Section-by-Section Analysis

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TITLE I—PROCUREMENT

Sections 101 through 106 would authorize appropriations for fiscal year 2015 for the procurement accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Section 201 would authorize appropriations for fiscal year 2015 for the research, development, test, and evaluation accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015.

Subtitle B—Program Requirements, Restrictions, and Limitations

Section 211 would expand the options for acceptable service opportunities to recipients of financial assistance under the Science, Mathematics and Research for Transformation

(SMART) Defense Education Program under section 2192a of title 10, United States Code. This change would give the Secretary of Defense the option to allow a recipient to fulfill the recipient's service obligation not only with any part of the Department of Defense (DoD) but also with any other entity or organization with which the employment of the recipient would provide a benefit to DoD.

The SMART program provides financial assistance to students who are pursuing courses of study in science, mathematics, engineering, and technology skills and disciplines that are deemed critical to the national security functions of DoD and are needed in the DoD workforce. Students are given financial assistance in the form of scholarships and fellowships that may pay all educational expenses of the students during their studies. This significant investment is recouped by DoD in the form of an obligated service period at the end of the educational period.

Currently, the statute only allows recipients to fulfill their service obligations with organizations within DoD. If a position is not found within DoD within a specified period of time, the student's obligation may be waived in accordance with the statutory standards, resulting in the potential loss of the Department's investment. This amendment would allow alternative placement options in those cases where a suitable position within DoD cannot be found for a student's unique capabilities. Such an option would have to be thoroughly vetted and approved to ensure that the substitute position would still allow the benefit of the Department's investment in the student's education to flow back to DoD in some meaningful way. The Department should assess the circumstances involved in allowing the student to repay the student's debt through employment at a non-DoD entity or organization and how that allowance would provide a predictable advantage to DoD. The advantage may include economic, common technology interests, and strengthening strategic relationships. As this program is focused on developing people with knowledge and expertise that may take many years to mature fully, both the long- and short-term benefits to the Department should be equally considered and incorporated into the approval process.

Budget Implications: This proposal would not require any additional appropriation of funds. The SMART program is fully funded within the existing National Defense Education Program:

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
National Defense Education Program	96.9	97.3	82.7	84.3	TBD	Defense-Wide RDT&E	01	05	0601120D8Z
Total	96.9	97.3	82.7	84.3	TBD				

Changes to Existing Law: This proposal would make the following changes to 10 U.S.C. 2192a:

§ 2192a. Science, Mathematics and Research for Transformation (SMART) Defense Education Program

(a) REQUIREMENT FOR PROGRAM.—The Secretary of Defense shall carry out a program to provide financial assistance for education in science, mathematics, engineering, and technology skills and disciplines that, as determined by the Secretary, are critical to the national security functions of the Department of Defense and are needed in the Department of Defense workforce.

(b) FINANCIAL ASSISTANCE.—

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(c) SERVICE AGREEMENT FOR RECIPIENTS OF FINANCIAL ASSISTANCE.—(1) To receive financial assistance under this section—

(A) in the case of an employee of the Department of Defense, the employee shall enter into a written agreement to continue in the employment of the department for the period of obligated service determined under paragraph (2); and

(B) in the case of a person not an employee of the Department of Defense, the person shall enter into a written agreement to accept and continue employment ~~in the Department of Defense~~ for the period of obligated service determined under paragraph (2)—

(i) with the Department of Defense; or

(ii) with a public or private sector entity or organization outside the Department of Defense if the Secretary of Defense determines that employment of the person with such entity or organization for the purpose of such obligated service would provide a benefit to the Department of Defense.

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Section 212 would modify the cost-sharing provision of section 243 of the Ike Skelton National Defense Authorization Act for Fiscal Year (FY) 2011 (Public Law 111-383; 10 U.S.C. 2358 note). That provision requires industry to bear a portion of the cost for the development of defense exportability features (DEF).

The United States often requires exportability features, including anti-tamper measures, to be incorporated in export versions of major defense equipment, including Unmanned Aircraft Systems. The cost of the exportability features before sale is normally chargeable to the purchaser when a foreign military or direct commercial sales agreement is established. However, such agreements do not provide a source of up-front funding to pay for integrated research and development of exportability features for systems. While the current statute provides the authority to include technology protection features during research and development of those defense systems, the current statutory 50/50 cost-sharing requirement can be a disincentive for industry to participate in DEF early in the design process when the risk is the highest.

This proposal would provide the Department of Defense (DoD) contracting officer some degree of flexibility in negotiating cost sharing contracts with defense industry for the purpose of enhancing or enabling the exportability of the system either (1) for the development of program protection strategies for the system, or (2) for the design and incorporation of exportability

features into the system. There are a number of factors that contribute to the degree of cost sharing attainable including risk, level of competition, and potential for return on investment. This proposal would allow the Department to have flexibility in setting criteria for cost sharing in solicitations that would allow industry to take risk into consideration when making proposals on a system designated as a DEF Pilot Program. This change would be implemented through a DFARS clause.

Budget Implications: There are no budget implications to modify the cost-sharing provisions of the Defense Exportability Features Pilot Program. DoD will maintain the existing DEF funding levels in the President's FY 2014 budget for the DEF Pilot Program. The number of designated systems in the DEF Pilot Program will be determined by the total funding available, i.e. appropriated plus contractor (cost share) funds.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	$3.244	$3.295	$3.405	$3.551	$3.839	Research, Development, Test & Evaluation, Defense-Wide	BA 5	122	0605022D8Z
Total	$3.244	$3.295	$3.405	$3.551	$3.839				

Changes to Existing Law: This proposal would make the following changes to section 243 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, as amended by section 252 of the National Defense Authorization Act for Fiscal Year 2012 and section 264 of the National Defense Authorization Act for Fiscal Year 2014:

SEC. 243. PILOT PROGRAM TO INCLUDE TECHNOLOGY PROTECTION FEATURES DURING RESEARCH AND DEVELOPMENT OF DEFENSE SYSTEMS.

(a) PILOT PROGRAM.—The Secretary of Defense shall carry out a pilot program to develop and incorporate technology protection features in a designated system during the research and development phase of such system.

(b) COST-SHARING.—Any contract for the design or development of a system resulting from activities specified under subsection (a) for the purpose of enhancing or enabling the exportability of the system either—

(1) for the development of program protection strategies for the system; or

(2) for the design and incorporation of exportability features into the system,

shall include a cost-sharing provision that requires the contractor to bear ~~at least one half~~ an appropriate share of the cost of such activities, as determined by the Secretary.

(c) ANNUAL REPORTS.—Not later than December 31 of each year in which the Secretary carries out the pilot program established under this section, the Secretary shall submit to the congressional defense committees a report on the pilot program, including a list of each designated system included in the program.

(d) TERMINATION.—The pilot program established under this section shall terminate on October 1, 2020.

(e) DEFINITIONS.—In this section:

(1) The term "designated system" means any system (including a major system, as defined in section 2302(5) of title 10, United States Code) that the Under Secretary of Defense for Acquisition, Technology, and Logistics designates as being included in the pilot program established under this section.

(2) The term "technology protection features" means the technical modifications necessary to protect critical program information, including anti-tamper technologies and other systems engineering activities intended to prevent or delay exploitation of critical technologies in a designated system.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Section 301 would authorize appropriations for fiscal year 2015 for the Operation and Maintenance accounts of the Department of Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015.

Subtitle B—Program Matters

Section 311 would amend section 2642 of title 10, United States Code, which authorizes the Secretary of Defense to use the Department of Defense (DoD) reimbursement rate for transportation services provided to certain non-DoD entities. That authority allows DoD to provide transportation services covered by that section at the same rate that the transportation element in DoD charges DoD units for similar services This proposal (1) incorporates the changes to that section that were enacted by Congress in the Fiscal Year (FY) 2014 National Defense Authorization Act (NDAA), and (2) proposes certain additional changes to the scope of that section.

The FY 2014 changes enacted by Congress (1) extend the authority under that section from applicability to "airlift services" so as to apply to "transportation services" (thereby covering sealift services), (2) extend coverage to include transportation services provided in support of foreign military sales (subject to a sunset date of October 1, 2018), and (3) extend the sunset date for coverage of non-DoD Federal agencies (other than as specified in paragraphs (1) and (2) of the law) from October 28, 2014, to October 1, 2019.

The additional changes requested by DoD for FY 2015 are as follows: (1) to extend the authority to State, local and tribal agencies and organizations composed of those entities, (2) to

extend the authority to defense contractors when transporting supplies for, or destined for, a DoD entity, and (3) to repeal the requirement for a Secretary of Defense determination before transportation services are provided under certain circumstances.

The authority under 10 U.S.C. 2642 is used when providing airlift support to other departments and agencies to increase peacetime business by filling excess capacity with paying cargo from other Federal agencies. DoD will not incur any additional incremental costs as a result of the amendments made by this proposal. Competitive rates would encourage a new customer base. Normally, DoD contractors are free to use their own commercial carriers, but under certain circumstances the DoD would save money by not having to pay under the contract for commercial transportation while flying empty aircraft. A larger customer base would result in better utilization of airlift capacity and a lower overall cost to DoD.

The proposal would allow the use of extra capacity on strategic airlift assets of the military for any transportation needs of those other agencies. During peacetime operations, utilization of aircraft to meet training and readiness requirements is typically greater than actual cargo transportation requirements. Therefore, extra cargo can be transported at little or no increase in operating costs, making utilization of excess capacity by other agencies prudent. Additionally, use of such capacity for the shipment of items for other departments or agencies complements the training needs of the Department. As such requests are made under the Economy Act (section 1535 of title 31, United States Code), that law already provides an analysis process to determine if DoD should agree to the transportation of such cargo. Any amounts in excess of the rate charged by DoD units received from other agencies are deposited in Miscellaneous Receipts, so charging in excess of that amount provides no benefit to the Department or the Federal Government.

Increases in the amount of cargo to be transported by the Department supports the training of aircrews to maintain combat readiness and any excess is provided to United States air carriers as in incentive for them to participate in the Civil Reserve Air Fleet program to support the wartime requirements of the Department.

Budget Implications: If enacted, this proposal will not increase the budgetary requirements of the Department of Defense.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	+0	+0	+0	+0	+0	O&M, Army			
Navy	+0	+0	+0	+0	+0	O&M, Navy			
Marine Corps	+0	+0	+0	+0	+0	O&M, Marine Corps			

Coast Guard	+0	+0	+0	+0	+0	O&M, Coast Guard			
Air Force	+0	+0	+0	+0	+0	O&M, Air Force – 3400			
DOD	+0	+0	+0	+0	+0	Transportation Working Capital Funds – 97X4930	02	21A	

NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

Cost Methodology: The Department of Defense has explored ways to reduce training costs by providing crew seasoning and training on operational missions. Such missions create opportunities for transportation of cargo on military owned or controlled vessels and aircraft. If enacted, the proposal could result in reduced Operation and Maintenance funds needed for airlift readiness and should be budget scored as zero or a net savings for the Air Force Operation and Maintenance appropriation due to reduced readiness costs in subsequent years.

Changes to Existing Law: This proposal would make the following changes to section 2642 of title 10, United States Code, as amended by section 1073 of the FY14 NDAA:

§ 2642. Transportation services provided to certain ~~other~~ non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate

(a) AUTHORITY.—Subject to subsection (b), the ~~The~~ Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military transportation services provided by a component of the Department of Defense as follows:

(1) For military transportation services provided to the Central Intelligence Agency, if the Secretary of Defense determines that those military transportation services are provided for activities related to national security objectives.

(2) For military transportation services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.

(3) ~~During the period beginning on October 28, 2009, and ending on October 28, 2019, for~~ For military transportation services provided to any element of the Federal Government outside the Department of Defense ~~and military transportation services provided in support of foreign military sales~~ in circumstances other than those specified in paragraphs (1) and (2)~~, but only if the Secretary of Defense determines that the provision of such services will promote the improved use of airlift capacity without any negative effect on the national security objectives or the national security interests contained within the United States commercial transportation industry~~.

(4) For military transportation services provided in support of foreign military sales.

(5) For military transportation services provided to a State, local, or tribal agency (including any organization composed of State, local, or tribal agencies).

(6) For military transportation services provided to a Department of Defense contractor when transporting supplies that are for, or destined for, a Department of Defense entity.

(b) TERMINATION OF AUTHORITY FOR CERTAIN ELIGIBLE ENTITIES.—The provisions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, 2019.

(~~b~~c) DEFINITION.—In this section, the term "Department of Defense reimbursement rate" means the amount charged a component of the Department of Defense by another component of the Department of Defense.

Section 312 would repeal section 9513 of title 10, United States Code, relating to the use of military installations by commercial air carriers doing business with the Department of Defense. Under this program, the Secretary of the Air Force was authorized for Air Force Installations or in coordination with the Secretary of the other Services for other than Air Force military installations to enter into contracts with air carriers authorizing the use of designated installations as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. While envisioned as a potential incentive for obtaining air carrier commitment to the Civil Reserve Air Fleet (CRAF) program used by the Department of Defense, the legislation has not resulted in a single contract in its almost 20 years of existence and should be repealed. The CRAF program has adequate commercial airlift capability to meet planned mission requirements. Repeal of this section of law would not adversely impact the CRAF program, commercial carriers, or program requirements.

Budget Implications: If enacted, this proposal would not increase the budgetary requirements of the Department of Defense or the Department of Transportation.

RESOURCE SAVINGS ($THOUSANDS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**		**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0		O&M, Army-		
Navy	+0	+0	+0	+0	+0		O&M, Navy		
Marine Corps	+0	+0	+0	+0	+0		O&M, Marine Corps		
Coast Guard	+0	+0	+0	+0	+0		O&M, Coast Guard		
Air Force	+0	+0	+0	+0	+0		O&M, Air Force – 3400		
Total	0	0	0	0	0				

NUMBER OF PERSONNEL AFFECTED								
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0	0		

COST METHODOLOGY

N/A

Changes to Existing Law: This section would repeal section 9513 of title 10, United States Code, as follows:

~~**§ 9513. Use of military installations by Civil Reserve Air Fleet contractors**~~

~~(a) CONTRACT AUTHORITY. - (1) The Secretary of the Air Force -~~

~~(A) may, by contract entered into with any contractor, authorize such contractor to use one or more Air Force installations designated by the Secretary; and~~

~~(B) with the consent of the Secretary of another military department, may, by contract entered into with any contractor, authorize the contractor to use one or more installations, designated by the Secretary of the Air Force, that is under the jurisdiction of the Secretary of such other military department.~~

~~(2) The Secretary of the Air Force may include in the contract such terms and conditions as the Secretary determines appropriate to promote the national defense or to protect the interests of the United States.~~

~~(b) PURPOSES OF USE. – A contract entered into under subsection (a) may authorize use of a designated installation as a weather alternate, as a technical stop not involving the enplaning or deplaning of passengers or cargo, or, in the case of an installation within the United States, for other commercial purposes. Notwithstanding any other provision of the law, the Secretary may establish different levels and types of uses for different installations for commercial operations not required by the Department of Defense and may provide in contracts under subsection (a) for different levels and types of uses by different contractors.~~

~~(c) DISPOSITION OF PAYMENTS FOR USE. – Notwithstanding any other provision of law, amounts collected from the contractor for landing fees, services, supplies, or other charges authorized to be collected under the contract shall be credited to the appropriations of the armed forces having jurisdiction over the military installation to which the contract pertains. Amounts so credited to an appropriation shall be available for obligation for the same period as the appropriation to which credited.~~

~~(d) HOLD HARMLESS REQUIREMENT. – A contract entered into under subsection (a) shall provide that the contractor agrees to indemnify and hold harmless the United States from any action, suit, or claim of any sort resulting from, relating to, or arising out of any activities conducted, or services or supplies furnished, in connection with the contract.~~

~~(e) RESERVATION OF RIGHT TO EXCLUDE CONTRACTOR. – A contract entered into under subsection (a) shall provide that the Secretary concerned may, without providing prior notice, deny access to an installation designated under the contract when the Secretary determines that it is necessary to do so in order to meet military exigencies.~~

Section 313 would repeal section 489 of title 10, United States Code, which requires the Secretary of Defense to submit annually to Congress a report on Department of Defense operation and financial support for military museums. Preparation of this report requires extensive data collection, but the report does not provide any data that is meaningful for program management. Although the Department submits this report far beyond the statutory deadline as well as beyond the legislative cycles for Congress to develop the budget, no one from Congress has ever requested the report. The Office of the Secretary of Defense and Department of Defense (DoD) components do not use the information in the report to manage their programs.

Budget Implications: This proposal will reduce costs to the Department of Defense. At the OSD level, the report costs $39,000 a year to produce.

RESOURCE REQUIREMENTS									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
AT&L	-$39K	-$39K	-$39K	-$39K	-$39K	Operation & Maintenance			

Changes to Existing Law: This proposal would repeal section 489 of title 10, United States Code, as follows:

~~**§489. Annual report on Department of Defense operation and financial support for military museums**~~

~~(a) REPORT REQUIRED. As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all military museums that, during the most recently completed fiscal year—~~

~~(1) were operated by the Secretary of Defense or the Secretary of a military department;~~

~~(2) were otherwise supported using funds appropriated to the Department of Defense; or~~

~~(3) were located on property under the jurisdiction of the Department of Defense, although neither operated by the Department of Defense nor supported using funds appropriated to the Department of Defense.~~

~~(b) INFORMATION ON INDIVIDUAL MUSEUMS.—For each museum identified in a report under this section, the Secretary of Defense shall include in the report the following:~~

~~(1) The purpose and functions of the museum and the justification for the museum.~~

~~(2) A description of the facilities dedicated to the museum, including the location, size, and type of facilities and whether the facilities are included or eligible for inclusion on the National Register of Historic Places.~~

~~(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report and a description of the process used to determine the annual allocation of Department of Defense funds for the museum.~~

~~(4) An itemized listing of any other Federal funds, funds from a nonappropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.~~

~~(5) The management structure of the museum, including identification of the persons responsible for preparing the budget for the museum and for making acquisition and management decisions for the museum.~~

~~(6) The number of civilian employees of the Department of Defense and members of the armed forces who served full-time or part-time at the museum and their role in the management structure of the museum.~~

~~(c) INFORMATION ON SUPPORT PRIORITIES. Each report under this section shall also include a separate description of the procedures used by the Secretary of Defense, in the case of~~

~~museums identified in the report that are operated or supported by the Secretary of Defense, and the Secretary of a military department, in the case of museums identified in the report that are operated or supported by that Secretary, to prioritize funding and personnel support to the museums. The Secretary of Defense shall include a description of any such procedures applicable to the entire Department of Defense.~~

Section 314 would authorize the Secretary of the Navy to plan, design, construct, maintain, and repair a memorial to honor the victims of the shooting at the Washington Navy Yard, Washington, D.C., on September 16, 2013. The memorial would be located on the grounds of the Washington Navy Yard.

The proposal would allow the Secretary of the Navy to establish procedures under which the Secretary may solicit and accept monetary contributions and gifts of property from the public for the purposes of this memorial. Any monetary contribution received would be deposited in a specific account devoted to the memorial and could only be used for purposes of planning, designing, constructing, maintaining, or repairing the memorial.

Budget Implications: Planning for a memorial for the victims of the shooting attack at the Washington Navy Yard on September 16, 2013, has yet to start. Further, the extent of any private contributions for a memorial has yet to be determined. However, based upon the construction of similar memorials to honor the victims of the Fort Hood shootings, the attack on the USS COLE (DDG 67), and the attack on the USS STARK (FFG-31), the cost is not expected to exceed $1,000,000.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2014	**FY 2015**	**FY 2015**	**FY 2016**	**FY 2017**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	$1.0	0	0	0	0	Private Donations	N/A	N/A	N/A

Changes to Existing Law: This proposal would make no changes to existing law.

Section 315 would allow the U.S. Fish & Wildlife Service (USFWS) and the Department of the Navy to provide for the conservation needs of the Southern Sea Otter while continuing the protections for military readiness activities at important offshore islands in the Southern California Bight that were provided by Public Law (P.L.) 99-625 while the translocation program was in effect.

In the 1980's, threats to the Southern Sea Otter included its small population size, its greatly reduced range, and the potential risk of oil spills. In response, the USFWS developed a plan to establish an independent colony of otters sufficiently removed from the parent population to serve as a safeguard for the population as a whole in the event of a natural or manmade catastrophe. Following an Environmental Impact Statement that identified San Nicolas Island as a potential host site for a separate population, Navy supported P.L. 99-625, which authorized the plan along with protection for military activities throughout the management zone and San Nicholas Island, as well as protection for defense-related agency activities under the Endangered

Species Act (ESA), but no similar exemption under the Marine Mammal Protection Act (MMPA) at San Nicolas Island. Similarly, Navy supported the USFWS governing regulations, which effectively protected military uses at San Nicolas and were published on August 11, 1987 (52 FR 29754). Between August 1987 and March 1990 the USFWS and the California Department of Fish & Game administered the plan, with cooperation from and in reliance on support from the U.S. Navy, and established an experimental colony of Southern Sea Otters in a translocation zone around San Nicolas Island. The island is a military installation attached to Naval Base Ventura County and a major asset for Navy Test, Evaluation, Training and Experimentation operations. Once the plan was implemented, provisions of P.L. 99-625 became operative and provided for protection of defense-related agency activities from the consultation requirements of the ESA, with respect to southern sea otters, within the translocation zone and both the ESA and MMPA within a management zone throughout the Southern California Bight. The management zone encompassed the U.S. Navy's Point Mugu Sea Range (that includes San Nicolas Island), the U.S. Navy's Southern California Offshore Range (that includes San Clemente Island), and coastal military installations.

Implementation of the plan resulted in the presence of a healthy but small population of Southern Sea Otters at the translocation site, but due to the high initial rate of emigration of translocated sea otters and unforeseen problems with capturing and relocating sea otters, failed to meet the original objectives of the USFWS. Following the Exxon Valdez oil spill, the USFWS also determined that Southern Sea Otters at San Nicolas Island would not be isolated from the effects of a single large oil spill as originally envisioned. Moreover, large numbers of sea otters were moving southward down the California coast into the management zone, and experience with plan implementation indicated that further removal of otters from the management zone could result in substantial adverse effects on the parent population. Consequently the USFWS ultimately terminated the program with the release of a Final Rule and Record of Decision on 19 December 2012.

The termination of the translocation program and its associated translocation and management zones renders the specific provisions of P.L. 99-625 inoperative. As such, the USFWS has stated that exemptions for defense-related agency activities found in P.L. 99-625 no longer apply. Whereas USFWS believes that programmatic consultations afford a feasible means of minimizing the regulatory burden on Navy associated with ESA compliance for sea otters, Navy believes that the loss of the protective provisions for military activities in P.L. 99-625 poses national security concerns.

The USFWS has publicly stated that current military readiness activities at San Nicolas Island pose no threat to the conservation and recovery of Southern Sea Otters. In relation to Navy activities, the USFWS Supplemental Environmental Impact Statement states, "[t]o date, we have no evidence that defense-related activities have had any adverse effects on sea otters at San Nicolas Island or in the management zone," which included San Clemente Island (where sea otters do not currently occur) as well as other areas of Naval activity throughout the Southern California Bight. Navy's Sikes Act Integrated Natural Resources Management Plans (INRMPs) for military installations in California also address special management needs of threatened and endangered species and provide conservation benefits to near shore marine environments through watershed and land-based management actions. It is clear that Navy has been an exemplary custodian of the translocated otters; however, with the return to full ESA

applicability, mitigation requirements could ultimately limit types and quantity of military readiness activities in these critically important testing and training areas.

This legislation will continue the protections afforded by the military activity provisions originally enacted in P.L. 99-625, but on a generally smaller scale (the MMPA exemption with respect to sea otters around San Nicolas Island was not included in P.L. 99-625 and thus increases protections for military readiness activities there). The management zone originally prescribed by P.L. 99-625 encompassed the entirety of the Southern California Bight. This legislation identifies two comparatively small marine areas adjacent to important land-based military test and training areas where the military activity provisions will apply. This legislation includes both monitoring and reporting requirements for the Department of the Navy not enacted as part of P.L. 99-625, and a termination provision.

Budgetary Implications: This proposal is not expected to result in changes to the existing budget, as military installations already develop and incorporate actions that protect and conserve the Southern Sea Otter currently at San Nicolas Island. No Operation & Maintenance, Navy funds are budgeted separately to protect and conserve the Southern Sea Otter population at San Nicolas Island. The monitoring of the otter population is carried out by the U.S. Geological Survey agency. This proposal is not expected to generate fiscal savings but will help eliminate the potential for possibly expensive constraints on military readiness activities.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	0	0	0	0	0				

Changes to Existing Law: Section 1 of Public Law 99-625 (16 U.S.C. 1536 note) would be repealed:

~~**SECTION 1. TRANSLOCATION OF CALIFORNIA SEA OTTERS.**~~

~~(a) DEFINITIONS.—For purposes of this section—~~

~~(1) The term 'Act' means the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).~~

~~(2) The term 'agency action' has the meaning given that term in section 7(a)(2) of the Act [16 U.S.C. 1536(a)(2)].~~

~~(3) The term 'experimental population' means the population of sea otters provided for under a plan developed under subsection (b).~~

~~(4) The phrase 'parent population' means the population of sea otters existing in California on the date on which proposed regulations setting forth a proposed plan under subsection (b) are issued.~~

~~(5) The phrase 'prospective action' refers to any prospective agency action that—~~

~~(A) may affect either the experimental population or the parent population; and~~

~~(B) has evolved to the point where meaningful consultation under section 7(a)(2) or (3) of the Act [16 U.S.C. 1536(a)(2), (3)] can take place.~~

(6) The term 'Secretary' means the Secretary of the Interior.

(7) The term 'Service' means the United States Fish and Wildlife Service.

(b) PLAN SPECIFICATIONS.—The Secretary may develop and implement, in accordance with this section, a plan for the relocation and management of a population of California sea otters from the existing range of the parent population to another location. The plan, which must be developed by regulation and administered by the Service in cooperation with the appropriate State agency, shall include the following:

(1) The number, age, and sex of sea otters proposed to be relocated.

(2) The manner in which the sea otters will be captured, translocated, released, monitored, and protected.

(3) The specification of a zone (hereinafter referred to as the 'translocation zone') to which the experimental population will be relocated. The zone must have appropriate characteristics for furthering the conservation of the species.

(4) The specification of a zone (hereinafter referred to as the 'management zone') that—

(A) surrounds the translocation zone; and

(B) does not include the existing range of the parent population or adjacent range where expansion is necessary for the recovery of the species.

The purpose of the management zone is to (i) facilitate the management of sea otters and the containment of the experimental population within the translocation zone, and (ii) to prevent, to the maximum extent feasible, conflict with other fishery resources within the management zone by the experimental population. Any sea otter found within the management zone shall be treated as a member of the experimental population. The Service shall use all feasible non-lethal means and measures to capture any sea otter found within the management zone and return it to either the translocation zone or to the range of the parent population.

(5) Measures, including an adequate funding mechanism, to isolate and contain the experimental population.

(6) A description of the relationship of the implementation of the plan to the status of the species under the Act and to determinations of the Secretary under section 7 of the Act [16 U.S.C. 1536].

(c) STATUS OF MEMBERS OF THE EXPERIMENTAL POPULATION.—(1) Any member of the experimental population shall be treated while within the translocation zone as a threatened species for purposes of the Act, except that—

(A) section 7 of the Act [16 U.S.C. 1536] shall only apply to agency actions that-

(i) are undertaken within the translocation zone,

(ii) are not defense-related agency actions, and

(iii) are initiated after the date of the enactment of this section [Nov. 7, 1986]; and

(B) with respect to defense-related actions within the translocation zone, members of the experimental population shall be treated as members of a species that is proposed to be listed under section 4 of the Act [16 U.S.C. 1533].

For purposes of this paragraph, the term 'defense-related agency action' means an agency action proposed to be carried out directly by a military department.

(2) For purposes of section 7 of the Act [16 U.S.C. 1536], any member of the experimental population shall be treated while within the management zone as a member of a species that is proposed to be listed under section 4 of the Act [16 U.S.C. 1533]. Section 9 of the Act [16 U.S.C. 1538] applies to members of the experimental population; except that any

~~incidental taking of such a member during the course of an otherwise lawful activity within the management zone, may not be treated as a violation of the Act or the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.].~~

~~(d) IMPLEMENTATION OF PLAN. The Secretary shall implement the plan developed under subsection (b)—~~

~~(1) after the Secretary provides an opinion under section 7(b) of the Act [16 U.S.C. 1536(b)] regarding each prospective action for which consultation was initiated by a Federal agency or requested by a prospective permit or license applicant before April 1, 1986; or~~

~~(2) if no consultation under section 7(a)(2) or (3) regarding any prospective action is initiated or requested by April 1, 1986, at any time after that date.~~

~~(e) CONSULTATION AND EFFECT OF OPINION.—A Federal agency shall promptly consult with the Secretary, under section 7(a)(3) of the Act [16 U.S.C. 1536(a)(3)], at the request of, and in cooperation with, any permit or license applicant regarding any prospective action. The time limitations applicable to consultations under section 7(a)(2) of the Act apply to consultations under the preceding sentence. In applying section 7(b)(3)(B) with respect to an opinion on a prospective action that is provided after consultation under section 7(a)(3), that opinion shall be treated as the opinion issued after consultation under section 7(a)(2) unless the Secretary finds, after notice and opportunity for comment in accordance with section 553 of title 5, United States Code, that a significant change has been made with respect to the action or that a significant change has occurred regarding the information used during the initial consultation. The interested party may petition the Secretary to make a finding under the preceding sentence. The Secretary may implement any reasonable and prudent alternatives specified in any opinion referred to in this subsection through appropriate agreements with any such Federal agency, prospective permit or license applicant, or other interested party.~~

~~(f) CONSTRUCTION.—For purposes of implementing the plan, no act by the Service, an authorized State agency, or an authorized agent of the Service or such an agency with respect to a sea otter that is necessary to effect the relocation or management of any sea otter under the plan may be treated as a violation of any provision of the Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).”~~

Section 316 would overcome legal obstacles to enable the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration (NASA) to execute an agreement that provides for the transfer of funds appropriated to the Secretary to the Administrator so that the Administrator can use those funds to provide necessary response actions for environmental contamination that is solely attributable to the activities of the Department of Defense at the time the property was used by the Secretary of the Navy in the area constituting the former Naval Air Station Chincoteague, Virginia. Legislation is necessary because the Wallops Flight Facility is currently under the administrative jurisdiction of NASA. The response actions allowed under this provision would be those within the authority provided by the Defense Environmental Restoration Program (DERP), 10 U.S.C. 2700 to 2711. Portions of the Wallops Flight Facility were formerly designated as the Chincoteague Naval Air Station and under the control of the Navy and were returned to NASA by the Navy in 1959. Some environmental contamination has been detected at certain locations on the Wallops Flight

Facility which appears to be the result of releases from actions at the time of the former Navy control over the property.

The United States Army Corps of Engineers (USACE), acting as the lead agency for the Department of Defense (DoD) in the management of the Formerly Used Defense Sites (FUDS) program, has been conducting preliminary assessments/site inspections (PA/SIs) at various locations on the Wallops Flight Facility for several years. For the most part, those PA/SIs have indicated no additional action is necessary. But it appears that there may be a few locations, particularly those relating to munitions, where further environmental response action may be necessary as a result of historic Navy operations on the property. Because these sites are located on the lands under the administrative jurisdiction and management responsibility of another Federal agency (NASA), DoD is seeking authorization to expend its funds to contribute to response actions at the specific locations on that property where Navy operations on the Naval Air Station Chincoteague, were the sole source of a release. This will result in the most effective and efficient response actions, as determined necessary, because NASA is conducting other response actions on the property in response to releases that occurred during the period of NASA use.

Subsection (a) would authorize the Secretary of Defense to engage in necessary response actions at the Wallops Flight Facility applying the DERP. This would allow DoD to fund that portion of any cleanup resulting solely from the former Navy use of the property.

Subsection (b) would allow DoD and NASA to enter into agreements to conduct the restoration. The subsection also would provide that, when one agency is taking the lead, the other agency may provide reimbursement of its share of the costs. It is anticipated that NASA will be the lead agency for the conduct of response actions on the Wallops Flight Facility that are authorized by this provision.

Subsection (c) would provide that the source of DoD funding will be the Environmental Restoration, Formerly Used Defense Sites, account and would authorize use of funds in that account for reimbursable agreements entered into under authority of subsection (b).

Budgetary Implications: This is an authorization for a more efficient means of conducting a long-term restoration action for all releases. The response costs for releases that occurred during the period the Navy controlled the land have previously been budgeted in the Formerly Used Defense Sites program.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
FUDS	2.0	2.0	2.0	2.0	2.0	**ER, FUDS**	**05**	**047G**	**0708008D**
Total	2.0	2.0	2.0	2.0	2.0	--	--	--	--

Changes to Existing Law: This proposal would not change the text of any existing provision of law.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Section 401 would prescribe the personnel strengths for the active forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's Budget for fiscal year 2015.

Subtitle B—Reserve Forces

Section 411 would prescribe the end strengths for the Selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense, and the Department of Homeland Security for the Coast Guard Reserve, in the President's Budget for fiscal year 2015.

Section 412 would prescribe the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces for fiscal year 2015.

Section 413 would prescribe the end strengths for dual-status technicians of the reserve components of the Army and Air Force for fiscal year 2015.

Section 414 would prescribe the maximum end strengths for non-dual status technicians of the reserve components of the Army and Air Force for fiscal year 2015. The maximum end strength for the Army Reserve set forth in subsection (a)(2) assumes the enactment of legislation contained in section 416 that would change the method used to authorize and account for non-dual status technicians from a numerical limit to a percentage of the workforce.

Section 415 would prescribe the maximum number of reserve personnel authorized to be on active duty for operational support.

Section 416 would expand assignment opportunities for military technicians (dual status) from requiring the same unit as their civilian employment to allowing assignment anywhere within the Selected Reserve. Expanding military assignment opportunities maintains Federal civilian employees (military technicians) with a vested interest in the particular Service and reserve component without limiting a commander's discretion to employ/deploy the best service members. Broadening the conditions of employment for military technicians would provide the Secretary of the military department with greater flexibility while supporting the needs of the Service.

Without this proposal, effective utilization and career progression of military technicians (dual status) can be hindered by restricting military and civilian assignments to the same unit. Currently, 10 U.S.C. 10216(d) requires Federal civilian employees of the Army and Air Force Reserve (military technicians (dual status)) to be assigned as service members to the same supported unit. This assignment is a condition of employment. Therefore, military technician (dual status) must maintain this military *same unit assignment* to secure and maintain Federal civilian employment. Although this proposal would broaden assignment opportunities, it would

not necessitate a change to Service policies such that if the Air Force Reserve or Army Reserve desires to continue requiring unit affiliation for their military technicians (dual status) they have that flexibility.

The Army Reserve, with separate community-based units, has different support requirements before deployment and at home station during deployment than defined by the Modified Table of Organization and Equipment for deployment of the unit. Army Reserve units are composed of distinct organizations at various levels of command (company, battalion, brigade, division, and theater) with command structure dispersed over several states. The expertise of the unit (e.g. Engineer Company) establishes the Military Occupational Specialty/Area of Concentration. The skill set for the military assignment may not equate to the duties required by federal employment (e.g. operations, pay, or logistics). The statutory "same unit assignment" precludes military career progression by restricting rotational assignments and experiences. The same unit assignment limits military commanders from selecting the best soldier available within the command for deployment. The same unit assignment restricts Army Reserve leadership from effectively employing all Soldiers and inhibits the career progression of military technicians.

Budget Implications: This proposal is cost neutral for civilian labor Operations and Maintenance, Army Reserve (OMAR). This proposal would enable a broader applicant pool, improved utilization of current employees, and greater retention of employees for 60 percent of the 8990 Army Reserve military technicians. The table below reflects the increased execution of the OMAR account due to an increase in employee retention. This proposal is projected to retain 20 employees throughout the year. The average salary for a military technician is estimated at $72,000 for FY 2015 multiplied by 20 personnel presents the increased execution in OMAR for military technicians displayed in the table, assuming half-year costing for year-to-year increases in military technician workyears.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army Reserve	0.72	1.5	1.6	1.7	1.8	OMAR/2080	1	30	113R63
Air Force Reserve	0	0	0	0	0				
Total	0	0	0	0	0				

PERSONNEL AFFECTED									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army	20	21	22	23	24	OMAR	1	30 &	113R63

Reserve								50	& 115R20
Air Force Reserve	0	0	0	0	0				
Total	20	21	22	23	24				

Changes to Existing Law: This proposal would make the following changes to sections 10217 and 10218 of title 10, United States Code:

§ 10217. Non-dual status technicians

(a) DEFINITION.—For the purposes of this section and any other provision of law, a non-dual status technician is a civilian employee of the Department of Defense serving in a military technician position who—

(1) was hired as ~~a technician~~ an employee of the Department of Defense before November 18, 1997, under any of the authorities specified in subsection (b) and as of that date is not a member of the Selected Reserve or after such date has ceased to be a member of the Selected Reserve;

(2) is employed under section 709 of title 32 in a position designated under subsection (c) of that section and when hired was not required to maintain membership in the Selected Reserve; ~~or~~

(3) is hired as a temporary employee pursuant to the exception for temporary employment provided by subsection (d) and subject to the terms and conditions of such subsection~~.~~; or

(4) is serving in the Army Reserve in a position designated by the Secretary of the Army to be filled by a non-dual status technician.

(b) EMPLOYMENT AUTHORITIES.—The authorities referred to in subsection (a) are the following:

(1) Section 10216 of this title.

(2) Section 709 of title 32.

(3) The requirements referred to in section 8401 of title 5.

(4) Section 8016 of the Department of Defense Appropriations Act, 1996 (Public Law 104-61; 109 Stat. 654), and any comparable provision of law enacted on an annual basis in the Department of Defense Appropriations Acts for fiscal years 1984 through 1995.

(5) Any memorandum of agreement between the Department of Defense and the Office of Personnel Management providing for the hiring of military technicians.

(c) PERMANENT LIMITATIONS ON NUMBER.—(1)(A) The total number of non-dual status technicians employed ~~by the Army Reserve may not exceed 595 and~~ by the Air Force Reserve may not exceed 90.

(B) The total number of non-dual status technicians employed by the Army Reserve may not exceed 60 percent of the total number of military technicians employed by the Army Reserve.

(C) If at any time the number of non-dual status technicians employed by the Army Reserve and Air Force Reserve exceeds the number specified in the limitation in ~~the preceding sentence~~ subparagraph (A) or subparagraph (B), as the case may be, the Secretary of Defense shall require

that the Secretary of the Army or the Secretary of the Air Force, or both, take immediate steps to reduce the number of such technicians in order to comply with such limitation.

(2) The total number of non-dual status technicians employed by the National Guard may not exceed 1,950. If at any time the number of non-dual status technicians employed by the National Guard exceeds the number specified in the limitation in the preceding sentence, the Secretary of Defense shall require that the Secretary of the Army or the Secretary of the Air Force, or both, take immediate steps to reduce the number of such technicians in order to comply with such limitation.

(3) An individual employed as a non-dual status technician as described in subsection (a)(3) shall not be considered a non-dual status technician for purposes of paragraphs (1) and (2).

(d) EXCEPTION FOR TEMPORARY EMPLOYMENT.—(1) Notwithstanding section 10218 of this title, the Secretary of the Army or the Secretary of the Air Force may employ, for a period not to exceed two years, a person to fill a vacancy created by the mobilization of a military technician (dual status) occupying a position under section 10216 of this title.

(2) The duration of the temporary employment of a person in a military technician position under this subsection may not exceed the shorter of the following:

(A) The period of mobilization of the military technician (dual status) whose vacancy is being filled by the temporary employee.

(B) Two years.

(3) No person may be hired under the authority of this subsection after January 6, 2013.

§ 10218. Army and Air Force Reserve technicians: conditions for retention; mandatory retirement under civil service laws

(a) SEPARATION AND RETIREMENT OF MILITARY TECHNICIANS (DUAL STATUS).—(1) An individual employed by the Army Reserve or the Air Force Reserve as a military technician (dual status) who after October 5, 1999, loses dual status is subject to paragraph (2) or (3), as the case may be.

(2) If a technician described in paragraph (1) is eligible at the time dual status is lost for an unreduced annuity and is age 60 or older at that time, the technician shall be separated not later than 30 days after the date on which dual status is lost.

(3)(A) If a technician described in paragraph (1) is not eligible at the time dual status is lost for an unreduced annuity or is under age 60 at that time, the technician shall be offered the opportunity to—

(i) reapply for, and if qualified may be appointed to, a position as a military technician (dual status); or

(ii) apply for a civil service position that is not a military technician (dual status) position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician in a position designated for military technician (dual status), the technician—

(i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and

(ii) shall be separated or retired—

(I) in the case of a technician first hired as a military technician (dual status) on or before February 10, 1996, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a military technician (dual status) after February 10, 1996, not later than one year after the date on which dual status is lost.

(4) For purposes of this subsection, a military technician is considered to lose dual status upon—

(A) being separated from the Selected Reserve; or

(B) ceasing to hold the military grade specified by the Secretary concerned for the position held by the technician.

(b) NON-DUAL STATUS TECHNICIANS.—(1) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is eligible for an unreduced annuity and is age 60 or older shall be separated not later than April 5, 2000.

(2)(A) An individual who on October 5, 1999, is employed by the Army Reserve or the Air Force Reserve as a non-dual status technician and who on that date is not eligible for an unreduced annuity or is under age 60 shall be offered the opportunity to—

(i) reapply for, and if qualified be appointed to, a position as a military technician (dual status); or

(ii) apply for a civil service position that is not a technician position.

(B) If such a technician continues employment with the Army Reserve or the Air Force Reserve as a non-dual status technician, the technician—

(i) shall not be permitted, after October 5, 2000, to apply for any voluntary personnel action; and

(ii) shall be separated or retired—

(I) in the case of a technician first hired as a technician on or before February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age; and

(II) in the case of a technician first hired as a technician after February 10, 1996, and who on October 5, 1999, is a non-dual status technician, not later than one year after the date on which dual status is lost.

(3) An individual employed by the Army Reserve or the Air Force Reserve as a non-dual status technician who is ineligible for appointment to a military technician (dual status) position, or who decides not to apply for appointment to such a position, or who, during the period beginning on October 5, 1999, and ending on April 5, 2000, is not appointed to such a position, shall for reduction-in-force purposes be in a separate competitive category from employees who are military technicians (dual status).

(c) UNREDUCED ANNUITY DEFINED.—For purposes of this section, a technician shall be considered to be eligible for an unreduced annuity if the technician is eligible for an annuity under section 8336, 8412, or 8414 of title 5 that is not subject to a reduction by reason of the age or years of service of the technician.

(d) VOLUNTARY PERSONNEL ACTION DEFINED.—In this section, the term "voluntary personnel action", with respect to a non-dual status technician, means any of the following:

(1) The hiring, entry, appointment, reassignment, promotion, or transfer of the technician into a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

(2) Promotion to a higher grade if the technician is in a position for which the Secretary concerned has established a requirement that the person occupying the position be a military technician (dual status).

Subtitle C—Authorization of Appropriations

Section 421 would authorize appropriations for fiscal year 2015 for military personnel.

TITLE V— MILITARY PERSONNEL POLICY

Subtitle A— Officer Personnel Policy Generally

Section 501 would repeal section 667and section 662(b) of title 10, United States Code, removing the requirement to submit an annual report to Congress concerning the Department of Defense (DoD) Joint Officer Management (JOM) Program. In recent years, DoD initiated a reduction to mandatory reports in order to realize resource savings. Then-Secretary Robert Gates announced the Track IV Efficiency Initiatives in March 2011, which included direction to "eliminate all non-essential, internally-generated reports…" and to pursue legislative relief for reports required by statute.

If this proposal is enacted, the Office of the Secretary of Defense (OSD) would continue to require the military departments and the Joint Staff to provide annual comparative data in order to demonstrate each component's capability and commitment to meeting JOM Program requirements. Maintaining the annual data at the OSD level, without the significant time and resource investment of coordinating and producing a Congressional level report, would result in cost savings.

Through internal oversight provided by OSD and the Joint Staff, the Department has been able to ensure that the Military Services meet the JOM Program requirements specified in chapter 38of title 10 consistently each year. The Department has worked diligently to mature the DoD JOM Program since implementation of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

Budget Implications: N/A, there are no budgetary requirements associated with this proposal.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	0.0	0.0	0.0	0.0	0.0	NA			--
Navy	0.0	0.0	0.0	0.0	0.0	NA			--
Marine Corps	0.0	0.0	0.0	0.0	0.0	NA			--
Air Force	0.0	0.0	0.0	0.0	0.0	NA			--

Total	0.0	0.0	0.0	0.0	0.0	--	--	--	--

Changes to Existing Law: This proposal would repeal sections 667 and 662(b) of title 10, United States Code, as follows:

~~**§ 667. Annual report to Congress.**~~

~~The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this, for the period covered by the report, the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):~~

~~(1)(A) The number of officers designated as a joint qualified officer.~~

~~(B) The number of officers who meet the criteria for designation as a joint qualified officer, but were not selected, together with the reasons why.~~

~~(C) A comparison of the number of officers who were designated as a joint qualified officer who had served in a Joint Duty Assignment List billet and completed Joint Professional Military Education Phase II, with the number designated as a joint qualified officer based on their aggregated joint experiences and completion of Joint Professional Military Education Phase II.~~

~~(2) The number of officers designated as a joint qualified officer, shown by grade and branch or specialty and by education.~~

~~(3) The promotion rate for officers designated as a joint qualified officer, compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade and the same competitive category. A similar comparison will be made for officers both below the promotion zone and above the promotion zone.~~

~~(4) The average length of tours of duty in joint duty assignments—~~

~~(A) for general and flag officers, shown separately for assignments to the Joint Staff and other joint duty assignments; and~~

~~(B) for other officers, shown separately for assignments to the Joint Staff and other joint duty assignments.~~

~~(5) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments.~~

~~(6) (A) An analysis of the extent to which the Secretary of each military department is providing officers to fill that department's share (as determined by law or by the Secretary of Defense) of Joint Staff and other joint duty assignments, including the reason for any significant failure by a military department to fill its share of such positions and a discussion of the actions being taken to correct the shortfall.~~

~~(B) An assessment of the extent to which the Secretary of each military department is assigning personnel to joint duty assignments in accordance with this chapter and the policies, procedures, and practices established by the Secretary of Defense under section 661(a) of this title.~~

~~(7) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) and in the case of each such authority—~~

~~(A) whether the authority was exercised for a general or flag officer;~~

~~(B) an analysis of the reasons for exercising the authority; and~~

~~(C) the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).~~

~~(8) The number of officers in the grade of captain (or in the case of the Navy, lieutenant) and above certified at each level of joint qualification as established in regulation and policy by the Secretary of Defense with the advice of the Chairman of the Joint Chiefs of Staff. Such numbers shall be reported by service and grade of the officer.~~

~~(9) With regard to the principal courses of instruction for Joint Professional Military Education Level II, the number of officers graduating from each of the following:~~

~~(A) The Joint Forces Staff College.~~

~~(B) The National Defense University.~~

~~(C) Senior Service Schools.~~

~~(10) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the performance of the Department of Defense and the performance of each military department in carrying out this chapter.~~

* * * * * * *

§ 662. ~~Promotion~~ policy objectives for joint officers.

~~(a) QUALIFICATIONS.~~ The Secretary of Defense shall ensure that the qualifications of officers assigned to joint duty assignments are such that-

(1) officers who are serving on, or have served on, the Joint Staff are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for officers of the same armed force in the same grade and competitive category who are serving on, or have served on, the headquarters staff of their armed force; and

(2) officers in the grade of major (or in the case of the Navy, lieutenant commander) or above who have been designated as a joint qualified officer are expected, as a group, to be promoted to the next higher grade at a rate not less than the rate for all officers of the same armed force in the same grade and competitive category.

~~(b) ANNUAL REPORT. Not later than January 1 of each year, the Secretary of Defense shall submit to Congress a report on the promotion rates during the preceding fiscal year of officers who are serving in, or have served in, joint duty assignments or on the Joint Staff, and officers who have been designated as a joint qualified officer in the grades of major (or in the case of the Navy, lieutenant commander) through colonel (or in the case of the Navy, captain), especially with respect to the record of officer selection boards in meeting the objectives of paragraphs (1) and (2) of subsection (a). If such promotion rates fail to meet such objectives for any fiscal year, the Secretary shall include in the report for that fiscal year information on such failure and on what action the Secretary has taken or plans to take to prevent further failures.~~

Section 502 would provide the Secretaries of the military departments the authority to establish selection objectives for warrant officer specialties for Selective Retirement Boards

(SRBs) convened pursuant to 10 U.S.C. 581. This authority is necessary to enable the Services to retain the very best warrant officers in each warrant officer specialty and not exacerbate the shortage of warrant officers in under-strength and low-density warrant officer specialties, as forces are drawn down during fiscal years 2014 through 2017. This proposal will give the Services the ability to retain the right skills and capabilities for the future and avoid the need to access, grow, and retrain officers to fill under-strength and low-density specialties.

Section 581 gives the Secretaries of the military departments the authority to convene SRBs for regular warrant officers above the grade of warrant officer one (W-1) who are eligible for retirement under any provision of law and whose name is not on a list of warrant officers recommended for promotion. The law requires the Secretaries to specify the maximum number of warrant officers that a SRB may recommend for retirement. The law also requires the board to consider all warrant officers on the active-duty list in the same grade, or same grade and competitive category, whose position on the active-duty list is between that of the most junior warrant officer and the most senior warrant officer in that grade whose names are submitted to the board. The law does not allow the Secretaries to ensure the retention of warrant officers in under-strength specialties by limiting the number recommended for retirement within a particular year group and/or specialty or establishing specific selection objectives by specialty.

There are currently two competitive categories for Army active-duty list warrant officers: Aviation (aviator specialties) and Technical Services (non-aviator specialties). There are 16 warrant officer specialties within the Aviation competitive category and 50 warrant officer specialties within the Technical Services competitive category. There are personnel overages in several of the most senior warrant officer specialties that will be exacerbated as the structure continues to decrease during the drawdown, unless deliberate actions are taken to generate additional losses within these overstrength specialties. Consequently, an SRB with specific selection objectives for each warrant officer specialty may be necessary in either competitive category in order to meet end-strength targets.

This proposal would provide the Secretaries of the military departments the authority to set minimum and maximum selection objectives by specialty for SRBs convened pursuant to 10 U.S.C. 581. Such authority would be similar to that currently granted to the Secretaries of the military departments by law to set selection objectives by specialty during a promotion selection board. In the case of an SRB, under this proposal, the Secretaries of the military departments will set selection objectives based upon whether a particular specialty is over/under strength. This will allow the Service to retain required skill sets and not exacerbate the shortage of warrant officers in under-strength specialties. Without this proposal, a SRB convened under the current law has a high probability of selecting an unspecified number of officers in under-strength specialties for retirement which would be inconsistent with the needs of the Service.

Budget Implications: No additional resources are needed to provide the Secretaries of the military departments the authority to set specific selection objectives by warrant officer specialty during an SRB convened pursuant to 10 U.S.C. 581. This proposal simply adds precision (increased selectivity and effectiveness) to an authority the Services already have. This enhanced authority will allow the Services to retain required skill sets and not exacerbate personnel shortages in under-strength specialties. Accordingly, this proposal also produces a

cost-avoidance by saving the Services from having to access, grow, and retrain new officers to fill personnel shortages resulting from a SRB.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY15	**FY16**	**FY17**	**FY18**	**FY19**	**Appropriation From**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army	0	0	0	0	0	0	0	0	0
Navy	0	0	0	0	0	0	0	0	0
Air Force	0	0	0	0	0	0	0	0	0
Marines	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0

PERSONNEL AFFECTED									
	FY15	**FY16**	**FY17**	**FY18**	**FY19**	**Appropriation From**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army	0	0	0	0	0	0	0	0	0
Navy	0	0	0	0	0	0	0	0	0
Air Force	0	0	0	0	0	0	0	0	0
Marines	0	0	0	0	0	0	0	0	0
Total	0	0	0	0	0	0	0	0	0

Changes to Existing Law: This proposal would make the following changes to section 581 of title 10, United States Code:

§ 581. Selective retirement

(a) A regular warrant officer who holds a warrant officer grade above warrant officer, W-1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

(b) A warrant officer who is recommended for retirement under this section and whose retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for retirement.

(c) The retirement of a warrant officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(d)(1) The Secretary concerned shall prescribe regulations for the administration of this section.

(2) Such regulations shall require that when the Secretary concerned submits a list of regular warrant officers to a selection board convened under section 573(c) of this title to consider regular warrant officers for selection for retirement under this section, the list shall include ~~each —~~

(A) the name of each warrant officer on the active-duty list in the same grade or same grade and competitive category whose position on the active-duty list is between that of the most junior regular warrant officer in that grade whose name is submitted to the board and that of the most senior regular warrant officer in that grade whose name is submitted to the board~~.~~; or

(B) with respect to a group of warrant officers designated under subparagraph (A) who are in a particular grade and competitive category, only those warrant officers in that grade and competitive category who are also in a particular year group or specialty, or any combination thereof determined by the Secretary.

(~~2~~3) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e) The Secretary concerned may defer for not more than 90 days the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

Section 503 would align the statutory retirement procedures under sections 581 and 638 of title 10, United States Code, with those of nearly all other military retirement procedures under title 10. Subsection (c) of section 581 of title 10, U.S. Code, states that "[t]he retirement of an officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law." The same language appears in subsection (d) of section 638, title 10, U.S. Code. Throughout title 10, numerous references are made to both voluntary and involuntary retirement of officers and warrant officers on the active-duty list, and nearly all of them contemplate retirement on the first day of any given calendar month. Though this is not an exhaustive list of the statutory references to commissioned officer retirements on the first day of a given calendar month, it illustrates the overwhelming support that this was legislative intent. This is not meant to suggest that retirement on a day other than

the first of any given month is statutorily prohibited, but rather that retirement on the first of any given month is the statutory preference.

- Sections 580, 631, 632, and 6383 of title 10, U.S. Code, all govern involuntary retirement of warrant officers, limited duty officers, and regular commissioned officers who fail of selection, stating that eligible officers shall be retired not later than the first day of the seventh calendar month after the President or his delegate, approves the report of the board, or after the officer reaches eligibility for retirement as a commissioned officer.

- Sections 633, 634, 635, 636, and 6383 of title 10, U.S. Code, all govern mandatory statutory retirement dates for officers based on years of active commissioned service, stating that eligible officers shall be retired on the first day of the month after the month in which the officer completes the specified years of active commissioned service.

- Section 637, title 10, U.S. Code, governs officers selected for continuation on active duty, stating that eligible officers shall be retired on the first day of the first month following the month in which the officer completes the period of continued service

- Sections 1251, 1252, and 1253 of title 10, U.S. Code, all govern mandatory statutory retirement dates for officers based on age, stating that eligible officers shall be retired on the first day of the month following the month in which the officer attains the specified age.

- Section 581, title 10, U.S. Code governs the involuntary retirement of warrant officers selected by a selective early retirement board (SERB), which shall be "not be later than the first day of the seventh calendar month [after the Secretary approves the report of the board.]" This section is the warrant officer analogue to section 638, title 10, U.S. Code.

- Section 638, title 10, U.S. Code, governs the involuntary retirement of commissioned officers selected by a selective early retirement board (SERB), stating that retirement "shall not be later than the first day of the seventh calendar month [after the Secretary approves the report of the board.]" This section is the commissioned officer analogue to section 581, title 10, U.S. Code.

- Section 6323, title 10, U.S. Code, governs the retirement of commissioned officers after 20 or more years of service, which may be on the first day of the month designated by the President or his delegate.[1]

As currently written, sections 581(e) and 638(b)(3) authorize the Secretaries of the military departments to defer the involuntary retirement of regular commissioned officers selected by a SERB for a period of not more than 90 days. However, in giving the word "day" its plain meaning, while still complying with the statutory preference of retiring commissioned officers on the first day of any given calendar month, there are only three pairings of months in

[1] The statute actually states that "[a]n officer of the Navy or the Marine Corps who applies for retirement after completing more than 20 years of active service…may, in the discretion of the President be retired on the first day of any month designated by the President. It is clear that "may" refers to the President's authority to grant or deny the retirement request, not the authority to grant the retirement request for a day other than the first of the month.

which the Secretaries could fully exercise their 90 day deferral authorities, namely December through February[2], January through March[3], and February through April. In order to retire an officer on the first day of any other calendar month would require the Secretaries to defer retirement for a period of at least 91 days, when the plain language of the statute allows not more than 90 days. The alternative would be to limit the deferral authority of the Secretaries to a period of 61 days.

This proposal would enable the Secretaries of the military departments to exercise their deferral authority to the fullest extent possible, while still complying with the statutory preference of retiring officers on the first day of any given calendar month. Although the strict 90 day deferral may have been drafted in a manner to afford uniform application, its practical implications may lead to undesired consequences. For example, a strict interpretation of the 90 day deferral, as applied to any three month period which has two 31 day months, may require retirement on the 28th day of a month. This has the undesired consequence of potentially affecting an officer's retirement pay, as 28 days of active service in any given 30 day month may not constitute a creditable amount of service for retirement purposes.[4] This proposal will allow uniform application in that any officer selected for early retirement, regardless of the month during which the board report is approved, has the opportunity for three full months of retirement deferral. As currently proposed, if deferred for the maximum time period allowed, selected officers below the grade of brigadier general or rear admiral (lower half) would retire not later than the first day of the tenth month[5] beginning after the month in which the Secretary concerned approves the board report, and selected officers in the grade of brigadier general, major general, rear admiral (lower half), or rear admiral would retire not later than the first day of the thirteenth month[6] beginning after the month in which the Secretary concerned approves the board report.

Far from being a theoretical argument, the language in the retirement deferral statutes has significant practical ramifications. In any three consecutive month period containing two months with 31 days, a deferral for not more than 90 days would require retirement on a date other than the first of the month. Sections 581 and 683 of title 10, U.S. Code do not make clear whether deferral should begin on the first or second day of any given month. Taking the example of July, August, and September, under one interpretation where deferral begins on the second day of July, a selected officer would be authorized to retire on the 30th day of September. However, under an alternative interpretation where deferral begins on the first day of July, the statute would actually require retirement on the 29th day of September. In FY13, two U.S. Marine Corps officers selected for early retirement were recommended to retire on a day other than the first of the month, an outcome which runs contrary to the statutory preference that commissioned officers retire on the first day of any given month.

Additionally, this proposal would also clarify some ambiguities in subsection (b)(1)(B) of section 638. This subsection discusses those officers who become eligible for retirement after the Secretary concerned approves the report of the board which recommended the officers for

[2] Strictly interpreting the 90 day deferral authority, this would not be permissible during a leap year.
[3] See footnote 2.
[4] 5 U.S.C. § 8411 states that "[t]he total service of any employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any."
[5] Statutory deadline on the first of the seventh month, plus an additional three month deferral.
[6] Statutory deadline on the first of the tenth month, plus an additional three month deferral.

early retirement. The subsection references sections 3911, 6323, 8911, of title 10, U.S. Code, none of which specify a specific retirement date, which by association means that section 638 does not specify a retirement date for those officers who fall under subsection (b)(1)(B). If the statute suggests that an officer must retire immediately upon reaching 20 years of eligible service, which again is unclear as currently drafted, it leaves open the possibility of an officer being forced to retire mere days after the board report is approved simply due to reaching retirement eligibility. By specifying a retirement date as the later of 20 year retirement eligibility or seven months after the board report is approved, the statute will avoid this potential inequity. Additionally, the proposed language under subsection (b)(3) as relates to these officers allows for them to benefit from a possible three month deferral, like officers selected for early retirement under subsection (b)(1)(A). As proposed, this deferral would not apply to those officers selected for early retirement under subsection (b)(1)(B) who reach retirement eligibility later than the first day of the seventh month following the month in which the Secretary concerned approved the report of the board, as they would already have more than sufficient transition time and notice.

Budget Implications: The crux of this proposal is to expand the authority of the Secretary of a military department to defer retirement dates for up to 3 months, rather than 90 days. Depending on any given 3-consecutive month period, this may result in a 91 or 92 day deferral, expanding the current authority by one or two days. For example, this proposal would have had no budgetary implications for any Marine Corps colonels selected by the FY-13 SERB; based on timelines, 90 day deferrals for those selected colonels happened to coincide with a full three months. On the other hand, the proposal would have had an impact on the Marine Corps lieutenant colonels selected by the FY-13 SERB. The resource requirements projected in the budgetary implications table assume a worst case scenario where, going forward, a small number of officers in the grades of O-6 and O-5 are deferred for two additional days.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2014	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	.0033	.0033	.0033	.0033	.0033	MPMC	01	5	0000000M
Total	.0011	.0011	.0011	.0011	.0011	MPMC	01	10	0000000M
Total	.0010	.0010	.0010	.0010	.0010	MPMC	01	25	0000000M
Total	.0001	.0001	.0001	.0001	.0001	MPMC	01	30	0000000M
Total	.0002	.0002	.0002	.0002	.0002	MPMC	01	55	0000000M

Changes to Existing Law: This proposal would make the following changes to sections 581 and 638 of title 10, U.S. Code:

CHAPTER 33A—APPOINTMENT, PROMOTION, AND INVOLUNTARY SEPARATION AND RETIREMENT FOR MEMBERS ON THE WARRANT OFFICER ACTIVE-DUTY LIST

* * * * * *

§ 581. Selective retirement

(a) A regular warrant officer who holds a warrant officer grade above warrant officer, W-1, and whose name is not on a list of warrant officers recommended for promotion and who is eligible to retire under any provision of law may be considered for retirement by a selection board convened under section 573(c) of this title. The Secretary concerned shall specify the maximum number of warrant officers that such a board may recommend for retirement.

(b) A warrant officer who is recommended for retirement under this section and whose retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for retirement.

(c) The retirement of a warrant officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(d)(1) The Secretary concerned shall prescribe regulations for the administration of this section. Such regulations shall require that when the Secretary concerned submits a list of regular warrant officers to a selection board convened under section 573(c) of this title to consider regular warrant officers for selection for retirement under this section, the list shall include each warrant officer on the active-duty list in the same grade or same grade and competitive category whose position on the active-duty list is between that of the most junior regular warrant officer in that grade whose name is submitted to the board and that of the most senior regular warrant officer in that grade whose name is submitted to the board.

(2) Such regulations shall establish procedures to exclude from consideration by the board any warrant officer who has been approved for voluntary retirement, or who is to be mandatorily retired under any other provision of law, during the fiscal year in which the board is convened or during the following fiscal year. An officer not considered by a selection board convened under section 573(c) of this title under such regulations because the officer has been approved for voluntary retirement shall be retired on the date approved for the retirement of such officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

(e) The Secretary concerned may defer for not more than ~~90 days~~ three months the retirement of an officer otherwise approved for early retirement under this section in order to prevent a personal hardship to the officer or for other humanitarian reasons. An officer recommended for early retirement under this section, if approved for deferral, shall be retired on the date requested by him, and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement. Any such deferral shall be made on a case-by-case basis considering the

circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

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CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

* * * * * *

§ 638. Selective early retirement

(a)(1) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may be considered for selective early retirement by a selection board convened under section 611(b) of this title if the officer is described in any of subparagraphs (A) through (D) as follows:

(A) An officer holding the regular grade of lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion.

(B) An officer holding the regular grade of colonel or, in the case of an officer of the Navy, captain who has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

(C) An officer holding the regular grade of brigadier general or rear admiral (lower half) who has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

(D) An officer holding the regular grade of major general or rear admiral who has served at least three and one-half years of active duty in that grade.

(2) The Secretary of the military department concerned shall specify the number of officers described in paragraphs (1)(A) and (1)(B) which a selection board convened under section 611(b) of this title may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

(3) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may also be considered for early retirement under the circumstances prescribed in section 638a of this title.

(b)(1) An officer in a grade below brigadier general or rear admiral (lower half) who is recommended for early retirement under this section or section 638a of this title and whose early retirement is approved by the Secretary concerned shall—

(A) be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement; or

(B) if the officer is not eligible for retirement under any provision of law, be retained on active duty until he is qualified for retirement under section 3911, 6323, or 8911 of this title, and then be retired under that section, unless he is sooner retired or

discharged under some other provision of law, with such retirement under that section to be not later than the first day of the month beginning after the month in which the officer becomes qualified for retirement under that section, or on the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement, whichever is later.

(2) An officer who holds the regular grade of brigadier general, major general, rear admiral (lower half), or rear admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approved the report of the board which recommended the officer for early retirement.

(3) The Secretary concerned may defer for not more than ~~90 days~~ three months the retirement of an officer otherwise approved for early retirement under this section or section 638a of this title in order to prevent a personal hardship to the officer or for other humanitarian reasons. An officer recommended for early retirement under subparagraph (b)(1)(A) or under section 638a of this title, if approved for deferral, shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement. The Secretary concerned may defer the retirement of an officer otherwise approved for early retirement under subparagraph (b)(1)(B), but in no case later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement. An officer recommended for early retirement under subparagraph (b)(2), if approved for deferral, shall be retired on the date requested by the officer, and approved by the Secretary concerned, which date shall be not later than the first day of the thirteenth calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement. Any such deferral shall be made on a case-by-case basis considering the circumstances of the case of the particular officer concerned. The authority of the Secretary to grant such a deferral may not be delegated.

(c) So long as an officer in a grade below brigadier general or rear admiral (lower half) holds the same grade, he may not be considered for early retirement under this section more than once in any five-year period.

(d) The retirement of an officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

(e)(1) The Secretary of Defense shall prescribe regulations for the administration of this section.

(2)(A) Such regulations shall require that when the Secretary of the military department concerned submits a list of officers to a selection board convened under section 611(b) of this title to consider officers for selection for early retirement under this section, such list (except as

provided in subparagraph (B)) shall include each officer on the active-duty list in the same grade and competitive category whose position on the active-duty list is between that of the most junior officer in that grade and competitive category whose name is submitted to the board and that of the most senior officer in that grade and competitive category whose name is submitted to the board.

(B) A list under subparagraph (A) may not include an officer in that grade and competitive category (i) who has been approved for voluntary retirement under section 3911, 6323, or 8911 of this title, or (ii) who is to be involuntarily retired under any provision of law during the fiscal year in which the selection board is convened or during the following fiscal year.

(C) An officer not considered by a selection board convened under section 611(b) of this title by reason of subparagraph (B) shall be retired on the date approved for the retirement of that officer as of the convening date of such selection board unless the Secretary concerned approves a modification of such date in order to prevent a personal hardship for the officer or for other humanitarian reasons.

Subtitle B—Reserve Component Management

Section 511 would reconcile a contradiction between two provisions in law pertaining to the requirements for enlistment in the reserve components of the Armed Forces. Title 10, U.S.C. section 504, addresses the qualifications for enlistment into the Armed Forces, and title 10, U.S.C. section 12102 more specifically addresses qualifications for enlistment in the reserve components.

This proposal would eliminate the potential for misinterpretation of the citizenship requirements for enlistment in the reserve components of the Armed Forces caused by inconsistencies in two provisions of law by simply aligning the language in 10 U.S.C. 12102(b), with the language in 10 U.S.C. 504(b). This alignment is achieved by striking the existing language in section 12102(b) and instead referencing the language in section 504(b).

Budget Implications: This proposal has no cost. There is no expectation that this modification will either increase or decrease the number of individuals seeking enlistment in the reserve components of the Armed Forces.

Changes to Existing Law: This proposal would make the following changes to section 12102 of title 10, United States Code:

§ 12102. Reserve components: qualifications

(a) To become an enlisted member of a reserve component a person must be enlisted as a Reserve of an armed force and subscribe to the oath prescribed by section 502 of this title, or be transferred to that component according to law. In addition, to become an enlisted member of the Army National Guard of the United States or the Air National Guard of the United States, he must meet the requirements of section 12107 of this title.

(b) Except as otherwise provided by law, the Secretary concerned shall prescribe physical, mental, moral, professional, and age qualifications for the enlistment of persons as Reserves of the armed forces under his jurisdiction. However, no person may be enlisted as a Reserve unless—

(1) ~~he is a citizen of the United States or has been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);~~ that person has met the citizenship or residency requirements established in section 504(b)(1) of this title; or

(2) ~~he.has previously served in the armed forces or in the National Security Training Corps~~ that person is authorized to enlist by the Secretary concerned under section 504(b)(2) of this title.

(c) A person who is otherwise qualified, but who has a physical defect that the Secretary concerned determines will not interfere with the performance of the duties to which that person may be assigned, may be enlisted as a Reserve of any armed force under the jurisdiction of that Secretary.

Section 512 would expand assignment opportunities for military technicians (dual status) from requiring the same unit as their civilian employment to allowing assignment anywhere within the Selected Reserve. Expanding military assignment opportunities maintains Federal civilian employees (military technicians) with a vested interest in the particular Service and reserve component without limiting a commander's discretion to employ/deploy the best service members. Broadening the conditions of employment for military technicians would provide the Secretary of the military department with greater flexibility while supporting the needs of the Service.

Without this proposal, effective utilization and career progression of military technicians (dual status) can be hindered by restricting military and civilian assignments to the same unit. Currently, 10 U.S.C. 10216(d) requires Federal civilian employees of the Army and Air Force Reserve (military technicians (dual status)) to be assigned as service members to the same supported unit. This assignment is a condition of employment. Therefore, military technician (dual status) must maintain this military *same unit assignment* to secure and maintain Federal civilian employment. Although this proposal would broaden assignment opportunities, it would not necessitate a change to Service policies such that if the Air Force Reserve or Army Reserve desires to continue requiring unit affiliation for their military technicians (dual status) they have that flexibility.

The Army Reserve, with separate community-based units, has different support requirements before deployment and at home station during deployment than defined by the Modified Table of Organization and Equipment for deployment of the unit. Army Reserve units are composed of distinct organizations at various levels of command (company, battalion, brigade, division, and theater) with command structure dispersed over several states. The expertise of the unit (e.g. Engineer Company) establishes the Military Occupational Specialty/Area of Concentration. The skill set for the military assignment may not equate to the duties required by federal employment (e.g. operations, pay, or logistics). The statutory "same unit assignment" precludes military career progression by restricting rotational assignments and experiences. The same unit assignment limits military commanders from selecting the best soldier available within the command for deployment. The same unit assignment restricts Army Reserve leadership from effectively employing all Soldiers and inhibits the career progression of military technicians.

Budget Implications: This proposal is cost neutral for Operations and Maintenance- Army Reserve (OMAR). This proposal is projected to reduce the civilian turnover of military technicians by 2 percent. A 2 percent increase in retention for Army Reserve military technicians, based on annual salary of $72,000, results in greater OMAR execution. This proposal would preclude a loss of 20 personnel annually. The annual average salary multiplied by 20 is reflected in the table below. The increased OMAR execution resulting from retaining quality employees is a desirable outcome for any business proposition.

A second order affect impacts the execution on the military side – Reserve Personnel - Army (RPA) appropriation Broadening the military assignment to the Selected Reserve broadens the hiring pool of candidates, improves civilian turnover, and incrementally decreases military training costs. Military assignment within the Selected Reserve does not alter military salary or civilian compensation. Military technician (dual status) hires are expected to grow the Fiscal Year 2015 estimate by 5 percent each year.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army Reserve	0.72	1.5	1.6	1.7	1.8	OMAR/2080	1	30	113R63
Air Force Reserve	0	0	0	0	0				
Total	0	0	0	0	0				

PERSONNEL AFFECTED									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army Reserve	20	21	22	23	24	OMAR	1	30 & 50	113R63 & 115R20
Air Force Reserve	0	0	0	0	0				
Total	20	21	22	23	24				

Changes to Existing Law: This proposal would make the following changes to section 10216 of title 10, United States Code:

§ 10216. Military technicians (dual status)

(a) IN GENERAL.—(1) For purposes of this section and any other provision of law, a military technician (dual status) is a Federal civilian employee who—

(A) is employed under section 3101 of title 5 or section 709(b) of title 32;

(B) is required as a condition of that employment to maintain membership in the Selected Reserve; and

(C) is assigned to a civilian position as a technician in the organizing, administering, instructing, or training of the Selected Reserve or in the maintenance and repair of supplies or equipment issued to the Selected Reserve or the armed forces.

(2) Military technicians (dual status) shall be authorized and accounted for as a separate category of civilian employees.

(3) A military technician (dual status) who is employed under section 3101 of title 5 may perform the following additional duties to the extent that the performance of those duties does not interfere with the performance of the primary duties described in paragraph (1):

(A) Supporting operations or missions assigned in whole or in part to the technician's unit.

(B) Supporting operations or missions performed or to be performed by—

(i) a unit composed of elements from more than one component of the technician's armed force; or

(ii) a joint forces unit that includes—

(I) one or more units of the technician's component; or

(II) a member of the technician's component whose reserve component assignment is in a position in an element of the joint forces unit.

(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—

(i) active-duty members of the armed forces;

(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);

(iii) Department of Defense contractor personnel; or

(iv) Department of Defense civilian employees.

(b) PRIORITY FOR MANAGEMENT OF MILITARY TECHNICIANS (DUAL STATUS).—(1) As a basis for making the annual request to Congress pursuant to section 115(d) of this title for authorization of end strengths for military technicians (dual status) of the Army and Air Force reserve components, the Secretary of Defense shall give priority to supporting authorizations for military technicians (dual status) in the following high-priority units and organizations:

(A) Units of the Selected Reserve that are scheduled to deploy no later than 90 days after mobilization.

(B) Units of the Selected Reserve that are or will deploy to relieve active duty peacetime operations tempo.

(C) Those organizations with the primary mission of providing direct support surface and aviation maintenance for the reserve components of the Army and Air Force, to the extent that the military technicians (dual status) in such units would mobilize and deploy in a skill that is compatible with their civilian position skill.

(2) For each fiscal year, the Secretary of Defense shall, for the high-priority units and organizations referred to in paragraph (1), seek to achieve a programmed manning level for military technicians (dual status) that is not less than 90 percent of the programmed manpower

structure for those units and organizations for military technicians (dual status) for that fiscal year.

(3) Military technician (dual status) authorizations and personnel shall be exempt from any requirement (imposed by law or otherwise) for reductions in Department of Defense civilian personnel and shall only be reduced as part of military force structure reductions.

(c) INFORMATION REQUIRED TO BE SUBMITTED WITH ANNUAL END STRENGTH AUTHORIZATION REQUEST.—(1) The Secretary of Defense shall include as part of the budget justification documents submitted to Congress with the budget of the Department of Defense for any fiscal year the following information with respect to the end strengths for military technicians (dual status) requested in that budget pursuant to section 115(d) of this title, shown separately for each of the Army and Air Force reserve components:

(A) The number of military technicians (dual status) in the high priority units and organizations specified in subsection (b)(1).

(B) The number of technicians other than military technicians (dual status) in the high priority units and organizations specified in subsection (b)(1).

(C) The number of military technicians (dual status) in other than high priority units and organizations specified in subsection (b)(1).

(D) The number of technicians other than military technicians (dual status) in other than high priority units and organizations specified in subsection (b)(1).

(2)(A) If the budget submitted to Congress for any fiscal year requests authorization for that fiscal year under section 115(d) of this title of a military technician (dual status) end strength for a reserve component of the Army or Air Force in a number that constitutes a reduction from the end strength minimum established by law for that reserve component for the fiscal year during which the budget is submitted, the Secretary of Defense shall submit to the congressional defense committees with that budget a justification providing the basis for that requested reduction in technician end strength.

(B) Any justification submitted under subparagraph (A) shall clearly delineate the specific force structure reductions forming the basis for such requested technician reduction (and the numbers related to those reductions).

~~(d) UNIT MEMBERSHIP REQUIREMENT.—(1) Unless specifically exempted by law, each individual who is hired as a military technician (dual status) after December 1, 1995, shall be required as a condition of that employment to maintain membership in—~~

~~(A) the unit of the Selected Reserve by which the individual is employed as a military technician; or~~

~~(B) a unit of the Selected Reserve that the individual is employed as a military technician to support.~~

~~(2) Paragraph (1) does not apply to a military technician (dual status) who is employed by the Army Reserve in an area other than Army Reserve troop program units.~~

~~(3) Paragraph (1) does not apply to a military technician (dual status) who is employed by the Air Force Reserve in an area other than the Air Force Reserve unit program, except that not more than 50 of such technicians may be assigned outside of the unit program at the same time.~~

(e) DUAL STATUS REQUIREMENT.—(1) Funds appropriated for the Department of Defense may not (except as provided in paragraph (2)) be used for compensation as a military technician of any individual hired as a military technician (dual status) after February 10, 1996, who is no longer a member of the Selected Reserve.

(2) Except as otherwise provided by law, the Secretary concerned may pay compensation described in paragraph (1) to an individual described in that paragraph who is no longer a

member of the Selected Reserve for a period up to 12 months following the individual's loss of membership in the Selected Reserve if the Secretary determines that such loss of membership was not due to the failure of that individual to meet military standards.

(f) AUTHORITY FOR DEFERRAL OF MANDATORY SEPARATION.—The Secretary of the Army and the Secretary of the Air Force may each implement personnel policies so as to allow, at the discretion of the Secretary concerned, a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age 60 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).

(g) RETENTION OF MILITARY TECHNICIANS WHO LOSE DUAL STATUS DUE TO COMBAT-RELATED DISABILITY.—(1) Notwithstanding ~~subsection (d) of this section or~~ subsections (a)(3) and (b) of section 10218 of this title, if a military technician (dual status) loses such dual status as the result of a combat-related disability (as defined in section 1413a of this title), the person may be retained as a non-dual status technician so long as—

(A) the combat-related disability does not prevent the person from performing the non-dual status functions or position; and

(B) the person, while a non-dual status technician, is not disqualified from performing the non-dual status functions or position because of performance, medical, or other reasons.

(2) A person so retained shall be removed not later than 30 days after becoming eligible for an unreduced annuity and becoming 60 years of age.

(3) Persons retained under the authority of this subsection do not count against the limitations of section 10217(c) of this title.

Section 513 would amend 10 U.S.C. 14701 to permit certain first lieutenants of the Army, Air Force, and Marine Corps, and lieutenants (junior grade) of the Navy, who have twice failed of selection for promotion to the next higher grade to be considered for continuation on the reserve active-status list. Further, the proposal would require the Secretaries of the military departments to retain health care professionals who have twice failed for promotion to the next higher grade, but who have not completed any service commitment incurred as a result of their participation in a health professions stipend program under 10 U.S.C. 16201, known in the Army as the Specialized Training Assistance Program (STRAP). These two changes will allow the Services to selectively continue officers qualified in critically short specialties required to provide medical support to the combatant commands.

Under regulations prescribed by the Secretary of Defense, retention of first lieutenants and lieutenants (junior grade) covered by this proposal would be subject to the needs of the Service. Other than health care professionals who have unfulfilled service commitments under the STRAP program, first lieutenants and lieutenants (junior grade) could decline continuation on the reserve active-status. If selected for continuation under 10 USC 14701, STRAP participants with unfulfilled service commitments could not decline retention on the reserve active-status list, but the Secretary concerned could determine that continuation of the officer until completion of their service obligation was not in the best interest of the Service and allow the officer to separate.

This proposal will aid in retaining officers, particularly health care professionals, in whom the Services have invested significant resources. From 2008 - 2011 the Army Reserve

lost 22 STRAP obligated Nurse Corps officers, resulting in over $781,440 in lost incentive and accession dollars. In 2012, the Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA(M&RA)) decided "to protect the Army's investment in its critical wartime medical specialties by retaining [reserve component] participants in the Specialized Training Assistance Program (STRAP) until their contractual obligation to the [reserve components] has been met" by temporarily suspending application of 10 U.S.C. 14504 for health care professionals twice failing for promotion to the grade of captain. But for this decision by the ASA(M&RA), the Army Reserve stood to lose an estimated 67 officers and over $2,379,840 in lost incentive and accessions dollars. Additionally, the ASA(M&RA) temporarily suspended the application of 10 U.S.C 14504 for first lieutenants without a baccalaureate degree, twice failing for promotion to the grade of captain to provide additional time necessary to complete requisite education requirements to make them eligible for selection by a subsequent promotion selection board. However, the ASA(M&RA)'s approach offers a temporary solution that will expire upon the termination of the declaration of national emergency, projected on or about 2015. This proposal would give us permanent authority to retain STRAP officers with unfulfilled service commitments who have twice failed to be selected to promotion to the next higher grade and provide non-health professions first lieutenants additional time to complete their baccalaureate degrees, subject to the needs of the services.

Our analysis of the primary reason for non-selection for promotion among STRAP participants indicates they have immature board files: While participating in their educational training program, most STRAP officers are assigned to the Student Detachment at the Army Medical Department (AMEDD) Professional Management Command and, due to the demands of their educational programs, they are not required to participate in battle assemblies; they do not receive OERs; and, they are not required to attend the Officer Basic Course /Basic Officer Leader Course until the completion of the stipend phase of their STRAP program (see Army Regulation 135-155, table 2-2, note 8). While in their educational programs, AMEDD officers participating in STRAP find it difficult to compete on a "best" qualified board and face an increased chance of non-selection.

The historical non-selection rate of STRAP participants since the implementation of "best qualified" boards for this competitive category is approximately fifty percent. These officers — the majority of whom are Nurse Corps officers in the grade of first lieutenant (O-2) — upon failing for selection for promotion to the next higher grade, were subsequently discharged from the Service resulting in the loss of critical skill sets in the AMEDD inventory. While STRAP participants will continue to have immature board files while attending their education programs, this proposal will enable the Services to retain these officers (and thereby not lose our investment) until they complete their training programs and become fully engaged with their units and, presumably, competitive on future "best qualified" boards.

Budget Implications: The STRAP Incentive Program is budgeted through 2018, no new budget requirements to POM through 2018. Approximately 5,000 Health Professions Officers are eligible to apply for STRAP. The proposal will result in a cost avoidance and return on investment.

- $24,000 – Replacement Cost (STRAP Incentive) X number of non-retained STRAP obligated health professions officers.

- $7,000 –Accession Investment X number of non-retained STRAP obligated health professions officers.

- Annual Average of Non-Retained health professions officers = 22.

Estimated Replacement Cost Avoidance = $700,000 annually.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appn From**	**Budget Activity**	**Dash 1 Line Item**	**PE**
Army Reserve									
Average STRAP Investment	0.53	0.53	0.53	0.53	0.53	RPA	1		0508991A
Average Accession Cost	0.16	0.16	0.16	0.16	0.16	OMAR	4	170	0508991A
Cost Avoidance									
Average STRAP Investment	(0.53)	(0.53)	(0.53)	(0.53)	(0.53)	RPA	1		0508991A
Average Accession Cost	(0.16)	(0.16)	(0.16)	(0.16)	(0.16)	OMAR	4	170	0508991A
Total	0	0	0	0	0				

PERSONNEL AFFECTED ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash 1 Line Item**	**Program Element**
Army Reserve	22	22	22	22	22	RPA	1	23550	1M110000
	0	0	0	0	0				
	0	0	0	0	0				
	0	0	0	0	0				
	0	0	0	0	0				
Total	0	0	0	0	0				

*The Army is the only DoD component utilizing a stipend incentive program at this time.

Changes to Existing Law: This proposal would make the following changes to section 14701 of title 10, United States Code:

§ 14701. Selection of officers for continuation on the reserve active-status list

(a) CONSIDERATION FOR CONTINUATION.—(1)(A) A reserve officer of the Army, Navy, Air Force, or Marine Corps described in subparagraph (B) who is required to be removed from the reserve active-status list under section 14504 of this title, or a reserve officer of the Army, Navy, Air Force, or Marine Corps who is required to be removed from the reserve active-status list under section 14505, 14506, or 14507 of this title, may, subject to the needs of the service and to section 14509 of this title, be considered for continuation on the reserve active-status list under regulations prescribed by the Secretary of Defense.

(B) A reserve officer described in this subparagraph is a reserve officer of the Army, Air Force, or Marine Corps who holds the grade of first lieutenant, or a reserve officer of the Navy who holds the grade of lieutenant (junior grade), who—

(i) is a health professions officer; or

(ii) is actively pursuing an undergraduate program of education leading to a baccalaureate degree.

(2) A reserve officer who holds the grade of captain in the Army, Air Force, or Marine Corps or the grade of lieutenant in the Navy and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 20 years of commissioned service.

(3) A reserve officer who holds the grade of major or lieutenant commander and who is subject to separation under section 14513 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 24 years of commissioned service.

(4) A reserve officer who holds the grade of lieutenant colonel or commander and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 33 years of commissioned service.

(5) A reserve officer who holds the grade of colonel in the Army, Air Force, or Marine Corps or the grade of captain in the Navy and who is subject to separation under section 14514 of this title may not be continued on the reserve active-status list under this subsection for a period which extends beyond the last day of the month in which the officer completes 35 years of commissioned service.

(6) An officer who is selected for continuation on the reserve active-status list under regulations prescribed under paragraph (1) but who declines to continue on that list shall be separated in accordance with section 14513 or 14514 of this title, as the case may be.

(7) Each officer who is continued on the reserve active-status list under this section, who is not subsequently promoted or continued on the active-status list, and whose name is not on a list of officers recommended for promotion to the next higher grade shall (unless sooner separated under another provision of law) be separated in accordance with section 14513 or

14514 of this title, as appropriate, upon the expiration of the period for which the officer was continued on the reserve active-status list.

(b) CONTINUATION OF HEALTH PROFESSIONS OFFICERS.—(1) Notwithstanding subsection (a)(6), a health professions officer obligated to a period of service incurred under section 16201 of this title who is required to be removed from the reserve active-status list under section 14504, 14505, 14506, or 14507 of this title and who has not completed a service obligation incurred under section 16201 shall be retained on the reserve active-status list until the completion of such service obligation and then discharged, unless sooner retired or discharged under another provision of law.

(2) The Secretary concerned may waive the applicability of paragraph (1) to any officer if the Secretary determines that completion of the service obligation of that officer is not in the best interest of the service.

(3) A health professions officer who is continued on the reserve active-status list under this subsection, who is subsequently promoted, or whose name is on a list of officers recommended for promotion to the next higher grade, is not required to be discharged or retired upon completion of the officer's service obligation. Such officer may continue on the reserve active-status list as other officers of the same grade unless separated under another provision of law.

(~~b~~c) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section.

Subtitle C— Member Education and Training

Section 521 would authorize the establishment of the Inter-European Air Forces Academy, whose purpose would be to develop allied and partner non-commissioned officers (NCO) and junior officers in order to support modern alliance and coalition fighter, mobility and airfield operations. It would be modeled after the very successful Inter-American Air Forces Academy (10 U.S.C. 9415), and limited to military personnel of countries that are members of the North Atlantic Treaty Organization (NATO), or signatories to the Partnership for Peace Framework Documents. It would require the concurrence of the Secretary of State in connection with the training of foreign forces.

In accordance with the U.S. National Security Strategy and implementing strategies and plans including the Guidance for the Employment of the Force, Headquarters U.S. European Command (USEUCOM) has directed the Air Force to assist in aviation professionalization to increase regional stability and support future coalition operations. The proposal is necessary because the Air Force does not currently have authority to operate a separate academy directed at developing the aviation capabilities of aspiring, recently acceded NATO and Partnership for Peace countries. Force development and organization is a national responsibility; therefore, they are not addressed by regional security organizations such as NATO. Without this new authority, we should expect little change in how our allies and partners organize and operate their Air Forces. This authority is required to establish a program, including its supporting organization and facilities, to institute change for more effective allies and partners in the future.

Although there are funding programs available for this kind of training—for example,

International Military Education and Training—there are no appropriate programs that can deliver the kind of training that this proposal would authorize. That is why legislation is necessary.

The academy would consist of a dedicated program and curriculum to train NCO and company grade officers of allied and partner air forces, primarily from Eastern Europe. These Air Forces possess an ingrained tradition, developed and instilled throughout the Cold War, of highly centralized control. In terms of coalition operations, that model is not one that can respond effectively to the fluid situations of today's asymmetric warfare, typified by our current engagements. The model is also unsustainable given the leaner defense budgets that all of our potential coalition partners face today. These are, of course, the same countries that provided the majority of our coalition partner forces in Iraq and Afghanistan. This program would enable more effective interoperability and host nation support for those of the coalition countries that host U.S. forces, particularly U.S. ballistic missile defense facilities and potential future operations.

The centralized structures of Eastern Europe Air Forces are overly dependent on select officers. This creates bottlenecks, encourages procedural short-cuts to avoid bureaucracy, and de-motivates subordinates. This organizational culture leads to an ineffective organization that cannot adapt to change unless directed to do so. These organizations' capabilities are often not repeatable or sustainable over the long term. This limits the operational effectiveness and ability to contribute for our current coalition partners in Afghanistan, as well as impacting Alliance capabilities for future coalition operations. That outdated model cannot respond effectively to the fluid situations of coalition operations in today's asymmetric warfare.

Accordingly, with respect to junior and non-commissioned officers, the new academy's challenge and objective would be to develop an understanding among attendees of how to delegate effectively and take responsibility for their work in management environments typified by de-centralized organizations. The academy would also work to instill an understanding in company-grade officers of the importance of working with empowered subordinates, e.g.., being able to trust and effectively delegate responsibility to non-commissioned officers. Accordingly, the Academy's efforts in the medium and long term would increase the aviation capacity of our partners and build stronger coalitions for the future.

Subsection (a) of the proposal would authorize the Secretary of the Air Force to operate the Inter-European Air Forces Academy for the purpose of training the military personnel of countries that are members of the North Atlantic Treaty Organization or signatories to the Partnership for Peace Framework Documents, and other countries eligible for assistance under Chapter 5 of Part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

Subsection (b) would require Secretary of State concurrence in connection with the training. In order to maximize the efficiency of the process, the Departments of Defense and State intend to agree to an annual list of countries whose forces would be eligible to attend the academy in the following fiscal year, without prejudice to the inclusion of other forces during the respective fiscal year that would be invited with the concurrence of the Secretary of State. As a model, we intend to use the procedure the two departments employ with respect to the tuition waiver for non-governmental and international organizations at the Department of Defense's

regional centers for security studies. *See* Pub. L. No. 110-417, § 941 (as amended), reprinted at 10 U.S.C. 184 note (temporary waiver of reimbursement of costs of activities for nongovernmental personnel).

In addition, subsection (b) would provide that the Secretary of the Air Force could not provide assistance to any foreign country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

Subsection (c) would provide that the fixed costs of operating and maintaining the academy could be paid from funds available for operation and maintenance of the Air Force.

Subsection (d), based on 10 U.S.C. 9382 (relating to the Aviation Leadership Program), would authorize the Secretary of the Air Force to provide to a person receiving training under this proposal: (1) transportation incident to the training; (2) supplies and equipment to be used during the training; and (3) billeting, food, and health services.

Subsection (e), based on 10 U.S.C. 9382 (relating to the Aviation Leadership Program), would permit the Secretary of the Air Force to pay a living allowance from the appropriations of the Air Force as the Secretary considers necessary to pay for incidental expenses of student trainees in order to preclude financial hardship in a higher cost of living area than their native country.

Subsection (f), based on 10 U.S.C. 9415 (relating to the Inter-American Air Forces Academy), would permit the Secretary of the Air Force to authorize such expenditures from the appropriations of the Air Force as the Secretary considers necessary for the efficient and effective maintenance of the program, in accordance with this chapter.

Failure to fund this academy means that the current pace of developing European partner nation Air Forces modernization will continue on a relatively slower path, and the U.S. Air Force would continue to carry the burden for current and future coalition operations until this modernization occurs.

Budget Implications: We estimate the fiscal year (FY) 2015-19 program costs to be $7.3 million, less than $1.5 million per year.

The program would be organized and operated at or near Ramstein Air Base, Germany. The program estimates 160 students per year, based on two classes of 16 students, five times per year. The tuition estimate of $1,200 per student is commensurate with costs for attendees at the U.S. Air Force Kisling NCO Academy, located at Kapaun Air Station in Germany. Most tuition would be paid using the Foreign Military Sales (FMS) process currently used for foreign military training. In addition to national funds, funding sources for students would include funding available to the country through the Department of State: Foreign Military Financing and International Military Education and Training. Tuition costs would be reimbursed to the U.S. Air Force to offset the costs of operating the Academy.

Our estimates are based on start-up costs for equipment and furniture, as well as annual operation and maintenance (O&M) support costs. The personnel estimates below are based on four Officer,

four NCO, and three civilian authorizations. The program would employ existing facilities at Ramstein Air Base, Germany. The Air Force would fund this academy through Program Element Code 84731F, General Skill Training.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Student travel	+0.18	+0.18	+0.18	+0.18	+0.18	USAF O&M 3400	3	032C	84731F
O&M	+0.49	+0.11	+0.11	+0.11	+0.11	USAF O&M 3400	3	032C	84731F
Personnel	+0.58	+.1.18	+1.22	+1.24	+1.26	USAF O&M 3400	1/2/4	various	84731F
Total	+1.26	+1.47	+1.50	+1.53	+1.55	USAF O&M			

Changes to Existing Law: This proposal would add new section 9416 to title 10, United States Code. The text of the new section is set forth in the legislative text above.

Budget Implications: This proposal would not increase the overall budget requirements of the Department of Defense. SACS affiliation and the additional monies required to establish a board of advisors as required by SACS are less than $150,000 annually and would be absorbed within USSOCOM's current budget.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
SOCOM	.15	.15	.15	.15	.15	O&M,DW	01	1PL2	
Total	.15	.15	.15	.15	.15	O&M,DW	01	1PL2	

Changes to Existing Law: This proposal would add a new section 2163a of title 10, United States Code, as set forth above.

Section 522 would provide authority for the Joint Special Operations University (JSOU) to award post-secondary degrees to military personnel who are affiliated with special operations. The JSOU is a joint academic institution that serves as the education center of the United States Special Operations Command (USSOCOM), complementing the Professional Military Education institution of the various military services with courses specifically designed for Special Operations personnel. JSOU is an institution of higher learning, providing targeted operational and strategic-level education to Special Operations Forces (SOF) and SOF enablers. JSOU supports both U.S. and International SOF, works with the formal Department of Defense (DoD) Professional Military Education (PME) system to develop SOF curricula, conducts war college-level classes, and represents SOF in numerous end-of-course "Capstone" wargames. In addition, JSOU conducts a formally recognized Senior Noncommissioned Officer (NCO) Academy on par with military service programs and is the only joint NCO academy within the DoD. JSOU was

founded to meet joint special operations educational requirements that have not been fulfilled within the formal DoD PME system or in USSOCOM's component schools.

The specialized courses of instruction required for the degree are already being established pursuant to the Commander USSOCOM guidance that "SOF be the best educated force in DoD". Regional accreditation, though, is the gold standard of academic accreditation in the United States and the Southern Association of Colleges and Schools (SACS) requires that we first have authority to grant a degree before seeking accreditation. JSOU's continued academic effectiveness would be aided greatly by this affiliation. High-quality accreditation at the regional level would ensure JSOU's continued success through a continuous and rigorous peer-level evaluation program and, of equal importance, enable JSOU to academically recognize the educational achievements that SOF personnel have achieved. JSOU's degree would focus on the mastery of Special Operations.

Budget Implications: This proposal would not increase the overall budget requirements of the Department of Defense. SACS affiliation and the additional monies required to establish a board of advisors as required by SACS are less than $150,000 annually and would be absorbed within USSOCOM's current budget.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
SOCOM	.15	.15	.15	.15	.15	O&M,DW	01	1PL2	
Total	.15	.15	.15	.15	.15	O&M,DW	01	1PL2	

Changes to Existing Law: This proposal would add a new section 2163a of title 10, United States Code, as set forth above.

Section 523 would amend sections 4345a, 6957b, and 9345a of title 10, United States Code, by changing the limitation, in subsection (a) of each of those sections on attendance of foreign exchange personnel, from two to four weeks. These sections of title 10 govern foreign and cultural exchange activities at the United States Military Academy (USMA), the United States Naval Academy (USNA), and the United States Air Force Academy (USAFA), respectively. They were added to title 10 by section 541 (Promotion of Foreign and Cultural Exchange Activities at Military Service Academies) of Public Law 110-417 on October 14, 2008.

The current time limit of 2 weeks does not support foreign student participation in organized training and cultural exchange activities that in many cases are longer than 2 weeks especially during the summer, significantly limiting the orientation and familiarization benefits between U.S. midshipmen/ cadets and their foreign counterparts.

For example, USNA Summer Programs are organized into 4-week blocks and the USNA's foreign counterparts have traditionally participated in the whole 4-week summer orientation and familiarization programs, such as embarkation on Yard Patrol and Sail Craft and

Leatherneck (U.S. Marine Corps exposure program). The two week limitation restricts the ability of the Naval Academy to provide complete opportunities that contribute significantly to the development of foreign language, cross cultural interactions and understanding and cultural immersion of midshipmen, specifically to host foreign counterparts in Annapolis. Countries who have participated in these exchanges include: Chile, China, El Salvador, Egypt, France, Italy, Japan, Mexico, Saudi Arabia, Spain, Taiwan and the United Kingdom.

In addition, the Directors of the Academies' International Exchange Programs have received indications that foreign counterparts might be less likely to provide foreign exchange opportunities if reciprocal U.S. exchange opportunities were not available.

Budget Implications: There are no additional budget implications as the relevant title 10 sections each specifically limit expenditures in support of these activities to $40,000 during any fiscal year for each Academy.

RESOURCE REQUIREMENTS ($THOUSANDS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash -1 Line Item**	**Program Element**
Navy	$40	$40	$40	$40	$40	OMN	03	3A1J	0804721N
Army	$40	$40	$40	$40	$40	OMA	03	311	0804721A
Air Force	$40	$40	$40	$40	$40	OMAF	03	031A	84721F
Total	$120	$120	$120	$120	$120				

Changes to Existing Law: This proposal would make the following changes to title 10, United States Code:

CHAPTER 403-UNITED STATES MILITARY ACADEMY

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§ 4345a. Foreign and cultural exchange activities

(a) ATTENDANCE AUTHORIZED.—The Secretary of the Army may authorize the Academy to permit students, officers, and other representatives of a foreign country to attend the Academy for periods of not more than ~~two~~ **four** weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of cadets.

(b) COSTS AND EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Academy under subsection (a).

(c) EFFECT OF ATTENDANCE.—Persons attending the Academy under subsection (a) are not considered to be students enrolled at the Academy and are in addition to persons receiving instruction at the Academy under section 4344 or 4345 of this title.

(d) SOURCE OF FUNDS; LIMITATION.—(1) The Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Academy and from such additional funds as may be available to the Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.

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CHAPTER 603-UNITED STATES NAVAL ACADEMY

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§ 6957b. Foreign and cultural exchange activities

(a) ATTENDANCE AUTHORIZED.— The Secretary of the Navy may authorize the Naval Academy to permit students, officers, and other representatives of a foreign country to attend the Naval Academy for periods of not more than ~~two~~ **four** weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of midshipmen.

(b) COSTS AND EXPENSES.— The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Naval Academy under subsection (a).

(c) EFFECT OF ATTENDANCE.— Persons attending the Naval Academy under subsection (a) are not considered to be students enrolled at the Naval Academy and are in addition to persons receiving instruction at the Naval Academy under section 6957 or 6957a of this title.

(d) SOURCE OF FUNDS; LIMITATION.—(1) The Naval Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Naval Academy and from such additional funds as may be available to the Naval Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.

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CHAPTER 903-UNITED STATES AIR FORCE ACADEMY

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§ 9345a. Foreign and cultural exchange activities

(a) ATTENDANCE AUTHORIZED.—The Secretary of the Air Force may authorize the Air Force Academy to permit students, officers, and other representatives of a foreign country to attend the Air Force Academy for periods of not more than ~~two~~ **four** weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross cultural interactions and understanding, and cultural immersion of cadets.

(b) COSTS AND EXPENSES.—The Secretary may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Air Force Academy under subsection (a).

(c) EFFECT OF ATTENDANCE.—Persons attending the Air Force Academy under subsection (a) are not considered to be students enrolled at the Air Force Academy and are in addition to persons receiving instruction at the Air Force Academy under section 9344 or 9345 of this title.

(d) SOURCE OF FUNDS; LIMITATION.—(1) The Air Force Academy shall bear the costs of the attendance of persons under subsection (a) from funds appropriated for the Air Force Academy and from such additional funds as may be available to the Air Force Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

(2) Expenditures from appropriated funds in support of activities under this section may not exceed $40,000 during any fiscal year.

Subtitle D—Defense Dependents' Education and Military Family Readiness Matters

Section 531 would provide for dependent child status under section 1059(d)(4) of title 10, United States Code, to be determined as of the date transitional compensation (TC) payments under subsection (e) commence when a member is administratively separated for a dependent abuse offense, i.e., the date the separation action is initiated. Under current law, an individual's status as a "dependent child" is determined as of the date the member is separated even though subsection (e)(1)(B) provides that payments commence when the administrative separation action is initiated. There may be a significant period of time between when payments are to commence, i.e., when the separation action is initiated, and the as of date of the dependent child determination, i.e., the time of the member's administrative separation. This has led to numerous cases in which TC may not be paid because the child no longer meets the requirements to be determined a dependent at the time the separation is effected, but would have if the determination could have been made at the time the statute provides the payments commence, i.e., the date the administrative separation is initiated. For example, the child is 17 years and 9 months old on the date the administrative separation is initiated. However, the separation is not effected for 6 months, and the child who is now 18 years and 3 months is no longer eligible for TC due to having passed the maximum age. Other cases involve victim spouses or former spouses enduring significant financial hardship as they attempt to provide for themselves and their children on one compensation allowance until separation occurs, dependent status is determined and TC payments for dependents begins. This delay in TC payments for dependents provides a disincentive for abuse victims to pursue legal recourse and remove themselves from the abusive situation since there may be an extended period of time that the spouse or former spouse is in receipt of one TC payment and is therefore unable to provide adequate food and shelter for themselves and their children.

Administrative separation actions constitute a majority of the separations military members experience as a result of dependent-abuse offenses. The military services agree that the ability to synchronize TC payments to spouse and child(ren) in all cases would prevent unnecessary financial hardship to abused families.

Budget Implications: This statutory update does not change the current standards for eligibility, or add costs to the TC program. It simply ensures that payments to all eligible dependent children commence at the same time as payments to an eligible dependent spouse. There are no projected budgetary impacts. Synchronization does not change the amount paid, the duration of payment, or the eligibility criteria for TC.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	0.0	0.0	0.0	0.0	0.0	MILPERS USA	01/02	35/85	--
Navy	0.0	0.0	0.0	0.0	0.0	MILPERS USN	01/02	35/85	--
Marine Corps	0.0	0.0	0.0	0.0	0.0	MILPERS USMC	01/02	35/85	--
Air Force	0.0	0.0	0.0	0.0	0.0	MILPERS USAF	01/02	35/85	--
Total	0.0	0.0	0.0	0.0	0.0	--	--	--	--

Changes to Existing Laws: This proposal would amend existing law to allow the determination of dependent child status to be made at the initiation of a separation action, which would authorize payment of TC) to dependent children to occur simultaneously with that of the eligible spouse.

§1059. Dependents of members separated for dependent abuse: transitional compensation; commissary and exchange benefits

(a) AUTHORITY TO PAY COMPENSATION.-The Secretary of Defense, with respect to the armed forces (other than the Coast Guard when it is not operating as a service in the Navy), and the Secretary of Homeland Security, with respect to the Coast Guard when it is not operating as a service in the Navy, may each establish a program to pay monthly transitional compensation in accordance with this section to dependents or former dependents of a member of the armed forces described in subsection (b). Upon establishment of such a program, the program shall apply in the case of each such member described in subsection (b) who is under the jurisdiction of the Secretary establishing the program.

(b) PUNITIVE AND OTHER ADVERSE ACTIONS COVERED.-This section applies in the case of a member of the armed forces on active duty for a period of more than 30 days-

(1) who is convicted of a dependent-abuse offense (as defined in subsection (c)) and whose conviction results in the member-

(A) being separated from active duty pursuant to a sentence of a court-martial; or

(B) forfeiting all pay and allowances pursuant to a sentence of a court-martial; or

(2) who is administratively separated, voluntarily or involuntarily, from active duty in accordance with applicable regulations if the basis for the separation includes a dependent-abuse offense.

(c) DEPENDENT-ABUSE OFFENSES.-For purposes of this section, a dependent-abuse offense is conduct by an individual while a member of the armed forces on active duty for a period of more than 30 days-

(1) that involves abuse of the spouse or a dependent child of the member; and

(2) that is a criminal offense specified in regulations prescribed by the Secretary of Defense under subsection (k).

(d) RECIPIENTS OF PAYMENTS.-In the case of any individual described in subsection (b), the Secretary shall pay such compensation to dependents or former dependents of the individual as follows:

(1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, such compensation shall be paid to the spouse or former spouse to whom the individual was married at that time, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.

(2) If there is a spouse or former spouse who is or, but for subsection (g), would be eligible for compensation under this section and if there is a dependent child of the individual described in subsection (b) who does not reside in the same household as that spouse or former spouse, compensation under this section shall be paid to each such dependent child of the individual described in subsection (b) who does not reside in that household.

(3) If there is no spouse or former spouse who is (or but for subsection (g) would be) eligible under paragraph (1), such compensation shall be paid to the dependent children of the individual described in subsection (b).

(4) For purposes of this subsection, an individual's status as a "dependent child" shall be determined as of the date on which the individual described in subsection (b) is convicted of the dependent-abuse offense or, in a case described in subsection (b)(2), ~~as of the date on which the individual described in subsection (b) is separated from active duty~~ as of the date on which the separation action is initiated by a commander of the individual described in subsection (b).

(e) COMMENCEMENT AND DURATION OF PAYMENT.-(1) Payment of transitional compensation under this section-

(A) in the case of a member convicted by a court-martial for a dependent-abuse offense, shall commence-

(i) as of the date the court-martial sentence is adjudged if the sentence, as adjudged, includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; or

(ii) if there is a pretrial agreement that provides for disapproval or suspension of the dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances, as of the date of the approval of the court-martial sentence by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) if the sentence, as approved, includes an unsuspended dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances; and

(B) in the case of a member being considered under applicable regulations for administrative separation from active duty in accordance with such regulations (if the basis for the separation includes a dependent-abuse offense), shall commence as of the date on which the separation action is initiated by a commander of the member pursuant to such regulations, as determined by the Secretary concerned.

(2) Transitional compensation with respect to a member shall be paid for a period of not less than 12 months and not more than 36 months, as established in policies prescribed by the Secretary concerned.

(3)(A) If a member is sentenced by a court-martial to receive punishment that includes a dismissal, dishonorable discharge, bad conduct discharge, or forfeiture of all pay and allowances as a result of a conviction by a court-martial for a dependent-abuse offense and each such conviction is disapproved by the person acting under section 860(c) of this title (article 60(c) of the Uniform Code of Military Justice) or set aside, or each such punishment applicable to the member under the sentence is disapproved by the person acting under section 860(c) of this title, remitted, set aside, suspended, or mitigated to a lesser punishment that does not include any such punishment, any payment of transitional compensation that has commenced under this section on the basis of such sentence in that case shall cease.

(B) If administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations, payment of transitional compensation in such case shall cease.

(C) Cessation of payments under subparagraph (A) or (B) shall be effective as of the first day of the first month following the month in which the Secretary concerned notifies the recipient of such transitional compensation in writing that payment of the transitional compensation will cease. The recipient may not be required to repay amounts of transitional compensation received before that effective date (except to the extent necessary to recoup any amount that was erroneous when paid).

Section 532 would amend the Defense Department Overseas Teachers Pay and Personnel Practices Act to allow the Secretary of Defense to prescribe in regulations circumstances under which a teacher in the Defense Dependents' Overseas Education System (the Department's overseas K-12 school system) could be other than a U.S. citizen. There is a critical need for such flexibility in limited circumstances, primarily in positions involving teaching the host nation language where teachers who are U.S. citizens are not available. For example, the Department has schools overseas in Turkey where it is difficult to recruit a U.S. citizen elementary/secondary school teacher with native language expertise. As a result, the military dependent children do not have the benefit of learning the host nation language while in school in that country. Such employment of local national teachers would be implemented in accordance with Status of Forces Agreements.

Budget Implications: This proposal will be in effect under the following conditions: 1. The possibility of hiring a U.S. citizen has been eliminated. 2. The position requires the teacher to possess native speaking ability, and a working knowledge of the customs and culture of the host nation. This proposal does not increase costs as it seeks to authorize the hire of local national teachers in limited circumstances when a qualified teacher with U.S. citizenship is not available. In fact, the salary and cost of moving a U. S. teacher to teach in a DoD overseas school far exceeds any costs related to hiring a local national teacher.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
DoDEA	-.05	-.05	-.05	-.05	-.05	Operation & Maintenance, Defense Wide --	04--	--	-0808717BT-
Army	--	--	--	--	--	--	--	--	--
Navy	--	--	--	--	--	--	--	--	--
Marine Corps	--	--	--	--	--	--	--	--	--
Air Force	--	--	--	--	--	--	--	--	--
Total	-.05	-.05	-.05	-.05	-.05	--	--	--	--

Cost Methodology: This is the projected savings if a qualified U.S. citizen cannot be hired into the position. It reflects the estimated cost difference between a local hire and a U.S. citizen.

Changes to Existing Law: This proposal would make the following change to section 2 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901):

DEFINITIONS

SEC. 2. For the purpose of this Act, the term—

(1)***
(2) "teacher" means an individual—
(A) who is a citizen of the United States or a local national who teaches a host nation language course,
(B) who is a civilian, and
(C) who is employed in a teaching position described in paragraph (1).

(3)***
(4)***

Section 533 would expand the functions of the Advisory Council on Dependents' Education (ACDE) by including the domestic dependent elementary and secondary schools (DDESS), the Department of Defense dependent schools within the continental United States and Puerto Rico and Guam, in the advice the ACDE provides to the Director of the Department of Defense Education Activity (DoDEA). Currently, the ACDE only advises the Director on matters concerning the operation of DoDEA's overseas school system, the defense dependents' education system. The ACDE was established in 1978 at a time when the Department's combined schools systems did not exist. Since the oversight and guidance for the operation of the DoDEA school system encompasses all military dependent students in the DoDEA schools, the ACDE should represent them equally. It is critical that the ACDE function as an independent body that conducts reviews of all of the schools throughout DoDEA's worldwide school system so the Department may benefit from its independent advice on all DoDEA's overseas and domestic schools.

Budget Implications: This proposal has no budgetary implications. Adding DDESS as a recipient of the advice and recommendations of the Council will not increase costs associated with the operation of the ACDE. The proposal does not require a change to the Council's membership nor create a requirement for additional meetings.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
DoDEA	0	0	0	0	0	--	--	--	--
Army	--	--	--	--	--	--	--	--	--
Navy	--	--	--	--	--	--	--	--	--

Marine Corps	--	--	--	--	--	--	--	--	--
Air Force	--	--	--	--	--	--	--	--	--
Total	0	0	0	0	0	--	--	--	--

Cost Methodology: This proposal has no budgetary impact.

Changes to Existing Law: The proposal would amend section 1411 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 929) as follows:

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

Sec. 1411. (a)(1) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(A) the Secretary of Defense and the Secretary of Education, or their respective designees;

(B) 12 individuals appointed jointly by the Secretary of Defense and the Secretary of Education who shall be individuals who have demonstrated an interest in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and parents of students enrolled in the defense dependents' education system and of the domestic dependent elementary and secondary school system established under section 2164 of title 10, United States Code, and one student enrolled in either such system; and

(C) a representative of the Secretary of Defense and of the Secretary of Education.

(2) Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations.

(3) The Secretary of Defense, or the Secretary's designee, and the Secretary of Education, or the Secretary's designee, shall serve as cochairmen of the Council.

(4) The Director shall be the Executive Secretary of the Council.

(b) The term of office of each member of the Council appointed under subsection (a)(2) of this section shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Defense and the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) of this section shall serve more than two full terms on the Council.

(c) The Council shall meet at least two times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system, and of the domestic dependent elementary and secondary school system established under section 2164 of title 10, United States Code, with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system and in the domestic dependent elementary and secondary school system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a)(2), and

(4) perform such other tasks as may be required by the Secretary of Defense.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, including travel time, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(e) The Council shall continue in existence until terminated by law.

Subtitle E—Other Matters

Section 541 discussed in detail below, attempts to clarify the process for obtaining relief and minimizing unnecessary litigation. The proposal provides service members a clear roadmap to judicial review that they currently do not have and codifies a longstanding principal of administrative law requiring the exhaustion of administrative remedies prior to litigation.

Subsection (a):

Subsection (a) of the proposal adds a new section 1560 to title 10, United States Code. The new section establishes procedures for judicial review of any records correction final decision made under sections 1034(g) or (h), section 1552, or section 1554a.

Subsection (b) of the new section 1560 specifically requires that a claimant use the administrative remedies available in subsections 1034(g) and 1034(h), and sections 1552 or 1554a before seeking judicial review under section 1560. The exhaustion requirement is satisfied only when the applicable Secretary has reached and rendered a final decision. This requires any complaint raising issues, in whole or in part, which may be considered by a correction board or the Physical Disability Board of Review (PDBR) for full or partial relief be first submitted to the appropriate board. It specifically requires that claimants pursue the administrative remedies available through these boards before seeking judicial review of a military personnel decision. This language is intended to satisfy the requirements of *Darby v. Cisneros*, 509 U.S. 137 (1993), which held that courts do not have authority to require

administrative exhaustion as a prerequisite for judicial review under the Administrative Procedure Act unless specifically mandated by statute or agency rules. The exhaustion requirement here is satisfied only when the Secretary concerned has reached and rendered a final decision. Requiring a final decision and the exhaustion of administrative remedies is also designed to facilitate the production of a decisional record adequate for meaningful judicial review and to enhance judicial economy.

Subsection (b)(3) of the new section 1560 only requires one member of a certified class to exhaust administrative remedies before seeking judicial review, not all members of the class. This is a *de minimus* burden for class members. This option was one of several suggested by a veterans group. Class action cases comprise less than 1% of cases filed, and virtually all class action cases brought against the military departments in the past two decades have had at least one member who exhausted or could have exhausted administrative remedies before a correction board prior to filing the case in court. The observation was made that if all members receive administrative relief, a class action lawsuit can never be successfully filed, and in such cases a class action lawsuit could not be used as the instrument to obtain relief for an entire group of members who can file a class action case and avoid the necessity of each member seeking individual relief. This hypothetical observation may be correct, but it ignores the historic reality that all certifiable class action lawsuits have been brought by members who could not obtain adequate administrative relief – such cases have not been brought by members who received the administrative relief they requested. The military departments also have a history of providing administrative relief to all such individuals when such an error has been brought to their attention. It is informative to note that disability claims processed through the Dept of Veterans Affairs (DVA), which are probably the most similar claims to these military personnel claims affected by this legislative proposal, do not provide for class action resolution. The U.S. Court of Veterans Claims requires in most cases that individualveterans exhaust administrative remedies before the DVA prior to raising an issue at the Court, Massie v. Shinseki, 25 Vet. App. 123 (2011); and more relevant, veterans are prohibited from pursuing class action claims for DVA benefits. Lefkowitz v. Derwinski, 1 Vet. App. 439, 440 (1991)(en banc). Each veteran must submit an individual claim to obtain relief from the DVA. Accordingly, this legislative proposal provides greater protections for the rights of potential class action members than those available for claims administered by the DVA.

Subsection (b)(4) also exempts applicants from the exhaustion requirement if the applicable board takes more than 18 months to adjudicate the claim.

The focus that this proposal places on the administrative process does not come at the price of reduced protections for military members or veterans. The statutory charter of the boards creates equitable bodies which are authorized to act when necessary to further the interests of justice. They are not limited, as is the judiciary, to simply ensuring compliance with the law. Moreover, as the boards are comprised of members of the executive department who act on behalf of the service secretaries, they are authorized and competent to address the substantive aspects of issues which are not justiciable. In the vast majority of cases, the probability that a claimant will obtain relief from an equitable board far exceeds the likelihood of a successful challenge in court. This proposal does nothing to diminish the probability that an individual claimant will obtain relief. It simply directs members and former members of the armed forces to the administrative forum that is best suited to resolve their grievance and clarifies the

procedures for obtaining judicial review of any adverse administrative decisions. In so doing, it is fully consistent with the general trend towards alternative dispute resolution. It provides a clear roadmap for service members, so they may fully be afforded the fullness of administrative and judicial review to best ensure their rights. There is currently much confusion about where a service member can seek such relief. They can go to a correction board, to the PDBR for disability ratings decisions, to a district court, or to the Court of Federal Claims. By requiring a service member to first seek relief at the appropriate administrative board, it benefits the service member by providing a no-cost, non-adversarial forum that does not require the expense of an attorney. Additionally, this mandatory administrative forum will create an administrative record that will assist a federal court if the service member subsequently seeks judicial review of the administrative board decision.

Subsection (c) of the new section 1560 codifies the current statute of limitations law of six years for judicial review, though the date the statute of limitations period begins to run is different for monetary and non-monetary claims. The statute of limitations period for non-monetary claims begins to run from the date of the correction board's final decision, which is the current law. The statute of limitations period for monetary claims will begin to run from the date of discharge, retirement, release from active duty, or death while on active duty of the person whose records are the subject of the records correction request, which is the current rule for monetary claims. The monetary claim subsection codifies the current rule in the U.S. Court of Federal Claims under which the 6-year limitations period for money claims begins. See *Martinez v. United States*, 333 F.3d 1295 (Fed. Cir. 2003) (en banc), cert. denied, 124 S. Ct. 1404 (2004) (six year statute of limitations begins to run from date the money claim accrues) and *Chambers v. United States*, 417 F.3d 1218 (Fed. Cir. 2005) (six year statute of limitations for disability claims begins to run from the date the first board authorized to grant disability pay considers the claim). By way of comparison, these six-year periods generously exceed the 60 days provided to civilian employees to seek judicial review under the Civil Service Reform Act, 5 U.S.C. § 7703(b)(1). It is also noteworthy that any claimant on active duty automatically has any statute of limitations tolled for the period of time they are on active duty under the Servicemembers Civil Relief Act (SCRA). Federal courts have also ruled that any time on the Temporary Disability Retired List also qualifies as active duty under the SCRA and tolls the statute of limitations.

The statute of limitations applicable to a correction board to review a case is three years from the discovery of the error or injustice. This proposal does not change that law. This three year statute of limitations can be excused by a correction board when it finds it to be in the interest of justice, and such limitations are routinely waived by correction boards. See 10 U.S.C. § 1552 (b). A correction board is free to waive its three year statute of limitations and exercise its equitable powers to review even older cases, including money claims, but such money claims will not be subject to judicial review after the six years have elapsed—maintaining the current law.

Subsection (d) of section 1560 leaves intact the courts' existing jurisdiction over petitions for a writ of habeas corpus.

Subsection (b):

Subsection (b) of the proposal amends section 1034 of title 10 to require a "concise written statement of the basis" for any final decision by the Secretary of a military department or the Secretary of Homeland Security under section 1034(g) or the Secretary of Defense under section 1034(h) which does not grant the complete relief requested by the claimant. This provision also requires the Secretary concerned to accompany such decisions with notice of the availability of judicial review and the time period for obtaining such review. In addition, a new subsection, 1034(i), is added which precludes any judicial review of final decisions made under 1034(g) or (h) other than that which is provided for in section 1560. This subsection permits direct judicial review of final decisions of the Secretary of the military departments in cases where the petitioner does not apply for review by the Secretary of Defense.

Subsection (c):

Subsection (c) of the proposal adds a new subsection (h) to section 1552 of title 10 to require the Secretary concerned to provide the same concise rationale and explanation of the time period for seeking judicial review that is required under subsections 1034(g) and 1034(h) and section 1554a for decisions which fail to grant complete relief. These provisions require correction boards to provide a concise written statement of the basis for the decision and notification of the availability of judicial review of the decision and the time period for obtaining judicial review. Each of the correction boards already have regulations requiring some form of a concise explanation of its rationale, but this proposal will create the same statutory standard for all correction boards.

A new subsection (i) is added to section 1552 which precludes any judicial review of decisions made under section 1552 except as provided by section 1560.

Subsection (d):

Subsection (d) of the proposal adds a new subsection (f) to section 1554a of title 10 to require in cases involving the Physical Disability Board of Review that the Secretary concerned provide the same concise rationale and explanation of the time period for seeking judicial review that will now be required under sections 1034 and 1552 for decisions which fail to grant complete relief. Further, this subsection adds a new subsection (g) to section 1554a which precludes any judicial review of decisions made under section 1552 except as provided by section 1560.

It should be noted that most applicants to administrative correction boards are not contemplating litigation, but are simply seeking a fair and efficient resolution of their claim. A concise explanation obtained from an administrative board within a period of months is preferable to something akin to a judicial opinion requiring extensive preparation and time. In adopting the explanatory requirement, the intent is to minimize the burden on the correction boards, in the interests of efficiency, while enhancing the legitimacy of the correction boards and preserving the efficiency of judicial review. Accordingly, the language directing the correction boards to explain their decisions should not be construed as imposing any degree of formalism beyond the literal requirements.

In cases in which the administrative record has not been adequately developed by the correction board or the record of decision is not sufficiently complete, it is anticipated that the reviewing court will remand the case to the correction board for further action in accordance with the court's instructions.

Subsection (e):

Subsection (e) of the proposal makes the amendments of this proposal effective January 1, 2016. This date will provide about one year from the date of enactment before these provisions will be effective. Its provisions are applicable to all final records correction decisions rendered on or after the effective date.

Budget Implications: This proposal has no budgetary impacts as it refines an existing process. There may be a small number of additional cases brought to a correction board but any additional costs will be offset by the lesser number of cases being filed in federal courts.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would make the following changes to title 10, United States Code:

§ 1560. Judicial review of decisions relating to correction of military records

[*The proposal would add a new section 1560. The text of the proposed new section appears in full in the legislative text above.*]

* * * * * * * * *

§ 1034. Protected communications; prohibition of retaliatory personnel actions

(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTOR GENERAL PROHIBITED.— **(1)** No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

(2) Paragraph (1) does not apply to a communication that is unlawful.

* * * * * * * * *

(g) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—**(1)** A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

(2) In resolving an application described in paragraph (1), a correction board—

(A) shall review the report of the Inspector General submitted under subsection (e)(1);

(B) may request the Inspector General to gather further evidence; and

(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

(3) If the board holds an administrative hearing, the member or former member who filed the application described in paragraph (1)—

(A) may be provided with representation by a judge advocate if—

(i) the Inspector General, in the report under subsection (e)(1), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

(ii) the Judge Advocate General concerned determines that the member or former member would benefit from judge advocate assistance to ensure proper presentation of the legal issues in the case; and

(iii) the member is not represented by outside counsel chosen by the member; and

(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (e)(1).

(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

(7) In any case in which the final decision of the Secretary concerned results in denial, in whole or in part, of any requested correction of the record of the member or former member—

(A) a concise written statement of the basis for the decision; and

(B) a notification of the availability of judicial review of the decision pursuant to section 1560 of this title and the time period for obtaining such review in accordance with the applicable statute of limitations.

(h) REVIEW BY SECRETARY OF DEFENSE.—(1) Upon the completion of all administrative review under subsection (f), the member or former member of the armed forces (except for a member or former member of the Coast Guard when the Coast Guard is not operating as a service in the Navy) who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

(2) The submittal of a matter to the Secretary of Defense by the member or former member under paragraph (1) must be made within 90 days of the receipt by the member or former member of the final decision of the Secretary of the military department concerned in the matter. In any case in which the final decision of the Secretary of Defense results in denial, in whole or in part, of any requested correction of the record of the member or former member, the Secretary of Defense shall provide the member or former member—

(A) a concise written statement of the basis for the decision; and

(B) a notification of the availability of judicial review of the decision pursuant to section 1560 of this title and the time period for obtaining such review in accordance with the applicable statute of limitations.

(i) JUDICIAL REVIEW.—(1) A decision of the Secretary of Defense under subsection (h) shall be subject to judicial review only as provided in section 1560 of this title.

(2) In a case in which review by the Secretary of Defense under subsection (h) was not sought, a decision of the Secretary of a military department under subsection (g) shall be subject to judicial review only as provided in section 1560 of this title.

(3) A decision by the Secretary of Homeland Security under subsection (g) shall be subject to judicial review only as provided in section 1560 of this title.

~~(h)~~**(j)** REGULATIONS.—The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

~~(i)~~**(k)** DEFINITIONS.—In this section:

(1) The term "Member of Congress" includes any Delegate or Resident Commissioner to Congress.

(2) The term "Inspector General" means any of the following:

(A) The Inspector General of the Department of Defense.

(B) The Inspector General of the Department of Homeland Security, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

(C) Any officer of the armed forces or employee of the Department of Defense who is assigned or detailed to serve as an Inspector General at any level in the Department of Defense.

(3) The term "unlawful discrimination" means discrimination on the basis of race, color, religion, sex, or national origin.

*** * * * * * * * ***

§ 1552. Correction of military records: claims incident thereto

(a)(1) The Secretary of a military department may correct any military record of the Secretary's department when the Secretary considers it necessary to correct an error or remove an injustice. Except as provided in paragraph (2), such corrections shall be made by the Secretary acting through boards of civilians of the executive part of that military department. The Secretary of Homeland Security may in the same manner correct any military record of the Coast Guard.

(2) The Secretary concerned is not required to act through a board in the case of the correction of a military record announcing a decision that a person is not eligible to enlist (or reenlist) or is not accepted for enlistment (or reenlistment) or announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade. Such a correction may be made only if the correction is favorable to the person concerned.

(3) Corrections under this section shall be made under procedures established by the Secretary concerned. In the case of the Secretary of a military department, those procedures must be approved by the Secretary of Defense.

(4) Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

(b) No correction may be made under subsection (a)(1) unless the claimant or his heir or legal representative files a request for the correction within three years after he discovers the error or injustice. However, a board established under subsection (a)(1) may excuse a failure to file within three years after discovery if it finds it to be in the interest of justice.

(c)(1) The Secretary concerned may pay, from applicable current appropriations, a claim for the loss of pay, allowances, compensation, emoluments, or other pecuniary benefits, or for the repayment of a fine or forfeiture, if, as a result of correcting a record under this section, the amount is found to be due the claimant on account of his or another's service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, or on account of his or another's service as a civilian employee.

(2) If the claimant is dead, the money shall be paid, upon demand, to his legal representative. However, if no demand for payment is made by a legal representative, the money shall be paid—

(A) to the surviving spouse, heir, or beneficiaries, in the order prescribed by the law applicable to that kind of payment;

(B) if there is no such law covering order of payment, in the order set forth in section 2771 of this title; or

(C) as otherwise prescribed by the law applicable to that kind of payment.

(3) A claimant's acceptance of a settlement under this section fully satisfies the claim concerned. This section does not authorize the payment of any claim compensated by private law before October 25, 1951.

(4) ***

(d) Applicable current appropriations are available to continue the pay, allowances, compensation, emoluments, and other pecuniary benefits of any person who was paid under subsection (c), and who, because of the correction of his military record, is entitled to those benefits, but for not longer than one year after the date when his record is corrected under this section if he is not reenlisted in, or appointed or reappointed to, the grade to which those payments relate. Without regard to qualifications for reenlistment, or appointment or reappointment, the Secretary concerned may reenlist a person in, or appoint or reappoint him to, the grade to which payments under this section relate.

