SEC. 904. FACILITIES FOR INTELLIGENCE COLLECTION OR SPECIAL OPERATIONS ACTIVITIES ABROAD.

Section 2682 of title 10, United States Code, is amended—

(1) by inserting "(a) MAINTENANCE AND REPAIR.—" before "The maintenance and repair";

(2) by designating the second sentence as subsection (b) and, as so designated, by inserting "JURISDICTION.—" before "A real property facility"; and

(3) by adding at the end the following new subsection:

"(c) FACILITIES FOR INTELLIGENCE COLLECTION OR FOR SPECIAL OPERATIONS ABROAD.—The Secretary of Defense may maintain and repair, and may exercise jurisdiction over, a real property facility if necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense.".

Section-by-Section Analysis

This proposal would create a narrow exception to the current requirement in title 10, United States Code, that the Secretary of Defense (SECDEF) provide that jurisdiction over and maintenance and repair of real property facilities used by an activity or agency of the Department of Defense other than a military department be carried out by or through a military department. Section 2682 currently requires that such jurisdiction and maintenance and repair be vested with a military department. The exception in this proposal would be available only for real property facilities of the Department of Defense acquired as part of, or in support of, Department of Defense intelligence or special operations activities abroad, where security is paramount.

While both SECDEF and the Secretaries of the military departments have authorities under 10 U.S.C. 2661(b) to provide for the leasing of real property, the current language in section 2682 of title 10 operates to prohibit the SECDEF from exercising that authority other than through one of the military departments.

This change is consistent with "need to know" security principles and extraordinary contracting authorities granted SECDEF under Public Law 85-804 (50 U.S.C. 1431, et seq.) and Executive Order 10789. [NOTE: Additional sectional analysis is classified SECRET/NOFORN.]

Budget Implications: There are no a budget-related implications to this proposal. Department of Defense real property facility jurisdictional activities under 10 U.S.C. 2682 are specifically subject to the availability of fiscal resources.

Changes to Existing Law: This proposal would make the following changes to 10 U.S.C. 2682:

§ 2682. Facilities for defense agencies

(a) MAINTENANCE AND REPAIR.—The maintenance and repair of a real property facility for an activity or agency of the Department of Defense (other than a military department) financed from appropriations for military functions of the Department of Defense will be accomplished by or through a military department designated by the Secretary of Defense.

(b) JURISDICTION.—A real property facility under the jurisdiction of the Department of Defense, which is used by an activity or agency of the Department of Defense (other than a military department) shall be under the jurisdiction of a military department designated by the Secretary of Defense.

(c) FACILITIES FOR INTELLIGENCE COLLECTION OF FOR SPECIAL OPERATIONS ABROAD.—The Secretary of Defense may maintain and repair, and may exercise jurisdiction over, a real property facility if necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense.