituted a semicolon for the concluding period, and added paras. (8)-(12).

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note) substituted the section heading for one which read: "§ 2003. State and Assistant State Directors for Veterans' Employment"; in subsec. (a), substituted "Secretary" for "Secretary of Labor" preceding "shall assign", deleted "State" preceding "Director" and inserted "and Training" wherever appearing: in subsec. (b)(1), deleted "State" preceding "Director" and inserted "and Training" wherever appearing, designated the existing provisions as subpara. (A), in subpara. (A) as so designated, redesignated cls. (A) and (B) as cls. (i) and (ii) and, in cl. (i) as redesignated,
substituted ", except as provided in subparagraph (B) of this paragraph, be a qualified veteran" for "be an eligible veteran", and added subpara. (B), and in para. (2), inserted "and Training" and deleted "State" preceding "Director" wherever appearing; and, in subsec. (c), in the introductory matter, deleted "State" and inserted "and Training" wherever appearing.

Such Act further (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 1504 note), in subsec. (c), in para. (1), inserted ",(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)" after "(1)" and ", including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)", in para. (2), inserted "and otherwise to promote the employment of eligible veterans and eligible persons", in para. (11), deleted "and" following "assistance;", in para. (12), substituted a semicolon for a concluding period, and added paras. (13)-(15).

1989. Act Dec. 18, 1989, in subsec. (c), in paras. (2) and (10), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2003, as 38 USCS § 4103, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

1994. Act Nov. 2, 1994, in subsec. (c)(2), substituted "subchapter II of chapter 77" for "subchapter IV of chapter 3".

1996. Act Oct. 9, 1996, in subsec. (a), substituted "full-time Federal clerical or other support personnel" for "full-time Federal clerical support" and substituted "Full-time Federal clerical support personnel" for "Full-time Federal clerical support personnel".

2002. Act Nov. 7, 2002 (effective and applicable as provided by § 4(a)(4) of such Act, which appears as 38 USCS § 4102A note), substituted this section for one which read:

"§ 4103. Directors and Assistant Directors for Veterans' Employment and Training

(a) The Secretary shall assign to each State a representative of the Veterans' Employment Service to serve as the Director for Veterans' Employment and Training, and shall assign full-time Federal clerical or other support personnel to each such Director. The Secretary shall also assign to each State one Assistant Director for Veterans' Employment and Training per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant Directors for Veterans' Employment and Training as the Secretary shall determine, based on the data collected pursuant to section 4107 of this title, to be necessary to assist the Director for Veterans' Employment and Training to carry out effectively in that State the purposes of this chapter. Full-time Federal clerical or other support personnel assigned to Directors for Veterans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(b)

(1) Each Director for Veterans' Employment and Training and Assistant Director for Veterans' Employment and Training (i) shall, except as provided in subparagraph (B) of this paragraph, be a qualified veteran who at the time of appointment has been a bona fide resident of the State for at least two years, and (ii) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.

(2) Each Director for Veterans' Employment and Training and Assistant Director for Veterans' Employment and Training shall be attached to the public employment service system of the State to which they are assigned. They shall be administratively responsible to the Secretary for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by grantees of Federal or federally funded employment and training programs in the State, or directly by the State.

(c) In cooperation with the staff of the public employment service system and the staffs of each such other program in the State, the Director for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training shall--

(1)(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for
counseling and placement of eligible veterans and eligible persons in employment and job training programs, including the program conducted under the Veterans’ Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note);

“(2) engage of job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Department of Veterans Affairs in that agency's carrying out of its responsibilities under subchapter II of chapter 77 of this title and in the conduct of job affairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities and otherwise to promote the employment of eligible veterans and eligible persons;

“(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran’s or an eligible person’s particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

“(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

“(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

“(6) promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation;

“(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons;

“(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 4212 of this title;

“(9) be responsible for ensuring that complaints of discrimination filed under such section are resolved in a timely fashion;

“(10) working closely with appropriate Department of Veterans Affairs personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, cooperate with employers to identify disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment;

“(11) cooperate with the staff of programs operated under section 1712A of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance;

“(12) when requested by a Federal or State agency or a private employer, assist such agency or employer in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance the employability of disabled veterans;

“(13) monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal Government and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide such preference or to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation;

“(14) monitor, through disabled veterans’ outreach program specialists and local veterans’ employment representatives, the listing of vacant positions with State employment agencies by Federal agencies, and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; and

“(15)

(A) not less frequently than annually, conduct, subject to subclause (B) of this clause, an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate; and

(B) carry out such evaluations in the following order of priority: (I) offices that demonstrated less than satisfactory performance during either of the two previous program years, (II) offices with the largest number of veterans registered during the previous program year, and (III) other offices as resources permit.”.
Application and construction of Oct. 12, 1982 amendment. For provisions as to the application and construction of the Oct. 12, 1982 amendment of this section, see § 5 of such Act, which appears as 10 USCS § 101 note.

NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor—Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES
This section is referred to in 38 USCS § § 4102A, 4103A; 42 USCS § 1712A.

RESEARCH GUIDE

Am Jur:
§ 4103A. Disabled veterans' outreach program

(a) Requirement for employment by States of a sufficient number of specialists.

(1) Subject to approval by the Secretary, a State shall employ such full- or part-time disabled veterans' outreach program specialists as the State determines appropriate and efficient to carry out intensive services under this chapter [38 USCS § § 4100 et seq.] to meet the employment needs of eligible veterans with the following priority in the provision of services:

(A) Special disabled veterans.

(B) Other disabled veterans.

(C) Other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title [38 USCS § § 4201 et seq.].

(2) In the provision of services in accordance with this subsection, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(b) Requirement for qualified veterans. A State shall, to the maximum extent practicable, employ qualified veterans to carry out the services referred to in subsection (a). Preference shall be given in the appointment of such specialists to qualified disabled veterans.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:

Act Oct. 17, 1980, P.L. 96-466, Title VIII, § 802(e), 94 Stat. 2218, provided that this section is effective on Oct. 1, 1980.

Amendments:

1982. Act Oct. 14, 1982, in subsec. (a), in para. (1), inserted ", acting through the Assistant Secretary for Veterans' Employment," and substituted "available for use in" for "available to", in para. (2), substituted "provided for use in" for "provided to", in para. (3), inserted ", acting through the Assistant Secretary of Labor for Veterans' Employment," and substituted "available for use in" for "available to", and added para. (5); in subsec. (b)(2), inserted the sentence beginning "The Secretary, after consulting . . ." and substituted "section 612A" for "section 621A"; in subsec. (c), in para. (4), substituted "appropriate grantees under other Federal and federally funded employment and training programs" for "prime sponsors under the Comprehensive Employment and Training Act", and added para. (8); deleted subsec. (d), which read: "Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment."; redesignated former subsec. (e) as subsec. (d); and in subsec. (d) as redesignated, added the sentence beginning "The Secretary shall monitor . . ."

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act and applicable for all of fiscal year 1988 and subsequent fiscal years, as provided by § 16(b)(1) of such Act, which appears as 38 USCS § 3104 note), in subsec. (a), deleted para. (1), which read: "The Secretary of Labor, acting through the Assistant Secretary for Veterans' Employment, shall make available for use in each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designated to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.", redesignated former para. (2) as para. (1), in para. (1) as redesignated,
substituted the sentence beginning "The amount of funds . . ." for "Funds provided for use in a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State," and inserted "qualified" before "veteran" in two places and before "disabled" in three places, deleted para. (3), which read: "(3) The Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment, shall also make available for use in the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.", and deleted para. (5), which read: "(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section."

Such Act further (effective and applicable as above), in subsec. (a), redesignated former para. (4) as para. (2) and, in para. (2) as redesignated, deleted "paragraph (2) of" preceding "this subsection".

Such Act further (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note), in subsec. (b)(2), deleted "State" preceding "Director" and inserted "and Training"; and deleted subsec. (d), which read: "The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment. The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists."

Such Act further (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 3104 note), in subsec. (c), in para. (4), inserted "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. § 1501 et seq.))", in para. (6), inserted "(including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. § 1721 note))" and added paras. (9) and (10).

1989. Act Dec. 18, 1989, in subsecs. (b)(2) and (c)(2), substituted "Secretary of Veterans Affairs" for "Administrator", wherever appearing; and in subsec. (b)(2) and subsec. (c), in paras. (3) and (8), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2003A, as 38 USCS § 4103A, amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101); and, in subsec. (b), in para. (2), substituted "section 7723" for "section 242".

1992. Act Oct. 29, 1992, in subsec. (a), in para. (1), substituted "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans residing in such State."; and, in subsec. (b), in para. (1), substituted subpara. (A) for one which read: "(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.",

1994. Act Nov. 2, 1994, in subsec. (a)(1), substituted "rates comparable to those paid other professionals performing essentially similar duties" for "a rate not less than the rate prescribed for an entry level professional".

1998. Act Oct. 21, 1998 (effective on enactment as provided by § 405(g)(1) of Subtitle IV of Title VIII of § 101(f) of Division A of such Act, which appears as 5 USCS § 3502 note), in subsec. (c)(4), substituted "including part C of title IV of the Job Training Partnership Act and title I of the Workforce Investment Act of 1998" for "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. § 1501 et seq.))".

Act Oct. 21, 1998 (effective on 7/1/2000, as provided by § 405(g)(2)(B) of Subtitle VIII of Title IV of § 101(f) of Division A of such Act, which appears as 5 USCS § 3502 note), in subsec. (c)(4), deleted "part C of title IV of the Job Training Partnership Act and" preceding "title I.

Act Nov. 11, 1998, in subsec. (a)(1), substituted "for each 7,400 veterans who are between the ages of 20 and 64 residing in such State." for "for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.",

deleted "of the Vietnam era" following "to qualified disabled veterans", and deleted "If the Secretary finds that a qualified disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other qualified disabled veterans." preceding "If the Secretary finds".


2002. Act Nov. 7, 2002 (effective and applicable as provided by § 4(b)(3) of such Act, which appears as a note to this section), substituted the text of this section for text which read:

"(a)
(1) The amount of funds made available for use in a State under section 4102A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 7,400 veterans who are between the ages of 20 and 64 residing in such State. Each such specialist shall be a qualified veteran. Preference shall be given in the appointment of such specialists to qualified disabled veterans. If the Secretary finds that no qualified disabled veteran is available for such appointment, such appointment may be given to any qualified veteran. Each such specialist shall be compensated at rates comparable to those paid other professionals performing essentially similar duties in the State government of the State concerned.

"(2) Specialists appointed pursuant to this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 4104 of this title.

"(b)

(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

"(A) Services to special disabled veterans.
"(B) Services to other disabled veterans.
"(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

"(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State. The Secretary, after consulting the Secretary of Veterans Affairs and the Director for Veterans' Employment and Training assigned to a State under section 4103 of this title, may waive the limitation in the preceding sentence for that State so long as the percentage of all disabled veterans' outreach program specialists that are stationed at local employment service offices in all States does not exceed 80 percent. Specialists not so stationed shall be stationed at centers established by the Department of Veterans Affairs to provide a program of readjustment counseling pursuant to section 1712A of this title, veterans assistance offices established by the Department of Veterans Affairs pursuant to section 7723 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Secretary of Veterans Affairs.

"(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.
"(2) Pursuant to regulations prescribed by the Secretary after consultation with the Secretary of Veterans Affairs, promotion and development of apprenticeship and other on-job training positions pursuant to section 3787 of this title.
"(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Department of Veterans Affairs, the State employment service agency and local employment service offices, and community-based organizations.
"(4) Provision of appropriate assistance to community-based groups and organizations and appropriate grantees under other Federal and federally funded employment and training programs including title I of the Workforce Investment Act of 1998 in providing services to such veterans.
"(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.
"(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs (including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)) for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.
"(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.
"(8) Development of outreach programs in cooperation with appropriate Department of Veterans Affairs personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, with educational institutions, and with employers in order to ensure maximum assistance to disabled veterans who have completed or are participating in a vocational rehabilitation program under such chapter.
"(9) Provision of vocational guidance or vocational counseling services, or both, to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

"(11) Coordination of employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.".

Other provisions:

Application of Nov. 11, 1998 amendments. Act Nov. 11, 1998, P.L. 105-368, Title X, § 1004(b), 112 Stat. 3364, provides: "The amendments made by this section [amending subsec. (a)(1) of this section] shall apply with respect to appointments of disabled veterans' outreach program specialists under section 4103A of title 38, United States Code, on or after the date of the enactment of this Act."

Effective date and applicability of Nov. 7, 2002 amendments. Act Nov. 7, 2002, P.L. 107-288, § 4(b)(3), 116 Stat. 2044, provides: "The amendments made by this subsection [amending 38 USCS §§ 4103A, 4104] shall take effect on the date of the enactment of this Act, and apply for program years under chapter 41 of title 38, United States Code [38 USCS §§ 4100 et seq.], beginning on or after such date."

NOTES:

CODE OF FEDERAL REGULATIONS

Employment and Training Administration, Department of Labor--Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES

Employment programs for disabled veterans under Job Training Partnership Act 29 USCS § 1721.

This section is referred to in 29 USCS § 1721; 38 USCS §§ 3117, 3672, 4102A, 4104A, 4106, 4107.

RESEARCH GUIDE

Am Jur:

77 Am Jur 2d, Veterans and Veterans' Laws § 110.

INTERPRETIVE NOTES AND DECISIONS

If two qualified, disabled veterans apply for DVOP (disabled veteran outreach program) job, and one is Vietnam-era veteran, but other is not, 38 USCS § 4103A plainly affords Vietnam-era veteran priority in hiring. Appeal of New Hampshire Dep't of Empl. Sec. (1996) 140 NH 703, 672 A2d 697, 11 BNA IER Cas 1140.
§ 4104. Local veterans' employment representatives

(a) Requirement for employment by States of a sufficient number of representatives. Subject to approval by the Secretary, a State shall employ such full- and part-time local veterans' employment representatives as the State determines appropriate and efficient to carry out employment, training, and placement services under this chapter [38 USCS §§ 4100 et seq.].

(b) Principal duties. As principal duties, local veterans' employment representatives shall—

(1) conduct outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and

(2) facilitate employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

(c) Requirement for qualified veterans and eligible persons. A State shall, to the maximum extent practicable, employ qualified veterans or eligible persons to carry out the services referred to in subsection (a). Preference shall be accorded in the following order:

(1) To qualified service-connected disabled veterans.

(2) If no veteran described in paragraph (1) is available, to qualified eligible veterans.

(3) If no veteran described in paragraph (1) or (2) is available, then to qualified eligible persons.

(d) Reporting. Each local veterans' employment representative shall be administratively responsible to the manager of the employment service delivery system and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.


HISTORY: ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Amendments:


1966. Act March 3, 1966 (effective 3/3/66, as provided by § 12(a) of such Act), inserted "or of service after January 31, 1955"
1972. Act Oct. 24, 1972 (effective 90 days after 10/24/72, as provided by § 601(b) of such Act, which appears as 38 USCS § 4101 note), substituted this section for one which read:

"§ 2004. Cooperation of Federal agencies

"All Federal agencies shall furnish the Secretary such records, statistics, or information as may be deemed necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment opportunities for veterans of any war, or of service after January 31, 1955.".

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), inserted "or eligible persons", and substituted "such representative's" for "his".

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, and applicable as provided by § 16(b)(1) of such Act, which appears as 38 USCS § 3104 note) substituted this section for one which read:

"§ 2004. Employees of local offices

"Except as may be determined by the Secretary of Labor based on a demonstrated lack of need for such services, there shall be assigned by the administrative head of the employment service in each State one or more employees, preferably eligible veterans or eligible persons, on the staffs of local employment services offices, whose services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and such representative's assistants."

1989. Act Dec. 18, 1989, in subsec. (b)(7), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1991. Act March 22, 1991, in para. (1), in the introductory matter, substituted "appointment" for "assignment" in two places, in subpara. (C), substituted "appointment" for "assignment", and, in para. (4), substituted "appointment" for "assigning"; and deleted subsec. (d), which read: "(d) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State after consultation with the Director for Veterans' Employment and Training.".

Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2004, as 38 USCS § 4104, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

2001. Act June 5, 2001, in subsec. (a), in para. (1), in the introductory matter, substituted "For any fiscal year," for "Beginning with fiscal year 1988,"; in subpara. (B), substituted "subparagraph" for "clause", and, in subpara. (C), substituted "subparagraphs" for "clauses"; and, in para. (4), deleted "on or after July 1988" following "representatives"; and, in subsec. (b), in the introductory matter, substituted "shall perform the following functions:" for "shall--", in paras. (1)-(10), capitalized the initial letter of the first word and substituted the concluding period for "; and" and, in para. (11), capitalized the initial letter of the first word.

Act Dec. 21, 2001, purported to amend subsec. (b) by deleting "and" at the end of para. (11); however, because of prior amendments, this amendment could not be executed.

Such Act further, in para. (12), substituted "; and" for a concluding period, and added para. (13).

2002. Act Nov. 7, 2002 (effective and applicable as provided by § 4(b)(3) of such Act, which appears as 38 USCS § 4103A note), substituted the text of this section for text which read:

"(a)

(1) For any fiscal year, the total of the amount of funds made available for use in the States under section 4102A(b)(5)(A)(ii) of this title shall be sufficient to support the appointment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the appointment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support-

"(A) the number of such representatives who were assigned in such State on January 1, 1987, for which funds were provided under this chapter, plus one additional such representative;

(B) the percentage of the 1,600 such representatives for which funding is not provided under subparagraph (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment service offices in the United States who are registered for assistance with local employment service offices in such State, and (iii) the percentage of all full-service local employment service offices in the United States which are located in such State; and

(C) the State's administrative expenses associated with the appointment of the number of such representatives for which funding is allocated to the State under subparagraphs (A) and (B) of this paragraph.

(2)
(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, after consultation with the Director for Veterans' Employment and Training for the State, so that as nearly as practical (i) one full-time representative is assigned to each local employment service office at which at least 1,100 eligible veterans and eligible persons are registered for assistance, (ii) one additional full-time representative is assigned to each local employment service office for each 1,500 eligible veterans and eligible persons above 1,100 who are registered at such office for assistance, and (iii) one half-time representative is assigned to each local employment service office at which at least 350 but less than 1,100 eligible veterans and eligible persons are registered for assistance.

"(B) In the case of a service delivery point (other than a local employment service office described in subparagraph (A) of this paragraph) at which employment services are offered under the Wagner-Peyser Act, the head of such service delivery point shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

"(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment service office during a program year if the individual--

"(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

"(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes.

"(4) In the appointment of local veterans' employment representatives, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons.

"(b) Local veterans' employment representatives shall perform the following functions:

"(1) Functionally supervise the providing of services to eligible veterans and eligible persons by the local employment service staff.

"(2) Maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (A) keeping them advised of eligible veterans and eligible persons available for employment and training, and (B) keeping eligible veterans and eligible persons advised of opportunities for employment and training.

"(3) Provide directly, or facilitate the provision of, labor exchange services by local employment service staff to eligible veterans and eligible persons, including intake and assessment, counseling, testing, job-search assistance, and referral and placement.

"(4) Encourage employers and labor unions to employ eligible veterans and eligible persons and conduct on-the-job training and apprenticeship programs for such veterans and persons.

"(5) Promote and monitor the participation of veterans in federally funded employment and training programs, monitor the listing of vacant positions with State employment agencies by Federal agencies, and report to the Director for Veterans' Employment and Training for the State concerned any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation.

"(6) Monitor the listing of jobs and subsequent referrals of qualified veterans as required by section 4212 of this title.

"(7) Work closely with appropriate Department of Veterans Affairs personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, and cooperate with employers in identifying disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment.

"(8) Refer eligible veterans and eligible persons to training, supportive services, and educational opportunities, as appropriate.

"(9) Assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities.

"(10) Cooperate with the staff of programs operated under section 1712A of this title in identifying and assisting veterans who have readjustment problems and who may need services available at the local employment service office.

"(11) When requested by a Federal or State agency, a private employer, or a service-connected disabled veteran, assist such agency, employer, or veteran in identifying and acquiring prosthetic and sensory aids and devices needed to enhance the employability of disabled veterans.
"(12) Facilitate the provision of guidance or counseling services, or both, to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note), are certified as eligible for participation under such Act; and

"(13) coordinate employment services with training assistance provided to veterans by entities receiving funds under section 2021 of this title.

"(c) Each local veterans' employment representative shall be administratively responsible to the manager of the local employment service office and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons."

Other provisions:


"(a) Authority to conduct pilot program. In order to assess the effects on the timeliness and quality of services to veterans resulting from re-focusing the staff resources of local veterans' employment representatives, the Secretary of Labor may conduct a pilot program under which the primary responsibilities of local veterans' employment representatives will be case management and the provision and facilitation of direct employment and training services to veterans.

"(b) Authorities under Chapter 41. To implement the pilot program, the Secretary of Labor may suspend or limit application of those provisions of chapter 41 of title 38, United States Code [38 USCS §§ 4101 et seq.] (other than subsections (b)(1) and (c) of section 4104) that pertain to the Local Veterans' Employment Representative Program in States designated by the Secretary under subsection (d), except that the Secretary may use the authority of such chapter, as the Secretary may determine, in conjunction with the authority of this section, to carry out the pilot program. The Secretary may collect such data as the Secretary considers necessary for assessment of the pilot program. The Secretary shall measure and evaluate on a continuing basis the effectiveness of the pilot program in achieving its stated goals in general, and in achieving such goals in relation to their cost, their effect on related programs, and their structure and mechanisms for delivery of services.

"(c) Targeted veterans. Within the pilot program, eligible veterans who are among groups most in need of intensive services, including disabled veterans, economically disadvantaged veterans, and veterans separated within the previous four years from active military, naval, or air service shall be given priority for service by local veterans' employment representatives. Priority for the provision of service shall be given first to disabled veterans and then to the other categories of veterans most in need of intensive services in accordance with priorities determined by the Secretary of Labor in consultation with appropriate State labor authorities.

"(d) States designated. The pilot program shall be limited to not more than five States to be designated by the Secretary of Labor.

"(e) Reports to Congress.

(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report describing in detail the development and implementation of the pilot program on a State by State basis.

"(2) Not later than 120 days after the expiration of this section under subsection (h), the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a final report evaluating the results of the pilot program and make recommendations based on the evaluation, which may include legislative recommendations.

"(f) Definitions. For the purposes of this section:

"(1) The term 'veteran' has the meaning given such term by section 101(2) of title 38, United States Code.

"(2) The term 'disabled veteran' has the meaning given such term by section 4211(3) of such title.

"(3) The term 'active military, naval, or air service' has the meaning given such term by section 101(24) of such title.

"(g) Allocation of funds. Any amount otherwise available for fiscal year 1997, 1998, or 1999 to carry out section 4102A(b)(5) of title 38, United States Code, with respect to a State designated by the Secretary of Labor pursuant to subsection (d) shall be available to carry out the pilot program during that fiscal year with respect to that State.

"(h) Expiration date. The authority to carry out the pilot program under this section shall expire on October 1, 1999.".
CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor—Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES
This section is referred to in 5 USCS § 5948; 38 USCS §§ 4102A, 4103A, 4104A, 4106, 4107.

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Am Jur:
77 Am Jur 2d, Veterans and Veterans' Laws § 111.

[§ 4104A. Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Other provisions:
Performance standards. Act May 20, 1988, P.L. 100-323, § 4(a)(2), 102 Stat. 563, effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 3104 note, provides: “Each State employment agency (A) shall develop and promulgate standards under section 2004A [now § 4104A] of title 38, United States Code, as added by paragraph (1) of this subsection, as soon as feasible, and in doing so (B) shall submit proposed standards to the Director for Veterans' Employment and Training for the State not later than 12 months after the date on which the Secretary provides the agency with prototype standards under subsection (a)(3)(A) of such section, and (C) shall adopt final standards not later than 90 days after submitting the proposed standards to the Director for Veterans' Employment and Training for comment under subsection (a)(3)(B)(ii) of such section.”.
§ 4105. Cooperation of Federal agencies

(a) All Federal agencies shall furnish the Secretary such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter [38 USCS § § 4100 et seq.], and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

(b) For the purpose of assisting the Secretary and the Secretary of Veterans Affairs in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter [38 USCS § § 4100 et seq.], the Secretary of Defense shall provide, not more than 30 days after the date of the enactment of this subsection [enacted May 20, 1988], the Secretary and the Secretary of Veterans Affairs with any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve and shall provide, on the 15th day of each month thereafter, updated information regarding the list.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Provisions similar to those contained in this section were contained in former 38 USCS § 2004 prior to the general amendment of this chapter by Act Oct. 24, 1972, P.L. 92-540, Title V, § 502, 86 Stat. 1094.


Amendments:

1962. Act Sept. 19, 1962, redesignated this section, which formerly appeared as § 2014 in Subchapter II of Chapter 41, as § 2005 and substituted "chapter" for "subchapter".

1972. Act Oct. 24, 1972 (effective 90 days after 10/24/72, as provided by § 601(b) of such Act, which appears as 38 USCS § 4101 note), substituted new catchline and section for ones which read:

"§ 2005. Estimate of funds for administration

"The Secretary shall estimate the funds necessary for the proper and efficient administration of this chapter; such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel and communications. Sums thus estimated shall be included as a special item in the annual budget of the Bureau of Employment Security. Any funds appropriated pursuant to this special item as contained in the budget of the Bureau of Employment Security shall not be available for any purpose other than that for which they were appropriated, except with the approval of the Secretary.”.

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), inserted "and eligible persons”.

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), substituted "the Secretary" for "he" preceding "may deem".
1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note) substituted "Secretary" for "Secretary of Labor" preceding "such records".
Such Act further (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 3104 note) designated the existing provisions as subsec. (a); and added subsec. (b).

NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor—Administration provisions governing the Job Service System, 20 CFR Part 658.

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Am Jur:
37 Am Jur 2d, Fraud and Deceit § 11.
77 Am Jur 2d, Veterans and Veterans' Laws § 106.
§ 4106. Estimate of funds for administration; authorization of appropriations

(a) The Secretary shall estimate the funds necessary for the proper and efficient administration of this chapter [38 USCS §§ 4100 et seq.] and chapters 42 and 43 of this title [38 USCS §§ 4211 et seq. and 4321 2021 et seq.]. Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper intensive services, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary in all of the States for the purposes specified in paragraph (5) of section 4102A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 4109 of this title and shall be approved by the Secretary only if the level of funding proposed is in compliance with such sections. Each budget submission with respect to such funds shall include a separate listing of the amount for the National Veterans' Employment and Training Services Institute together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter [38 USCS §§ 4100 et seq.].

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections.


(History: Ancillary Laws and Directives)

Explanatory notes:

Provisions similar to those contained in this section were contained in former 38 USCS § 2005 prior to the general amendment of this chapter by Act Oct. 24, 1972, P.L. 92-540, Title V, § 502, 86 Stat. 1094.


Effective date of section:
Act Oct. 24, 1972, P.L. 92-540, Title VI, § 601(b), 86 Stat. 1099, provided that this section is effective 90 days after Oct. 24, 1972.
Amendments:

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), in subsec. (a), substituted "eligible veterans and eligible persons" for "veterans".

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), in subsec. (a), inserted "each".

1982. Act Oct. 14, 1982, in subsec. (a), inserted "and chapters 42 and 43 of this title" and added the sentences beginning "Funds estimated . . . .", "Each budget submission . . . ." and "The Secretary shall carry . . . ."; and, in subsec. (d), inserted ", upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment."

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note), in subsec. (a), substituted "in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 2009" for "to fund the disabled veterans' outreach program under section 2003A", substituted "such sections" for "such section", and substituted the sentence beginning "Each budget submission . . . ." for "Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment"; and, in subsec. (d), deleted ", except with the approval of the Secretary of Labor, upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment, based on a demonstrated lack of need for such funds for such purposes." following "subsections".

Such Act further (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note) in subsec. (a), substituted "Secretary" for "Secretary of Labor" in two places.

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2006, as 38 USCS § 4106, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

2002. Act Nov. 7, 2002 (effective on enactment and applicable to budget submissions beginning with fiscal year 2004, as provided by § 4(d)(2) of such Act, which appears as a note to this section), in subsec. (a), substituted the sentence beginning "Each budget submission . . . ." for "Each budget submission with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 4103A of this title and local veterans' employment representatives assigned under section 4104 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.".

Such Act further (effective on enactment, as provided by § 5(a)(2) of such Act, which appears as 38 USCS § 4101 note), in subsec. (a), substituted "proper intensive services" for "proper counseling".

Other provisions:

Effective date and applicability of amendment made by § 4(d)(1) of Act Nov. 7, 2002. Act Nov. 7, 2002, P.L. 107-288, § 4(d)(2), 116 Stat. 2044, provides: "The amendment made by paragraph (1) [amending subsec. (a) of this section] shall take effect on the date of the enactment of this Act, and apply to budget submissions for fiscal year 2004 and each subsequent fiscal year.".

NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor--Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES
This section is referred to in 38 USCS § 4107.

RESEARCH GUIDE
Am Jur:
45A Am Jur 2d, Job Discrimination § § 21-26, 40-104.
45B Am Jur 2d, Job Discrimination § 760.
77 Am Jur 2d, Veterans and Veterans' Laws § 106.
§ 4107. Administrative controls; annual report

(a) The Secretary shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially veterans of the Vietnam era and disabled veterans and each eligible person, who requests assistance under this chapter [38 USCS § § 4100 et seq.] shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employment prospects substantially, such as individual job development or intensive services.

(2) To determine whether or not the employment agencies in each State have committed the necessary staff to insure that the provisions of this chapter [38 USCS § § 4100 et seq.], are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary to be inadequate.

(b) The Secretary shall apply performance standards established under section 4102A(f) of this title for determining compliance by the State public employment service agencies with the provisions of this chapter [38 USCS § § 4100 et seq.] and chapter 42 of this title [38 USCS § § 4211 et seq.], as measured under subsection (b)(7) of section 4102A of this title. In the case of a State that the Secretary determines has not met the minimum standard of performance (established by the Secretary under subsection (f) of such section), the Secretary shall include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's plan for corrective action during the succeeding year.

(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training, and placement services under this chapter [38 USCS § § 4100 et seq.] and chapter 42 of this title [38 USCS § § 4211 et seq.]. Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include--

(1) specification, by State and by age group, of the numbers of eligible veterans, disabled veterans, special disabled veterans, eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by, the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number who received intensive services, and the number who received some, and the number who received no, reportable service;

(2) a comparison of the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998 [29 USCS § 2871(b)]) for each of the categories of veterans and persons described in clause (1) of this subsection with such rate of entered employment (as so determined) for nonveterans of the same age groups registered for assistance with the public employment system in each State;

(3) any determination made by the Secretary during the preceding fiscal year under section 4106 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

(4) a report on activities carried out during the preceding program year under section 4212(d) of this title;

(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 4102A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action relating to veterans' employment and training as the Secretary considers appropriate; and

(6) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Effective date of section:

Act Oct. 24, 1972, P.L. 92-540, Title VI, § 601(b), 86 Stat. 1099, provided that this section is effective 90 days after Oct. 24, 1972.

Amendments:

1974. Act Dec. 3, 1974 (effective 12/3/74, as provided by § 503 of such Act, which appears as 38 USCS § 3452 note), in subsec. (a)(1), inserted "and each eligible person"; redesignated subsec. (b) as subsec. (c); added new subsec. (b); and in subsec. (c), as so redesignated, substituted "other eligible veterans, and eligible persons" for "and other eligible veterans".

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), in subsec. (a)(1), substituted "such veteran's and eligible person's" for "his"; and in subsec. (c), inserted "and public service employment" and substituted ", 2006, or 2007(a)" for "or 2006".

1977. Act Nov. 23, 1977 (effective 11/23/77, as provided by § 501 of such Act, which appears as 38 USCS § 101 note), in subsec. (c), purported to substitute "2004" for "2001"; however, such amendment could not be executed as "2001" did not appear in the text of subsec. (c).

1980. Act Oct. 17, 1980 (effective 10/1/80, as provided by § 802(e) of such Act, which appears as 38 USCS § 4101 note), in subsec. (a)(1), substituted "veterans of the Vietnam era and disabled veterans" for "those veterans who have been recently discharged or released from active duty"; and in subsec. (c), substituted "The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service." for "The report shall include, by State, the number of recently discharged or released eligible veterans, veterans with service-connected disabilities, other eligible veterans, and eligible persons who requested assistance through the public employment service and, of these, the number placed in suitable employment or job training opportunities or who were otherwise
assisted, with separate reference to occupational training and public service employment under appropriate Federal law.


1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 4104 note) in subsec. (a), in the introductory matter and in para. (2), and in subsec. (b), substituted "Secretary" for "Secretary of Labor" wherever appearing; and substituted subsec. (e) for one which read: "The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service."

1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2007, as 38 USCS § 4107, and amended the references in this section to reflect the redesignations made by § 5(a) of such Act (see Table III preceding 38 USCS § 101).

2002. Act Nov. 7, 2002 (effective on enactment and applicable as provided by § 4(a)(4) of such Act, which appears as 38 USCS § 4102A note), in subsec. (b), substituted "The Secretary shall apply performance standards established under section 4102A(f) of this title" for "The Secretary shall establish definitive performance standards".

Such Act further, in subsec. (c)(5), deleted "(including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 4103A(a)(2) of this title and the assignment of local veterans' employment representatives under section 4104(b) of this title and the allocation of funds for the support of such specialists and representatives)" following "legislative action".

Such Act further (effective on enactment, as provided by § 5(a)(2) of such Act, which appears as 38 USCS § 4101 note), in subsec. (a)(1), substituted "intensive services" for "employment counseling services"; and, in subsec. (c)(1), substituted "the number who received intensive services" for "the number counseled".

Such Act further (applicable to reports for program years beginning on or after 7/1/2003, as provided by § 5(d)(2) of such Act, which appears as a note to this section), in subsec. (b), substituted the sentences beginning "Not later than February 1..." and "In the case of a State..." for "A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary required by subsection (c) of this section."; and, in subsec. (c), in para. (1), deleted "veterans of the Vietnam era" following "eligible veterans," and substituted "eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by," for "eligible persons who registered for assistance with", in para. (2), substituted "the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998)" for "the job placement rate" and substituted "such rate of entered employment (as so determined)" for "the job placement rate", in para. (4), substituted "section 4212(d)" for "sections 4103A and 4104", and deleted "and" following the concluding semicolon, in para. (5), substituted "; and" for a concluding period, and added para. (6).

Other provisions:

Requirement for Bureau of Labor Statistics to publish certain unemployment information annually. Act Oct. 17, 1980, P.L. 96-466, Title V, § 513, 94 Stat. 2207 (effective 10/1/80, as provided by § 802(e) of such Act), provided:

"(a) When the Commissioner of the Bureau of Labor Statistics publishes annual labor-market statistics relating specifically to veterans who served in the Armed Forces during the Vietnam era, the Commissioner shall also publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations. When the Commissioner of the Bureau of Labor Statistics publishes labor-market statistics which relate specifically to veterans who served in the Armed Forces during the Vietnam era in addition to those statistics published on an annual basis to which the preceding sentence applies, the Commissioner shall also, if feasible, publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations.

"(b) For the purposes of this section, veterans who during the Vietnam era served in Vietnam, in air missions over Vietnam, or in naval missions in the waters adjacent to Vietnam shall be considered to be veterans who served in the Vietnam theatre of operations.".
Application of amendments made by § 5(d)(1) of Act Nov. 7, 2002. Act Nov. 7, 2002, P.L. 107-288, § 5(d)(2), 116 Stat. 2046, provides: "The amendments made by paragraph (1) [amending subsecs. (b) and (c) of this section] shall apply to reports for program years beginning on or after July 1, 2003."

NOTES:

CODE OF FEDERAL REGULATIONS
Employment and Training Administration, Department of Labor--Administration provisions governing the Job Service System, 20 CFR Part 658.

CROSS REFERENCES
This section is referred to in 38 USCS §§ 4103, 4212.

RESEARCH GUIDE
Am Jur:
45A Am Jur 2d, Job Discrimination § 21-26, 40-104.
45B Am Jur 2d, Job Discrimination § 760.
77 Am Jur 2d, Veterans and Veterans' Laws § 106.
§ 4108. Cooperation and coordination

(a) In carrying out the Secretary's responsibilities under this chapter [38 USCS § § 4100 et seq.], the Secretary shall from time to time consult with the Secretary of Veterans Affairs and keep the Secretary of Veterans Affairs fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Department of Veterans Affairs.

(b) The Secretary of Veterans Affairs shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Effective date of section:

Act Oct. 24, 1972, P.L. 92-540, Title VI, § 601(b), 86 Stat. 1099, provided that this section is effective 90 days after Oct. 24, 1972.

Amendments:

1976. Act Oct. 15, 1976 (effective 12/1/76, as provided by § 703(c) of such Act, which appears as 38 USCS § 3693 note), substituted "the Secretary's" for "his" and substituted "the Administrator" for "him" following "keep".

1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note), substituted "Secretary" for "Administrator".

Such Act further (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 1504 note) substituted the section heading for one which read: "§ 2008. Cooperation and coordination with the Veterans' Administration"; designated the existing provisions as subsec. (a); and added subsec. (b).

1989. Act Dec. 18, 1989, in subsec. (a), substituted "Department of Veterans Affairs" for "Veterans' Administration"; and in subsecs. (a) and (b), substituted "Secretary of Veterans Affairs" for "Administrator", wherever appearing.


NOTES:

CODE OF FEDERAL REGULATIONS

Employment and Training Administration, Department of Labor--Administration provisions governing the Job Service System, 20 CFR Part 658.

RESEARCH GUIDE
Am Jur:
45A Am Jur 2d, Job Discrimination § § 40-104.
77 Am Jur 2d, Veterans and Veterans’ Laws § 106.
§ 4109. National Veterans' Employment and Training Services Institute

(a) In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, intensive services, placement, job-search, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Services Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, Regional Administrators for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, intensive services, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

(b) In implementing this section, the Secretary shall, as the Secretary considers appropriate, provide, out of program funds designated for the Institute, training for Veterans' Employment and Training Service personnel, including travel expenses and per diem to attend the Institute.

(c) (1) Nothing in this section shall be construed as preventing the Institute to enter into contracts or agreements with departments or agencies of the United States or of a State, or with other organizations, to carry out training of personnel of such departments, agencies, or organizations in the provision of services referred to in subsection (a).

(2) All proceeds collected by the Institute under a contract or agreement referred to in paragraph (1) shall be applied to the applicable appropriation.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:


Amendments:

1988. Act May 20, 1988 (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 3104 note) substituted this section for one which read:

"§ 2009. National veterans' employment and training programs

"(a) The Secretary of Labor shall--

"(1) administer through the Assistant Secretary of Labor for Veterans' Employment all national programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans and veterans of the Vietnam era;

"(2) in order to make maximum use of available resources, encourage all such national programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to such veterans under all such national programs by coordinating and consulting with the Administrator with respect to programs conducted under other provisions of this title, with particular emphasis on coordination of such national programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-
job training programs carried out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

"(b) Not later than February 1 of each year, the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report on the operation during the preceding fiscal year of national programs for the provisions of employment and training services designed to meet the needs of veterans described in subsection (a) of this section. Each such report shall include an evaluation of the effectiveness of such programs during such fiscal year in meeting the goals established in such subsection, the efficiency with which services were provided under such programs during such year, and such recommendation for further legislative action relating to veterans' employment as the Secretary considers appropriate.".


2002. Act Nov. 7, 2002 (effective on enactment, as provided by § 5(a)(2) of such Act, which appears as 38 USCS § 4101 note), in subsec. (a), substituted "intensive services," for "counseling," in two places.

Such Act further added subsec. (c).

NOTES:

CROSS REFERENCES
This section is referred to in 38 USCS § § 4102A, 4106.

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, Veterans and Veterans' Laws § 113.
§ 4110. Advisory Committee on Veterans Employment and Training

(a)(1) There is hereby established within the Department of Labor an advisory committee to be known as the Advisory Committee on Veterans Employment and Training.

(2) The advisory committee shall--
   (A) assess the employment and training needs of veterans;
   (B) determine the extent to which the programs and activities of the Department of Labor are meeting such needs; and
   (C) carry out such other activities that are necessary to make the reports and recommendations referred to in subsection (f) of this section.

(b) The Secretary of Labor shall, on a regular basis, consult with and seek the advice of the advisory committee with respect to the matters referred to in subsection (a)(2) of this section.

(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 18, individuals to serve as members of the advisory committee consisting of--
   (A) representatives nominated by veterans' organizations that have a national employment program; and
   (B) not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

(2) A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) The following, or their representatives, shall be ex officio, nonvoting members of the advisory committee:
   (1) The Secretary of Veterans Affairs.
   (2) The Secretary of Defense.
   (3) The Secretary of Health and Human Services.
   (4) The Secretary of Education.
   (5) The Director of the Office of Personnel Management.
   (6) The Assistant Secretary of Labor for Veterans Employment and Training.
   (7) The Assistant Secretary of Labor for Employment and Training.
   (9) The Administrator of the Small Business Administration.
   (10) The Postmaster General.
   (11) The Director of the United States Employment Service.
   (12) Representatives of--
       (A) other Federal departments and agencies requesting a representative on the advisory committee; and
       (B) nationally based organizations with a significant involvement in veterans employment and training programs, as determined necessary and appropriate by the Secretary of Labor.

(e)(1) The advisory committee shall meet at least quarterly.

(2) The Secretary of Labor shall appoint the chairman of the advisory committee who shall serve in that position for no more than 2 consecutive years.

(3) (A) Members of the advisory committee shall serve without compensation.

(B) Members of the advisory committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 [38 USCS § 5701 et seq.] while away from their homes or regular places of business in the performance of the responsibilities of the advisory committee.

(4) The Secretary of Labor shall provide staff and administrative support to the advisory committee through the Veterans Employment and Training Service.

(f)(1) Not later than July 1 of each year, the advisory committee shall submit to the Secretary of Labor a report on the employment and training needs of veterans. Each such report shall contain--
   (A) an assessment of the employment and training needs of veterans;
(B) an evaluation of the extent to which the programs and activities of the Department of Labor are meeting such needs; and

(C) any recommendations for legislation, administrative action, and other action that the advisory committee considers appropriate.

(2) In addition to the annual reports made under paragraph (1), the advisory committee may make recommendations to the Secretary of Labor with respect to the employment and training needs of veterans at such times and in such manner as the advisory committee determines appropriate.

(g) Within 60 days after receiving each annual report referred to in subsection (f)(1), the Secretary of Labor shall transmit to Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

(h) The advisory committee shall continue until terminated by law.


HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

A prior section 2010 contained in Subchapter II of former Chapter 41 was transferred to 38 USCS § 2001 by Act Sept. 19, 1962, P.L. 87-675, § 1(a), 76 Stat. 558.

Amendments:
1988. Act May 20, 1988 (effective on enactment as provided by § 16(a) of such Act, which appears as 38 USCS § 3104 note), in subsec. (b), in the introductory matter, substituted "Notwithstanding section 2002A(b) of this title, the" for "The" and "Secretary" for "Secretary of Labor" and inserted "and Training".

Such Act further (effective on the 60th day after enactment, as provided by § 16(b)(2) of such Act, which appears as 38 USCS § 3104 note), in subsec. (b)(1), redesignated subpars. (D), (E), and (F) as subpars. (E), (F), and (G), respectively, added a new subpara. (D), in subparas. (F) and (G) as redesignated, deleted "and" following the concluding semicolon, and added subparas. (H) and (I).


1991. Act March 22, 1991 substituted this heading and section for ones which read:
"§ 2010. Secretary of Labor's Committee on Veterans' Employment

"(a) There is established within the Department of Labor an advisory committee to be known as the 'Secretary's Committee on Veterans' Employment'. The committee shall meet at least quarterly for the purpose of bringing to the attention of the Secretary problems and issues relating to veterans' employment.

"(b) Notwithstanding section 2002A(b) of this title, the committee shall be chaired by the Secretary. The Assistant Secretary of Labor for Veterans' Employment and Training shall serve as vice chairman of the committee. The committee shall include--

"(1) representatives of--
"(A) the Secretary of Veterans Affairs;
"(B) the Secretary of Defense;
"(C) the Secretary of Health and Human Services;
"(D) the Secretary of Education;
"(E) the Director of the Office of Personnel Management;
"(F) the Chairman of the Equal Employment Opportunity Commission;
"(G) the Administrator of the Small Business Administration;
"(H) the Postmaster General; and
"(I) any other agency of the Federal Government which has had its request to have a representative on the committee approved by the Secretary; and
"(2) a representative of each of the chartered veterans' organizations having a national employment program.
(c) Members of the committee shall serve without compensation or other reimbursement for their service on the committee."

Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2010, as 38 USCS § 4110, and substituted "Secretary" for "Administrator" wherever appearing.
1992. Act Oct. 29, 1992, in subsec. (c), in para. (1), in subpara. (A), deleted "are chartered by Federal law and" following "veterans' organizations that".
1994. Act Nov. 2, 1994, in subsec (c)(1), substituted "shall appoint" for "shall, within 90 days after the date of the enactment of this section, appoint"; in subsec. (d)(9), substituted "Administrator of the Small Business Administration" for "Secretary of the Small Business Administration"; and, in subsec. (e)(3)(B), deleted ", United States Code," following "title 5" and substituted "the advisory committee" for "the Board".

Other provisions:
Termination of advisory committees, boards and councils, established after Jan. 5, 1973. Act Oct. 6, 1972, P.L. 92-463, § 3(2) and 14, 86 Stat. 770, 776 (effective 1/5/73, as provided by § 15 of such Act), which is classified as 5 USCS Appx, provides that advisory committees established after Jan. 5, 1973, are to terminate not later than the expiration of the two-year period beginning on the date of establishment unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law.
Termination of reporting requirements. For termination, effective May 15, 2000, of provisions of subsec. (g) of this section relating to periodic reports to Congress, see § 3003 of Act Dec. 21, 1995, P.L. 104-66, which appears as 31 USCS § 1113 note. See also page 125 of House Document No. 103-7.

NOTES:

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, Veterans and Veterans' Laws § 112.

Annotations:
Availability, under 28 USCS § 1442(a)(1), to one who is not an "officer of the United States or any agency thereof" of right to remove state action to federal court. 64 ALR Fed 146.
Existence of pendent jurisdiction of federal court over state claim when joined with claim arising under laws, treaties, or Constitution of United States. 75 ALR Fed 600.

INTERPRETIVE NOTES AND DECISIONS
VA doctor's claims under Title 38 and Administrative Procedure Act (APA) (5 USCS § 701 et seq.) are dismissed, because (1) 38 USCS § 7421 et seq. are not applicable since case was filed before new regulations implementing those sections were promulgated, (2) judicial review of actions taken pursuant to 38 USCS § 4110 is available only under APA, and (3) doctor did not exhaust available administrative remedies to create final agency action. Gregor v Derwinski (1996, WD NY) 911 F Supp 643, 75 BNA FEP Cas 797 (criticized in Natale v Town of Darien (1998, DC Conn) 1998 US Dist LEXIS 2356).
§ 4110A. Special unemployment study

(a) (1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:
   (A) Special disabled veterans.
   (B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.
   (C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.
   (D) Veterans who served on active duty after the Vietnam era.
   (E) Veterans discharged or released from active duty within four years of the applicable study.

(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

(3) [Redesignated]

(b) The Secretary shall promptly submit to Congress a report on the results of each study under subsection (a).


(As amended Nov. 11, 1998, P.L. 105-368, Title X, § 1005(b)(14), 112 Stat. 3365.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Effective date of section:
Act May 20, 1988, P.L. 100-323, § 16(b)(2), 102 Stat. 575, which appears as 38 USCS § 3104 note, provides that this section is effective on the 60th day after enactment.

Amendments:
1991. Act Aug. 6, 1991, redesignated this section, formerly 38 USCS § 2010A, as 38 USCS § 4110A.
1994. Act Nov. 2, 1994, substituted subsec. (a) for one which read: "(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.";
1998. Act Nov. 11, 1998 deleted subsec. (b), which read: "(b) The first study under this section shall be completed not later than 180 days after the date of the enactment of this section."; redesignated subsec. (a)(3) as subsec. (b) and, in such subsection as redesignated, substituted "subsection (a)" for "paragraph (1)".

Other provisions:
Termination of reporting requirements. For termination, effective May 15, 2000, of provisions of subsec. (b) of this section relating to periodic reports to Congress, see § 3003 of Act Dec. 21, 1995, P.L. 104-66, which appears as 31 USCS § 1113 note. See also page 125 of House Document No. 103-7.

NOTES:

RESEARCH GUIDE

Am Jur:
77 Am Jur 2d, Veterans and Veterans' Laws § 106.
§ 4110B. Coordination and nonduplication

In carrying out this chapter [38 USCS §§ 4100 et seq.], the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 [29 USCS § 2822(b)].


HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

Effective date of section:
This section took effect on August 7, 1998, pursuant to § 507 of Act Aug. 7, 1998, P.L. 105-220, which appears as 20 USCS § 9201 note.

38 USCS § 4111 (2003)

[§ 4111. Repealed]

HISTORY; ANCILLARY LAWS AND DIRECTIVES

This section (Act Nov. 30, 1999, P.L. 106-117, Title IX, § 901(a), 113 Stat. 1586) was repealed by Act Dec. 21, 2001, P.L. 107-95, § 5(e)(3), 115 Stat. 918. It related to reintegration programs for homeless veterans. For similar provisions, see 38 USCS § 2021.

§ 4112. Performance incentive awards for quality employment, training, and placement services

(a) Criteria for performance incentive awards.

(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, shall establish criteria for performance incentive awards programs to be administered by States to--

(A) encourage the improvement and modernization of employment, training, and placement services provided under this chapter; and

(B) recognize eligible employees for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

(2) The Secretary shall establish such criteria in consultation with representatives of States, political subdivisions of States, and other providers of employment, training, and placement services under the Workforce Investment Act of 1998 consistent with the performance measures established under section 4102A(b)(7) of this title.

(b) Form of awards. Under the criteria established by the Secretary for performance incentive awards to be administered by States, an award under such criteria may be a cash award or such other nonfinancial awards as the Secretary may specify.

(c) Relationship of award to grant program and employee compensation. Performance incentive cash awards under this section--

(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title; and

(2) is in addition to the regular pay of the recipient.

(d) Eligible employee defined. In this section, the term "eligible employee" means any of the following:

(1) A disabled veterans' outreach program specialist.

(2) A local veterans' employment representative.

(3) An individual providing employment, training, and placement services to veterans under the Workforce Investment Act of 1998 or through an employment service delivery system (as defined in section 4101(7) of this title).


HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The "Workforce Investment Act of 1998", referred to in this section, is Act Aug. 7, 1998, P.L. 105-220, which appears generally as 20 USCS §§ 9201 et seq. and 29 USCS §§ 2801 et seq. For full classification of such Act, consult USCS Tables volumes.

Explanatory notes:

§ 4113--4119. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES


§ 4120. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

This section (Act May 20, 1988, P.L. 100-322, Title II, Part B, § 212(a)(1), 102 Stat. 514), as in effect on the day before the date of enactment of Act May 7, 1991, was redesignated 38 USCS § 7458 by § 401(c)(4) of such Act.

§ 4121. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES


§ 4122. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4123. Repealed

HISTORY; ANCILLARY LAWS AND DIRECTIVES

§ 4124. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4131. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4132. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4133. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4134. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4141. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4142. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES


§ 4151. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ 4152. Repealed

HISTORY: ANCILLARY LAWS AND DIRECTIVES

§ § 4161–4168. Transferred

HISTORY: ANCILLARY LAWS AND DIRECTIVES