(e) No payment may be made under this section for a benefit to which the claimant might later become entitled under the laws and regulations administered by the Secretary of Veterans Affairs.

(f) With respect to records of courts-martial and related administrative records pertaining to court-martial cases tried or reviewed under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)), action under subsection (a) may extend only to—

(1) correction of a record to reflect actions taken by reviewing authorities under chapter 47 of this title (or under the Uniform Code of Military Justice (Public Law 506 of the 81st Congress)); or

(2) action on the sentence of a court-martial for purposes of clemency.

(g) In this section, the term "military record" means a document or other record that pertains to **(1)** an individual member or former member of the armed forces, or **(2)** at the discretion of the Secretary of the military department concerned, any other military matter affecting a member or former member of the armed forces, an employee or former employee of that military department, or a dependent or current or former spouse of any such person. Such term does not include records pertaining to civilian employment matters (such as matters covered by title 5 and chapters 81, 83, 87, 108, 373, 605, 607, 643, and 873 of this title).

(h) In any case in which the final decision of the Secretary concerned results in denial, in whole or in part, of any requested correction, the Secretary concerned shall provide the claimant—(1) a concise written statement of the basis for the decision; and

(2) a notification of the availability of judicial review of the decision pursuant to section 1560 of this title and the time period for obtaining such review in accordance with the applicable statute of limitations.

(i) A decision by the Secretary concerned under this section shall be subject to judicial review only as provided in section 1560 of this title.

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§ 1554a. Review of separation with disability rating of 20 percent disabled or less

(a) IN GENERAL.—(1) The Secretary of Defense shall establish within the Office of the Secretary of Defense a board of review to review the disability determinations of covered individuals by Physical Evaluation Boards. The board shall be known as the "Physical Disability Board of Review".

(2) The Physical Disability Board of Review shall consist of not less than three members appointed by the Secretary.

(b) COVERED INDIVIDUALS.—For purposes of this section, covered individuals are members and former members of the armed forces who, during the period beginning on September 11, 2001, and ending on December 31, 2009—

(1) are separated from the armed forces due to unfitness for duty due to a medical condition with a disability rating of 20 percent disabled or less; and

(2) are found to be not eligible for retirement.

(c) REVIEW.—(1) Upon the request of a covered individual, or a surviving spouse, next of kin, or legal representative of a covered individual, the Physical Disability Board of Review shall review the findings and decisions of the Physical Evaluation Board with respect to such covered individual. Subject to paragraph (3), upon its own motion, the Physical Disability Board of Review may review the findings and decisions of the Physical Evaluation Board with respect to a covered individual.

(2) The review by the Physical Disability Board of Review under paragraph (1) shall be based on the records of the armed force concerned and such other evidence as may be presented to the Physical Disability Board of Review. A witness may present evidence to the Board by affidavit or by any other means considered acceptable by the Secretary of Defense.

(3) If the Physical Disability Board of Review proposes to review, upon its own motion, the findings and decisions of the Physical Evaluation Board with respect to a covered individual, the Physical Disability Board of Review shall notify the covered individual, or a surviving spouse, next of kin, or legal representative of the covered individual, of the proposed review and obtain the consent of the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual before proceeding with the review.

(4) With respect to any review by the Physical Disability Board of Review of the findings and decisions of the Physical Evaluation Board with respect to a covered individual, whether initiated at the request of the covered individual or a surviving spouse, next of kin, or legal

representative of the covered individual or initiated by the Physical Disability Board of Review, the Physical Disability Board of Review shall notify the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual that, as a result of the request or consent, the covered individual or a surviving spouse, next of kin, or legal representative of the covered individual may not seek relief from the Board for Correction of Military Records operated by the Secretary concerned.

(d) AUTHORIZED RECOMMENDATIONS.—The Physical Disability Board of Review may, as a result of its findings under a review under subsection (c), recommend to the Secretary concerned the following (as applicable) with respect to a covered individual:

(1) No recharacterization of the separation of such individual or modification of the disability rating previously assigned such individual.

(2) The recharacterization of the separation of such individual to retirement for disability.

(3) The modification of the disability rating previously assigned such individual by the Physical Evaluation Board concerned, which modified disability rating may not be a reduction of the disability rating previously assigned such individual by that Physical Evaluation Board.

(4) The issuance of a new disability rating for such individual.

(e) CORRECTION OF MILITARY RECORDS.—(1) The Secretary concerned may correct the military records of a covered individual in accordance with a recommendation made by the Physical Disability Board of Review under subsection (d). Any such correction may be made effective as of the effective date of the action taken on the report of the Physical Evaluation Board to which such recommendation relates.

(2) In the case of a member previously separated pursuant to the findings and decision of a Physical Evaluation Board together with a lump-sum or other payment of back pay and allowances at separation, the amount of pay or other monetary benefits to which such member would be entitled based on the member's military record as corrected shall be reduced to take into account receipt of such lump-sum or other payment in such manner as the Secretary of Defense considers appropriate.

(3) If the Physical Disability Board of Review makes a recommendation not to correct the military records of a covered individual, the action taken on the report of the Physical Evaluation Board to which such recommendation relates shall be treated as final as of the date of such action.

(f) RECORD OF DECISION AND NOTIFICATION.—In any case in which the final decision of the Secretary concerned results in denial, in whole or in part, of any requested correction of the record of the member or former member, the Secretary shall provide to the member or former member—

(1) a concise written statement of the basis for the decision; and

(2) a notification of the availability of judicial review of the decision pursuant to section 1560 of this title and the time period for obtaining such review in accordance with the applicable statute of limitations.

(g) JUDICIAL REVIEW. A decision by the Secretary concerned under this section shall be subject to judicial review only as provided in section 1560 of this title.

(~~f~~h) REGULATIONS.—(1) This section shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

(2) The regulations under paragraph (1) shall specify reasonable deadlines for the performance of reviews required by this section.

(3) The regulations under paragraph (1) shall specify the effect of a determination or pending determination of a Physical Evaluation Board on considerations by boards for correction of military records under section 1552 of this title.

Section 542.

Subsection (a) — ENFORCEMENT BY THE ATTORNEY GENERAL

Subsection (a) of this proposal would amend subsection (f) of 10 U.S.C. 987, the so-called Military Lending Act (MLA), to include Attorney General enforcement authority for the MLA, with civil penalties and civil investigative demand authority.

Subsection (b) — CONSULTATION WITH THE DEPARTMENT OF JUSTICE ON MILITARY LENDING ACT PROVISIONS.

Subsection (b) of the proposal would add the Department of Justice to the list of agencies (the banking regulators, FTC, and Treasury) with which the Defense Department must consult on a regular basis about the MLA's regulations.

CHANGES TO EXISTING LAW: This proposal would make the following changes to section 987 of title 10, United States Code:

§987. Terms of consumer credit extended to members and dependents: limitations

(a) INTEREST.—A creditor who extends consumer credit to a covered member of the armed forces or a dependent of such a member shall not require the member or dependent to pay interest with respect to the extension of such credit, except as—

(1) agreed to under the terms of the credit agreement or promissory note;

(2) authorized by applicable State or Federal law; and

(3) not specifically prohibited by this section.

(b) ANNUAL PERCENTAGE RATE.—A creditor described in subsection (a) may not impose an annual percentage rate of interest greater than 36 percent with respect to the consumer credit extended to a covered member or a dependent of a covered member.

(c) MANDATORY LOAN DISCLOSURES.—

(1) INFORMATION REQUIRED.—With respect to any extension of consumer credit (including any consumer credit originated or extended through the internet) to a covered member or a dependent of a covered member, a creditor shall provide to the member or dependent the following information orally and in writing before the issuance of the credit:

(A) A statement of the annual percentage rate of interest applicable to the extension of credit.

(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(C) A clear description of the payment obligations of the member or dependent, as applicable.

(2) TERMS.—Such disclosures shall be presented in accordance with terms prescribed by the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(d) PREEMPTION.—

(1) INCONSISTENT LAWS.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such law, rule, or regulation is inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides protection to a covered member or a dependent of such a member in addition to the protection provided by this section.

(2) DIFFERENT TREATMENT UNDER STATE LAW OF MEMBERS AND DEPENDENTS PROHIBITED.—States shall not—

(A) authorize creditors to charge covered members and their dependents annual percentage rates of interest for loans higher than the legal limit for residents of the State; or

(B) permit violation or waiver of any State consumer lending protections for the benefit of residents of the State on the basis of nonresident or military status of a covered member or dependent of such a member, regardless of the member's or dependent's domicile or permanent home of record.

(e) LIMITATIONS.—It shall be unlawful for any creditor to extend consumer credit to a covered member or a dependent of such a member with respect to which—

(1) the creditor rolls over, renews, repays, refinances, or consolidates any consumer credit extended to the borrower by the same creditor with the proceeds of other credit extended to the same covered member or a dependent;

(2) the borrower is required to waive the borrower's right to legal recourse under any otherwise applicable provision of State or Federal law, including any provision of the Servicemembers Civil Relief Act;

(3) the creditor requires the borrower to submit to arbitration or imposes onerous legal notice provisions in the case of a dispute;

(4) the creditor demands unreasonable notice from the borrower as a condition for legal action;

(5) the creditor uses a check or other method of access to a deposit, savings, or other financial account maintained by the borrower, or the title of a vehicle as security for the obligation;

(6) the creditor requires as a condition for the extension of credit that the borrower establish an allotment to repay an obligation; or

(7) the borrower is prohibited from prepaying the loan or is charged a penalty or fee for prepaying all or part of the loan.

(f) PENALTIES AND REMEDIES.—

(1) MISDEMEANOR.—A creditor who knowingly violates this section shall be fined as provided in title 18, or imprisoned for not more than one year, or both.

(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

(3) CONTRACT VOID.—Any credit agreement, promissory note, or other contract prohibited under this section is void from the inception of such contract.

(4) ARBITRATION.—Notwithstanding section 2 of title 9, or any other Federal or State law, rule, or regulation, no agreement to arbitrate any dispute involving the extension of consumer credit shall be enforceable against any covered member or dependent of such a member, or any person who was a covered member or dependent of that member when the agreement was made.

(5) CIVIL LIABILITY.—

(A) IN GENERAL.—A person who violates this section with respect to any person is civilly liable to such person for—

(i) any actual damage sustained as a result, but not less than $500 for each violation;

(ii) appropriate punitive damages;

(iii) appropriate equitable or declaratory relief; and

(iv) any other relief provided by law.

(B) COSTS OF THE ACTION.—In any successful action to enforce the civil liability described in subparagraph (A), the person who violated this section is also liable for the costs of the action, together with reasonable attorney fees as determined by the court.

(C) EFFECT OF FINDING OF BAD FAITH AND HARASSMENT.—In any successful action by a defendant under this section, if the court finds the action was brought in bad faith and for the purpose of harassment, the plaintiff is liable for the attorney fees of the defendant as determined by the court to be reasonable in relation to the work expended and costs incurred.

(D) DEFENSES.—A person may not be held liable for civil liability under this paragraph if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(E) JURISDICTION, VENUE, AND STATUTE OF LIMITATIONS.—An action for civil liability under this paragraph may be brought in any appropriate United States district court, without regard to the amount in controversy, or in any other court of competent jurisdiction, not later than the earlier of—

(i) two years after the date of discovery by the plaintiff of the violation that is the basis for such liability; or

(ii) five years after the date on which the violation that is the basis for such liability occurs.

(6) ADMINISTRATIVE ENFORCEMENT.—The provisions of this section (other than paragraph (1) of this subsection) shall be enforced by the agencies specified in section 108 of the Truth in Lending Act (15 U.S.C. 1607) in the manner set forth in that section or under any other applicable authorities available to such agencies by law.

(7) Enforcement by the attorney general.—

(A) In general.—The Attorney General may commence a civil action in any appropriate district court of the United States against any person who—

(i) engages in a pattern or practice of violating this section; or

(ii) engages in a violation of this section that raises an issue of general public importance.

(B) Relief.—In a civil action commenced under subparagraph (A), the court—

(i) may grant any appropriate equitable or declaratory relief with respect to the violation of this section;

(ii) may award all other appropriate relief, including monetary damages, to any person aggrieved by the violation; and

(iii) may, to vindicate the public interest, assess a civil penalty—

(I) in an amount not exceeding $110,000 for a first violation; and

(II) in an amount not exceeding $220,000 for any subsequent violation.

(C) Intervention.—Upon timely application, a person aggrieved by a violation of this section with respect to which the civil action is commenced may intervene in such action, and may obtain such appropriate relief as the person could obtain in a civil action under paragraph (5) with respect to that violation, along with costs and a reasonable attorney fee.

(D) Issuance and service of civil investigative demands.—Whenever the Attorney General, or a designee, has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation under this section, the Attorney General, or a designee, may, before commencing a civil action under subparagraph (A), issue in writing and cause to be served upon such person, a civil investigative demand requiring—

(i) the production of such documentary material for inspection and copying;

(ii) that the custodian of such documentary material answer in writing written questions with respect to such documentary material; or

(iii) the production of any combination of such documentary material or answers.

(E) Relationship to false claims act.—The statutory provisions governing the authority to issue, use, and enforce civil investigative demands under section 3733 of title 31 (known as the "False Claims Act") shall govern the authority to issue, use, and enforce civil investigative demands under subparagraph (D), except that—

(i) any reference in that section to false claims law investigators or investigations shall be applied for purposes of subparagraph (D) as referring to investigators or investigations under this section;

(ii) any reference in that section to interrogatories shall be applied for purposes of subparagraph (D) as referring to written questions and answers to such need not be under oath;

(iii) the statutory definitions for purposes of that section relating to "false claims law" shall not apply; and

(iv) provisions of that section relating to qui tam relators shall not apply.

(g) SERVICEMEMBERS CIVIL RELIEF ACT PROTECTIONS UNAFFECTED.—Nothing in this section may be construed to limit or otherwise affect the applicability of section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527).

(h) REGULATIONS.—(1) The Secretary of Defense shall prescribe regulations to carry out this section.

(2) Such regulations shall establish the following:

(A) Disclosures required of any creditor that extends consumer credit to a covered member or dependent of such a member.

(B) The method for calculating the applicable annual percentage rate of interest on such obligations, in accordance with the limit established under this section.

(C) A maximum allowable amount of all fees, and the types of fees, associated with any such extension of credit, to be expressed and disclosed to the borrower as a total amount and as a percentage of the principal amount of the obligation, at the time at which the transaction is entered into.

(D) Definitions of "creditor" under paragraph (5) and "consumer credit" under paragraph (6) of subsection (i), consistent with the provisions of this section.

(E) Such other criteria or limitations as the Secretary of Defense determines appropriate, consistent with the provisions of this section.

(3) In prescribing regulations under this subsection, and not less often than once every two years thereafter, the Secretary of Defense shall consult with the following:

(A) The Federal Trade Commission.

(B) The Board of Governors of the Federal Reserve System.

(C) The Office of the Comptroller of the Currency.

(D) The Federal Deposit Insurance Corporation.

(E) The Bureau of Consumer Financial Protection.

(F) The National Credit Union Administration.

(G) The Treasury Department.

(H) The Department of Justice.

* * * * * *

Section 543 would amend chapter 43 of title 38, United States Code, to improve the enforcement of reemployment rights under that chapter with respect to a State or private employer. That chapter is popularly known as the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Subsection (a) strengthens enforcement of USERRA rights by allowing the United States to serve as a plaintiff in all suits filed by the Attorney General, as opposed to only suits filed

against State employers. The amendment preserves the right of the aggrieved persons to intervene in such suits, or to bring their own suits where the Attorney General has declined to file suit. This section also strengthens enforcement by granting independent authority to the Attorney General to investigate and file suit to challenge a pattern or practice in violation of USERRA. The pattern or practice language is modeled after Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-6(a)).

Subsection (b) explicitly abrogates sovereign immunity so that servicemembers can bring an action against a State employer in State court or Federal district court.

Subsection (c) amends USERRA's venue provision to allow servicemembers to file actions against private employers in district courts with jurisdictional requirements that are similar to the general venue statute, 28 U.S.C. 1391(b).

Subsection (d) adds compensatory and punitive damages provisions that are similar to the damages provisions in title VII of the Civil Rights Act of 1964.

Subsection (e) authorizes either the United States or the aggrieved individual to serve as a plaintiff in all USERRA suits.

Subsection (f) makes conforming amendments to the amendments made by subsection (a).

Subsection (g) would revise the pension contribution calculations for servicemembers in service over one year so that the servicemember's pension contribution is comparable to a similarly situated employee.

Subsection (h) modifies USERRA to include disabilities discovered within five years after a servicemember resumes work for purposes of reemployment determinations.

Subsection (i) clarifies that the employer has the burden of identifying proper reemployment positions.

Subsection (j) grants authority to the Attorney General to issue civil investigative demands in its USERRA investigations. The authority is similar to that provided under the False Claims Act (31 U.S.C. 3733), except that it does not include the authority to compel oral testimony or sworn answers to interrogatories.

Changes to Existing Law: This proposal would make the following changes to chapter 43 of title 38, United States Code (matter to be deleted is shown ~~struck-through~~; matter to be added is underlined):

TITLE 38—VETERANS' BENEFITS

* * * * * *

CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

* * * * * *

SUBCHAPTER I—GENERAL

* * * * * *

§4302. Relation to other law and plans or agreements

(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

§4303. Definitions

For the purposes of this chapter—

(1) The term "Attorney General" means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

(2) The term "benefit", "benefit of employment", or "rights and benefits" means the terms, conditions, or privileges of employment, including any advantage, profit, privilege, gain, status, account, or interest (including wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(3) The term "employee" means any person employed by an employer. Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.

(4)(A) Except as provided in subparagraphs (B) and (C), the term "employer" means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

(ii) the Federal Government;

(iii) a State;

(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

(B) In the case of a National Guard technician employed under section 709 of title 32, the term "employer" means the adjutant general of the State in which the technician is employed.

(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

(D)(i) Whether the term "successor in interest" applies with respect to an entity described in subparagraph (A) for purposes of clause (iv) of such subparagraph shall be determined on a case-by-case basis using a multi-factor test that considers the following factors:

(I) Substantial continuity of business operations.

(II) Use of the same or similar facilities.

(III) Continuity of work force.

(IV) Similarity of jobs and working conditions.

(V) Similarity of supervisory personnel.

(VI) Similarity of machinery, equipment, and production methods.

(VII) Similarity of products or services.

(ii) The entity's lack of notice or awareness of a potential or pending claim under this chapter at the time of a merger, acquisition, or other form of succession shall not be considered when applying the multi-factor test under clause (i).

(5) The term "Federal executive agency" includes the United States Postal Service, the Postal Regulatory Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

(6) The term "Federal Government" includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

(7) The term "health plan" means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(8) The term "notice" means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

(9) The term "qualified", with respect to an employment position, means having the ability to perform the essential tasks of the position.

(10) The term "reasonable efforts", in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

(11) Notwithstanding section 101, the term "Secretary" means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

(12) The term “seniority” means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(13) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

(15) The term “undue hardship”, in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

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SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

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§4313. Reemployment positions

(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be

promptly reemployed in a position of employment in accordance with the following order of priority:

(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(3) In the case of a person who has a disability incurred in, or aggravated during, such service, <u>including a disability that is brought to the employer's attention within five years after the person resumes employment,</u> and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniformed services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which such person is qualified to perform, with full seniority.

(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

(c) For purposes of this section, the employer shall have the burden of identifying the appropriate reemployment positions.

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§4318. Employee pension benefit plans

(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar

Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

(B) if the sponsor does not provide—

(i) to the last employer employing the person before the period served by the person in the uniformed services, or

(ii) if such last employer is no longer functional, to the plan.

(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, such payment period not to exceed five years.

(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

(B) in the case that the determination of such rate is not reasonably certain, on the basis of ~~the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period)~~ specified in paragraph (4).

(4) The basis for a computation under paragraph (3) to which subparagraph (B) of that paragraph applies is as follows:

(A) If the period of service described in subsection (a)(2)(B) is one year or less, the computation shall be made on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period or, if shorter, the period of employment immediately preceding such period.

(B) If the period of such service is more than one year, the computation shall be made on the basis of the average rate of compensation during such period of service of employees of that employer who are similarly situated to the servicemember in terms of having similar seniority, status, and pay.

(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such

reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

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SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

§4323. Enforcement of rights with respect to a State or private employer

(a) ACTION FOR RELIEF.—(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall refer the complaint to the Attorney General. ~~If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for relief under this chapter for such person.~~ If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may commence an action for relief under this chapter. The person on whose behalf the complaint is referred may, upon timely application, intervene in such action and may obtain such appropriate relief as provided in subsections (d) and (e). In the case of such an action against a State (as an employer), the action shall be brought in the name of the United States as the plaintiff in the action.

(2)(A) Not later than 60 days after the date the Attorney General receives a referral under paragraph (1), the Attorney General ~~shall—~~

~~(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted; and~~

~~(B) notify such person in writing of such decision~~.

shall transmit, in writing, to the person on whose behalf the complaint is submitted—

(i) if the Attorney General has made a decision about whether the United States will commence an action for relief under paragraph (1) relating to the complaint of the person, notice of the decision; and

(ii) if the Attorney General has not made such a decision, notice of when the Attorney General expects to make such a decision.

(B) If the Attorney General notifies a person of when the Attorney General expects to make a decision under subparagraph (A)(ii), the Attorney General shall, not later than 30 days after the date on which the Attorney General makes such decision, notify, in writing, the person of such decision.

(3) Whenever the Attorney General has reasonable cause to believe that a State (as an employer) or a private employer is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights or benefits secured by this chapter, the Attorney General may commence a action under this chapter.

~~(3)~~ (4) A person may commence an action for relief with respect to a complaint against a State (as an employer) or a private employer if the person—

(A) has chosen not to apply to the Secretary for assistance under section 4322(a) of this title;

(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

(C) has been ~~refused representation by the Attorney General with respect to the complaint under such paragraph~~ notified by the Department of Justice that the Attorney General does not intend to bring a civil action.

(b) JURISDICTION.—(1) In the case of an action against a State (as an employer) or a private employer commenced by the United States, the district courts of the United States shall have jurisdiction over the action.

~~(2) In the case of an action against a State (as an employer) by a person, the action may be brought in a State court of competent jurisdiction in accordance with the laws of the State.~~

(2)(A) In the case of an action against a State (as an employer), any instrumentality of a State, or any officer or employee of a State or instrumentality of a State acting in that officer or employee's official capacity, by any person, the action may be brought in the appropriate district court of the United States or in a State court of competent jurisdiction, and the State, instrumentality of the State, or officer or employee of the State or instrumentality acting in that officer or employee's official capacity shall not be immune under the Eleventh Amendment of the Constitution, or under any other doctrine of sovereign immunity, from such action.

(B)(i) No State, instrumentality of such State, or officer or employee of such State or instrumentality of such State, acting in that officer or employee's official capacity, that receives or uses Federal financial assistance for a program or activity shall be immune, under the Eleventh Amendment of the Constitution or under any other doctrine of sovereign immunity, from suit in Federal or State court by any person for any violation under this chapter related to such program or activity.

(ii) In an action against a State brought pursuant to subsection (a), a court may award the remedies (including remedies both at law and in equity) that are available under subsections (d) and (e).

(3) In the case of an action against a private employer by a person, the district courts of the United States shall have jurisdiction of the action.

(c) VENUE.—(1) In the case of an action by the United States against a State (as an employer), the action may proceed in the United States district court for any district in which the State exercises any authority or carries out any function.

(2) In the case of an action against a private employer, the action may proceed in the United States district court ~~for any district in which the private employer of the person maintains a place of business.~~ for—

(A) any district in which the employer maintains a place of business;

(B) any district in which a substantial part of the events or omissions giving rise to the claim occurred; or

(C) if there is no district in which an action may otherwise be brought as provided in subparagraph(A) or (B), any district in which the employer is subject to the court's personal jurisdiction with respect to such action.

(d) REMEDIES.—(1) In any action under this section, the court may award relief as follows:

(A) The court may require the employer to comply with the provisions of this chapter.

(B) The court may require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter.

~~(C) The court may require the employer to pay the person an amount equal to the amount referred to in subparagraph (B) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.~~

(C) The court may require the employer to pay the person compensatory damages suffered by reason of such employer's failure to comply with the provisions of this chapter.

(D) The court may require the employer (other than a government, government agency, or political subdivision) to pay the person punitive damages if the court determines that the employer failed to comply with the provisions of this chapter with reckless indifference to the federally protected rights of the person.

(E) The sum of the amount of compensatory damages awarded under this section and the amount of punitive damages awarded under this section, may not exceed, for each person the following:

(i) In the case of an employer who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000.

(ii) In the case of an employer who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000.

(iii) In the case of an employer who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $200,000.

(iv) In the case of an employer who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000.

(2)(A) Any compensation awarded under subparagraph (B) or (C) of paragraph (1) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under this chapter.

(B) In the case of an action commenced in the name of the United States for which the relief includes compensation awarded under subparagraph (B) or (C) of paragraph (1), such compensation shall be held in a special deposit account and shall be paid, on order of the Attorney General, directly to the person. If the compensation is not paid to the person because of inability to do so within a period of 3 years, the compensation shall be covered into the Treasury of the United States as miscellaneous receipts.

(3) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

(e) EQUITY POWERS.—The court shall use, in any case in which the court determines it is appropriate, its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

(f) STANDING.—An action under this chapter may be initiated only by the United States or by a person claiming rights or benefits under this chapter under subsection (a) ~~or by the United States under subsection (a)(1)~~.

(g) RESPONDENT.—In any action under this chapter, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

(h) FEES, COURT COSTS.—(1) No fees or court costs may be charged or taxed against any person claiming rights under this chapter.

(2) In any action or proceeding to enforce a provision of this chapter by a person under subsection ~~(a)(2)~~ (a)(1) or subsection (a)(4) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

(i) DEFINITION.—In this section, the term "private employer" includes a political subdivision of a State.

(j) ISSUANCE AND SERVICE OF CIVIL INVESTIGATIVE DEMANDS BY ATTORNEY GENERAL.—(1) Whenever the Attorney General has reason to believe that any person may be in possession, custody, or control of any documentary material relevant to an investigation under this chapter, the Attorney General may, before commencing a civil action under subsection (a), issue in writing and cause to be served upon such person, a civil investigative demand requiring—

(A) the production of such documentary material for inspection and copying;

(B) that the custodian of such documentary material answer in writing written questions with respect to such documentary material; or

(C) the production of any combination of such documentary material or answers.

(2) The provisions governing the authority to issue, use, and enforce civil investigative demands under section 3733 of title 31 (known as the 'False Claims Act') shall govern the authority to issue, use, and enforce civil investigative demands under paragraph (1), except that for purposes of that paragraph—

(A) a reference in that section to false claims law investigators or investigations shall be applied as referring to investigators or investigations under this chapter;

(B) a reference to interrogatories shall be applied as referring to written questions, and answers to such need not be under oath;

(C) the statutory definitions for purposes of that section relating to 'false claims law' shall not apply; and

(D) provisions of that section relating to qui tam relators shall not apply.

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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Section 601 would provide that members of the uniformed services in pay grades of O-6 and below with an increase in rates of basic pay of 1.0 percent effective January 1, 2015 vice a pay increase of 1.8 percent as reflected in the Employment Cost Index. Members in pay grades O-7 and above would not receive an increase in basic pay.

Subsection (c) would ensure that, as applied to General/Flag Officers only, the Executive Schedule Level II cap would not increase for calendar 2015, which would ensure that officers in pay grades O-9 and O-10 will not receive a pay increase in 2015. Currently, basic pay for most officers in pay grade O-9 and all officers in pay grade O-10 is restricted by the Executive Schedule. Thus, even if the pay table cells remained unchanged, an increase in the Executive Schedule would result in an increase of the payable rate of basic pay for those officers. Subsection (c) ensures that these General/Flag Officers do not receive a pay increase in 2015.

The statutory authorities that calculate a member's military retirement rely upon section 203 of title 37. If the amendment to restrict the Executive Schedule is made outside of section 203, this could have the unintended effect of reducing the pay base upon which a General/Flag Officer's retirement calculation is based.

Budget Implications: Slowing the rate of growth of military pay and benefits by setting the FY 2015 pay raise at 1.0 percent will affect all 2.2 million Active, Reserve, and National Guard Service members. The projected savings by Component across the Future Years Defense Program from the lower 1.0 percent basic pay raise and a pay freeze for all General and Flag Officers is detailed in the table below.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	-171.5	-225.9	-219.4	-215.2	-213.7	MPA	01, 02, 03	multiple	
Army Reserve	-19.5	-25.6	-25.2	-25.1	-25.5	RPA	01	multiple	
Army National Guard	-34.5	-45.1	-44.3	-44.4	-44.7	NGPA	01	multiple	
Navy	-110.7	-147.2	-148.6	-152.0	-156.1	MPN	01, 02, 03	multiple	
Navy Reserve	-7.8	-10.2	-10.5	-10.9	-11.3	RPN	01	multiple	
Marine Corps	-55.1	-73.4	-72.7	-73.6	-75.6	MPMC	01, 02	multiple	
Marine Corps Reserve	-2.9	-3.9	-3.9	-4.0	-4.1	RPMC	01	multiple	
Air Force	-111.5	-145.1	-147.1	-150.7	-155.0	MPAF	01, 02, 03	multiple	
Air Force Reserve	-6.7	-8.8	-8.8	-9.1	-9.3	RPAF	01	multiple	
Air National Guard	-14.6	-19.5	-19.7	-20.1	-20.7	NGPAF	01	multiple	
Total*	-534.9	-704.7	-700.2	-705.1	-715.9				

*Totals may not add due to rounding

Changes to Existing Law: This proposal would make no changes to existing law.

Section 602 would provide parity for purposes of pay and allowances to the Chief of the National Guard Bureau, and to the Senior Enlisted Advisor to the Chief of the National Guard Bureau, with the other members of the Joint Chiefs of Staff and their senior enlisted advisors, respectively.

The Chief of the National Guard Bureau was added to the membership of the Joint Chiefs by section 512 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 (P.L. 112-81). However, a number of additional changes are required in statute to provide parity for the Chief of the National Guard Bureau and the Senior Enlisted Advisor to the Chief of the National Guard Bureau with their contemporaries. As a case in point, the Personal Money Allowance authorized in 37 U.S.C. 414is intended to defray expenses incurred during the execution of official duties that are not reimbursable through other authorized mechanisms such as the Official Representation Fund.

The Chief of the National Guard Bureau and the Senior Enlisted Advisor to the Chief of the National Guard Bureau are not presently included in the special rule used to determine the retired pay base for among others, all members of the Joint Chiefs of Staff and their respective senior enlisted members. Also, the Senior Enlisted Advisor to the Chief of the National Guard Bureau does not presently receive the same pay (rate of basic pay and rate of basic pay when placed on terminal leave or hospitalized) as the other senior enlisted advisors.

This proposal would have an immediate impact for the Senior Enlisted Advisor to the Chief of the National Guard Bureau by providing retroactive pay parity for the incumbent with the other listed senior enlisted members. This provision is consistent with the previous provision, enacted in section 685 of the National Defense Authorization Act of 2006, which provided pay parity for the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.

This proposal would have a prospective impact for the Chief of the National Guard Bureau upon retirement and provide him retired pay parity with the other members of the Joint Chiefs of Staff. While the base pay rate for the members of the Joint Chiefs of Staff is presently capped at the rate for level IV of the Executive Schedule, retirement pay, under the special rule in 10 U.S.C. 1406, is determine by using "the highest rate of basic pay applicable to the member while serving in that position.

This proposal affirms the intent of the NDAA for FY 2012, which established the Chief of the National Guard Bureau as a member of the Joint Chiefs of Staff, and ensures equal treatment and parity, under the law, for all members of the Joint Chiefs of Staff and their respective senior enlisted advisors.

Budget Implications: Given that this proposal would only affect two positions, the estimated increase in resourcing requirements across the budget table, below, would be minimal. Note: The Army and Air Force incumbents of the position of the Chief of the National Guard and Senior Enlisted Advisor (SEA) to the Chief of the National Guard Bureau are affected since both positions rotate from Army to Air Force and vice versa.

Effect of Amendment to Section 414 of title 37, United States Code (allowance for certain positions). The proposed legislation would result in a total annual increase of $6,000/year. The total includes $4,000 for the position of the Chief of the National Guard Bureau (Allowance for Officers Serving in Certain Ranks or Positions) and $2,000 for the position of SEA (Allowance for Senior Enlisted Members).

Effect of Amendment to Section 1406(i) of title 10, United States Code (retired base pay). The proposed legislation would result in a total increase of $26,565 in the base year. The base pay is adjusted with an annual inflation (pay raise) factor of 1.5 percent. The total includes the incremental increase in base pay rate to provide parity for the Chief of the National Guard Bureau as a member of the Joint Chiefs of Staff and the incremental increase in base pay rate for the SEA to the Chief of the National Guard Bureau. The increase in base pay also accounts for increased contribution of retired pay accrual to the Military Retirement Trust Fund (calculated at the FY 2015 full-time rate of 32.2 percent of base pay).

This proposal results in a nominal increase in budgetary requirements across the Future Years Defense Program, and adequate resources to fund the proposal exist in the services' Program Objective Memorandum.

RESOURCE REQUIREMENTS ($M)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Program Element**	**Dash-1 Line Item**
ARNG	0.0093	.0094	0.0238	0.0241	0.0098	2060/NGPA	01	0904901A	090
ANG	0.0233	0.0235	0.0095	0.0096	0.0244	3850/NGPF	01	0509220F	090
Total	0.0326	0.0330	0.0334	0.0338	0.0342				

NUMBER OF PERSONNEL AFFECTED					
Service	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**
ARNG/ANG	2	2	2	2	2
Total	2	2	2	2	2

Changes to Existing Law: This section would make the following changes in provisions of existing law:

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

SEC. 685. INCLUSION OF SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF AND FOR THE CHIEF OF THE NATIONAL GUARD BUREAU AMONG SENIOR ENLISTED MEMBERS OF THE ARMED FORCES.

(a) BASIC PAY RATE.—

(1) EQUAL TREATMENT.—The rate of basic pay for an enlisted member in the grade E–9 while serving as Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff or as Senior Enlisted Advisor to the Chief of the National Guard Bureau shall be the same as the rate of basic pay for an enlisted member in that grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

(2) ***

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TITLE 37, UNITED STATES CODE

§ 210. Pay of senior enlisted members during terminal leave and while hospitalized

(a) A noncommissioned officer of an armed force who, immediately following the completion of service as the senior enlisted member of that armed force or as the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, is placed on terminal leave pending retirement shall be entitled, for not more than 60 days while in such status, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(b) A noncommissioned officer of an armed force who is hospitalized and who, during or immediately before such hospitalization, completed service as the senior enlisted member of that armed force, or as the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, shall continue to be entitled, for not more than 180 days while so hospitalized, to the rate of basic pay authorized for the senior enlisted member of that armed force.

(c) In this section, the term "senior enlisted member" means the following:

(1) The Sergeant Major of the Army.
(2) The Master Chief Petty Officer of the Navy.
(3) The Chief Master Sergeant of the Air Force.
(4) The Sergeant Major of the Marine Corps.
(5) The Master Chief Petty Officer of the Coast Guard.
~~(6) The Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.~~

* * * * * * *

§414. Personal money allowance

(a) ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.—In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) $500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) $1,200 a year, in place of any other personal money allowance authorized by this section while serving as Surgeon General of the Public Health Service;

(3) $2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) $2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) $4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, ~~or~~ Commandant of the Coast Guard, or Chief of the National Guard Bureau.

(b) ALLOWANCE FOR CERTAIN NAVAL OFFICERS.-In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) President of the Naval Postgraduate School-$400;

(2) Commandant of Midshipmen at the Naval Academy-$800;

(3) President of the Naval War College-$1,000;

(4) Superintendent of the Naval Academy-$5,200; and

(5) Director of Naval Intelligence-$5,200.

(c) ALLOWANCE FOR SENIOR ENLISTED MEMBERS.-In addition to other pay or allowances authorized by this title, a noncommissioned officer is entitled to a personal money allowance of $2,000 a year while serving as the Sergeant Major of the Army, the Master Chief Petty Officer of the Navy, the Chief Master Sergeant of the Air Force, the Sergeant Major of the Marine Corps, the Master Chief Petty Officer of the Coast Guard, ~~or~~ the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or the Senior Enlisted Advisor to the Chief of the National Guard Bureau.

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TITLE 10, UNITED STATES CODE

§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

(1) GENERAL RULE.— * * *

* * * * *

(i) SPECIAL RULE FOR FORMER CHAIRMEN AND VICE CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, CHIEF OF THE NATIONAL GUARD BUREAU, COMMANDERS OF COMBATANT COMMANDS, AND SENIOR ENLISTED MEMBERS.—

(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman or Vice Chairman of the Joint Chiefs of Staff, as a Chief of

Service, as the Chief of the National Guard Bureau, as a commander of a unified or specified combatant command (as defined in section 161(c) of this title), or as the senior enlisted member of an armed force or the senior enlisted advisor to the Chairman of the Joint Chiefs of Staff or the Chief of the National Guard Bureau, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

(2) EXCEPTION FOR MEMBERS REDUCED IN GRADE OR WHO DO NOT SERVE SATISFACTORILY.—Paragraph (1) does not apply in the case of a member who, while or after serving in a position specified in that paragraph and by reason of conduct occurring after October 16, 1998—

(A) in the case of an enlisted member, is reduced in grade as the result of a court-martial sentence, nonjudicial punishment, or other administrative process; or

(B) in the case an officer, is not certified by the Secretary of Defense under section 1370(c) of this title as having served on active duty satisfactorily in the grade of general or admiral, as the case may be, while serving in that position.

(3) DEFINITIONS.—In this subsection:

(A) The term "Chief of Service" means any of the following:

(i) Chief of Staff of the Army.
(ii) Chief of Naval Operations.
(iii) Chief of Staff of the Air Force.
(iv) Commandant of the Marine Corps.
(v) Commandant of the Coast Guard.

(B) The term "senior enlisted member" means any of the following:

(i) Sergeant Major of the Army.
(ii) Master Chief Petty Officer of the Navy.
(iii) Chief Master Sergeant of the Air Force.
(iv) Sergeant Major of the Marine Corps.
(v) Master Chief Petty Officer of the Coast Guard.
~~(vi) Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff.~~

* * * * *

Section 603 would revise the method by which the monthly amount of the basic allowance for housing (BAH) is determined for members of the uniformed services. The proposal would reinstate the out-of-pocket computation, but allow flexibility in what percentage can be taken from year to year, not to exceed 5 percent of the national average for a given pay grade and dependency status.

In addition, by policy, renter's insurance will be removed from BAH computations, as it is considered a non-housing cost. Removing renter's insurance from BAH computations reduces BAH rates by about 1 percent. BAH rates would then be based only on the cost of rent and household utilities, less an out-of-pocket amount allowed by this proposal.

The current text (to be replaced) was incorporated in statute in 2000 as the result of a Department of Defense (DoD) initiative to reduce, then eliminate, median out-of-pocket expenditures on housing by uniformed service members. Current fiscal constraints necessitate reintroducing this element, but to a lesser extent than the original 1998 BAH law prescribed. At that time, the computation included a 15 percent reduction in BAH rates compared to the average cost of housing.

Budget Implications: The table below reflects the cost savings that would be realized through enacting this proposal. Cost savings calculations are based on savings starting in FY 2015. These cost savings include removing renter's insurance from the computation beginning in 2015 and gradually increasing the out-of-pocket percentage to 5 percent over three years (2015-2017).

RESOURCE REQUIREMENTS ($BILLIONS) - COST SAVINGS									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Air Force	(0.080)	(0.189)	(0.241)	(0.255)	(0.266)	Mil Pers Air Force	Multiple		
Air Force	(0.003)	(0.007)	(0.009)	(0.010)	(0.010)	Reserve Pers Air Force	Multiple		
Air Force	(0.009)	(0.020)	(0.026)	(0.027)	(0.028)	Natl Gd Pers Air Force	Multiple		
Army	(0.115)	(0.276)	(0.369)	(0.385)	(0.388)	Mil Pers Army	Multiple		
Army	(0.010)	(0.025)	(0.035)	(0.038)	(0.040)	Reserve Pers Army	Multiple		
Army	(0.018)	(0.042)	(0.058)	(0.062)	(0.063)	Natl Gd Pers Army	Multiple		
USMC	(0.049)	(0.110)	(0.126)	(0.130)	(0.137)	Mil Pers USMC	Multiple		
USMC	(0.001)	(0.003)	(0.004)	(0.004)	(0.004)	Reserve Pers USMC	Multiple		
Navy	(0.100)	(0.237)	**(**0.294)	(0.311)	(0.324)	Mil Pers Navy	Multiple		
Navy	(0.005)	(0.012)	(0.015)	(0.016)	(0.017)	Reserve Pers Navy	Multiple		
Total	(0.391)	(0.922)	(1.177)	(1.239)	(1.277)				

Number of Personnel Affected: The table below details the number of uniformed service members who would be affected by this proposal. These estimates are based on the number of uniformed service members who were receiving BAH for housing in the United States in April 2013.

NUMBER OF PERSONNEL AFFECTED									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1**	**Program Element**

								Line Item	
Air Force	230,762	230,762	230,762	230,762	230,762	Mil Pers Air Force	Multiple		
	1,176	1,176	1,176	1,176	1,176	Reserve Pers Air Force	Multiple		
	13,534	13,534	13,534	13,534	13,534	Natl Gd Pers Air Force	Multiple		
Army	369,648	369,648	369,648	369,648	369,648	Mil Pers Army	Multiple		
	15,492	15,492	15,492	15,492	15,492	Reserve Pers Army	Multiple		
	29,982	29,982	29,982	29,982	29,982	Natl Gd Pers Army	Multiple		
USMC	102,984	102,984	102,984	102,984	102,984	Mil Pers USMC	Multiple		
	5,330	5,330	5,330	5,330	5,330	Reserve Pers USMC	Multiple		
Navy	223,718	223,718	223,718	223,718	223,718	Mil Pers Navy	Multiple		
	9,352	9,352	9,352	9,352	9,352	Reserve Pers Navy	Multiple		
Total	1,001,978	1,001,978	1,001,978	1,001,978	1,001,978				

Change to Existing Law: This proposal would make the following changes to section 403 of title 37, United States Code:

§ 403. Basic allowance for housing

(a) GENERAL ENTITLEMENT.—***

* * * * * *

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—

(1) The Secretary of Defense shall prescribe the rates of the basic allowance for housing that are applicable for the various military housing areas in the United States. The rates for an area shall be based on the costs of adequate housing determined for the area under paragraph (2).

(2) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area. After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.

~~(3) The total amount that may be paid for a fiscal year for the basic allowance for housing under this subsection may not be less than the product of —~~

(3)(A) The monthly amount of the basic allowance for housing for an area of the United States for a member of a uniformed service shall be the amount equal to the

difference between— ~~the total amount authorized to be paid for such allowance for the preceding fiscal year; and~~

(i) the amount of the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

(ii) the amount equal to a specified percentage (determined under subparagraph (B)) of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.

(B) The percentage to be used for purposes of subparagraph (A)(ii) shall be determined by the Secretary of Defense and may not exceed 5 percent. ~~a fraction—~~

~~(i) the numerator of which is the index of the national average monthly cost of housing for June of the preceding fiscal year; and~~

~~(ii) the denominator of which is the index of the national average monthly cost of housing for June of the second preceding fiscal year.~~

* * * * * * *

Subtitle B—Bonuses and Special and Incentive Pays

Section 611 would extend for one year, until December 31, 2015, accession and retention incentives for certain nurses, psychologists, and medical, dental and pharmacy officers. Experience shows that manning levels in these health care professional fields would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and development of replacements. The Department of Defense and Congress have long recognized the prudence of these incentives in supporting effective personnel levels within these specialized fields.

This proposal also would extend two critical recruitment and retention incentive programs for Reserve component health care professionals. The Reserve components historically have found it challenging to meet the required manning in the health care professions. The incentive that targets health care professionals who possess a critically short skill is essential to meet required manning levels. In addition, the health professions loan repayment program has proven to be one of our most powerful recruiting tools for attracting young health professionals trained in specialty areas that are critically short in the Selected Reserve. Extending this authority is critical to the continued success of recruiting young, skilled health professionals into the Selected Reserve. Finally, this section would extend the consolidated special and incentive pay authorities in section 335 of title 37, United States Code (Special Bonus and Incentive Pay Authorities for Officers in Health Professions), to which the Department is in the process of transitioning.

This proposal would extend for one year, through December 31, 2015, accession and retention incentives for nuclear-qualified officers. These incentives enable Navy to attract and retain the qualified personnel required to maintain the operational readiness and unparalleled safety record of the nuclear-powered submarines and aircraft carriers which comprise over 35%

of the combatant fleet. Due to extremely high training costs and regulatory requirements for experienced supervisors, these incentives provide the surest and most cost-effective means to maintain the required quantity and quality of these officers.

The nuclear officer incentive pay (NOIP) program is structured to provide career-long retention of officers in whom the Navy has made a considerable training investment and who have continually demonstrated superior technical and management ability. The scope of the program is limited to the number of officers required to fill critical nuclear supervisory billets and eligibility is strictly limited to those officers who continue to meet competitive career milestones. The technical, leadership, and management expertise developed in the Naval Nuclear Propulsion Program (NNPP) is highly valued in the civilian workforce, which makes the retention of these officers a continuing challenge.

The NNPP retention challenge has contributed to Navy's current shortage of control grade officers (Captains, Commanders, and Lieutenant Commanders) and is the cause of the submarine community's current shortfall of 490 control grade officers. The Navy met its submarine officer retention target for FY13 for the sixth time in ten years. Additionally, the nuclear-trained surface warfare community continues to struggle to meet CVN Principal Assistant retention with levels amongst the lowest in the Unrestricted Line (URL) communities. The Navy expects to meet its FY14 retention goal for nuclear-trained surface and submarine warfare officers. NOIP is the primary financial retention incentive for the highly skilled officers in these communities.

This proposal would extend for one year, through December 31, 2015, the consolidated special and incentive pay authorities added to subchapter II of chapter 5 of title 37, United States Code, by the National Defense Authorization Act for Fiscal Year (FY) 2008, to which the Department will transition over the next 10 years. Experience shows that retention of members in critical skills would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and developing replacements. The Department of Defense and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in such critical military skills, assignments, and high priority units.

This proposal would extend for one year, through December 31, 2015, accession, conversion, and retention bonuses for uniformed personnel possessing or acquiring critical skills or assigned to high priority units. This includes arduous occupations, as well as those that require extremely high training and replacement costs. This section also would extend incentive pay for members in designated assignments and the bonus for transfers between the Armed Forces.

ONE-YEAR EXTENSION AUTHORITIES FOR RESERVE FORCES:

Budget Implications: This section would extend for one year critical recruiting and retention incentive programs the Department of Defense funds each year. The military departments already have projected expenditures of $$357.7 to $$404.8 million each year from fiscal year (FY) 2015 through 2019 for these incentives in their budget proposals, to be funded from the Reserve Component, Military Personnel accounts.

Table 1a.	NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
ARNG	59,067	62,051	69,447	74,505	66,551	National Guard Personnel, Army	01	90
USAR	35,606	43,183	44,607	47,255	52,444	Reserve Personnel, Army	01	90
USNR	6,244	7,328	7,281	7,163	7,393	Reserve Personnel, Navy	01	90
USMCR	604	604	604	604	604	Reserve Personnel, Marine Corps	01	90
ANG	6,266	7,129	6,896	6,705	6,768	National Guard Personnel, Air Force	01	90
USAFR	8,199	8,053	8,146	7,372	7,233	Reserve Personnel, Air Force	01	90
Total	115,986	128,348	136,981	143,604	140,993			

Table 1b.	RESOURCE REQUIREMENTS ($ MILLIONS)							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
ARNG	$$161.2	$181.0	$178.8	$204.2	$204.9	National Guard Personnel, Army	01	90
USAR	$95.4	$82.0	$82.6	$88.6	$98.1	Reserve Personnel, Army	01	90
USNR	$22.6	$24.3	$23.3	$21.2	$21.3	Reserve Personnel, Navy	01	90
USMCR	$7.0	$7.0	$7.0	$7.0	$7.0	Reserve Personnel, Marine Corps	01	90
ANG	$44.8	$51.2	$48.6	$47.4	$48.6	National Guard Personnel, Air Force	01	90
USAFR	$26.7	$26.5	$26.3	$25.2	$24.9	Reserve Personnel, Air Force	01	90
Total	$357.7	$372.0	$366.6	$393.6	$404.8			

ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS:

Budget Implications: This section would extend for one year critical accession and retention incentive programs the military departments fund each year. The military departments already have projected expenditures for these incentives and programmed them via budget proposals. The military departments have projected expenditures of $$179.3 to $183.2 million each year

from fiscal year (FY) 2015 through 2019 for these incentives in their budget proposals, to be funded from the Military Personnel accounts.

Table 2a.	NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	629	629	629	629	629	Military Personnel, Army	01	40
Army Res	2,400	3,034	2,034	2,034	2,034	Reserve Personnel, Army	01	120
Army National Guard	1,477	1,396	1,530	1,550	1,1471	National Guard Personnel, Army	01	90
Navy	300	300	300	300	300	Military Personnel, Navy;	01	40
Navy Res	1,253	1,251	1,261	1,261	1,261	Reserve Personnel, Navy	01	120
Air Force	344	344	344	344	344	Military Personnel, Air Force	01	40
AF Res	354	263	220	220	220	Reserve Personnel, Air Force	01	120
Air National Guard	590	730	826	844	862	National Guard Personnel, Air Force	01	90
Total	6,757	6,217	6,318	6,338	6,259			

Table 2b.	RESOURCE REQUIREMENTS ($ MILLIONS)							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	$31.3	$31.3	$31.3	$31.3	$31.3	Military Personnel, Army;	01	40
Army Res	$50.7	$50.8	$50.8	$51.0	$51.2	Reserve Personnel, Army	01	120
Army National Guard	$35.2	$31.9	$34.6	$34.9	$33.4	National Guard Personnel, Army	01	90
Navy	$4.2	$4.2	$4.2	$4.2	$4.2	Military Personnel, Navy;	01	40
Navy Res	$21.6	$21.7	$21.9	$21.9	$21.9	Reserve Personnel, Navy	01	120
Air Force	$19.7	$19.7	$19.7	$19.7	$19.7	Military Personnel, Air Force	01	40
AF Res	$9.6	$7.3	$5.6	$5.6	$5.6	Reserve Personnel, Air Force	01	120
Air National Guard	$9.6	$12.4	$14.2	$14.7	$14.7	National Guard Personnel, Air Force	01	90
Total	$181.9	$179.3	$182.3	$183.3	$182.0			

ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS:

Budget Implications: This section would extend for one year the critical accession and retention incentive programs the Navy funds each year. The Navy has already projected expenditures for these incentives and programmed them into budget proposals. The Navy has projected expenditures of about $75 million each year, to be funded from their Military Personnel account, to account for new and renegotiated contracts to be executed each year from FY 2015 through 2019. The Army and Air Force are not authorized in the statute to pay these bonuses.

Table 3a.	NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	0	0	0	0	0	N/A	N/A	N/A
Navy	2,670	2,728	2,736	2,737	2,736	Military Personnel, Navy	01, 02, 03	40 (for 01); 90 (for 02); 110 (for 03)
Total	2,670	2,728	2,736	2,737	2,736			

Table 3b.	RESOURCE REQUIREMENTS ($ MILLIONS)							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	0	0	0	0	0	N/A	N/A	N/A
Navy	$74.2	$75.9	$76.1	$76.1	$76.1	Military Personnel, Navy	01, 02, 03	40 (for 01); 90 (for 02); 110 (for 03)
Total	$74.2	$75.9	$76.1	$76.1	$76.1			

ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

Budget Implications: This section would extend for one year the consolidated special and incentive programs the military departments fund each year. These pays consist of enlisted bonuses, non-physician health professions pays, and critical skill retention bonuses. This section does not include the nuclear officer pays which are located in tables 3a and 3b. The military departments already have projected expenditures for these incentives and programmed them via budget proposals. Specifically, the military departments have projected expenditures of $1.0billion each year from FY 2015 through FY 2019 for these incentives in their budget proposals, to be funded from the Military Personnel accounts.

Table 4a.	NUMBER OF PERSONNEL AFFECTED

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Appropriation To	Budget Activity	Line Item
Army	51,955	51,955	51,955	51,955	51,955	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)
Navy	50,927	50,927	50,927	50,927	50,927	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Marine Corps	9,505	9,505	9,505	9,505	9,505	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Air Force	48,441	48,441	48,441	48,441	48,441	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Total	160,828	160,828	160,828	160,828	160,828			

Table 4b.	RESOURCE REQUIREMENTS ($ MILLIONS)							
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Appropriation To	Budget Activity	Line Item
Army	$250.7	$250.7	$250.7	$250.7	$250.7	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)
Navy	$421.4	$421.4	$421.4	$421.4	$421.4	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Marine Corps	$76.2	$76.2	$76.2	$76.2	$76.2	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Air Force	$259.6	$259.6	$259.6	$259.6	$259.6	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Total	$1,008	$1,008	$1,008	$1,008	$1,008			

ONE-YEAR EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER TITLE 37 BONUSES AND SPECIAL PAY:

Budget Implications: This section would extend for one year critical recruiting and retention incentive programs the military departments fund each year. The military departments already have projected expenditures for these incentives and programmed them via budget proposals. Specifically, the military departments have projected expenditures of $188 million each year from FY 2015 through FY 2019 for these incentives in their budget proposals, to be funded from the Military Personnel accounts.

Table 5a.	NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	10,712	10,712	10,712	10,712	10,712	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)
Navy	5,302	5,302	5,302	5,302	5,302	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Marine Corps	469	469	469	469	469	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Air Force	5,351	5,351	5,351	5,351	5,351	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Total	21,834	21,834	21,834	21,834	21,834			

Table 5b.	RESOURCE REQUIREMENTS ($ MILLIONS)							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Line Item**
Army	$59.4	$59.4	$59.4	$59.4	$59.4	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)
Navy	$47.6	$47.6	$47.6	$47.6	$47.6	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Marine Corps	$5.7	$5.7	$5.7	$5.7	$5.7	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Air Force	$75	$75	$75	$75	$75	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)
Total	$187.6	$187.6	$187.6	$187.6	$187.6			

Changes to Existing Laws: This proposal would make the following changes to title 10 and title 37, United States Code:

TITLE 10, UNITED STATES CODE

§ 2130a. Financial assistance: nurse officer candidates

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2014~~ December 31,

2015, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $20,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $10,000.

(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution by the Secretary selecting the person. The continuation bonus may be paid for not more than 24 months.

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§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer before ~~December 31, 2014~~ December 31, 2015.

TITLE 37, UNITED STATES CODE

§ 301b. Special pay: aviation career officers extending period of active duty

(a) BONUS AUTHORIZED.—An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on ~~December 31, 2014~~December 31, 2015, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

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§ 302c-1. Special pay: accession and retention bonuses for psychologists

(f) TERMINATION OF AUTHORITY.—No agreement under subsection (a) or (b) may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 302d. Special pay: accession bonus for registered nurses

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a registered nurse and who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2014~~ December 31, 2015, executes a written agreement described in subsection (c) to accept a commission as an officer and remain on active duty for a period of not less than three years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $30,000.

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§ 302e. Special pay: nurse anesthetists

(a) SPECIAL PAY AUTHORIZED.—(1) An officer described in subsection (b)(1) who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2014~~ December 31, 2015, executes a written agreement to remain on active duty for a period of one year or more may, upon the acceptance of the agreement by the Secretary concerned, be paid incentive special pay in an amount not to exceed $50,000 for any 12-month period.

(2) The Secretary concerned shall determine the amount of incentive special pay to be paid to an officer under paragraph (1). In determining that amount, the Secretary concerned shall consider the period of obligated service provided for in the agreement under that paragraph.

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§ 302g. Special pay: Selected Reserve health care professionals in critically short wartime specialties

(e) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 302h. Special pay: accession bonus for dental officers

(a) ACCESSION BONUS AUTHORIZED.—(1) A person who is a graduate of an accredited dental school and who, during the period beginning on September 23, 1996, and ending on ~~December 31, 2014~~ December 31, 2015, executes a written agreement described in subsection (c) to accept a commission as an officer of the armed forces and remain on active duty for a period of not less than four years may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

(2) The amount of an accession bonus under paragraph (1) may not exceed $200,000.

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§ 302j. Special pay: accession bonus for pharmacy officers

(a) ACCESSION BONUS AUTHORIZED.—A person who is a graduate of an accredited pharmacy school and who, during the period beginning on October 30, 2000, and ending on ~~December 31, 2014~~ December 31, 2015, executes a written agreement described in subsection (d) to accept a commission as an officer of a uniformed service and remain on active duty for a period of not less than 4 years may, upon acceptance of the agreement by the Secretary concerned, be paid an accession bonus in an amount determined by the Secretary concerned.

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§ 302k. Special pay: accession bonus for medical officers in critically short wartime specialties

(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 302l. Special pay: accession bonus for dental specialist officers in critically short wartime specialties

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 307a. Special pay: assignment incentive pay

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~December 31, 2015.

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§ 308. Special pay: reenlistment bonus

(g) No bonus shall be paid under this section with respect to any reenlistment, or voluntary extension of an active-duty reenlistment, in the armed forces entered into after ~~December 31, 2014~~December 31, 2015.

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§308b. Special pay: reenlistment bonus for members of the Selected Reserve

(g) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any enlisted member who, after ~~December 31, 2014~~ December 31, 2015, reenlists or voluntarily extends his enlistment in a reserve component.

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§ 308c. Special pay: bonus for affiliation or enlistment in the Selected Reserve

(i) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any agreement entered into under subsection (a) or (c) after ~~December 31, 2014~~ December 31, 2015.

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§ 308d. Special pay: members of the Selected Reserve assigned to certain high priority units

(c) Additional compensation may not be paid under this section for inactive duty performed after ~~December 31, 2014~~ December 31, 2015.

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§ 308g. Special pay: bonus for enlistment in elements of the Ready Reserve other than the Selected Reserve

(f) A bonus may not be paid under this section to any person for an enlistment—

(1) during the period beginning on October 1, 1992, and ending on September 30, 2005; or

(2) after ~~December 31, 2014~~ December 31, 2015.

* * * * * * *

§ 308h. Special pay: bonus for reenlistment, enlistment, or voluntary extension of enlistment in elements of the Ready Reserve other than the Selected Reserve

(e) TERMINATION OF AUTHORITY.—A bonus may not be paid under this section to any person for a reenlistment, enlistment, or voluntary extension of an enlistment after ~~December 31, 2014~~December 31, 2015.

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§ 308i. Special pay: prior service enlistment bonus

(f) TERMINATION OF AUTHORITY.—No bonus may be paid under this section to any person for an enlistment after ~~December 31, 2014~~ December 31, 2015.

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§ 309. Special pay: enlistment bonus

(e) DURATION OF AUTHORITY.—No bonus shall be paid under this section with respect to any enlistment in the armed forces made after ~~December 31, 2014~~ December 31, 2015.

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§ 312. Special pay: nuclear-qualified officers extending period of active duty

(f) DURATION OF AUTHORITY.—The provisions of this section shall be effective only in the case of officers who, on or before ~~December 31, 2014~~ December 31, 2015 execute the required written agreement to remain in active service.

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§ 312b. Special pay: nuclear career accession bonus

(c) The provisions of this section shall be effective only in the case of officers who, on or before ~~December 31, 2014~~ December 31, 2015, have been accepted for training for duty in connection with the supervision, operation, and maintenance of naval nuclear propulsion plants.

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§ 312c. Special pay: nuclear career annual incentive bonus

(d) For the purposes of this section, a ''nuclear service year'' is any fiscal year beginning before ~~December 31, 2014~~ December 31, 2015.

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§ 324. Special pay: accession bonus for new officers in critical skills

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 326. Incentive bonus: conversion to military occupational specialty to ease personnel shortage

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 327. Incentive bonus: transfer between armed forces

(h) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 330. Special pay: accession bonus for officer candidates

(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2014~~ December 31, 2015.

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§ 331. General bonus authority for enlisted members

(h) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 332. General bonus authority for officers

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~December 31, 2015.

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§ 333. Special bonus and incentive pay authorities for nuclear officers

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 334. Special aviation incentive pay and bonus authorities for officers

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 335. Special bonus and incentive pay authorities for officers in health professions

(k) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 351. Hazardous duty pay

(i) TERMINATION OF AUTHORITY.—No hazardous duty pay under this section may be paid after ~~December 31, 2014~~ December 31, 2015.

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§ 352. Assignment pay or special duty pay

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 353. Skill incentive pay or proficiency bonus

(j) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2014~~ December 31, 2015.

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§ 355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units

(h) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after ~~December 31, 2014~~ December 31, 2015, and no agreement under this section may be entered into after that date.

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§ 403. Basic allowance for housing

(b)(7)(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after ~~December 31, 2014~~ December 31, 2015.

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§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

(g) TERMINATION.—No payment shall be made to a member under this section for months beginning after ~~December 31, 2014~~ December 31, 2015, unless the entitlement of the member to payments under this section is commenced on or before that date.

Subtitle C—Travel and Transportation Allowances

Section 621 would permit the Secretary of Defense to direct the use of adequate Government quarters for civilian employees or the use of Government-leased quarters or lodging arranged through a Government program by civilian employees and uniformed Service members. Section 5911(e) of title 5, United States Code, states that the head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the government cannot adequately be protected, otherwise (subsection (a)(5) of this section also defines "quarters" as only meaning "quarters owned or leased by the Government"). In 1965, at a time when lodging was generally in poor condition compared to today's standards, a Comptroller General Decision (44 Comp Gen 626) opined that this appeared to be the legislative intent of the law in effect. That opinion stated that a blanket determination by the Secretaries concerned would be contrary to the intent and thwart the purpose of the law at issue at the time. This same statute prohibits requiring both civilian employees and uniformed service members to occupy leased quarters on a rental basis. These legal provisions are problematic for the Services in that government quarters now offer reasonable accommodations that are below the costs of commercial quarters. This limitation severely hampers DoD's ability to "leverage the Government's purchasing power to reduce travel costs associated with hotels…" (reference: OMB Memorandum M-12-12, May 11, 2012).

This proposal supports DoD's efforts to promote efficiencies. The proposal would permit the Department to develop a policy directing civilian employees and military members, for official travel, to use more cost-effective, adequate quarters. OMB Memorandum M-12-12, dated May 11, 2012, directed all federal agencies to spend in FY 2013 at least 30% less on travel expenses covered by the memorandum than they spent in FY 2010 and to maintain a reduced level of spending each year through FY 2016. Specifically, DoD and the General Services Administration (GSA), in consultation with OMB, are to review the Joint Federal Travel Regulations (JFTR) and the Federal Travel Regulation (FTR) to ensure the policies reduce travel costs without impairing the effective accomplishment of agency missions. That review must establish or clarify policies, among other things, that: "(d) expand and leverage the Government's purchasing power to reduce travel costs associated with hotel and rental cars." The directed use of lodging programs, like for air travel, is essential to DoD reducing its lodging expenses (estimated to be over ~$2.3 billion) and is a key element of DoD's response to the OMB memo. This change will enable DoD to accomplish more mission/readiness-related travel within the 30 percent reduction by reducing its costs per trip.

There are two sources of direct cost savings that could be realized through this proposal – commercial and government. Savings for commercial lodging are conservatively estimated to be 6% annually based on a recently completed cost/benefit analysis. Savings for government lodging are more difficult to estimate. But in a modeled illustration, the savings would be significant. If 30 percent of the ~$2.3 billion lodging spend is for government lodging (i.e., ~$690M), the saving between commercial and government lodging is 15.5 percent (i.e., the $12 difference between the standard lodging per diem rate of $77 and an average government charge of $65), and occupancy availability was just 25 percent, then the savings would be ~$27M. Neither of the above scenarios include indirect savings such as tax avoidance that can be an

additional 20 percent or more, increased Government Travel Charge Card (GTCC) rebates, administrative overhead, or itemized amenity expenses.

In addition to cost savings, this proposal would bring numerous other benefits to DoD. The proposal will serve to offer greater security to DoD travelers. Approved lodging will be more secure (e.g., internal room access, secure locks), or located on secure installations or in more secure areas. Facilities participating in the program will need to meet specific standards (e.g., size, compliance with The Hotel and Motel Fire Safety Act of 1990 (PL101-391), non-smoking) and include more amenities (e.g., internet, parking). Also, contacting DoD travelers in case of emergency would be more efficient. The proposal would also help DoD to follow industry best practices. Usage of the airline reservation module in the Defense Travel System (DTS) is over 85 percent, whereas lodging is less than 10 percent. By policy, travelers must use the City-Pair program first, and it is anticipated that lodging would see similar adoption rates if this proposal was passed. There are multiple benefits: Services save millions of dollars because of reduced room rates, and avoidance of taxes and included amenities, travelers are protected under the program provisions (e.g., cancellations), and travel data (e.g., spend) can be tracked to assist in sourcing, management, and compliance.

The proposal would also enable the Secretary of Defense to direct DoD civilian employees and Uniformed Service members performing duty on official travel to occupy lodging arranged through a government lodging program, in addition to government-owned quarters and government-leased quarters, on a rental basis when available. DoD will never have an efficient and cost-effective lodging program until travelers are required to use it. Currently, for both government and commercial lodging, there are multiple programs within each Service, not to mention a GSA-run FedRooms program, and over 3,000 contract vehicles in effect. Regarding commercial lodging, rates and amenities are impossible to effectively negotiate without some influence over directing market share. Regarding government lodging, higher occupancy rates will reduce spend overall and enable more reinvestment in improvements.

Any eventual implementation will be similar for both the air and rental car programs as an integrated solution. The integrated approach will encompass policy, information technology, program management, training, change management, communications, performance management, and governance. For example, the policy will be documented in the travel Department of Defense Instruction (DoDI) 5154.31 (vetted through the regulations portal) and the Joint Travel Regulations (JTR) and JFTR (vetted through the Per Diem Committee). DTS will be modified to serve as the primary traveler interface for booking with the business rules codified in the software (e.g., rental car displays compact rates first by ascending price). The DTS Change Request (CR) will be vetted through the Defense Travel Improvement Board (DTIB) and the Defense Lodging Council (DLC). The lodging reservation, booking, and tracking will be managed with the assistance of a Global Distribution System (GDS) type solution using unique rate codes supported and managed through performance management (Commercial Travel Information Management). This process will also be guided by codified business rules that check for availability according to the traveler's orders (e.g., government then commercial), and, if lodging is unavailable, issue a non-availability code. Travel training modules will be modified to include changes supported by a DoD-wide strategic communications campaign.

Budget Implications: The table below details the cost savings that this proposal would provide to the government. These numbers represent projected cost savings for just commercial lodging. These projected cost savings could be realized upon full program implementation, and are based on the percentage of lodging paid by each Service, using known DTS FY 2012 lodging data.

These cost savings were calculated using known DTS FY 2011 lodging paid by Service. A recent draft business case analysis estimated a 4 percent -8 percent savings in lodging if DoD had a managed commercial lodging program in CONUS. This data was calculated using a middle estimate of 6. A phased approach is proposed due to the complexity of the program, necessary modifications to DTS and implementation of Next Gen, and the need to provide education for DoD travelers. The Service/Agency component comptrollers certify that this proposal is funded in the POM and the President's Budget for FY 2015 and is included in the PB-16 exhibit.

RESOURCE REQUIREMENTS – COST SAVINGS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Air Force	**(1.59)**	**(3.18)**	**(4.77)**	**(9.54)**	**(15.9)**	**O&M AF**	**Multiple**	**308**	**Multiple**
Army	**(2.38)**	**(4.76)**	**(7.14)**	**(14.28)**	**(23.8)**	**O&M Army**	**032**	**399**	**09-Administration and Service-wide Support**
USMC	**(.37)**	**(.74)**	**(1.11)**	**(2.22)**	**(3.7)**	**O&M USMC**	**BA 4**	**4A4G**	**09-Administration and Service-wide Support**
Navy	**(1.56)**	**(3.12)**	**(4.68)**	**(9.36)**	**(15.6)**	**O&M Navy**	**032**	**308**	**09-Administration and Service-wide Support**
DoD	**(.5)**	**(1.0)**	**(1.5)**	**(3.0)**	**(5.0)**	**O&M DoD**	**032**	**399**	**09-Administration and Service-wide Support**
Total	**(6.4)**	**(12.8)**	**(19.2)**	**(38.4)**	**(64)**				

Number of Personnel Affected: The table below details the number of unique military and civilian travelers who would be affected by this proposal; these unique travelers are those whose final voucher payment was made in FY 2012.

NUMBER OF PERSONNEL AFFECTED (MILITARY AND CIVILIAN PERSONNEL)

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Appropriation From	Budget Activity	Dash-1 Line Item	Program Element
Air Force	296,539	296,539	296,539	296,539	296,539	O&M Air Force	Multiple	308	Multiple
Army	521,273	521,273	521,273	521,273	521,273	O&M Army	032	399	09-Administration and Service-wide Support
USMC	82,693	82,693	82,693	82,693	82,693	O&M USMC	BA 4	4A4G	09-Administration and Service-wide Support
Navy	224,021	224,021	224,021	224,021	224,021	O&M Navy	032	308	09-Administration and Service-wide Support
DoD Agencies + Joint Commands	67,146	67,146	67,146	67,146	67,146	O&M DoD	032	399	09-Administration and Service-wide Support
Total	1,191,672	1,191,672	1,191,672	1,191,672	1,191,672				

Changes to Existing Law: This proposal would make the following changes to section 5911 of title 5, United States Code:

§5911. Quarters and facilities; employees in the United States

(a) For the purpose of this section-

(1) "Government" means the Government of the United States;

(2) "agency" means an Executive agency, but does not include the Tennessee Valley Authority;

(3) "employee" means an employee of an agency;

(4) "United States" means the several States, the District of Columbia, and the territories and possessions of the United States including the Commonwealth of Puerto Rico;

(5) "quarters" means quarters owned or leased by the Government <u>or commercial lodging arranged through a Government lodging program</u>; and

(6) "facilities" means household furniture and equipment, garage space, utilities, subsistence, and laundry service.

(b) The head of an agency may provide, directly or by contract, an employee stationed in the United States with quarters and facilities, when conditions of employment or of availability of quarters warrant the action.

(c) Rental rates for quarters provided for an employee under subsection (b) of this section or occupied on a rental basis by an employee or member of a uniformed service under any other provision of statute, and charges for facilities made available in connection with the occupancy of the quarters, shall be based on the reasonable value of the quarters and facilities to the employee or member concerned, in the circumstances under which the quarters and facilities are provided, occupied, or made available. The amounts of the rates and charges shall be paid by, or deducted from the pay of, the employee or member of a uniformed service, or otherwise charged against him in accordance with law. The amounts of payroll deductions for the rates and charges shall remain in the applicable appropriation or fund. When payment of the rates and charges is made by other than payroll deductions, the amounts of payment shall be credited to the Government as provided by law.

(d) When, as an incidental service in support of a program of the Government, quarters and facilities are provided by appropriate authority of the Government to an individual other than an employee or member of a uniformed service, the rates and charges therefor shall be determined in accordance with this section. The amounts of payment of the rates and charges shall be credited to the Government as provided by law.

(e)(1) Except as provided in paragraph (2), ~~T~~the head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

(2)(A) The Secretary of Defense may require an employee of the Department of Defense or a member of the uniformed services under the Secretary's jurisdiction performing duty on official travel to occupy adequate quarters on a rental basis when available.

(B) A requirement under subparagraph (A) with respect to an employee of the Department of Defense may not be construed to be subject to negotiation under chapter xx of this title.

(f) The President may prescribe regulations governing the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, necessary and appropriate to carry out this section. The head of each agency may prescribe regulations, not inconsistent with the regulations of the President, necessary and appropriate to carry out the functions of the agency head under this section.

(g) Subsection (c) of this section does not repeal or modify any provision of statute authorizing the provision of quarters or facilities, either without charge or at rates or charges specifically fixed by statute.

(h) A member of the uniformed service on a permanent change of duty station or temporary duty orders and occupying unaccompanied personnel housing-

(1) is exempt from the requirement of subsection (c) to pay a rental rate or charge based on the reasonable value of the quarters and facilities provided; and

(2) shall pay such lesser rate or charge as the Secretary of Defense establishes by regulation.

Section 622 would establish a rate that provides adequate compensation for employees who perform temporary duty travel. It would apply to all Federal Government employees and members of the Uniformed Services traveling on behalf of the Federal Government in a privately owned automobile. As the Internal Revenue Service (IRS) does not establish similar rates for the use of a privately owned aircraft or motorcycle, the General Services Administration (GSA) would continue to conduct studies to establish those rates.

Historical data indicates that, over the last decade, the rate GSA established for the mileage allowance for privately owned automobiles has been the same as what the IRS has set. This indicates a redundant process with no value added. This proposal would authorize the Secretaries of the military departments and all Government employees' organizations to quickly implement the new mileage rate and eliminate the redundancy in the current process. For example, on November 27, 2008, the IRS published IR-2007-192, decreasing the standard mileage rate to .55 cents effective January 1, 2009. The GSA conducted a like study and on January 15, 2009, updated the Federal Register, Volume 74 No. 10, establishing the same rate as the IRS with an effective date of January 1, 2009. Due to the mileage decrease and the effective date of the change, Secretaries of the military departments and Government employees' organizations were not given adequate administrative and processing time. Because the rate decrease was retroactive, travelers who were paid for mileage before the rate change was published were overpaid.

If the military departments do not correct the claim and subsequently collect the overpayment, the travelers will have a tax burden for the overpayment. If they do correct the claim, the traveler will have to repay the overpayment. Either way, the Government bears the extra burden to collect the amount due, go through the waiver process, or report the overpayment as part of the traveler's taxable income under Department of Treasury (tax) regulations. In cases where the mileage rates increase retroactively, travelers could be shortchanged allowances if the necessary administrative and processing time is not allowed and the claim is settled prior to the updates. Once again, this poses an unnecessary burden in terms of man-hours and administration to provide supplemental payments, and can shortchange a traveler's mileage allowance if not identified. GSA has sought to eliminate this redundancy as a savings to taxpayers, but was not successful in obtaining sponsorship.

Budget Implications: This proposal would have very limited impact on service/agency budgets, with minimal potential for savings coming in the form of cost avoidance. Using the average GSA publication date of 53 days from the time when the IRS announced the rate and GSA published the rate in the Federal Register, travelers are either being under or overpaid 15% of the time. Therefore, members who traveled between January 1 and the effective date of the change

would be improperly paid. It should be noted that vouchers with less than a $10 difference are typically not corrected. Also, considering that the average rate change over the past five years has been 3.45 cents, a mileage claim would need to be over 290 miles before being acted upon. Applying assumptions from past years (i.e., ~15% of claims are paid at the wrong rate and ~35% of mileage claims are over 290 miles), it is estimated that 75,359 claims might be eligible for correction. At the cost of $43 for a manual voucher, the processing costs for 75,359 vouchers would be $3,240,437 if every eligible voucher was corrected. Several factors could reduce any savings (cost avoidance): an overall reduction in DoD travel, GSA publishing new mileage rates more quickly, and electronic processing of corrected vouchers.

RESOURCE REQUIREMENTS – COST SAVINGS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Air Force	(0.64)	(0.64)	(0.64)	(0.64)	(0.64)	O&M AF	Multiple	308	Multiple
Army	(1.34)	(1.34)	(1.34)	(1.34)	(1.34)	O&M Army	Multiple	308	Multiple
USMC	(.19)	(.19)	(.19)	(.19)	(.19)	O&M USMC	BA 4	4A4G	09-Administration and Service-wide Support
Navy	(.58)	(.58)	(.58)	(.58)	(.58)	O&M Navy	032	308	09-Administration and Service-wide Support
DoD	(.49)	(.49)	(.49)	(.49)	(.49)	O&M DoD	032	399	09-Administration and Service-wide Support
Total	(3.24)	(3.24)	(3.24)	(3.24)	(3.24)				

Number of Personnel Affected: The table below details the number of unique military and civilian travelers who would be affected by this proposal.

NUMBER OF PERSONNEL AFFECTED (MILITARY AND CIVILIAN PERSONNEL)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Air Force	14,845	14,845	14,845	14,845	14,845	O&M Air Force	Multiple	308	Multiple
Army	31,047	31,047	31,047	31,047	31,047	O&M Army	Multiple	308	Multiple
USMC	4,521	4,521	4,521	4,521	4,521	O&M USMC	BA 4	4A4G	09-Administration and Service-wide Support
Navy	13,567	13,567	13,567	13,567	13,567	O&M Navy	032	308	09-

									Administration and Service-wide Support
DoD Agencies + Joint Commands	11,379	11,379	11,379	11,379	11,379	O&M DoD	032	399	09-Administration and Service-wide Support
Total	75,359	75,359	75,359	75,359	75,359				

Change to Existing Law: This proposal would make the following changes to sections 5704 and 5707 of title 5, United States Code:

§ 5704. Mileage and related allowances

(a)(1) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to a rate per mile established by the Administrator of General Services, instead of the actual expenses of transportation, for the use of a privately owned automobile when that mode of transportation is authorized or approved as more advantageous to the Government. In any year in which the Internal Revenue Service establishes a single standard mileage rate for optional use by taxpayers in computing the deductible costs of operating their automobiles for business purposes, the rate per mile ~~established by the Administrator~~ shall ~~not exceed~~ be the single standard mileage rate established by the Internal Revenue Service.

(2) ***

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§ 5707. Regulations and reports

(a)(1) The Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter, except that the Director of the Administrative Office of the United States Courts shall prescribe such regulations with respect to official travel by employees of the judicial branch of the Government.

(2) Regulations promulgated to implement section 5702 or 5706a of this title shall be transmitted to the appropriate committees of the Congress and shall not take effect until 30 days after such transmittal.

(b) The Administrator of General Services shall prescribe the mileage reimbursement rates for use on official business of privately owned airplanes, privately owned automobiles, and privately owned motorcycles while engaged on official business as provided for in section 5704 of this title as follows:

(1)(A) The Administrator of General Services~~, in consultation with the Secretary of Transportation, the Secretary of Defense, and representatives of organizations of employees of the Government,~~ shall conduct periodic investigations of the cost of travel and the operation of privately owned airplanes and privately owned motorcycles by ~~vehicles to~~ employees while engaged on official business, and shall report the results of such investigations to Congress at least once a year.

(B) In conducting the periodic investigations, the Administrator shall review and analyze among other factors-

(i) depreciation of original vehicle cost;
(ii) gasoline and oil (excluding taxes);
(iii) maintenance, accessories, parts, and tires;
(iv) insurance; and
(v) State and Federal taxes.

(2)(A) The Administrator shall issue regulations under this section which—

(i) shall ~~prescribe a~~ provide that the mileage reimbursement rate ~~which reflects the current costs as determined by the Administrator of operating~~ for privately owned automobiles~~, and which equals shall not exceed~~, as provided in section 5704(a)(1), is the single standard mileage rate established by the Internal Revenue Service referred to in that section, and

(ii) shall prescribe mileage reimbursement rates which reflect the current costs as determined by the Administrator of operating privately owned airplanes and motorcycles.

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TITLE VII—HEALTHCARE PROVISIONS

Subtitle A—TRICARE and Other Health Care Benefits

Section 701 provides for a consolidated TRICARE health plan to replace the current TRICARE Prime, Standard, and Extra insurance-like products.

Historically, the uniform TRICARE benefit was developed and is currently delivered through a variety of insurance-like products. TRICARE Prime, Standard and Extra were crafted for specific reasons at the time they were created. TRICARE Prime is the HMO-like product with fixed fee cost shares (copayment); beneficiaries are assigned to a primary care provider and authorizations required for all other types of care. TRICARE Standard is the fee-for-service CHAMPUS replacement plan with required percentage-based cost shares (coinsurance) for non-network providers. TRICARE Extra provides access to network providers with reduced rate coinsurance.

The consolidated TRICARE health plan is structured to make it easier for beneficiaries to focus on health (no cost shares for preventive care), to maintain a close relationship with their primary care provider (zero to low cost shares), and to offer beneficiary freedom of choice of providers. The cost sharing structure is designed to steer beneficiaries to Military Treatment Facilities (MTFs) for care, maximizing utilization of investments in the MTF structure and supporting the readiness of our military medical providers, while preserving choice based on copays rather than a bureaucratic authorization process. The cost sharing within each sector of care (MTF, preferred provider, or out-of-network) is designed to minimize overutilization of costly care venues, such as emergency departments, for non-urgent care.

More specifically, subsection (a) would insert in title 10 a new section 1073c to establish certain terms for a uniform TRICARE health plan. TRICARE would have three points of service: facilities of the uniformed services, network providers, and out-of-network providers. Covered beneficiaries would have freedom of choice to choose to receive care from any of these points of service, subject to availability. Subsection (b) would insert in title 10 a new section

1075 to establish cost sharing requirement for TRICARE. Cost sharing requirements vary by category of beneficiary. The categories are: Category 1, active duty members; Category 2, active duty dependents; Category 3, survivors of members who died while on active duty and disability retirees and their family members; Category 4, other retirees and their family members; and Category 5, TRICARE-for-life beneficiaries. In addition to those categories, for some cost sharing, there are reduce amounts for junior enlisted beneficiaries, who are members in pay grades E-1 through E-4 and their family members, disability retirees in those pay grades and their family members, and survivors of members who dies on active duty at those pay grades.

Proposed new subsections 1075(c) and (d) provide certain exclusions and special rules for TRICARE cost sharing requirements. There is no cost sharing for active duty members. Most TRICARE-for-life beneficiary cost sharing is addressed in other sections of law. The current rule would continue that for care not covered by Medicare Parts A and B (such as pharmacy benefits and care overseas), cost sharing applicable to other retires applies. (But the enrollment fee applicable to other retirees does not apply to TRICARE-for-life beneficiaries in any case.) Copayments for the Pharmacy Benefits Program are not addressed by this section, but beneficiaries who are required to pay an enrollment fee for TRICARE need to have met this requirement to be eligible for pharmacy benefits, as well as care in military treatment facilities. This section also does not govern the ECHO program or premiums under other TRICARE programs such as TRICARE Young Adult, TRICARE Reserve Select, TRICARE Retired Reserve, or the Continued Health Benefits Program programs.

Proposed new section 1075(e) establishes an annual enrollment fee for retirees and their families, other than survivors of active duty members, disability retirees and their families, and TRICARE-for-life beneficiaries. The enrollment fee in calendar year 2016 would be the same as the amount that would have been charged for enrollment in TRICARE Prime during fiscal year 2016.

Proposed new section 1075(f) would establish TRICARE deductible amounts (which would not apply with respect to military treatment facility care). The deductible amount would be $150 per person up to a maximum of $300 per family for junior enlisted beneficiaries. Other active duty families and retirees and their family members would have a deductible of $300 per person up to a maximum of $600 per family.

Under proposed new section 1075(g), the catastrophic cap would be $1,500 for care provided by network providers or $2,500 for all care for active duty family members, survivors of members who died while on active duty, and disability retirees and their family members. For other retirees and their families, catastrophic cap would be $3,000 for care provided by network providers or $5,000 for all care.

Proposed new section 1075(h) includes a detailed table that would establish specific outpatient copayment amounts for various types of care for the respective beneficiary categories and points of services. For example, for primary care visits, junior enlisted beneficiaries would pay $10 for network visits, and those in higher pay grades would pay $15. Active duty dependents do not pay copays for military treatment facility care. Most retirees and their family members would pay $10 for a military treatment facility primary care visit and $20 for a network provider visit. Survivors of members who died while on active duty and disability retirees and

their family members would pay the copays applicable to active duty families. For outpatient services other than primary care services, preventive care services have zero copay for all beneficiary categories, while specialty services, emergency room services, and other more intensive services have higher copays. There are higher copays for care from out-of-network providers. For active duty family members accompanying a member assigned to a remote location where network providers are unavailable, network copayment amounts will apply even though care is received from out-of-network providers. Proposed new section 1075(i) includes a table that establishes inpatient cost sharing amounts.

As provided in proposed new section 1075(j), adjustments to the cost sharing amounts after 2016 will be the same as the cost of living adjustments made to retired pay. Proposed new subsection 1075(k) authorizes regulations to carry out this section. These will include provisions to ensure, to the extent practicable, the availability of network providers to at least 85% of beneficiaries for whom TRICARE provides primary health program coverage, provisions for an annual open season enrollment period and for enrollment modifications under appropriate circumstances, priorities for access to care in facilities of the uniformed services and other standards to ensure timely access to care, and other appropriate provisions.

The proposal also includes a provision for a transition for the last quarter of calendar year 2015. The reason for this is that the new TRICARE plan will be on a calendar year basis to correspond with most other health plans, rather than the current fiscal year basis that applies to TRICARE deductibles, catastrophic caps and enrollment fees. During this transition quarter, any enrollment fee will be one-fourth of the amount in effect during Fiscal Year 2015. Any deductible and catastrophic cap amounts applicable during Fiscal Year 2015 will apply for the 15 month period of October 1, 2014, through December 31, 2015. The proposal also makes a number of conforming amendments to other provisions of chapter 55 and several free-standing sections of other laws. The effective date for this proposal is January 1, 2016, except the provision of the transition period, which is effective October 1, 2015.

Under this proposal the overall cost sharing impact on beneficiaries is as set forth in the following table.

Cost-Sharing Impact on Beneficiary Families (Calendar Year 2016)

		Current TRICARE Triple Option	Single TRICARE Health Plan
Active Duty Family [a] (3 members not including service member)	DoD cost	$ 11,301	$ 10,588
	Family cost	$ 158	$ 364
	Total	$ 11,459	$ 10,952
	% borne by family	1.4%	3.3%
Non-Medicare eligible Retiree Family [b] (3 members, all under age 65)	DoD cost	$ 13,435	$ 12,626
	Family cost	$ 1,378	$ 1,526
	Total	$ 14,813	$ 14,152
	% borne by family	9.3%	10.8%

Note. The analysis assumes an average mix of MTF and civilian care within each beneficiary category, and a weighted average of Prime and Non-Prime users for the current TRICARE triple option (or former Prime and Non-Prime users), for the single TRICARE health plan.

a. Active duty family cost-sharing structure also applies to survivors of members who dies while on active duty, disability retirees, TRICARE Young Adult beneficiaries with an active duty sponsor, the Transitional Assistance Management Program, and TRICARE Reserve Select.
b. Retiree cost-sharing structure also applies to survivors of retirees, TRICARE Young Adult beneficiaries with a retired sponsor, and TRICARE Retired Reserve.

Budget Implications: This section would reduce Defense Health Program requirements by $3.9 billion from FY 2015 – FY 2019. However, due to the necessary administrative, contracting, and other changes required within the Military Health System and the January 1, 2016, implementation date, there is an estimated up-front cost of $88 million for the Defense Health Program in FY 2015.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Appropriation From	Budget Activity	Dash-1 Line Item
Defense Health	88	-620	-1,079	-1,132	-1,188	O&M, Defense Health	01	02

						Program		

Changes to Existing Law: This section would make the following changes to chapter 55 of title 10, United States Code, and to several other laws:

TITLE 10, UNITED STATES CODE
CHAPTER 55, MEDICAL AND DENTAL CARE

§ 1072. Definitions

In this chapter:
* * * * *
(7) The term "TRICARE program" means the ***various programs carried out by the Secretary of Defense under this chapter and any other provision of law providing for the furnishing of medical and dental care and health benefits to members and former members of the uniformed services and their dependents.*** ~~**managed health care program that is established by the Department of Defense under the authority of this chapter, principally section 1097 of this title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.**~~

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§ 1074. Medical and dental care for members and certain former members

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(c) (1) Funds appropriated to a military department, the Department of Homeland Security (with respect to the Coast Guard when it is not operating as a service in the Navy), or the Department of Health and Human Services (with respect to the National Oceanic and Atmospheric Administration and the Public Health Service) may be used to provide medical and dental care to persons entitled to such care by law or regulations, including the provision of such care (other than elective private treatment) in private facilities for members of the uniformed services. If a private facility or health care provider providing care under this subsection is a health care provider under the Civilian Health and Medical Program of the Uniformed Services, the Secretary of Defense, after consultation with the other administering Secretaries, may by regulation require the private facility or health care provider to provide such care in accordance with the same payment rules (subject to any modifications considered appropriate by the Secretary) as apply under that program.

(2) (A) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care for members of the uniformed services under this subsection, and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the ~~**managed care option of the TRICARE program known as TRICARE Prime**~~ ***TRICARE program***.

(B) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(C) The Secretary of Defense shall consult with the other administering Secretaries in the

administration of this paragraph.

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§ 1073c. TRICARE program: freedom of choice for points of service

[The text of § 1073c is as set forth above.]

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§ 1075. TRICARE program: cost-sharing requirements

[The text of § 1075 is as set forth above.]

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§ 1076d. TRICARE program: TRICARE ~~Standard~~ *Reserve Select* coverage for members of the Selected Reserve

(a) ELIGIBILITY.

(1) Except as provided in paragraph (2), a member of the Selected Reserve of the Ready Reserve of a reserve component of the armed forces is eligible for health benefits under TRICARE ~~**Standard**~~ ***Reserve Select*** as provided in this section.

(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) TERMINATION OF ELIGIBILITY UPON TERMINATION OF SERVICE.

(1) Except as provided in paragraph (2), eligibility for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage of a member under this section shall terminate upon the termination of the member's service in the Selected Reserve.

(2) During the period beginning on the date of the enactment of this paragraph and ending December 31, 2018, eligibility for a member under this section who is involuntarily separated from the Selected Reserve under other than adverse conditions, as characterized by the Secretary concerned, shall terminate 180 days after the date on which the member is separated.

(c) FAMILY MEMBERS. While a member of a reserve component is covered by TRICARE ~~**Standard**~~ ***Reserve Select*** under the section, the members of the immediate family of such member are eligible for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage shall continue for six months beyond the date of death of the member.

(d) PREMIUMS.

(1) A member of a reserve component covered by TRICARE ~~**Standard**~~ ***Reserve Select*** under this section shall pay a premium for that coverage.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage of members without dependents and one premium for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all covered members of the reserve components.

(3) (A) The monthly amount of the premium in effect for a month for TRICARE ~~**Standard**~~ ***Reserve Select*** coverage under this section shall be the amount equal to 28 percent of the total

monthly amount determined on an appropriate actuarial basis as being reasonable for that coverage.

(B) The appropriate actuarial basis for purposes of subparagraph (A) shall be determined, for each calendar year after calendar year 2009, by utilizing the actual cost of providing benefits under this section to members and their dependents during the calendar years preceding such calendar year.

(4) The premiums payable by a member of a reserve component under this subsection may be deducted and withheld from basic pay payable to the member under section 204 of title 37 or from compensation payable to the member under section 206 of such title. The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums.

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) REGULATIONS. The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) DEFINITIONS. In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE ~~**Standard**~~ ***Reserve Select***" means--

(A) medical care to which a dependent described in section 1076(a)(2) of this title is entitled; and

(B) health benefits contracted for under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

§ 1076e. TRICARE program: TRICARE ~~Standard~~ *Retired Reserve* coverage for certain members of the Retired Reserve who are qualified for a non-regular retirement but are not yet age 60

(a) ELIGIBILITY.

(1) Except as provided in paragraph (2), a member of the Retired Reserve of a reserve component of the armed forces who is qualified for a non-regular retirement at age 60 under chapter 1223 of this title, but is not age 60, is eligible for health benefits under TRICARE ~~**Standard**~~ ***Retired Reserve*** as provided in this section.

(2) Paragraph (1) does not apply to a member who is enrolled, or is eligible to enroll, in a health benefits plan under chapter 89 of title 5.

(b) TERMINATION OF ELIGIBILITY UPON OBTAINING OTHER TRICARE ~~**STANDARD**~~ ***RETIRED RESERVE*** COVERAGE. Eligibility for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage of a member under this section shall terminate upon the member becoming eligible for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage at age 60 under section 1086 of this title.

(c) FAMILY MEMBERS. While a member of a reserve component is covered by TRICARE ~~**Standard**~~ ***Retired Reserve*** under this section, the members of the immediate family of such

member are eligible for TRICARE Standard coverage as dependents of the member. If a member of a reserve component dies while in a period of coverage under this section, the eligibility of the members of the immediate family of such member for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage under this section shall continue for the same period of time that would be provided under section 1086 of this title if the member had been eligible at the time of death for TRICARE ~~**Standard**~~ coverage under such section (instead of under this section).

(d) PREMIUMS.

(1) A member of a reserve component covered by TRICARE ~~**Standard**~~ ***Retired Reserve*** under this section shall pay a premium for that coverage.

(2) The Secretary of Defense shall prescribe for the purposes of this section one premium for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage of members without dependents and one premium for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage of members with dependents referred to in subsection (f)(1). The premium prescribed for a coverage shall apply uniformly to all members of the reserve components covered under this section.

(3) The monthly amount of the premium in effect for a month for TRICARE ~~**Standard**~~ ***Retired Reserve*** coverage under this section shall be the amount equal to the cost of coverage that the Secretary determines on an appropriate actuarial basis.

(4) The Secretary shall prescribe the requirements and procedures applicable to the payment of premiums under this subsection.

(5) Amounts collected as premiums under this subsection shall be credited to the appropriation available for the Defense Health Program Account under section 1100 of this title, shall be merged with sums in such Account that are available for the fiscal year in which collected, and shall be available under subsection (b) of such section for such fiscal year.

(e) Regulations. The Secretary of Defense, in consultation with the other administering Secretaries, shall prescribe regulations for the administration of this section.

(f) Definitions. In this section:

(1) The term "immediate family", with respect to a member of a reserve component, means all of the member's dependents described in subparagraphs (A), (D), and (I) of section 1072(2) of this title.

(2) The term "TRICARE ~~**Standard**~~ ***Retired Reserve***" means--

(A) medical care to which a dependent described in section 1076(b)(1) of this title is entitled; and

(B) health benefits contracted for under the authority of section 1086(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

* * * * *

~~**§ 1078. Medical and dental care for dependents: charges**~~

~~(a) The Secretary of Defense, after consulting the other administering Secretaries, shall prescribe fair charges for inpatient medical and dental care given to dependents under section 1076 of this title. The charge or charges prescribed shall be applied equally to all classes of dependents.~~

~~(b) As a restraint on excessive demands for medical and dental care under section 1076 of this title, uniform minimal charges may be imposed for outpatient care. Charges may not be more than such amounts, if any, as the Secretary of Defense may prescribe after consulting the other administering Secretaries, and after a finding that such charges are necessary.~~

~~(c) Amounts received for subsistence and medical and dental care given under section 1076 of this title shall be deposited to the credit of the appropriation supporting the maintenance and operation of the facility furnishing the care.~~

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§ 1079. Contracts for medical care for spouses and children: plans

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~~(b) Plans covered by subsection (a) shall include provisions for payment by the patient of the following amounts:~~

~~(1) $ 25 for each admission to a hospital, or the amount the patient would have been charged under section 1078(a) of this title had the care being paid for been obtained in a hospital of the uniformed services, whichever amount is the greater. The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.~~

~~(2) Except as provided in clause (3), the first $ 150 each fiscal year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of all subsequent charges for such care during a fiscal year. Notwithstanding the preceding sentence, in the case of a dependent of an enlisted member in a pay grade below E-5, the initial deductible each fiscal year under this paragraph shall be limited to $ 50.~~

~~(3) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $ 300 (or in the case of the family group of an enlisted member in a pay grade below E-5, the first $ 100) each fiscal year of the charges for all types of care authorized by subsection (a) and received while in an outpatient status and 20 percent of the additional charges for such care during a fiscal year.~~

~~(4) $ 25 for surgical care that is authorized by subsection (a) and received while in an outpatient status and that has been designated (under joint regulations to be prescribed by the administering Secretaries) as care to be treated as inpatient care for purposes of this subsection. Any care for which payment is made under this clause shall not be considered to be care received while in an outpatient status for purposes of clauses (2) and (3).~~

~~(5) An individual or family group of two or more persons covered by this section may not be required by reason of this subsection to pay a total of more than $ 1,000 for health care received during any fiscal year under a plan under subsection (a).~~

(b) Section 1075 of this title shall apply to health care services under this section.

(c) **~~The methods for making payment under subsection (b) shall be prescribed under joint regulations issued by the administering Secretaries.~~** ***[Reserved.]***

* * * * *

(g)(1) When a member dies while he is eligible for receipt of hostile fire pay under section 310 of title 37 or from a disease or injury incurred while eligible for such pay, his dependents who are receiving benefits under a plan covered by subsection (d) shall continue to be eligible for such benefits until they pass their twenty-first birthday.

(2) In addition to any continuation of eligibility for benefits under paragraph (1), when a member dies while on active duty for a period of more than 30 days, the member's dependents who are receiving benefits under a plan covered by subsection (a) shall continue to be eligible for benefits under TRICARE Prime during the three-year period beginning on the date of the member's death, except that, in the case of such a dependent of the deceased who is described by subparagraph (D) or (I) of section 1072(2) of this title, the period of continued eligibility shall be the longer of the following periods beginning on such date:

(A) Three years.

(B) The period ending on the date on which such dependent attains 21 years of age.

(C) In the case of such a dependent who, at 21 years of age, is enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education approved by the administering Secretary and was, at the time of the member's death, in fact dependent on the member for over one-half of such dependent's support, the period ending on the earlier of the following dates:

(i) The date on which such dependent ceases to pursue such a course of study, as determined by the administering Secretary.

(ii) The date on which such dependent attains 23 years of age.

(3) For the purposes of paragraph (2)(C), a dependent shall be treated as being enrolled in a full-time course of study in an institution of higher education during any reasonable period of transition between the dependent's completion of a full-time course of study in a secondary school and the commencement of an enrollment in a full-time course of study in an institution of higher education, as determined by the administering Secretary.

(4) The terms and conditions under which health benefits are provided under this chapter to a dependent of a deceased member under paragraph (2) shall be the same as those that would apply to the dependent under this chapter if the member were living and serving on active duty for a period of more than 30 days.

(5) In this subsection, the term "TRICARE Prime" means the managed care option of the TRICARE program. ***[Reserved.]***

* * * * *

(p) (1) Subject to such exceptions as the Secretary of Defense considers necessary, coverage for medical care under this section for the dependents described in paragraph (3), and standards with respect to timely access to such care, shall be comparable to coverage for medical care and standards for timely access to such care under the managed care option of the TRICARE program known as TRICARE Prime.

(2) The Secretary of Defense shall enter into arrangements with contractors under the TRICARE program or with other appropriate contractors for the timely and efficient processing of claims under this subsection.

(3) This subsection applies with respect to a dependent referred to in subsection (a) who-

~~**(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member;**~~

~~**(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location, or**~~

~~**(C) is a dependent of a reserve component member ordered to active duty for a period of more than 30 days and is residing with the member, and the residence is located more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.**~~

~~**(4) The Secretary of Defense may provide for coverage of a dependent referred to in subsection (a) who is not described in paragraph (3) if the Secretary determines that exceptional circumstances warrant such coverage.**~~

~~**(5) The Secretary of Defense shall consult with the other administering Secretaries in the administration of this subsection.**~~ ***[Reserved.]***

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§ 1079a. ~~CHAMPUS~~ *TRICARE program*: treatment of refunds and other amounts collected

All refunds and other amounts collected in the administration of the ~~**Civilian Health and Medical Program of the Uniformed Services**~~ ***TRICARE program*** shall be credited to the appropriation available for that program for the fiscal year in which the refund or amount is collected.

* * * * *

§ 1086. Contracts for health benefits for certain members, former members, and their dependents

(a) To assure that health benefits are available for the persons covered by subsection (c), the Secretary of Defense, after consulting with the other administering Secretaries, shall contract under the authority of this section for health benefits for those persons under the same insurance, medical service, or health plans he contracts for under section 1079(a) of this title. However, eye examinations may not be provided under such plans for persons covered by subsection (c).

~~(b) For persons covered by this section the plans contracted for under section 1079(a) of this title shall contain the following provisions for payment by the patient:~~

~~(1) Except as provided in paragraph (2), the first $ 150 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of all subsequent charges for such care during a fiscal year.~~

~~(2) A family group of two or more persons covered by this section shall not be required to pay collectively more than the first $ 300 each fiscal year of the charges for all types of care authorized by this section and received while in an outpatient status and 25 percent of the~~

~~additional charges for such care during a fiscal year.~~

~~(3) 25 percent of the charges for inpatient care, except that in no case may the charges for inpatient care for a patient exceed $ 535 per day during the period beginning on April 1, 2006, and ending on September 30, 2011. The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.~~

~~(4) A member or former member of a uniformed service covered by this section by reason of section 1074(b) of this title, or an individual or family group of two or more persons covered by this section, may not be required to pay a total of more than $ 3,000 for health care received during any fiscal year under a plan contracted for under section 1079(a) of this title.~~

(b) Section 1075 of this title shall apply to health care services under this section.

* * * * *

§ 1097. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

(a) IN GENERAL. The Secretary of Defense, after consulting with the other administering Secretaries, may contract for the delivery of health care to which covered beneficiaries are entitled under this chapter. The Secretary may enter into a contract under this section with any of the following:

(1) Health maintenance organizations.

(2) Preferred provider organizations.

(3) Individual providers, individual medical facilities, or insurers.

(4) Consortiums of such providers, facilities, or insurers.

* * * * *

(e) CHARGES FOR HEALTH CARE. ***Section 1075 of this title shall apply to health care services under this section.***

~~**(1) The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided under this section. In the case of contracts for health care services under this section or health care plans offered under section 1099 of this title for which the Secretary permits covered beneficiaries who are covered by section 1086 of this title and who participate in such contracts or plans to pay an enrollment fee in lieu of meeting the applicable deductible amount specified in section 1086(b) of this title, the Secretary may establish the same (or a lower) enrollment fee for covered beneficiaries described in section 1086(d)(1) of this title who also participate in such contracts or plans. Without imposing additional costs on covered beneficiaries who participate in contracts for health care services under this section or health care plans offered under section 1099 of this title, the Secretary shall permit such covered beneficiaries to pay, on a quarterly basis, any enrollment fee required for such participation. Except as provided by paragraph (2), a premium, deductible, copayment, or other charge prescribed by the Secretary under this subsection may not be increased during the period beginning on April 1, 2006, and ending on September 30, 2011.~~**

~~**(2) Beginning October 1, 2012, the Secretary of Defense may only increase in any year**~~

the annual enrollment fees described in paragraph (1) by an amount equal to the percentage by which retired pay is increased under section 1401a of this title.

* * * * *

§ 1097a. ***[Reserved.]*** TRICARE Prime: automatic enrollments; payment options

(a) Automatic enrollment of certain dependents.

(1) In the case of a dependent of a member of the uniformed services who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in a catchment area in which TRICARE Prime is offered, the Secretary--

(A) shall automatically enroll the dependent in TRICARE Prime if the member is in pay grade E-4 or below; and

(B) may automatically enroll the dependent in TRICARE Prime if the member is in pay grade E-5 or higher.

(2) Whenever a dependent of a member is enrolled in TRICARE Prime under paragraph (1), the Secretary concerned shall provide written notice of the enrollment to the member.

(3) The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

(b) Automatic renewal of enrollments of covered beneficiaries.

(1) An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

(2) Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall--

(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.

(c) Payment options for retirees. A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election. A member may elect under this section to pay the fee in full at the beginning of the enrollment period or to make payments on a monthly or quarterly basis.

(d) Regulations and exceptions. The Secretary of Defense shall prescribe regulations, including procedures, to carry out this section. Regulations prescribed to carry out the automatic enrollment requirements under this section may include such exceptions to the automatic enrollment procedures as the Secretary determines appropriate for the effective operation of TRICARE Prime.

(e) No copayment for immediate family. No copayment shall be charged a member for care provided under TRICARE Prime to a dependent of a member of the uniformed services described in subparagraph (A), (D), or (I) of section 1072(2) of this title.

(f) Definitions. In this section:
(1) The term "TRICARE Prime" means the managed care option of the TRICARE program.
(2) The term "catchment area", with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.

* * * * *

§ 1099. ***[Reserved.]*** **Health care enrollment system**

(a) ESTABLISHMENT OF SYSTEM. The Secretary of Defense, after consultation with the other administering Secretaries, shall establish a system of health care enrollment for covered beneficiaries who reside in the United States.

(b) DESCRIPTION OF SYSTEM. Such system shall--
(1) allow covered beneficiaries to elect a health care plan from eligible health care plans designated by the Secretary of Defense; or
(2) if necessary in order to ensure full use of facilities of the uniformed services in a geographical area, assign covered beneficiaries who reside in such area to such facilities.

(c) HEALTH CARE PLANS AVAILABLE UNDER SYSTEM. A health care plan designated by the Secretary of Defense under the system described in subsection (a) shall provide all health care to which a covered beneficiary is entitled under this chapter. Such a plan may consist of any of the following:
(1) Use of facilities of the uniformed services.
(2) The Civilian Health and Medical Program of the Uniformed Services.
(3) Any other health care plan contracted for by the Secretary of Defense.
(4) Any combination of the plans described in paragraphs (1), (2), and (3).

(d) REGULATIONS. The Secretary of Defense, after consultation with the other administering Secretaries, shall prescribe regulations to carry out this section.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994 (Public Law 103-160)

§ 731. Use of health maintenance organization model as option for military health care.

(a) USE OF MODEL. The Secretary of Defense shall prescribe and implement a health benefit option (and accompanying cost-sharing requirements) for covered beneficiaries eligible for health care under chapter 55 of title 10, United States Code, that is modelled on health maintenance organization plans offered in the private sector and other similar Government health insurance programs. The Secretary shall include, to the maximum extent practicable, the health benefit option required under this subsection as one of the options available to covered beneficiaries in all managed health care initiatives undertaken by the Secretary after December 31, 1994.

(b) ELEMENTS OF OPTION. The Secretary shall offer covered beneficiaries who enroll in the health benefit option required under subsection (a) reduced out- of-pocket costs and a benefit structure that is as uniform as possible throughout the United States. The Secretary

~~**shall allow enrollees to seek health care outside of the option, except that the Secretary may prescribe higher out-of-pocket costs than are provided under section 1079 or 1086 of title 10, United States Code, for enrollees who obtain health care outside of the option.**~~

~~**(c) GOVERNMENT COSTS. The health benefit option required under subsection (a) shall be administered so that the costs incurred by the Secretary under the TRICARE program are no greater than the costs that would otherwise be incurred to provide health care to the members of the uniformed services and covered beneficiaries who participate in the TRICARE program.**~~

~~**(d) DEFINITIONS. For purposes of this section:**~~

~~**(1) The term 'covered beneficiary' means a beneficiary under chapter 55 of title 10, United States Code, other than a beneficiary under section 1074(a) of such title.**~~

~~**(2) The term 'TRICARE program' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.**~~

~~**(e) REGULATIONS. Not later than December 31, 1994, the Secretary shall prescribe final regulations to implement the health benefit option required by subsection (a).**~~

~~**(f) MODIFICATION OF EXISTING CONTRACTS. In the case of managed health care contracts in effect or in final stages of acquisition as of December 31, 1994, the Secretary may modify such contracts to incorporate the health benefit option required under subsection (a).**~~

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997 (Public Law 104-201)

Title VII, Health Care Provisions

Subtitle C. Uniformed services treatment facilities

Sec. 721. Definitions. In this subtitle:

* * * * *

(7) The term 'health care services' means the health care services provided under ~~**the health plan known as the 'TRICARE PRIME' option under**~~ the TRICARE program.

* * * * *

(9) The term 'TRICARE program' ~~**means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of such title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services**~~ ***has the meaning provided in section 1072(7) of title 10, United States Code***.

* * * * *

Sec. 723. Provision of uniform benefit by designated providers.

(a) UNIFORM BENEFIT REQUIRED. A **designated provider** shall offer to enrollees the health benefit option prescribed and implemented by the Secretary under section ~~**731 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 1073 note)**~~ ***section 1075 of title 10, United States Code***, including accompanying cost-sharing requirements.

* * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000 (Public Law 106-65)

Sec. 706. Health care at former uniformed services treatment facilities for active duty members stationed at certain remote locations.

* * * * *

(c) APPLICABLE POLICIES. In furnishing health care to an eligible member under subsection (a), a designated provider shall adhere to the Department of Defense policies applicable to the furnishing of care under the TRICARE ~~**Prime Remote**~~ program, including coordinating with uniformed services medical authorities for hospitalizations and all referrals for specialty care.

(d) REIMBURSEMENT RATES. The Secretary of Defense, in consultation with the designated providers, shall prescribe reimbursement rates for care furnished to eligible members under subsection (a). The rates prescribed for health care may not exceed the amounts allowable under the TRICARE ***program*** ~~**Standard plan**~~ for the same care.

Section 702 would make changes to TRICARE cost sharing and other requirements relating to the TRICARE for Life and Pharmacy Benefits Program to address the explosion in health care costs and make the health benefit sustainable. The Defense Health Budget has grown from $15.4 billion in fiscal year (FY) 1996 to nearly $50 billion in FY 2013. During this period, TRICARE cost sharing requirements have changed very little, contributing substantially to the cost explosion. Without adjustments to the cost sharing structure, the cost of the Military Health System will continue to crowd out more and more programs critical to the national defense.

Subsection (a) would introduce an annual enrollment fee for new TRICARE for Life beneficiaries (i.e., those retirees and dependents who become Medicare-eligible after enactment). This fee would not be charged to a survivor of a member who died while on active duty or a disability retiree or dependent of such a person and grandfathers those beneficiaries already in the TFL program prior to enactment. This enrollment fee would also be based on a percentage of retired pay, phased in over four years, and subject to a maximum amount. The applicable percentage and maximum amounts for calendar years 2015 through 2018 for a family of 2 or more persons would be as provided in the following table.

	Percentage	Maximum Amount for Retired Grades O-7 through 0-10	Maximum Amount for all Others

2015	0.5	$200	$150
2016	1.0	$400	$300
2017	1.5	$600	$450
2018	2.0	$800	$600

After 2018, the percentage would remain 2.0 and the maximum amounts would be adjusted by the COLA. The enrollment fee percentage and maximum fee for an individual is one-half that for a family.

Subsection (b) would make a series of revisions to the TRICARE pharmacy benefits program. First, it would specify that non-formulary drugs are required to be generally available only through the TRICARE mail order pharmacy. Second, it would set per-prescription generally applicable copayments in 2015 through 2024, but would exempt from these copayments survivors member who died while on active duty and disability retirees and their family members. The copayment amounts would be as follows:

	Retail Generic	Retail Formulary	Mail Order Generic	Mail Order Formulary	Mail Order Non-formulary
2015	$5	$26	$0	$26	$51
2016	$6	$28	$0	$28	$54
2017	$7	$30	$0	$30	$58
2018	$8	$32	$0	$32	$62
2019	$9	$34	$9	$34	$66
2020	$10	$36	$10	$36	$70
2021	$11	$38	$11	$38	$75
2022	$12	$40	$12	$40	$80
2023	$13	$43	$13	$43	$85
2024	$14	$45	$14	$45	$90

After 2024, amounts would be adjusted based on changes in costs of pharmaceutical agents and prescription dispensing. Retail prescriptions would continue to be for a supply of up to 30 days, and mail order prescriptions for a supply of up to 90 days.

Subsection (c) would endorse DoD's plan to establish a new requirement under existing demonstration project authority (10 U.S.C. 1092), beginning January 1, 2015, that refills of non-generic prescription maintenance medications are generally provided through military treatment facility pharmacies or the national mail-order pharmacy program. The Secretary would determine the maintenance medications and other circumstances to which this requirement applies, as well as appropriate exceptions to the requirement for reasonable time periods to ensure that beneficiaries receive needed maintenance medications from retail pharmacies while arrangements are made for receipt consistent with the general requirement. This subsection expands upon the program under section 716 of the National Defense Authorization Act for Fiscal Year 2013, which called for a five-year pilot program of mail-order program refills for TRICARE for life beneficiaries.

Subsection (d) would provide authority for the Secretary of Defense to adjust payments into the Medicare-Eligible Retiree Health Care Fund in the event that, subsequent to the annual

contributions into the Fund, which occur October 1, the Secretary determines that a change in the determinations and certification of the normal cost accrual contribution amounts is appropriate because of a significant change in law or other circumstance. In such event, the Secretary of the Treasury would be required to make a refund, additional payment, or other appropriate adjustment to the amounts paid for that fiscal year. Similar transactions would occur with respect to the non-DoD uniformed services. This authority would permit an adjustment, for example, if Congress enacted a significant change after the beginning of a fiscal year.

Budget Implications: This section would reduce the requirements for the Military Health System's Unified Medical Budget by $907 million in FY 2015 and $5.4 billion for FY 2015 – FY 2019. Specifically, the proposals would reduce Defense Health Program requirements by $180 million for FY 2015 and by $1.5 billion for FY 2015 – FY 2019. Funding requirements for the Military Departments' Medicare-Eligible Retiree Health Care Fund (MERHCF) Contribution accounts would be reduced by $727 million in FY 2015 and by $3.9 billion for FY 2015 – FY 2019. The proposals would result in mandatory savings of $0 million in FY 2015 but $340 million for FY 2015 – FY 2019. The reduced discretionary contributions to the MERHCF would also result in reduced mandatory collections of the amounts listed above for the Department of Defense (DoD), which are non-scoreable costs; including the effects on the Coast Guard, Public Health Service, and National Oceanic and Atmospheric Administration, these amounts increase to $749 million in FY 2015 and $4.1 billion for FY 2015 – FY 2019. DoD estimates these savings and costs based on revising cost shares (enrollment fees and pharmacy co-pays). The implementation of a TRICARE for Life enrollment fee would be ramped up over a period of four years with a mechanism for indexing those fees thereafter based on the growth in the annual retiree COLA. The pharmacy co-pay increases would be phased-in over a ten year period with increases thereafter tied to the cost of pharmaceutical agents and prescription dispensing. Estimates of the impacts of those revised cost shares include reductions in direct costs from the cost shares, reduced users and reduced utilization of health care services.

RESOURCE REQUIREMENTS ($MILLIONS)								
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Defense Health	-180	-269	-301	-335	-402	O&M, Defense Health Program	01	02
Army	-201	-209	-212	-214	-219	Medicare-Eligible Retiree Health Fund Contribution (MERHFC), Army	01/02	01
Navy	-132	-139	-146	-155	-164	MERHFC, Navy	01/02	01

Marine Corps	-75	-79	-82	-85	-90	MERHFC, Marine Corps	01/02	01
Air Force	-128	-133	-140	-148	-157	MERHFC, Air Force	01/02	01
Army Reserve	-47	-48	-49	-51	-53	MERHFC, Army Reserve	01	01
Navy Reserve	-14	-15	-16	-17	-18	MERHFC, Navy Reserve	01	01
Marine Corps Reserve	-9	-9	-10	-10	-11	MERHFC, Marine Corps Reserve	01	01
Air Force Reserve	-15	-16	-17	-18	-18	MERHFC, Air Force Reserve	01	01
Army National Guard	-81	-84	-86	-89	-92	MERHFC, NG Personnel, Army	01	01
Air National Guard	-25	-27	-28	-30	-31	MERHFC, NG Personnel, Air Force	01	01
Total	-907	-1,028	-1,087	-1,152	-1,255			

Changes to Existing Law: This section would make the following changes to chapters 55 and 56 of title 10, United States Code, and to the National Defense Authorization Act for Fiscal Year 1997:

TITLE 10, UNITED STATES CODE
CHAPTER 55, MEDICAL AND DENTAL CARE

§ 1074g. Pharmacy benefits program

(a) PHARMACY BENEFITS.

* * * * *

(5) The pharmacy benefits program shall assure the availability to eligible covered beneficiaries of pharmaceutical agents not included on the uniform formulary. Such pharmaceutical agents shall be available through ~~at least one of the means described in paragraph (2)(E)~~ *the national mail order pharmacy program* under terms and conditions that ~~may include cost sharing by the eligible covered beneficiary in addition to any such cost sharing applicable to agents on the uniform formulary~~ *shall include cost sharing by the eligible covered beneficiary as specified in paragraph (6).*

(6)(A) In the case of any of the years 2015 through 2024, the cost sharing amounts referred to in paragraph (5) shall be determined in accordance with the following table:

For:	*The cost sharing amount for 30-day supply of a retail generic is:*	*The cost sharing amount for 30-day supply of a retail formulary is:*	*The cost sharing amount for a 90-day supply of a mail order generic is:*	*The cost sharing amount for a 90-day supply of a mail order formulary is:*	*The cost amount for a 90-day supply of a mail order non-formulary is:*
2015	*$5*	*$26*	*$0*	*$26*	*$51*
2016	*$6*	*$28*	*$0*	*$28*	*$54*
2017	*$7*	*$30*	*$0*	*$30*	*$58*
2018	*$8*	*$32*	*$0*	*$32*	*$62*
2019	*$9*	*$34*	*$9*	*$34*	*$66*
2020	*$10*	*$36*	*$10*	*$36*	*$70*
2021	*$11*	*$38*	*$11*	*$38*	*$75*
2022	*$12*	*$40*	*$12*	*$40*	*$80*
2023	*$13*	*$43*	*$13*	*$43*	*$85*
2024	*$14*	*$45*	*$14*	*$45*	*$90*

(B) For any year after 2024, the cost sharing amounts referred to in paragraph (5) shall be equal to the cost sharing amounts for the previous year, adjusted by an amount, if any, as determined by the Secretary to reflect changes in the costs of pharmaceutical agents and prescription dispensing, rounded to the nearest dollar.

(C) Notwithstanding subparagraphs (A) and (B), the cost-sharing amounts referred to in paragraph (5) for any year for a dependent of a member of the uniformed services who dies while on active duty, a member retired under chapter 61 of this title, or a dependent of such a member shall be equal to the cost sharing amounts, if any, for fiscal year 2014.

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§ 1086. Contracts for health benefits for certain members, former members, and their dependents

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(d) * * *

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(3) * * *

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(D)(i) Beginning January 1, 2015, a person described in paragraph (2) (except as provided in clauses (vi) and (vii)), shall pay an annual enrollment fee as a condition of eligibility for health care benefits under this section. Such enrollment fee shall be an amount (rounded to the nearest dollar) equal to the applicable percentage (specified in clause (ii)) of the retired pay of the member or former member upon whom the covered beneficiary's eligibility is based, except that the amount of such enrollment fee shall not be in excess of the applicable maximum enrollment fee (specified in clause (iii)).

(ii) The applicable percentage of retired pay shall be determined in accordance with the following table:

For:	*The applicable percentage for a family group of two or more persons is:*	*The applicable percentage for an individual is:*
2015	*0.50%*	*0.25%*
2016	*1.00%*	*0.50%*
2017	*1.50%*	*0.75%*
2018 and after	*2.00%*	*1.00%*

(iii) For any year 2015 through 2018, the applicable maximum enrollment fees for a family group of two or more persons shall be determined in accordance with the following table:

For:	*The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-7 or above is:*	*The applicable maximum enrollment fee for a family group whose eligibility is based upon a member or former member of retired grade O-6 or below is:*
2015	*$200*	*$150*
2016	*$400*	*$300*
2017	*$600*	*$450*
2018	*$800*	*$600*

(iv) For any year after 2018, the applicable maximum enrollment fee shall be equal to the maximum enrollment fee for the previous year increased by the percentage by which retired pay is increased under section 1401a of this title for such year.

(v) The applicable maximum enrollment fee for an individual shall be one-half the corresponding maximum fee for a family group of two or more persons (as determined under clauses (iii) and (iv)).

(vi) Clause (i) shall not apply to a dependent of a member of the uniformed services who dies while on active duty, a member retired under chapter 61 of this title, or a dependent of such a member.

(vii) Clause (i) also shall not apply to a person who, prior to the date of enactment of the National Defense Authorization Act for Fiscal Year 2015, met the conditions described in paragraph (2)(A) and (B).

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CHAPTER 56, DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND

§ 1116. Payments into the Fund

* * * * *

(e)(1) During any fiscal year, if the Secretary of Defense determines that the amount certified under subsection (c) is no longer accurate because of a significant change in circumstances or law, the Secretary of Defense may, if appropriate, certify a revised amount determined in accordance with subsection (b)(2) to the Secretary of the Treasury.

(2) If the Secretary of Defense makes a certification under paragraph (1), each other administering Secretary shall make and advise the Secretary of the Treasury of a revised determination, consistent with section 1111(c) of this title.

(3) If a certification and determination are made under paragraphs (1) and (2), the Secretary of the Treasury shall promptly pay into or recoup from the Fund the difference between the amount paid into the Fund under subsection (a) and the amount certified or determined by the administering Secretary under paragraph (1) or (2).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997

SEC. 724. ENROLLMENT OF COVERED BENEFICIARIES.

(a) Fiscal Year 1997 Limitation.—(1) *** * ***

(2) The Secretary may waive the limitation under paragraph (1) if the Secretary determines that additional enrollment authority for a designated provider is required to accommodate covered beneficiaries who are dependents of members of the uniformed services entitled to health care.

(b) PERMANENT LIMITATION.~~— For each fiscal year beginning after September 30, 1997, the~~ *The* number of enrollees in managed care plans offered by designated providers *during any year* may not exceed 110 percent of the number of such enrollees as of the first day of the immediately preceding ~~fiscal~~ year. The Secretary may waive this limitation as provided in subsection (a)(2).

(c) ***

(d) ADDITIONAL ENROLLMENT AUTHORITY.--(1) Subject to paragraph (2), other covered beneficiaries may also receive health care services from a designated provider.

(2)(A) ***

* * * * *

(B) ~~For each fiscal year beginning after September 30, 1997, the~~ *The* number of covered beneficiaries newly enrolled by designated providers pursuant to clause (ii) of subparagraph (A) during ~~such fiscal~~ *any* year may not exceed 10 percent of the total number of the covered beneficiaries who are newly enrolled under such subparagraph during such ~~fiscal~~ year.

* * * * *

Subtitle B—Health Care Administration

Section 711 would revise the law applicable to the Armed Forces Retirement Home (AFRH) to address changes in the command structure of the Senior Medical Advisor for the AFRH and include a more appropriate reference for health care standards.

Subsection (a) of this proposal would implement technical changes to the medical oversight of the AFRH as a result of changes to the organizational structure of the Senior Medical Advisor position. The proposal changes the Senior Medical Advisor position from the Deputy Director for TRICARE Management Activity to the Deputy Director for Defense Health Agency. TRICARE Management Activity will be disestablished on 30 September 2013 and the new command will be Defense Health Agency.

Subsection (b) of the proposal would remove the reference to the Department of Veterans Affairs (VA) in regards to applicable health care standards and replace it with compliance with nationally recognized health care standards. The VA is not generally recognized as the nationally recognized healthcare standards development organization for long term care facilities.

Budget Implications: None. AFRH operates from a Trust Fund and not Department of Defense appropriations.

RESOURCE REQUIREMENT ($MILLION)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
OM-DW	0	0	0	0	0	N/A	N/A	N/A	N/A
Army	0	0	0	0	0	N/A	N/A	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A	N/A	N/A
Marine Corps	0	0	0	0	0	N/A	N/A	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A	N/A	N/A
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

NUMBER OF PERSONNEL AFFECTED									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	0	0	0	0	0	N/A	N/A	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A	N/A	N/A
Marine Corps	0	0	0	0	0	N/A	N/A	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A	N/A	N/A
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would make the following changes to section 1513A of the Armed Forces Retirement Home Act of 1991, as amended (24 U.S.C. 413a):

SEC. 1513A. [24 U.S.C. 413a] OVERSIGHT OF HEALTH CARE PROVIDED TO RESIDENTS.

(a) DESIGNATION OF SENIOR MEDICAL ADVISOR.—(1) The Secretary of Defense shall designate the Deputy Director of the ~~TRICARE Management Activity~~ Defense Health Agency to serve as the Senior Medical Advisor for the Retirement Home.

(2) The Deputy Director of the ~~TRICARE Management Activity~~ Defense Health Agency shall serve as Senior Medical Advisor for the Retirement Home in addition to performing all other duties and responsibilities assigned to the Deputy Director of the ~~TRICARE Management Activity~~ Defense Health Agency at the time of the designation under paragraph (1) or afterward.

(b) RESPONSIBILITIES.—The Senior Medical Advisor shall provide advice to the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness, the Chief Operating Officer, and the Advisory Council regarding the direction and oversight of—

(1) medical administrative matters at each facility of the Retirement Home; and

(2) the provision of medical care, preventive mental health, and dental care services at each facility of the Retirement Home.

(c) DUTIES.—In carrying out the responsibilities set forth in subsection (b), the Senior Medical Advisor shall perform the following duties:

(1) Ensure the timely availability to residents of the Retirement Home, at locations other than the Retirement Home, of such acute medical, mental health, and dental care as such resident may require that is not available at the applicable facility of the Retirement Home.

(2) Ensure compliance by the facilities of the Retirement Home with accreditation standards, applicable ~~health care standards of the Department of Veterans Affairs~~ nationally recognized health care standards and requirements, or any other applicable health care standards and requirements (including requirements identified in applicable reports of the Inspector General of the Department of Defense).

(3) Periodically visit each facility of the Retirement Home to review—

(A) the medical facilities, medical operations, medical records and reports, and the quality of care provided to residents; and

(B) inspections and audits to ensure that appropriate follow-up regarding issues and recommendations raised by such inspections and audits has occurred.

(4) Report on the findings and recommendations developed as a result of each review conducted under paragraph (3) to the Chief Operating Officer, the Advisory Council, and the Under Secretary of Defense for Personnel and Readiness.

(d) ADVISORY BODIES.—In carrying out the responsibilities set forth in subsection (b) and the duties set forth in subsection (c), the Senior Medical Advisor may establish and seek the advice of such advisory bodies as the Senior Medical Advisor considers appropriate.

Section 712 would amend section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2573) to extend authority for activities using the Joint Department of Defense – Department of Veterans Affairs Medical Facility Demonstration Fund from September 30, 2015, to September 30, 2016.

Section 1701 of that Act authorizes the James A. Lovell Federal Health Care Center demonstration project. It further requires a joint report to Congress, including a comprehensive assessment of the demonstration project and recommendation whether to continue exercising the demonstration project authorities. Currently, the due date of the report is October 28, 2015.

For purpose of funding the demonstration project, section 1704 of the Act established the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund (Demonstration Fund), consisting of funds specifically authorized and appropriated for DoD and VA for that purpose. The funding authority expires on September 30, 2015. In order to meet the requirements in Section 1701 to fully assess the demonstration project, develop and submit the final report, and give Congress time to consider it, the termination date of the funding authority in section 1704 must be extended to September 30, 2016, so that the project is not forced to stop before appropriate decisions can be made about the future.

This is a technical correction to make possible the full execution of authorities under the statute.

Budget Implications: The proposal has no budgetary impact as it addresses the authority to use the Joint Department of Defense – Department of Veterans Affairs Medical Facility Demonstration Fund, not impacting the funding levels authorized or appropriated for the fund.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Defense Health Program	0.0	0.0	0.0	0.0	0.0	DHP O&M	01	N/A	N/A
Total	0.0	0.0	0.0	0.0	0.0	--	--	--	--

Changes to Existing Law: This proposal would make the following change to section 1704 of the National Defense Authorization Act for Fiscal Year 2010:

SEC. 1704 JOINT FUNDING AUTHORITY.

(a) Joint Medical Facility Demonstration Fund.

(1) Establishment.—There is established on the books of the Treasury under the Department of Veterans Affairs a fund to be known as the "Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund" (in this section referred to as the "Fund").

(2) Elements.—The Fund shall consist of the following:

(A) Amounts transferred to the Fund by the Secretary of Defense, in consultation with the Secretary of the Navy, from amounts authorized and appropriated for the Department of Defense specifically for that purpose.

(B) Amounts transferred to the Fund by the Secretary of Veterans Affairs from amounts authorized and appropriated for the Department of Veterans Affairs specifically for that purpose.

(C) Amounts transferred to the Fund from medical care collections under paragraph (4).

(3) Determination of amounts transferred generally.—The amount transferred to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs under subparagraphs (A) and (B), as applicable, of paragraph (2) each fiscal year shall be such amount, as determined by a methodology jointly established by the Secretary of Defense and the Secretary of Veterans Affairs for purposes of this subsection, that reflects the mission-specific activities, workload, and costs of provision of health care at the facility of the Department of Defense and the Department of Veterans Affairs, respectively.

(4) Transfers from medical care collections.

(A) In general.—Amounts collected under the authorities specified in subparagraph (B) for health care provided at the facility may be transferred to the Fund under paragraph (2)(C).

(B) Authorities.—The authorities specified in this subparagraph are the following:

(i) Section 1095 of title 10, United States Code.

(ii) Section 1729 of title 38, United States Code.

(iii) Public Law 87-693 , popularly known as the "Federal Medical Care Recovery Act" (42 U.S.C. 2651 et seq.).

(5) Administration.—The Fund shall be administered in accordance with such provisions of the executive agreement under section 1701 as the Secretary of Defense and the Secretary of Veterans Affairs shall jointly include in the executive agreement. Such provisions shall provide for an independent review of the methodology established under paragraph (3).

(b) Availability.

(1) In general.—Funds transferred to the Fund under subsection (a) shall be available to fund the operations of the facility, including capital equipment, real property maintenance, and minor construction projects that are not required to be specifically authorized by law under section 2805 of title 10, United States Code, or section 8104 of title 38, United States Code.

(2) Limitation.—The availability of funds transferred to the Fund under subsection (a)(2)(C) shall be subject to the provisions of section 1729A of title 38, United States Code.

(3) Period of availability.

(A) In general.—Except as provided in subparagraph (B), funds transferred to the Fund under subsection (a) 123 STAT. 2573BEGINS shall be available under paragraph (1) for one fiscal year after transfer.

(B) Exception.—Of an amount transferred to the Fund under subsection (a), an amount not to exceed two percent of such amount shall be available under paragraph (1) for two fiscal years after transfer.

(c) Financial Reconciliation.—The executive agreement under section 1701 shall provide for the development and implementation of an integrated financial reconciliation process that meets the fiscal reconciliation requirements of the Department of Defense, the Department of the Navy, and the Department of Veterans Affairs. The process shall permit each of the Department of Defense, the Department of Navy, and the Department of Veterans Affairs to identify their

fiscal contributions to the Fund, taking into consideration accounting, workload, and financial management differences.

(d) Annual Report.—The Secretary of Defense, in consultation with the Secretary of the Navy, and the Secretary of Veterans Affairs shall jointly provide for an annual independent review of the Fund for at least three years after the date of the enactment of this Act. Such review shall include detailed statements of the uses of amounts of the Fund and an evaluation of the adequacy of the proportional share contributed to the Fund by each of the Secretary of Defense and the Secretary of Veterans Affairs.

(e) Termination.— The authorities in this section shall terminate on ~~September 30, 2015~~ September 30, 2016.

****

Section 713 would amend section 1079 of title 10, United States Code, removing specific quantitative and non-quantitative limits on inpatient mental health and substance use disorder benefits that are no longer required and may be viewed as barriers to medically necessary and appropriate mental health services. This change furthers the principle of mental health parity, consistent with the Mental Health Parity Act of 1996 (P.L. 104-204) and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (P.L. 110-343). This proposal more closely aligns TRICARE's inpatient mental health benefit with TRICARE's inpatient medical/surgical benefit.

Currently, the day limits associated with inpatient mental health services and related waiver criteria that must be met to receive care beyond the limits may be viewed as presenting more stringent quantitative limitations, or barriers, to mental health care that do not exist for medical surgical care. In addition, authority for the separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services and preadmission authorization for non-emergency inpatient mental health services may also be viewed as imposing financial and non-quantitative treatment limitations that are inconsistent with the provision of mental health parity.

Paragraphs (6) and (7) of subsection (a) were originally enacted to address the problem of spiraling costs for mental health services and created presumptive limits, subject to waiver in special cases. The TRICARE program has matured significantly since the enactment of the cost-saving provisions. TRICARE now has a variety of utilization management and continuing review tools to manage care, ensure quality, and control costs for medically or psychologically necessary and appropriate care, whether medical/surgical or mental health and substance use care, obviating the need for these provisions. Eliminating these rigid statutory requirements will provide the Department of Defense with additional flexibility to appropriately manage care and impose processes, evidentiary standards and other factors for mental health and substance use disorders that are comparable to those applicable for medical/surgical benefits. By eliminating these statutory requirements, imposing limitations that treat mental health and substance use disorder treatment differently than medical and surgical care, this proposal will further de-stigmatize mental health treatment and hopefully provide a greater incentive for beneficiaries to seek the care they need.

The proposal also removes the prohibition on provision of nonemergency inpatient hospital care if such services are available in a facility of the uniformed services found at 10 U.S.C.1079(a)(7) as this provision is no longer needed. The Department has eliminated the requirement for TRICARE Standard beneficiaries to obtain a non-availability statement for non-emergency inpatient mental health care following an evaluation of the effectiveness of such statements in optimizing the use of facilities of the uniformed services pursuant to section 1080(c)(2) of title 10, United States Code.

Budget Implications: By eliminating the limits on inpatient mental health stays and the limits on Residential Treatment Center (RTC) stays, lengths of stay for some TRICARE beneficiaries will increase and the government payments will also increase. Assuming an implementation date of October 1, 2014, the estimated cost increases are as follows:

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Defense Health Program (DHP)	$1.4	$1.4	$1.5	$1.6	$1.7	DHP O&M	01	02	

COST METHODOLOGY						
	FY15	**FY16**	**FY17**	**FY18**	**FY19**	**FY15-19**
Utilization Trend	1.02	1.02	1.02	1.02	1.02	
Additional Days	1,901	1,939	1,978	2,017	2,058	
Price Trend	1.03	1.03	1.03	1.03	1.03	
Cost/Day	$713	$734	$756	$779	$802	
Additional Costs	$1,355,413	$1,423,226	$1,495,368	$1,571,243	$1,650,516	$7,495,766

Cost Methodology:

The cost impact of eliminating the length of stay limits on inpatient psychiatric stays and for RTC stays is $7.5 million over five years. We estimate that eliminating the limits will increase lengths of stay for some inpatient stays at psychiatric hospitals and RTCs. Based on the FY13 patterns of care, we project that in FY15, the number of inpatient psychiatric hospital days would increase by 636 per year and that the number of RTC days would increase by 1,265 per year, for a total increase of 1,901 days per year. We assumed that the number of days would increase by 2 percent per year (the utilization trend). The cost per day in FY15 is assumed to be $713, which is a 3 percent per year increase from the average cost per day of $672 per day in FY13. We assume the cost per day will increase by 3 percent per year. The product of the additional days and the cost per day equals the additional costs.

Changes to Existing Law: This proposal would make the following changes to section 1079 of title 10, United States Code:

§ 1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

* * * * * * *

(6) ~~Inpatient mental health services may not (except as provided in subsection (i)) be provided to a patient in excess of--~~

~~(A) 30 days in any year, in the case of a patient 19 years of age or older;~~

~~(B) 45 days in any year, in the case of a patient under 19 years of age; or~~

~~(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care.~~

(7) ~~Services in connection with nonemergency inpatient hospital care may not be provided if such services are available at a facility of the uniformed services located within a 40-mile radius of the residence of the patient, except that those services may be provided in any case in which another insurance plan or program provides primary coverage for those services.~~

*** * * * * * ***

~~(i) (1) The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services--~~

~~(A) provided under the program for the handicapped under subsection (d);~~

~~(B) provided as partial hospital care; or~~

~~(C) provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.~~

~~(2) Notwithstanding subsection (b) or section 1086(b) of this title, the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the~~

~~provision of mental health services to persons covered by this section or section 1086 of this title. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries.~~

~~(3)(A) Except as provided in subparagraph (B), the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this section or section 1086 of this title. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.~~

~~(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the following cases:~~

~~(i) In the case of an emergency.~~

~~(ii) In a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), subject to subparagraph (C).~~

~~(C) In a case of inpatient mental health services to which subparagraph (B)(ii) applies, the Secretary shall require advance authorization for a continuation of the provision of such services after benefits cease to be payable for such services under such part A.~~

* * * * * * *

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

Section 801 would amend Section 2216a(e) of title 10, United States Code, by creating a three-year extension. In section 846 of the National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81), Congress enacted section 2216a of title 10, United States Code, establishing a transfer account to be known as Joint Urgent Operational Needs Fund. Funds in that Fund are to be available to the Secretary of Defense for the purpose of providing equipment, supplies, services, training, and facilities to facilitate the resolution of urgent operational needs. This transfer account allows the Department to respond to previously unforeseen, warfighter needs, which are validated by the Joint Chiefs of Staff as being joint urgent operational needs requiring immediate fulfillment.

Subsection (e) of that section provides that the authority under that section expires on September 30, 2015. This proposal would amend subsection (e), extending the authority under section 2216a for three years.

The ready availability of these funds for future contingencies is critical to facilitating the Department's rapid response to these requirements. The fund's current sunset provision would

unnecessarily and adversely impact the Department's responsiveness to urgent requirements after fiscal year 2015.

Budget Implications: This proposed change has no budget implications. Section 2216a of title 10, United States Code, provides authority to the Secretary to use amounts in the fund that have been appropriated, transferred, or otherwise provided by law into the fund. This fund is used only for capabilities that are suitable for rapid fielding in response to urgent operational needs. This legislative proposal does not alter in any manner the amount of funds in the fund now or at any future date.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	20.0	100.0	100.0	100.0		Defense Wide	01	110	

Changes to Existing Law: This section would make the following change to section 2216a of title 10, United States Code:

SECTION 2216a OF TITLE 10, UNITED STATES CODE

§ 2216a. Rapidly meeting urgent needs: Joint Urgent Operational Needs Fund

(a) ESTABLISHMENT.—There is established in the Treasury an account to be known as the "Joint Urgent Operational Needs Fund" (in this section referred to as the "Fund").

(b) ELEMENTS.—***

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(c) USE OF FUNDS.—***

* * * * * *

(d) TRANSFER AUTHORITY.—***

* * * * * *

(e) SUNSET.—The authority to make expenditures or transfers from the Fund shall expire on September 30, ~~2015~~ 2018.

Section 802 would amend section 717 of the Defense Production Act of 1950 (50 U.S.C. App. 2166), relating to the expiration of the authorities under the Defense Production Act of 1950. Under this program, the President may exercise designated authorities to secure for the military departments supplies and services essential to the conduct of a war.

Budget Implications: If enacted, this proposal will not increase the budgetary requirements of the Department of Defense or the Department of Transportation.

RESOURCE SAVINGS ($THOUSANDS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**		**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0		O&M, Army-		
Navy	+0	+0	+0	+0	+0		O&M, Navy		
Marine Corps	+0	+0	+0	+0	+0		O&M, Marine Corps		
Coast Guard	+0	+0	+0	+0	+0		O&M, Coast Guard		
Air Force	+0	+0	+0	+0	+0		O&M, Air Force – 3400		
Total	0	0	0	0	0				

NUMBER OF PERSONNEL AFFECTED								
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**		**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0		N/A	N/A
Navy	0	0	0	0	0		N/A	N/A
*Marine Corps	0	0	0	0	0		N/A	N/A
Air Force	0	0	0	0	0		N/A	N/A
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would make the following change to section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)):

SEC. 717. (a) Title I (except section 104, title III, and title VII (except sections 707, 708, and 721) shall terminate on ~~**September 30, 2014**~~ **September 30, 2019**, except that all authority extended under title III on or after the date of enactment of the Defense Production Act Reauthorization of 2009 [Sept. 30, 2009] shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) ***

* * * * * *

Subtitle B—Amendments to General Contract Authorities, Procedures, and Limitations

Section 811 would amend subsection (a)(1) of section 2313 of title 10, United States Code, to grant the Defense Contract Audit Agency (DCAA) specific authority to interview contractor employees. This proposal would provide DCAA written authority similar to that granted to the Comptroller General in subsection (c)(1) of that section (except that, in the case of the Comptroller General authority, there are certain exceptions for contracts and subcontracts with foreign contractors or subcontractors that would not be extended to the DCAA authority).

Department of Defense (DoD) Directive 5105.36 requires DCAA to perform examinations in accordance with the Generally Accepted Government Auditing Standards (GAGAS). GAGAS requires the auditor to obtain sufficient, appropriate evidence to provide a reasonable basis for the conclusions expressed in their report. DCAA strongly believes that having access to contractor employees to conduct interviews is critical to ensure the high level of assurance required by GAGAS.

The current statute indicates that as an authorized representative of the Contracting Officer, DCAA has the right to inspect the plant and audit the records of contractors and subcontractors performing selected contract types (cost reimbursement, time and materials, etc.) Additionally, Federal Acquisition Regulation (FAR) 52.215-2 provides DCAA the right to examine contractor records and access to any other evidential matter in support of contract costs. DCAA considers employee interviews a routine and established audit procedure necessary to complete an audit, and an essential source of evidential matter since interviews provide the auditor with firsthand knowledge of the contract costs and the contractor's business practices.

DCAA believes the authority to interview employees is inclusive in the current statute and regulatory language. However, some contractors have argued that subsection (c)(1) of section 2313 of title 10 United States Code, and FAR 52.215-2(d), specifically gives the Comptroller General the right to interview employees, and since there is no corresponding reference to DCAA, that DCAA does not have such rights. Therefore, a change to the statute is necessary to clarify DCAA's right to interview contractor employees.

This proposal will allow DCAA to better serve the needs of the acquisition community, since it ensures the authority to interview contractor employees regarding costs incurred on Government contracts. Those interviews provide DCAA the evidence necessary to satisfy mission requirements and also assist in assuring that contractors spend tax payer dollars prudently. The proposal should also enhance the effectiveness of DCAA and contractor personnel since it will no longer be necessary to expend resources discussing whether DCAA has the right to interview employees.

Budget Implications: The proposal has no budgetary impact as it addresses procurement processes and not amounts appropriated for procurement of items or services.

Changes to Existing Law: This proposal would amend section 2313 of title 10, United States Code, as follows (text to be added is shown in **bold underline;** text to be deleted is ~~struck through~~):

TITLE 10, UNITED STATES CODE

§ 2313. Examination of records of contractor

(a) AGENCY AUTHORITY.—(1) The head of an agency, acting through an authorized representative, is authorized to inspect the plant**, interview employees,** and audit the records of—

(A) a contractor performing a cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable contract, or any combination of such contracts, made by that agency under this chapter; and

(B) a subcontractor performing any cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable subcontract or any combination of such subcontracts under a contract referred to in subparagraph (A).

(2) The head of an agency, acting through an authorized representative, is authorized, for the purpose of evaluating the accuracy, completeness, and currency of certified cost or pricing data required to be submitted pursuant to section 2306a of this title with respect to a contract or subcontract, to examine all records of the contractor or subcontractor related to—

(A) the proposal for the contract or subcontract;

(B) the discussions conducted on the proposal;

(C) pricing of the contract or subcontract; or

(D) performance of the contract or subcontract.

(b) DCAA SUBPOENA AUTHORITY.—(1) The Director of the Defense Contract Audit Agency (or any successor agency) may require by subpoena the production of any records of a contractor that the Secretary of Defense is authorized to audit or examine under subsection (a).

(2) Any such subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of an appropriate United States district court.

(3) The authority provided by paragraph (1) may not be redelegated.

(c) COMPTROLLER GENERAL AUTHORITY.—(1) Except as provided in paragraph (2), each contract awarded after using procedures other than sealed bid procedures shall provide that the Comptroller General and his representatives are authorized to examine any records of the contractor, or any of its subcontractors, that directly pertain to, and involve transactions relating to, the contract or subcontract and to interview any current employee regarding such transactions.

(2) Paragraph (1) does not apply to a contract or subcontract with a foreign contractor or foreign subcontractor if the head of the agency concerned determines, with the concurrence of the Comptroller General or his designee, that the application of that paragraph to the contract or subcontract would not be in the public interest. However, the concurrence of the Comptroller General or his designee is not required-

(A) where the contractor or subcontractor is a foreign government or agency thereof or is precluded by the laws of the country involved from making its records available for examination; and

(B) where the head of the agency determines, after taking into account the price and availability of the property and services from United States sources, that the public interest would be best served by not applying paragraph (1).

(3) Paragraph (1) may not be construed to require a contractor or subcontractor to create or maintain any record that the contractor or subcontractor does not maintain in the ordinary course of business or pursuant to another provision of law.

* * * * * * *

(i) RECORDS DEFINED.—In this section, the term "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

Section 812. The United States Transportation Command (USTRANSCOM), as the single manager of the Department of Defense common user transportation system, delivers troops, equipment, supplies, vehicles, and everything else that Combatant Commanders require for mission accomplishment into every Geographic Combatant Command Area of Responsibility (AOR). A Functional Combatant Command, USTRANSCOM has a world-wide AOR, limited to strategic transportation services. When USTRANSCOM contracts for commercial transportation to support these missions, its commercial contractors perform in close proximity to Department of Defense personnel, facilities, and supplies, often in remote or deployed environments. Delivered cargo ultimately is received/used directly by Department of Defense personnel. USTRANSCOM must act to protect Department of Defense forces from harm by enemies, terrorists, agents of a foreign power, persons of counterintelligence, personnel security, or operations security concern or other adversaries. USTRANSCOM must act to avoid unsafe practices, minimize harm to persons and property, protect U.S. weapons systems from sabotage by an adversary, protect the integrity of the Department of Defense supply chain, and overcome other transportation-related obstacles to the success of Department of Defense missions. Only persons who are not citizens of the United States or entities that are not incorporated in or otherwise are an entity created under the laws of the United States are subject to this authority. United States citizens or corporations or entities existing as a result of laws of the United States must comply with directions to void or terminate subcontracts involving non-United States citizens or entities if such a determination is made. Investment by or employment of United States citizens in foreign companies is not sufficient to remove such companies from the scope of this provision.

USTRANSCOM has received numerous reports involving transportation providers, typically operating at the subcontract level, that present significant national security risks. Existing tools have proved inadequate to take actions justified by classified intelligence reports, force protection assessments, and other threat information. Officials in the Departments of Treasury, Commerce, Justice, etc. have statutory authority to list entities and impose certain sanctions on listed entities. However, these statutory processes often require time-consuming procedures incompatible with the short time frames of transportation contracts. In addition, once an entity is listed, it may change its name and/or organizational form quickly, forcing another time-consuming process to list/sanction the new entity. Finally, the need to protect sources and methods of intelligence collection hampers the use of some existing authorities. Section 831 of

the FY14 National Defense Authorization Act, Public Law 113-066, provided to the Commander of the United States Central Command and other named combatant commands the authority to void, terminate or restrict the award of contracts. Section 831 has expanded previous authority that was limited to the Central Command's theater of operations to address the problem of contracting with the enemy in each Geographic Combatant Command's Area of Responsibility. The law was prompted by an effort to prevent U.S. funds from flowing to an entity that actively opposed the U.S. in a contingency operation. USTRANSCOM, which faces security concerns similar to those of USCENTCOM, has a world-wide theater of operations and its concerns are not confined to specific contingency operations.

Budget Implications: If enacted, this proposal will not increase the budgetary requirements of the Department of Defense.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	+0	+0	+0	+0	+0	O&M, Army			
Navy	+0	+0	+0	+0	+0	O&M, Navy			
Marine Corps	+0	+0	+0	+0	+0	O&M, Marine Corps			
Coast Guard	+0	+0	+0	+0	+0	O&M, Coast Guard			
Air Force	+0	+0	+0	+0	+0	O&M, Air Force – 3400			
DOD	+0	+0	+0	+0	+0	Transportation Working Capital Funds – 97X4930	02	21A	

NUMBER OF PERSONNEL AFFECTED							
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation To**	**Personnel Type (Officer, Enlisted, or Civilian)**
Army	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	N/A	N/A

Air Force	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0		

Cost Methodology: The Department of Defense has explored ways to reduce risks associated with transportation contracts involving foreign entities and citizens that are known to be risks to force protection, security, or operations based on intelligence reports. The Department should not have to jeopardize HUMINT resources in order to cease doing business with these entities or individuals. If enacted, the proposal could not result in additional operating costs for the Transportation Working Capital Fund or Operation and Maintenance funds needed for transportation contracts. Thus the proposal should be budget scored as zero or budget neutral.

Changes to Existing Law: This proposal would amend section 831 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-xxx) as follows:.

SEC. 831. PROHIBITION ON CONTRACTING WITH THE ENEMY.

(a) AUTHORITY TO TERMINATE OR VOID CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS AND TO RESTRICT FUTURE AWARD.—

(1) IDENTIFICATION OF PERSONS AND ENTITIES.—The Secretary of Defense shall establish in each covered combatant command a program to identify persons or entities, within the area of responsibility of such covered combatant command, that—

(A) provide funds received under a contract, grant, or cooperative agreement of the Department of Defense directly or indirectly to a covered person or entity; or

(B) fail to exercise due diligence to ensure that none of the funds received under a contract, grant, or cooperative agreement of the Department of Defense are provided directly or indirectly to a covered person or entity.

(2) NOTICE OF PERSONS OR ENTITIES IDENTIFIED.—Upon the identification of a person or entity as meeting subparagraph (A) or (B) of paragraph (1), the commander of the combatant command concerned, and any deputies of the commander specified by the commander for purposes of this section, shall be notified in writing of such identification of such
person or entity.

(3) RESPONSIVE ACTIONS.—Upon receipt of a notice under paragraph (2), the commander of the combatant command concerned may, in consultation with the Under Secretary of Defense for Policy, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the appropriate Chief of Mission, notify the heads of appropriate contracting activities, in writing, of such identification and request that the heads of such contracting activities exercise the authorities provided pursuant to paragraph (4) and the Department of Defense Supplement to the Federal Acquisition Regulation, as revised, with respect to any contract, grant, or cooperative agreement that provides funding directly or indirectly to the person or entity covered by the notice.

(4) AUTHORITIES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Department of Defense Supplement to the Federal Acquisition Regulation to authorize the head of a contracting activity in each covered combatant command, pursuant to a request from the commander of a covered combatant command under paragraph (3)—

(A) to prohibit, limit, or otherwise place restrictions on the award of any Department of Defense contract, grant, or cooperative agreement to a person or entity identified pursuant to paragraph (1)(A);

(B) to terminate for default any Department contract, grant, or cooperative agreement awarded to a person or entity identified pursuant to paragraph (1)(B); or

(C) to void in whole or in part any Department contract, grant, or cooperative agreement awarded to a person or entity identified pursuant to paragraph (1)(A).

(b) CONTRACT CLAUSE.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Department of Defense Supplement to the Federal Acquisition Regulation shall be revised to require that—

(A) the clause described in paragraph (2) shall be included in each covered contract, grant, and cooperative agreement of the Department of Defense that is awarded on or after the date of the enactment of this Act; and

(B) to the maximum extent practicable, each covered contract, grant, and cooperative agreement of the Department of Defense that is awarded before the date of the enactment of this Act shall be modified to include the clause described in paragraph (2).

(2) CLAUSE DESCRIBED.—The clause described in this paragraph is a clause that—

(A) requires the contractor, or the recipient of the grant or cooperative agreement, to exercise due diligence to ensure that none of the funds received under the contract, grant, or cooperative agreement are provided directly or indirectly to a covered person or entity; and

(B) notifies the contractor, or the recipient of the grant or cooperative agreement, of the authority of the head of the contracting activity to terminate or void the contract, grant, or cooperative agreement, in whole or in part.

(3) COVERED CONTRACT, GRANT, OR COOPERATIVE AGREEMENT.—In this subsection, the term ‘‘covered contract, grant, or cooperative agreement’’ means a contract, grant, or cooperative agreement with an estimated value in excess of $50,000.

(4) TREATMENT AS VOID.—For purposes of subsection (a)(4) and the exercise under subsection (a)(3) of the authorities in the Department of Defense Supplement to the Federal Acquisition Regulation pursuant to this subsection:

(A) A contract, grant, or cooperative agreement that is void is unenforceable as contrary to public policy.

(B) A contract, grant, or cooperative agreement that is void in part is unenforceable as contrary to public policy with regard to a segregable task or effort under the contract, grant, or cooperative agreement.

(c) REQUIREMENTS FOLLOWING CONTRACT ACTIONS.—Not later than 30 days after the date of the enactment of this Act, the Department of Defense Supplement to the Federal Acquisition Regulation shall be revised as follows:

(1) To require that any head of contracting activity taking an action pursuant to subsection (a)(3) or (a)(4) to terminate, void, or restrict a contract, grant, or cooperative agreement notify in writing the contractor or recipient of the grant or cooperative agreement, as applicable, of the action.

(2) To permit, in such manner as the Department of Defense Supplement to the Federal Acquisition Regulation as so revised shall provide, the contractor or recipient of a grant or cooperative agreement subject to an action taken pursuant to subsection (a)(3) or (a)(4) to terminate or void the contract, grant, or cooperative agreement, as the case may be, an opportunity to challenge the action by requesting administrative review within 30 days after receipt of notice of the action.

(d) ANNUAL REVIEW.—The commanders of the covered combatant commands shall, on an annual basis, review the lists of persons and entities previously identified pursuant to subsection (a)(1) in order to determine whether or not such persons and entities continue to warrant identification pursuant to that subsection. If a commander determines pursuant to such a review that a person or entity no longer warrants identification pursuant to subsection (a)(1), the commander shall notify the heads of contracting activities of the Department of Defense in writing of such determination.

(e) PROTECTION OF CLASSIFIED INFORMATION.—Classified information relied upon to make an identification pursuant to subsection (a)(1) may not be disclosed to a contractor or a recipient of a grant or cooperative agreement with respect to which an action is taken pursuant to subsection (a)(3) or (a)(4) or to their representatives, in the absence of a protective order issued by a court of competent jurisdiction established under Article I or Article III of the Constitution of the United States that specifically addresses the conditions upon which such classified information may be so disclosed.

(f) DELEGATION.—

(1) RESPONSIBILITIES RELATING TO IDENTIFICATION AND REVIEW.—The commander of a covered combatant command may delegate the responsibilities in subsection (a)(3) to any deputies of the commander specified by the commander pursuant to that subsection. The commander may delegate any responsibilities under subsection (d) to the deputy commander of the combatant command. Any delegation of responsibilities under this paragraph shall be made in writing.

(2) NONDELEGATION OF RESPONSIBILITY FOR CONTRACT ACTIONS.—The authority provided by subsections (a)(3) and (a)(4) to terminate, void, or restrict contracts, grants, and cooperative agreements may not be delegated below the level of head of contracting activity.

(g) INCLUSION OF INFORMATION ON CONTRACT ACTIONS IN FAPIIS.—Upon the termination, voiding, or restriction of a contract, grant, or cooperative agreement pursuant to subsection (a)(3) or (a)(4), the head of contracting activity concerned shall provide for the inclusion in the Federal Awardee Performance and Integrity Information System (FAPIIS), or other formal system of records on contractors or entities, of appropriate information on the termination, voiding, or restriction of the contract, grant, or cooperative agreement.

(h) REPORTS.—

(1) IN GENERAL.—Not later than March 1 each year through 2019, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authorities in this section in the preceding calendar year, including the following:

(A) For each instance in which a contract, grant, or cooperative agreement was terminated or voided, or entry into contracts, grants, and cooperative agreements was restricted, pursuant to subsection (a)(3) or (a)(4), the following:

(i) An explanation of the basis for the action taken.

(ii) The value of the contract, grant, or cooperative agreement terminated or voided.

(iii) The value of all contracts, grants, or cooperative agreements of the Department of Defense in force with the person or entity concerned at the time the contract, grant, or cooperative agreement was terminated or voided.

(iv) Information on how the goods or services covered by the terminated or voided contract, grant, or cooperative agreement were otherwise obtained by the commander of the combatant command concerned.

(B) For each instance in which a contract, grant, or cooperative agreement of a person or entity identified pursuant to subsection (a)(1) was not terminated or voided pursuant to subsection (a)(3) or (a)(4), or the future award of contracts, grants, and cooperative agreements to such person or entity was not restricted pursuant to subsection (a)(3) or (a)(4), an explanation why such action was not taken.

(2) FORM.—Any report under this subsection may be submitted in classified form.

(i) OTHER DEFINITIONS.—In this section:

(1) The term ‘‘covered combatant command’’ means United States Central Command, United States European Command, United States Africa Command, United States Southern Command, **United States Transportation Command,** or United States Pacific Command.

(2) The term ‘‘head of contracting activity’’ has the meaning given that term in subpart 601 of part 1 of the Federal Acquisition Regulation.

(3) The term ‘‘covered person or entity’’ means a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the armed forces are actively engaged in hostilities.

(j) SUNSET.—The provisions of this section shall cease to be effective on December 31, 2018.

Section 813 would greatly reduce an expensive and time-consuming statutory requirement to evaluate a Major Automated Information System (MAIS) program and prepare a Critical Change Report when the program fails to achieve a Full Deployment Decision within 5 years after the Milestone A decision or selection of the preferred alternative for the program. Programs failing to achieve a Full Deployment Decision within 5 years are typically very close to that major decision point, and have endured many other milestone and decision reviews which provide adequate opportunity for senior leadership to evaluate the program.

In lieu of a Critical Change Report, the Department of Defense proposes that failure to achieve a Full Deployment Decision within 5 years be determined as a Significant Change with the attendant Notification to the congressional defense committees required for all Significant Changes. The Department believes such Notification would remain an effective but less costly way for the Department to keep the congressional defense committees informed of MAIS programs that fail to achieve a Full Deployment Decision (FDD) within 5 years. The proposal also retains the motivation for MAIS program management to structure programs in short-term achievable increments—an innovation from Congress that has been very helpful to the Department. As a significant event, any FDD schedule change causing a delay of one year or more from that provided to Congress under paragraph (2) of section 2445b(b) or section 2445b(d) of title 10, would remain a covered determination and subject to critical change reporting under the newly designated subparagraph (A) [current subparagraph (B)] of section2445c(d)(2) of title 10, United States Code.

Budget Implications: Based on experience, the Department estimates a contingency savings of about $860,000 per avoided Critical Change Report, distributed among the Department's various components and the Office of the Secretary of Defense staff. This estimate is based on the net cost of avoiding program evaluation and critical change report expenses, while incurring the expense of creating and coordinating a Notification in its stead.

Changes to Existing Law: This proposal would make the following changes to subsections (c) and (d) of section 2445c of title 10, United States Code:

§ 2445c. Reports: quarterly reports; reports on program changes

(a) QUARTERLY REPORTS BY PROGRAM MANAGERS.—***

* * * * * * *

(c) REPORT ON SIGNIFICANT CHANGES IN PROGRAM.—

(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (2), the official shall, not later than 45 days after receiving such report, notify the congressional defense committees in writing of such determination.

(2) COVERED DETERMINATION.—A determination described in this paragraph with respect to a major automated information system program is a determination that—

(A) there has been a schedule change that will cause a delay of more than six months but less than a year in any program schedule milestone or significant event from the schedule originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title;

(B) the estimated total acquisition cost or full life-cycle cost for the program has increased by at least 15 percent, but less than 25 percent, over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title; ~~or~~

(C) there has been a significant, adverse change in the expected performance of the major automated information system to be acquired under the program from the parameters originally submitted to Congress under paragraph (4) of section 2445b(b) of this title; or~~.~~

(D) the automated information system or information technology investment failed to achieve a full deployment decision within five years after the Milestone A decision for the program or, if there was no Milestone A decision, the date when the preferred alternative is selected for the program (excluding any time during which program activity is delayed as a result of a bid protest).

(d) REPORT ON CRITICAL CHANGES IN PROGRAM.—

(1) IN GENERAL.—If, based on a quarterly report submitted by the program manager of a major automated information system program or other major information technology investment program pursuant to subsection (a), the senior Department of Defense official responsible for the program makes a determination described in paragraph (3), the official shall, not later than 60 days after receiving such report—

(A) carry out an evaluation of the program under subsection (e); and

(B) submit, through the Secretary of Defense, to the congressional defense committees a report meeting the requirements of subsection (f).

* * * * * * *

(3) COVERED DETERMINATION.—A determination described in this paragraph with respect to a major automated information system program or other major information technology investment program is a determination that—

~~(A) the automated information system or information technology investment failed to achieve a full deployment decision within five years after the Milestone A decision for the program or, if there was no Milestone A decision, the date when the preferred alternative is selected for the program (excluding any time during which program activity is delayed as a result of a bid protest);~~

(~~B~~A) there has been a schedule change that will cause a delay of one year or more in any program schedule milestone or significant event from the schedule

originally submitted to Congress under paragraph (1) or (2) of section 2445b(b) of this title or section 2445b(d) of this title, as applicable;

(~~C~~B) the estimated total acquisition cost or full life-cycle cost for the program has increased by 25 percent or more over the original estimate submitted to Congress under paragraph (3) of section 2445b(b) of this title or section 2445b(d) of this title, as applicable; or

(~~D~~C) there has been a change in the expected performance of the major automated information system or major information technology investment to be acquired under the program that will undermine the ability of the system to perform the functions anticipated at the time information on the program was originally submitted to Congress under section 2445b(b) of this title or section 2445b(d) of this title, as applicable.

* * * * * * *

Section 814 would amend section 1903(a) of title 41, United States Code, to expand the permissible uses of the special emergency procurement authorities under section 1903 to include: (1) support of humanitarian assistance, international disaster assistance, or other crisis-related assistance and 2) support of a national emergency or natural disaster relief efforts in the United States as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122). Expansion of this authority is necessary to enhance DoD and other agencies' flexibility to effectively support emergencies both inside and outside the United States.

Section 1903 provides for increased micro-purchase and simplified acquisition thresholds in certain cases. Under current law, these procurement flexibilities are limited to contingency operations and activities related to the defense against or recovery from nuclear, biological, chemical or radiological attack. This proposal would amend section 1903 to extend the availability of special emergency procurement authorities – such as increased micro-purchase and simplified acquisition thresholds, as those terms are defined in the Stafford Act — when carrying out humanitarian assistance, international disaster assistance, or other crisis related assistance and when supporting national emergencies or major disaster relief efforts inside the United States.

Having the ability to use the increased micro-purchase and simplified acquisition thresholds under section 1903 is critical for DoD and other agencies by providing alternative ways of procuring items when supporting these assistance efforts or specified national emergencies or natural disaster relief efforts inside the United States.

This proposal would <u>not</u>, however, change how or when humanitarian assistance is provided or how or when national emergencies or natural disaster efforts are carried out.

Budget Implications: This proposal would amend the applicability of special emergency procurement authorities and there would be no additional budget implications.

Changes to Existing Law: This proposal would make the following changes to section 1903(a) of title 41, United States Code:

§ 1903. Special emergency procurement authority

(a) APPLICABILITY—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services by or for an executive agency that the head of the executive agency determines are to be used—

(1) in support of a contingency operation (as defined in section 101 (a) of title 10); ~~or~~

(2) to facilitate the defense against or recovery from nuclear, biological, chemical, or radiological attack against the United States~~.~~ ;

(3) in support of a request from the Department of State or the United States Agency for International Development to facilitate the provision of humanitarian assistance, international disaster assistance, or other crisis-related assistance pursuant to the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(4) in support of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).

(b) INCREASED THRESHOLDS AND LIMITATION.—For a procurement to which this section applies under subsection (a)—

(1) the amount specified in section 1902(a), (d), and (e) of this title shall be deemed to be—

(A) $15,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) $25,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States;

(2) the term "simplified acquisition threshold" means—

(A) $250,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) $1,000,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States; and

(3) the $5,000,000 limitation in sections 1901(a)(2) and 3305(a)(2) of this title and section 2304(g)(1)(B) of title 10 is deemed to be $10,000,000.

(c) AUTHORITY TO TREAT PROPERTY OR SERVICE AS COMMERCIAL ITEM.—

(1) IN GENERAL.—The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat the property or service as a commercial item for the purpose of carrying out the procurement.

(2) CERTAIN CONTRACTS NOT EXEMPT FROM STANDARDS OR REQUIREMENTS.—A contract in an amount of more than $15,000,000 that is awarded on a sole source basis for an item or service treated as a commercial item under paragraph (1) is not exempt from—

(A) cost accounting standards prescribed under section 1502 of this title; or

(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under chapter 35 of this title and section 2306a of title 10.

Section 815 proposal would extend existing statutory authority that provides a "bridge" between the Science and Technology (S&T) portion of a contract awarded under the Federal Acquisition Regulation's (FAR's) Broad Agency Announcement (BAA) authority, and the award of a contract under a new acquisition for advanced component development or production. BAAs are "general solicitations," as defined by 10 U.S.C. 2302(2)(B). By allowing the BAA-based contract to include a contract line item or an option for potential work that bridges the gap between S&T and advanced component development or procurement, contracts can be issued on BAAs that carry the most promising work through to integrated component evaluation, demonstration, and validation, without having to restart the acquisition process. The overall goal of extending the authority under this section is to speed the transition of S&T into fielded systems pursuant to the goals of Department of Defense Instruction 5000.2, "Operation of the Defense Acquisition System."

The authority permitted hereunder has dramatically increased the number of competitive ideas submitted by businesses/developers in response to areas of research identified by the Department of the Navy. This process results in enhanced innovation, and reduced costs and time to market for capability improvements, enabling a more rapid response to specific warfighter requirements targeted at countering emergent capability shortfalls. Prior to the enactment of this authority, program offices responsible for development programs, involving the rapid insertion of capabilities to meet operational needs, were limited to the use of Small Business Innovation Research (SBIR) Phase III contracts for technologies that were not necessarily timely or particularly targeted at the most recent emergent Fleet requirements.

The BAA process provides significant efficiencies in soliciting new ideas, in source selection, and in contracting processes. Loss of this authority would greatly reduce the efficiency of the solicitation process, as the procuring activity would have to go through lengthy requests for information, and other refinements to solicitations for each of the capabilities needed (often 20 to 50 for one program), thus restricting the number of those capabilities, reducing innovation, and greatly extending the timeline to solicit and acquire the algorithms and applications. This would be extremely detrimental to the readiness and technical superiority of sophisticated weapon systems.

Specific examples of the successful use of this authority include:

- Development of submarine periscope imaging capabilities that allow 360-degree stitching of sectional images, enhanced resolution during low light (nighttime and storm conditions) operations and image processing to enable automatic target recognition and tracking. Offers significant improvement in submarine situational awareness and safety.

- Development of wave forms for continuous use of active sonar to reduce clutter and improve threat submarine detection at longer ranges. Offers significant improvement in surface combatant anti-submarine-warfare capabilities.

- Development of an automatic four state estimation tool that allows operators to focus tracking efforts on threat contacts while the automated system maintains tactical situational awareness of non-threat contacts. Offers significant improvement in submarine situational awareness and safety.

- Development of an intermittent track tool that enables tracking of threat submarines given sparse contact data of extended periods of time. Offers significant improvement in tracking high-end quiet submarines.

This proposal would also repeal an expired reporting requirement.

Before the FY 2018 legislative proposal cycle, the Department of Navy and the Office of the Under Secretary of Defense for Acquisition, Technology and Logistics will assess the need to request making this authority permanent.

Budget Implications: This proposal is budget neutral. The contract line item or option allowed under the extension of this existing contract authority would be funded with the same appropriations currently available to fund similar efforts in competitively awarded advanced research or production contracts.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would make the following changes to section 819 of the National Defense Authorization Act for Fiscal Year 2010:

SEC. 819. CONTRACT AUTHORITY FOR ADVANCED COMPONENT DEVELOPMENT OR PROTOTYPE UNITS.

(a) AUTHORITY.—A contract initially awarded from the competitive selection of a proposal resulting from a general solicitation referred to in section 2302(2)(B) of title 10, United States Code, may contain a contract line item or contract option for—

(1) the provision of advanced component development or prototype of technology developed under the contract; or

(2) the delivery of initial or additional prototype items if the item or a prototype thereof is created as the result of work performed under the contract.

(b) LIMITATIONS.—

(1) MINIMAL AMOUNT.—A contract line item or contract option described in subsection (a)(2) shall require the delivery of the minimal amount of initial or additional prototype items to allow for the timely competitive solicitation and award of a follow-on development or production contract for those items.

(2) TERM.—A contract line item or contract option described in subsection (a) shall be for a term of not more than 12 months.

(3) DOLLAR VALUE OF WORK.—The dollar value of the work to be performed pursuant to a contract line item or contract option described in subsection (a) may not exceed the lesser of the amounts as follows:

(A) The amount that is three times the dollar value of the work previously performed under the contract.

(B) $20,000,000.

(4) TERMINATION OF AUTHORITY.—A military department or defense agency may not exercise a contract line item or contract option pursuant to the authority provided in subsection (a) after ~~September 30, 2014~~ September 30, 2019.

(c) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by subsection (a) not later than ~~March 1, 2013~~ March 1, 2018. The report shall, at a minimum, describe—

(1) the number of times a contract line item or contract option was exercised under such authority, the dollar amount of each such line item or option, and the scope of each such line item or option;

(2) the circumstances that rendered the military department or defense agency unable to solicit and award a follow-on development or production contract in a timely fashion, but for the use of such authority;

(3) the extent to which such authority affected competition and technology transition; and

(4) such recommendations as the Secretary considers appropriate, including any recommendations regarding the modification or extension of such authority.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Section 901 [RESERVED]

Section 902 would amend current statutory authority for the Secretary of Defense to authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense (DoD) (1) by deleting the current sunset on the authority of the Secretary of Defense to conduct commercial activities (December 31, 2015), thereby making this authority permanent; and (2) by changing the annual audit requirement to a biennial audit requirement.

Subsection (a) would delete the current sunset on the Secretary's authority to conduct commercial activities (December 31, 2015), thereby making this authority permanent. Since first enacting authority for the Secretary to approve the use of commercial activities as security for intelligence collection activities abroad in 1991, Congress has extended this authority seven times, in increments of 2, 3, 4, or 5 years. This is now a mature program that should be permanently authorized. Regular reports to Congress enable effective congressional oversight, making periodic reauthorization unnecessary.

Subsection (b) would change the annual audit requirement from annual to biennial. Annual audits are expensive and burdensome. No audit has found any unlawful or improper use or disposition of funds generated by any commercial activity authorized by the ICA statute. Biennial audits would occur with sufficient frequency to ensure the continued lawful and proper use and disposition of such funds.

Additional classified background information regarding the Department's conduct of its commercial cover program will be made available to the armed services committees.

Budget Implications: There is no cost implication associated with this proposal, because funds will come from internal resources vs external. This proposal will actually reduce the cost of administering ICAs by changing the annual audit requirement to a biennial audit requirement. It would also repeal the sunset provision.

RESOURCE REQUIREMENTS ($MILLIONS)								
FY	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Amount	0.0	0.0	0.0	0.0	0.0	Operation & Maintenance, Defense-Wide	Various	Various

Changes to Existing Law: This proposal would make the following changes to title 10, United States Code:

§ 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. ~~No commercial activity may be initiated pursuant to this subchapter after December 31, 2015.~~

(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

(1) be coordinated with, and (where appropriate) be supported by, the Director of the Central Intelligence Agency; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) DEFINITIONS.—In this subchapter:

(1) The term "commercial activities" means activities that are conducted in a manner consistent with prevailing commercial practices and includes-

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.

(2) The term "intelligence collection activities" means the collection of foreign intelligence and counterintelligence information.

§ 432. Use, disposition, and auditing of funds

(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

(b) AUDITS.—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than ~~annually~~ **biennially**. The results of all such audits shall be promptly reported to the congressional defense committees and the congressional intelligence committees (as defined in section 437(c) of this title).

* * * * * *

Section 903 would repeal the sunset provision that applies to subsection 2682(c) of title 10, United States Code. Subsection 2682(c) authorizes the Secretary of Defense to waive the requirements of subsections 2682(a) and (b) if necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense. Subsections 2682(a) and (b) provide, respectively, that the maintenance and repair of a real property facility for an activity or agency of the Department of Defense (other than a military department) will be accomplished by or through a military department designated by the Secretary of Defense and that 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. The Secretary of Defense needs the authority to waive these requirements in those cases where he determines that the maintenance, repair, and leasing of a real property facility by a DoD Component other than a military department is necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense.

Budget Implications: This proposal has no budget implications and would simply provide the Secretary of Defense flexibility in determining which DoD Component may maintain, repair, or lease a real property facility as necessary to provide security for authorized intelligence collection or special operations activities abroad. The actual maintenance, repair, or leasing of a real property facility is governed by other statutes and is subject to the availability of funds.

Changes to Existing Law: This proposal would make the following change to section 926 of National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81):

SEC. 926. FACILITIES FOR INTELLIGENCE COLLECTION OR SPECIAL OPERATIONS ACTIVITIES ABROAD.

(a) IN GENERAL.—Section 2682 of title 10, United States Code, is amended—

(l) by striking "The maintenance and repair" and inserting "(a) MAINTENANCE AND REPAIR.—Subject to subsection (c), the maintenance and repair";

(2) by designating the second sentence as subsection (b), realigning such subsection so as to be indented two ems from the left margin, and inserting "JURISDICTION.—" before "A real property facility";

(3) in subsection (b), as designated by paragraph (2) of this subsection, by striking "A real property" and inserting "Subject to subsection (c), a real property"; and

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

"(c) FACILITIES FOR INTELLIGENCE COLLECTION OR FOR SPECIAL OPERATIONS ABROAD.—The Secretary of Defense may waive the requirements of subsections (a) and (b) if necessary to provide security for authorized intelligence collection or special operations activities abroad undertaken by the Department of Defense.".

~~(b) SUNSET.—Effective on September 30, 2015, or the date of the enactment of an Act authorizing funds for military construction fur fiscal year 2016, whichever is later—~~

~~(1) subsection (a) of section 2682 of title 10, United States Code, as designated and amended by subsection (a)(l) of this section, is amended by striking "c (c), the maintenance and repair" and inserting "The maintenance and repair";~~

~~(2) subsection (b) of section 2682 of title 10, United States Code, as designated by subsection (a)(2) and amended by subsection (a)(3) of this section, is amended by striking "Subject to subsection (c), a real property" and inserting "A, real property"; and~~

~~(3) subsection (e) of section 2682 of title 10, United States Code, as added by subsection (a)(4) of this section, is repealed.~~

Section 904 would extend for one year the current temporary authority under section 941(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P. L. 110-417, 122 Stat. 4577; 10 U.S.C. 184 note) for the Secretary of Defense to waive the reimbursement costs required under subsection (f) of section 184 of title 10, United States Code, for personnel of nongovernmental organizations (NGOs) and international organizations (IOs) to participate in activities of the five Regional Centers for Security Studies of the Department of Defense (DoD). Further, the proposal would remove the annual dollar limit applicable to the use of that authority.

The purpose of this proposal is to improve the ability of the Regional Centers to meet the objective to enhance communities of interest. This objective requires a whole-of-society approach to ensure that all security cooperation stakeholders are part of the community. This authority enables the Regional Centers to include not only foreign defense officials, but also stakeholders representing security cooperation-related NGOs and IOs.

This proposal would also remove the current limitation on the amount of reimbursement waivers under this authority to one million dollars per fiscal year. Removing this limitation would provide flexibility to spend more than one million dollars if funds are available and such spending is in the national interests of the United States.

Relying on this waiver authority, the Regional Centers have invited personnel from NGOs and IOs based on requests and recommendations from the Office of the Under Secretary of Defense for Policy, the Department of State, and other relevant Federal departments and agencies, partner nations, and other stakeholders within the communities of interest. These NGOs and IOs participate alongside, or in the vicinity of, U.S. forces during post-conflict stability operations and/or disaster response operations. Their participation directly benefits DoD operations, plays a significant role in countering violent extremism, and provides civil society oversight of foreign partner security sectors. NGOs and IOs may also engage in sustainable development and stabilization activities (e.g., health affairs) where U.S. or foreign partner security forces are actively engaged.

The waiver authority would continue to be used, when appropriate, to include at least one NGO or IO representative in selected program events. From FY 2009 through FY 2012, the Regional Centers waived the costs for 144 NGO or IO personnel to attend activities (FY 2009: participants – 17/ participant days – 170; FY 2010: participants – 49/ participant days – 711; FY 2011: participants – 64/ participant days – 233; in FY 2012: participants – 14/ participant days - 231), ranging from Senior Leaders Seminars and Maritime Safety and Security Workshops to Comprehensive Crisis Management and Statecraft, Peacekeeping, and Nation Building courses. Examples of NGOs and IOs represented during these activities include: the African Union (AU), Association of Southeast Asian Nations (ASEAN), InterAction, International Federation of the Red Cross and Red Crescent Societies (IFRC), Organization for Security Cooperation in Europe (OSCE), and the UN Office for the Coordination of Humanitarian Assistance (UNOCHA).

Section 953 of the NDAA for FY 2013 provides for a one-year extension and the Joint Statement of Managers for the accompanying conference report (House Rep. No. 112-705) directed that the Government Accountability Office conduct an assessment of the Regional Centers. The resulting report, GAO-13-606, Building Partner Capacity: Actions Needed to Strengthen DOD Efforts to Assess the Performance of the Regional Centers for Security Studies, notes that "the Regional Centers are distinct in that participants in their programs and activities are generally from other countries, either civilians or members of the military… . Further, officials stated that the Regional Centers intentionally invite executive-level civilian officials as well as representatives from nongovernmental organizations, international organizations, and the private sector to ensure a broad, whole-of-government audience." The Department of Defense gains great benefit through the implementation of this waiver authority - the effect of NGO and IO representation in Regional Center activities has been significant and multifaceted. NGO and IO participation has provided military and defense civilians the opportunity to interact with these organizations inside the classroom and has facilitated better relationships and activities in real-world situations. Additionally, it has enhanced the classroom experience by: offering alternative perspectives that augment military-to-military knowledge exchange; educating military and defense civilians on NGO and IO efforts and how those organizations respond to national, regional, and international security needs; and injecting real-world experiences that create greater contextual understanding of course material.

Budget Implications: There are no cost implications associated with this proposal as NGO/IO participation is funded from the existing Regional Center budget (approximately $200,000 per year). The proposal would extend the already existing temporary authority to use Regional Center appropriated funds to reimburse the costs of NGO and IO personnel.

RESOURCE REQUIREMENTS ($THOUSANDS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Regional Centers	$200	0	0	0	0	O&M, DW	04	4GTD	
Total	$200	0	0	0	0				

Changes to Existing Law: This proposal would make the following changes to section 941(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (P.L.110-417, 10 U.S.C. 184 note):

DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

SEC. 941. ENHANCEMENT OF AUTHORITIES RELATING TO DEPARTMENT OF DEFENSE REGIONAL CENTERS FOR SECURITY STUDIES.

(a) ***

(b) TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NONGOVERNMENTAL PERSONNEL.—

(1) AUTHORITY FOR TEMPORARY WAIVER.—In fiscal years 2009 through ~~2014~~ **2015**, the Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under subsection (f) of section 184 of title 10, United States Code, of the costs of activities of Regional Centers under such section for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interests of the United States.

~~(2) LIMITATION.—The amount of reimbursement that may be waived under paragraph (1) in any fiscal year may not exceed $1,000,000.~~

~~(3) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 184(h) of title 10, United States Code, in each year through 2013 information on the attendance of personnel of nongovernmental and international organizations in activities of the Regional Centers during the preceding fiscal year for which a waiver of reimbursement was made under paragraph (1), including information on the costs incurred by the United States for the participation of personnel of each nongovernmental or international organization that so attended.~~

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Section 1001 would amend section 2782 of title 10, United States Code, to allow funds collected for damage to all Government property controlled by the Department of Defense (DoD) to be deposited into and obligated from the account responsible for the repair or replacement of the damaged Government property. Section 2782 currently provides authority to deposit the amount recovered for damage to real property into the account available for the repair or replacement of the real property at the time of recovery; however, the collected funds cannot be spent except as appropriated by law. Subsequent to the enactment of section 2782, no appropriations act has included the necessary language to allow expenditure of the funds, and thus the funds must continue to be held in the relevant account for six years and then returned to the General Treasury.

The proposed change would allow the military departments to expend funds collected for the repair or replacement of all government property instead of returning the funds to the General Treasury after six years. Over the past three years, $1.4 million was collected for damage sustained to Air Force property, all of which eventually will be deposited into the General Treasury under current law. If the proposed changes are adopted, they would provide installation commanders the flexibility of spending the funds to repair or replace damaged government property, rather than taking the necessary funds for such unanticipated repair or replacement out of their operating budgets.

Budget Implications: The proposed changes would have no negative Department of Defense budgetary impact. Legal personnel already have affirmative claims programs in place to assert and collect these claims on behalf of the United States. The proposed change would allow the military departments to access and spend the funds recovered for damage to government property without needing language from an appropriations act allowing the military departments to spend the funds. This would prevent installation commanders from having to take funds from their operating budgets to repair or replace unanticipated damage to government property.

AIR FORCE

FISCAL YEAR	**COLLECTIONS ($)**
FY 14**	$ 601, 000
FY 13*	$ 551, 000
FY 12	$ 651, 877
FY 11	$ 451, 442
FY 10	$ 344, 699
TOTAL (FY10-14)	$2,600,018
ANNUAL AVERAGE	**$ 520,004**

*The FY13 figure is a projection for the entire fiscal year based upon current recovery activities and over the past two years.
**The FY14 figure is a projection for the entire fiscal year based upon the recovery activities over FY12 and projected FY13.

ARMY

FISCAL YEAR	COLLECTIONS ($)
FY 14*	$1,450,000
FY 13	$ 966,704
FY 12	$1,428,618
FY11	$1,538,091
FY10	$1,134,213
TOTAL (FY10-14)	$6,517,644
ANNUAL AVERAGE	**$1,303,529**

*The FY14 figure is a projection for the entire fiscal year based upon recovery activities over the past two years.

NAVY

FISCAL YEAR	COLLECTIONS ($)
FY 14**	$ 78,150
FY 13*	$ 108,100
FY 12	$ 48,200
FY 11	$ 168,000
FY 10	$ 61,300
TOTAL (FY06-10)	$ 463,750
ANNUAL AVERAGE	**$ 92,750**

*The FY13 figure is a projection for the entire fiscal year based upon current recovery activities and over the past two years, which are characterized by declining recovery dollars.

**The FY14 figure is a projection for the entire fiscal year based upon the recovery activities over FY12 and projected FY13.

Five Year Projected Property Damage Collections FY11-15

Fiscal Year	Air Force	Navy	Army	DOD
2015	$ 520,004	$ 92,750	$1,303,529	$1,916,283
2016	$ 520,004	$ 92,750	$1,303,529	$1,916,283
2017	$ 520,004	$ 92,750	$1,303,529	$1,916,283
2018	$ 520,004	$ 92,750	$1,303,529	$1,916,283
2019	$ 520,004	$ 92,750	$1,303,529	$1,916,283
Total	$2,600,020	$ 463,750	$6,517,645	**$9,581,415**

RESOURCE REQUIREMENTS									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Air Force	520K	520K	520K	520K	520K	3400	Multiple	Multiple	Multiple
Navy	92K	92K	92K	92K	92K	1804	Multiple	Multiple	Multiple
Army	1.3M	1.3M	1.3M	1.3M	1.3M	2020	Multiple	Multiple	Multiple

Total	1.9M	1.9M	1.9M	1.9M	1.9M	--	--	--	--

Changes to Existing Law: This proposal would make the following changes to section 2782 of title 10, United States Code,:

§ 2782. Damage to ~~real~~ Government property: disposition of amounts recovered

Except as provided in section 2775 of this title, amounts recovered for damage caused to ~~real~~ Government property under the jurisdiction of the Secretary of a military department or, with respect to the Defense Agencies, under the jurisdiction of the Secretary of Defense shall be credited to the account available for the repair or replacement of the ~~real~~ Government property at the time of recovery. ~~In such amounts as are provided in advance in appropriation Acts,~~ ~~a~~Amounts so credited shall be merged with, and available for use for the same purposes and for the same period and under the same circumstances as, other funds in the account.

Subtitle B—Counter-Drug Activities

Section 1011 would extend through December 31, 2017 the authorities provided in the Ronald W. Reagan National Defense Authorization Act for FY 2005 that allow the Department of Defense to support a unified campaign against narcotics trafficking and activities by organizations designated as terrorist organizations. It also would extend the ceiling ("cap") on United States military personnel in Colombia for the same period. These important authorities provide the Department of Defense (DoD) the flexibility to use funds appropriated for counter-narcotics activities to support Colombian efforts against terrorist organizations intimately involved in narcotics production and trafficking activities. This section provides clear, unambiguous authority for DoD to provide support to the Government of Colombia as it continues to make progress against narco-terrorist organizations. The Revolutionary Armed Forces of Colombia (FARC) is designated a Foreign Terrorist Organization that uses the lucrative drug trade to raise funds for its terrorist activities. Although the FARC's numbers are down from a high of 18,000 to their current level of approximately 9,000, a sustained effort is needed to ensure that the FARC is not able to reconstitute itself. The National Strategy for Counterterrorism, which was released in June of 2011, states that the FARC continues to "pose significant threats to U.S. strategic interests as regional destabilizers and as threats to our citizens, facilities, and allies worldwide."

Section 1021 of the Ronald W. Reagan National Defense Authorization Act (NDAA) for FY 2005 allows DoD funds used for assistance to Colombia to be used to "support a unified campaign … against terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN) and the United Self-Defense Forces of Colombia (AUC)" in fiscal years 2005 and 2006. Section 1023 of the John Warner National Defense Authorization Act for FY 2007 and section 1023 of the Duncan Hunter National Defense Authorization Act for FY 2009 extended this authority through FY 2009. Section 1011 of the National Defense Authorization Act for Fiscal Year 2010 extended this authority through FY 2010, section 1011 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 extended this authority through FY 2011, section 1007 of the National Defense Authorization Act for Fiscal Year 2012 extended this authority through FY 2012, section 1010 of the National Defense Authorization Act for Fiscal Year 2013 extended this authority through FY 2013, and section 1011 of the National Defense Authorization Act for Fiscal Year 2013 extended

this authority through FY 2014.

Extending these authorities would continue to provide the United States Southern Command flexibility in supporting operations in Colombia while adhering to all of the other constraints, such as not allowing U.S. military personnel to participate in Colombian military combat operations. The Command has never reached the 800 military personnel limit contained in the current authority. During FY 2005, the first year of implementation, the number of military personnel in Colombia never exceeded 538, and since then has declined, more recently averaging approximately 300 U.S. military personnel in Colombia at any one time.

Budget Implications: There are no cost implications associated with this proposal. The proposal would extend the authority to use already appropriated counter-narcotics funds to combat terrorist organizations that are inextricably tied to illicit drug trafficking. Total direct support funding for Colombia in FY 2015 is $36.2 million, in FY 2016 is $37.5 million, and FY 2017 is $36.5 million which directly impacts the authority contained in Section 1021. Funding includes support to the United States' Colombia Strategic Development Initiative (CSDI). United States Southern Command will use these funds to assist the Government of Colombia in building the capabilities of their ten Joint Task Forces as outlined in the Colombian Counterinsurgency Strategy (Spanish Acronym CRE). Additionally, this funding provides a variety of logistical and operational support activities directly supporting Colombia's internal conflict with the FARC, and by extension support of U.S. Government interests in stemming the flow of illicit drugs to the United States.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriations From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Amount	$36.2	$37.5	$36.5	$31.2	$31.0	Drug Interdiction and Counterdrug Activities, Defense	01	105D	

Changes to Existing Law: This proposal would make the following changes to section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118 Stat. 2042), as amended by section 1023 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2382), section 1023 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4586), section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2190), section 1011 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4346), section 1007 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1558), and section 1010 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1907):

SEC. 1021. USE OF FUNDS FOR UNIFIED COUNTERDRUG AND COUNTERTERRORISM CAMPAIGN IN COLOMBIA.

(a) AUTHORITY.—(1) ~~In fiscal years 2005 through 2013,~~ During the period ending on December 31, 2017, funds available to the Department of Defense to provide assistance to the Government of Colombia may be used by the Secretary of Defense to support a unified campaign by the Government of Colombia against narcotics trafficking and against activities by organizations designated as terrorist organizations, such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC).

(2) The authority to provide assistance for a campaign under this subsection includes authority to take actions to protect human health and welfare in emergency circumstances, including the undertaking of rescue operations.

(b) APPLICABILITY OF CERTAIN LAWS AND LIMITATIONS.—The use of funds pursuant to the authority in subsection (a) shall be subject to the following:

(1) Sections 556, 567, and 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2160, 2165, and 2166).

(2) Section 8076 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 988).

(c) NUMERICAL LIMITATION ON ASSIGNMENT OF UNITED STATES PERSONNEL.—Notwithstanding section 3204(b) of the Emergency Supplemental Act, 2000 (Division B of Public Law 106–246; 114 Stat. 575), as amended by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115; 115 Stat. 2131), the number of United States personnel assigned to conduct activities in Colombia in connection with support of Plan Colombia under subsection (a) ~~in fiscal years 2005 through 2013~~ during the period ending on December 31, 2017, shall be subject to the following limitations:

(1) The number of United States military personnel assigned for temporary or permanent duty in Colombia in connection with support of Plan Colombia may not exceed 800.

(2) The number of United States individual citizens retained as contractors in Colombia in connection with support of Plan Colombia who are funded by Federal funds may not exceed 600.

Subtitle C—Naval Vessels and Shipyards

Section 1021 would amend 10 U.S.C. 5942(a) to eliminate the requirement that a qualified aviator or naval flight officer serve as commanding officer of a nuclear-powered aircraft carrier (CVN) that has been inactivated during the limited period between inactivation and permanent decommissioning prior to disposal. Current law requires that any aircraft carrier in commission be commanded by a qualified aviator or naval flight officer throughout the service life of the vessel.

This proposal would not preclude a qualified aviator or naval flight officer from serving as commanding officer of a CVN during the period between inactivation and permanent decommissioning, but rather would expand the pool of potential eligible commanding officers during this period to include fully qualified non-aviators. If this proposal is enacted, a non-aviator assigned as commanding officer of a CVN during the period between inactivation and decommissioning would be a nuclear-power trained, surface-warfare qualified, unrestricted line officer in the rank of captain.

The provision of title 10 to be amended originated in 1926 and has not been updated, except for a change in language from "aviation observer" to "naval flight officer" in 1970. Nuclear-powered aircraft carriers, unlike conventional aircraft carriers, remain in commission following their inactivation until the nuclear fuel is removed. This ensures that a crew is aboard to provide oversight and safety during the defueling and decommissioning of the ship. Without a change in law, a qualified naval aviator or naval flight officer would have to hold this command long after the aircraft carrier ceases to be a fleet asset for the Navy.

Since 2009, the Navy's aircraft carrier force structure has been entirely nuclear-powered, and all aircraft carrier commanding officers and executive officers are required to be trained in nuclear propulsion. The pipeline of officers for aircraft carrier command is extremely limited, with prospective commanding officers required to have (1) received nuclear power training, (2) completed a deep draft command, and (3) served as executive officer of an aircraft carrier before assuming command of a CVN. Diverting the limited supply of such qualified officers to command a ship incapable of any operation is an inefficient use of resources and a burden on the aircraft carrier command pipeline.

The Navy fully supports the requirement in 10 U.S.C. 5942(a) that a qualified aviator or naval flight officer command an aircraft carrier and is committed to maintaining a sufficient number of aviators qualified to command a nuclear powered aircraft carrier for the CVN force structure mandated by 10 U.S.C. 5062(b).

Budget Implications: This proposal would not result in an impact on the budget or any additional costs.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would make the following changes to section 5942 of title 10, United States Code:

CHAPTER 551 - OFFICERS IN COMMAND

§ 5942. Aviation commands: eligibility

(a)(1) To be eligible to command an aircraft carrier or an aircraft tender, an officer must be an officer in the line of the Navy who is designated as a naval aviator or naval flight officer and who is otherwise qualified.

(2) Paragraph (1) does not apply to command of a nuclear-powered aircraft carrier that has been inactivated for the purpose of permanent decommissioning and disposal.

(b) To be eligible to command a naval aviation school, a naval air station, or a naval aviation unit organized for flight tactical purposes, an officer must be an officer in the line of the Navy designated as a naval aviator or naval flight officer.

(c) To be eligible to command a Marine Corps aviation school, a Marine Corps air station, or a Marine Corps aviation unit organized for flight tactical purposes, an officer must be an officer of the Marine Corps designated as a naval aviator or naval flight officer.

Section 1022 would authorize commanders to execute the Littoral Combat Ship (LCS) maintenance concept of operations (CONOPS) by allowing corrective and preventive maintenance to be accomplished on a LCS by United States Government personnel or United States contractor personnel regardless of the ship's location. This will maximize platform availability for operational missions by facilitating the ability to accomplish all maintenance while a ship is deployed.

The LCS has few ship-board personnel available to perform maintenance. At sea, ship's force repairs are limited to simple troubleshooting and module replacement. The bulk of planned and corrective maintenance for the seaframe and mission modules are performed by shore-based maintenance providers. Due to the short in-port periods between missions, there is insufficient time for opening and inspecting equipment to determine corrective repair actions. As a result, careful pre-planning of maintenance must be accomplished by a known, established, and robust work force. Reliability engineering and process-driven metrics are utilized to ensure that continuous material readiness improvements are achieved and maintained by both the ship's force efforts and the shore maintenance providers. The goal is for total ship and mission systems and equipment reliability to ensure that the maintenance and ship material readiness support operational schedules and achieve expected service life.

The LCS continuous maintenance process involves the execution of depot-level maintenance accomplished outside of scheduled Chief of Naval Operations (CNO) availabilities. Continuous maintenance availabilities assist planning and repair activities in leveling their workload while providing ships with a means of accomplishing Depot level repairs when needed with a minimum level of interruption to the in port routine. This process is used when a work candidate is ready for execution, the capacity exists in the selected port and repair activity, and the ship's in-port schedule supports the required level of repair effort. Continuous maintenance availabilities do not replace the current availability system; CNO availabilities are still necessary to accomplish major repairs and extensive configuration changes, as well as to provide the ship with a specific period of time to concentrate on maintenance.

If this proposal were not enacted, each LCS would lose a minimum of 20 operational days for every 25-day mission cycle as a result of the transit to, and return from, a maintenance facility in the U.S. or Guam where the restriction on maintenance and repair does not apply. As a result of the transit requirements to reach a repair facility located within the United States or Guam, a minimum of five LCS platforms would be necessary in order to maintain a sufficient presence throughout a deployment. The operational impact imposed by this restriction would make supporting mission requirements and the established maintenance CONOPS mutually exclusive and would require sacrificing mission execution or life-cycle sustainment of the ship.

This proposal would also allow for foreign contractor personnel to accomplish corrosion control and preservation efforts during overseas deployments. On a traditionally manned ship, a majority of this work is accomplished by ship-board personnel, but due to the significantly reduced manning construct of the LCS, ship-board personnel are not available to perform this function. In addition, the ship's design does not include accommodations for a locker to store painting supplies or for the storage of standard repair parts to support accomplishment of organizational-level maintenance. A direct result of these limitations is the need to utilize off-ship personnel to accomplish organizational-level functions.

Budget Implications: This proposal would not require any funding above what is currently included in the existing requirement. The net result will be the ability to accomplish more maintenance within the current program requirement by allocating more funds for accomplishment of actual repair work and fewer funds for indirect travel and per diem requirements. Authorization to employ foreign contractors to accomplish this maintenance would save an estimated $808,000 per month compared to utilizing a U.S.-based "flyaway team," and $88,600 per month compared to accomplishing the maintenance in Guam. These estimates are per ship and are based on a projected maintenance requirement of 2,148 man-hours per month for corrective, preventive, and facilities maintenance. Figures are based on current labor rates of $200 per man-day for Singapore; $454 per man-day for Guam; and $1000 per man-day for a Lockheed Martin flyaway team. To accomplish the 2,148 man-hours of corrective, preventive, and facilities maintenance required every month while deployed, this proposal would eliminate an estimated $369,000 in overhead expenses and $439,000 in labor expenses per month, per ship, for corrective, preventive, and facilities maintenance versus U.S. flyaway team costs. This proposal would reduce the estimated repair cost by $88,600 per month, per ship, in comparison to the cost of repairs on Guam, and also would eliminate the requirement to depart the area of operations for a 20-day roundtrip transit to Guam. Commencing in Fiscal Year (FY) 2016, scheduled operational employment of the LCS platform will require four platforms simultaneously deployed supporting overseas mission requirements. The added burden of returning to Guam, for every scheduled maintenance availability, would result in each LCS platform only being available for mission tasking five days out of every 25-day mission cycle. If this proposal is not authorized, in order to maintain a 4.0 presence as scheduled commencing in FY 2016, a total of 20 LCS platforms would be required to mitigate the off-station time necessary for transiting to Guam in order to accomplish required corrective maintenance.

	FY2015	FY2016	FY2017	FY2018	FY2019	Appropriation From	Budget Activity
O&M	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**O&M**	**BA01**
Total	**$0.00**	**$0.00**	**$0.00**	**$0.00**	**$0.00**		

NUMBER OF PERSONNEL AFFECTED								
	FY2015	FY2016	FY2017	FY2018	FY2019	Appropriation To	Budget Activity	Dash-1 Line Item
Army	**0**	**0**	**0**	**0**	**0**			
Navy	**0**	**0**	**0**	**0**	**0**			
Marine Corps	**0**	**0**	**0**	**0**	**0**			
Air Force	**0**	**0**	**0**	**0**	**0**			

Total	**0**	**0**	**0**	**0**	**0**			

Changes to Existing Law: This proposal would make the following changes to section 7310 of title 10, United States Code:

§ 7310. Overhaul, repair, ~~etc.~~ and maintenance of vessels in foreign shipyards and facilities: restrictions; exceptions

(a) VESSELS UNDER THE JURISDICTION OF THE SECRETARY OF THE NAVY WITH HOMEPORT IN UNITED STATES OR GUAM.—(1) Except as provided in paragraph (2), a~~A~~ naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States or Guam may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam, other than in the case of voyage repairs.

(2)(A) Subject to subparagraph (B), in the case of a naval vessel that is classified as a Littoral Combat Ship and that is operating on deployment, corrective and preventive maintenance or repair (whether intermediate or depot level) and facilities maintenance may be performed on the vessel—

(i) in a foreign shipyard;

(ii) at a facility outside of a foreign shipyard; or

(iii) at any other facility convenient to the vessel.

(B)(i) Corrective and preventive maintenance or repair may be performed on a vessel as described in subparagraph (A) only if the work is performed by United States Government personnel or United States contractor personnel.

(ii) Facilities maintenance may be performed by a foreign contractor on a vessel as described in subparagraph (A) only as approved by the Secretary of the Navy.

(b) VESSEL CHANGING HOMEPORTS.—(1) In the case of a naval vessel the homeport of which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.

(2) In the case of a naval vessel the homeport of which is in the United States (or a territory of the United States), the Secretary of the Navy shall during the 15-month period preceding the planned reassignment of the vessel to a homeport not in the United States (or a territory of the United States) perform in the United States (or a territory of the United States) any work for the overhaul, repair, or maintenance of the vessel that is scheduled—

(A) to begin during the 15-month period; and

(B) to be for a period of more than six months.

(c) REPORT.—(1) The Secretary of the Navy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States or Guam (in this section referred to as a "foreign shipyard") during the fiscal year preceding the fiscal year in which the report is submitted.

(2) The report shall include the percentage of the annual ship repair budget of the Navy that was spent on repair of covered naval vessels in foreign shipyards during the fiscal year covered by the report.

(3) Except as provided in paragraph (4), the report also shall include the following with respect to each covered naval vessel:

(A) The justification under law and operational justification for the repair in a foreign shipyard.

(B) The name and class of vessel repaired.

(C) The category of repair and whether the repair qualified as voyage repair as defined in Commander Military Sealift Command Instruction 4700.15C (September 13, 2007) or Joint Fleet Maintenance Manual (Commander Fleet Forces Command Instruction 4790.3 Revision A, Change 7), Volume III. Scheduled availabilities are to be considered as a composite and reported as a single entity without individual repair and maintenance items listed separately.

(D) The shipyard where the repair work was carried out.

(E) The number of days the vessel was in port for repair.

(F) The cost of the repair and the amount (if any) that the cost of the repair was less than or greater than the cost of the repair provided for in the contract.

(G) The schedule for repair, the amount of work accomplished (stated in terms of work days), whether the repair was accomplished on schedule, and, if not so accomplished, the reason for the schedule over-run.

(H) The homeport or location of the vessel prior to its voyage for repair.

(I) Whether the repair was performed under a contract awarded through the use of competitive procedures or procedures other than competitive procedures.

(4) In the case of a covered vessel described in subparagraph (C) of paragraph (5), the report shall not be required to include the information described in subparagraphs (A), (E), (F), (G), and (I) of paragraph (3).

(5) In this subsection, the term "covered naval vessel" means any of the following:

(A) A naval vessel.

(B) Any other vessel under the jurisdiction of the Secretary of the Navy.

(C) A vessel not described in subparagraph (A) or (B) that is operated pursuant to a contract entered into by the Secretary of the Navy and the Maritime Administration or the United States Transportation Command in support of Department of Defense operations.

(d) DEFINITIONS.—In this section:

(1) The term “corrective and preventive maintenance or repair” means—

(A) maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(B) scheduled maintenance or repair actions intended to prevent or discover functional failures, including scheduled periodic maintenance requirements and integrated class maintenance plan tasks that are time-directed maintenance actions.

(2) The term “facilities maintenance” means—

(A) preservation or corrosion control efforts, encompassing surface preparation and preservation of the structural facility to minimize effects of corrosion; and

(B) cleaning services, encompassing—

(i) light surface cleaning of ship structures and compartments; and

(ii) deep cleaning of bilges to remove dirt, oily waste, and other foreign matter.

Section 1023 would enable the Secretary of the Navy to authorize United States-built dry docks, tugboats, and towing vessels owned by contractors that enter into a special security agreement with the Department of Defense (DoD) to engage in limited coastwise trade for purposes of performing a shipbuilding or ship repair contract entered into with the Department of the Navy (DON). DoD Directive-Type Memorandum (DTM) 09-019 sets forth the procedures for entering into special security agreement with a contactor under foreign ownership, control, or influence.

Currently, a DoD contractor that has entered into a "special security agreement" (because it is under foreign ownership, control, or influence) cannot utilize its own vessel to perform DON shipbuilding and ship repair contracts within the continental United States unless a limited waiver for that vessel to engage in coastwise trade is granted on a case-by-case basis through an extremely burdensome process. This is because foreign ownership precludes such a vessel from meeting the definition of a "U.S. flagged vessel," even if the vessel was built in the United States and is being manned by a U.S. crew.

The existing statutory waiver process is extremely time-consuming, because it involves coordination with and determinations made by three different government agencies. Specifically, section 501 of title 46, United States Code, precludes granting a waiver to engage in coastwise trade to a vessel that does not meet the definition of a "U.S. flagged vessel" unless:

1) under 501(a), the Secretary of Defense (or delegee) submits a written request for a waiver on the basis that a waiver is "necessary in the interest of national defense;"
2) under 501(b), the Maritime Administrator (or delegee) makes a determination "of the non-availability of qualified United States flag capacity to meet national defense requirements;" and
3) under 501(b), the agency head of the Coast Guard (or delegee) considers it "necessary in the interest of national defense" after consultation the Maritime Administrator.

This threshold for granting a waiver under the existing statute is incredibly difficult to meet. First, the Secretary of Defense must determinate that the granting of a waiver is "necessary in the interest of national defense," as opposed to merely "in the best interests of the Government." Second, as a practical matter, no waiver will be granted unless the Maritime Administration goes through a process of publishing the equivalent of a sources sought synopsis and afterwards making a determination that no qualified United States flag vessel is capable of meeting the requirement. Finally, the Maritime Administration's determination "of the non-availability of qualified United States flag capacity to meet national defense requirements" does not consider how much more money it might cost the Navy to use a U.S. flagged vessel.

Ordinarily, it will cost less for the DON to permit prime contractors to utilize their own dry docks, tugboats, and towing vessels in performing shipbuilding or ship repair contracts. When the DON decides to pursue cost savings by competitively awarding contracts or subcontracts, however, the authority sought under this proposal could be used to increase competition, because more vessels could become eligible for use in performing shipbuilding and ship repair contracts.

Budget Implications: The DON foresees no changes in budget authority as a result of this proposal.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would add a new section to title 10, United States Code. The new section is shown in full in the legislative text above.

Subtitle D—Sexual Assault Prevention and Response Related Reforms

Section 1031 This legislative proposal would modify section 543 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (P.L. 111-383), to repeal the requirement that the Secretary of Defense develop a comprehensive management plan to address deficiencies in the Defense Incident-Based Reporting System's (DIBRS) collection of data concerning domestic violence incidents. The Department of Defense (DoD) has developed an alternative method to accurately count domestic violence incidents and resulting disciplinary actions, thereby eliminating the need to modify DIBRS to do so.

DIBRS is a criminal incident uniform crime reporting system designed to: (1) satisfy the Department's statutory requirement to report uniform crime data to the Federal Bureau of Investigation's National Incident-Based Reporting System; and (2) collect standardized statistics on criminal incidents in the Department. DIBRS receives data from the Military Service law enforcement criminal justice information record management systems (RMS) on a monthly basis. Law enforcement RMS provide data based on criminal offenses under the Uniform Code of Military Justice (UCMJ). Domestic violence itself is not an enumerated UCMJ offense. DIBRS would have to be modified substantially to collect and provide data on domestic violence incidents.

In February 2012, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)) established a Multi-Functional Domestic Violence Data Working Group (MFWG) to address the FY 2011 NDAA's requirement "to develop a comprehensive management plan to address deficiencies in the data captured in the Defense Incident-Base Reporting System (DIBRS) to ensure the system can provide an accurate count of domestic violence incidents and any consequent disciplinary action that are reported throughout DoD."

The MFWG reviewed DoD and Military Services' databases that record law enforcement or clinical information from domestic violence incidents. The MFWG determined that the DIBRS database works well to accomplish its intended purpose but that it could not be readily modified to collect and provide data concerning domestic violence incidents. The MFWG recommended collecting the data by another method and eliminating the statutory requirement for DoD to address DIBRS's deficiencies as a domestic violence data collection tool. To meet congressional requirements, DoD will direct the military departments and Services to track and annually report domestic violence incidents and any consequent disciplinary actions.

Budget Implications: This proposal has no budgetary impact as the proposed legislation only makes a technical change to remove the requirement to address DIBRS's deficiencies as a domestic violence data collection tool. It would not have a positive or negative impact on the DoD budget because it does not direct the execution of authority nor does it authorize funding.

RESOURCE REQUIREMENTS (MILLIONS) REFLECTED IN PRESIDENT'S BUDGET								
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	0.000	0.000	0.000	0.000	0.000	N/A	N/A	N/A
Navy	0.000	0.000	0.000	0.000	0.000	N/A	N/A	N/A
Air Force	0.000	0.000	0.000	0.000	0.000	N/A	N/A	N/A
DoD	0.000	0.000	0.000	0.000	0.000	N/A	N/A	N/A
Total	0.000	0.000	0.000	0.000	0.000	N/A	N/A	N/A

NUMBER OF PERSONNEL AFFECTED								
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**
Army	0	0	0	0	0	N/A	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A	N/A
Air Force	0	0	0	0	0	N/A	N/A	N/A
DoD	0	0	0	0	0	N/A	N/A	N/A
Total	0	0	0	0	0			

Changes to Existing Law: This proposal would amend section 543 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 as follows.

SEC. 543. IMPROVEMENTS TO DEPARTMENT OF DEFENSE DOMESTIC VIOLENCE PROGRAMS.

(a) IMPLEMENTATION OF OUTSTANDING COMPTROLLER GENERAL RECOMMENDATIONS.—Consistent with the recommendations contained in the report of the Comptroller General of the United States titled ''Status of Implementation of GAO's 2006 Recommendations on the Department of Defense's Domestic Violence Program'' (GAO–10–577R), the Secretary of Defense shall complete, not later than one year after the date of enactment of this Act [Jan. 7, 2011], implementation of actions to address the following recommendations:

~~(1) DEFENSE INCIDENT-BASED REPORTING SYSTEM.—The Secretary of Defense shall develop a comprehensive management plan to address deficiencies in the data captured in the Defense Incident-Based Reporting System to ensure the system can provide an accurate count of domestic violence incidents, and any consequent disciplinary action, that are reported throughout the Department of Defense.~~

~~(2)~~ (1) ADEQUATE PERSONNEL.—The Secretary of Defense shall develop a plan to ensure that adequate personnel are available to implement recommendations made by the Defense Task Force on Domestic Violence.

~~(3)~~ (2) DOMESTIC VIOLENCE TRAINING DATA FOR CHAPLAINS.— The Secretary of Defense shall develop a plan to collect domestic violence training data for chaplains.

~~(4)~~ (3) OVERSIGHT FRAMEWORK.—The Secretary of Defense shall develop an oversight framework for Department of Defense domestic violence programs, to include oversight of implementation of recommendations made by the Defense Task Force on Domestic Violence, including budgeting, communication initiatives, and policy compliance.

(b) IMPLEMENTATION REPORT.—The Secretary of Defense shall submit to the congressional defense committees an implementation report within 90 days of the completion of actions outlined in subsection (a).

Section 1032 is intended to correct an unintended consequence of section 586 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2012 and allow for the return of personal property when no longer required for legal or other adverse action proceedings. Section 586 of the NDAA for FY 2012 required the Department of Defense to develop a comprehensive policy on retention and access to records. As described in section 586(b), the comprehensive policy is intended to ensure that victims of sexual assault during military service are able to "substantiate claims for veterans benefits, to support criminal or civil prosecutions by military or civil authorities, and for such purposes relating to the documentation of the incidence of sexual assault in the Armed Forces as the Secretary of Defense considers appropriate." In describing the elements of the policy, the section states that "the length of time physical evidence and forensic evidence must be retained shall be not less than five years."

Because section 586 requires preservation of all physical and forensic evidence, however, section 586 has the unintended consequence of preventing the return of personal property after all proceedings are finalized. Such personal property could include articles of clothing, jewelry,

bedding, shoes, cell phones, computers or other electronic devices, or anything submitted for evidence. These items could have significant sentimental value (e.g., necklace given by a parent) or considerable monetary value, as with an electronic device. Before section 586 was enacted, these items were routinely returned at the end of legal or other adverse action proceedings. For a victim, the return of personal property assists in giving them closure and helping in their recovery. For the subject, who has been acquitted or had the charges dismissed, the return of their personal property may provide closure as well.

Accordingly, this proposal would alter the requirements of section 586 to ensure that personal property can be returned in a manner that does not interfere with any potential legal, adverse action or administrative proceedings. Allowing victims to recover their personal property after these proceedings are finalized does not affect service members seeking DVA benefits, since the DD Form 2911 forensic report remains affixed to the outside of the SAFE Kit.

Budget Implications: No budget implications can be determined. Funding from existing resources is anticipated as this proposal does not provide any new processes/procedures within the evidence storage.

Changes to Existing Law: The above amendments would make the following changes to section 586 of the National Defense Authorization Act for Fiscal Year 2012:

SEC. 586. DEPARTMENT OF DEFENSE POLICY AND PROCEDURES ON RETENTION AND ACCESS TO EVIDENCE AND RECORDS RELATING TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.

(a) COMPREHENSIVE POLICY ON RETENTION AND ACCESS TO RECORDS.--Not later than October 1, 2012, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, develop a comprehensive policy for the Department of Defense on the retention of and access to evidence and records relating to sexual assaults involving members of the Armed Forces.

(b) OBJECTIVES.--The comprehensive policy required by subsection (a) shall include policies and procedures (including systems of records) necessary to ensure preservation of records and evidence for periods of time that ensure that members of the Armed Forces and veterans of military service who were the victims of sexual assault during military service are able to substantiate claims for veterans benefits, to support criminal or civil prosecutions by military or civil authorities, and for such purposes relating to the documentation of the incidence of sexual assault in the Armed Forces as the Secretary of Defense considers appropriate.

(c) ELEMENTS.--In developing the comprehensive policy required by subsection (a), the Secretary of Defense shall consider, at a minimum, the following matters:

(1) Identification of records, including non-Department of Defense records, relating to an incident of sexual assault, that must be retained.

(2) Criteria for collection and retention of records.

(3) Identification of physical evidence and non-documentary forms of evidence relating to sexual assaults that must be retained.

(4) Length of time records, including Department of Defense Forms 2910 and 2911, and evidence must be retained, except that--

(A) the length of time physical and forensic evidence must be retained shall be not less than five years; and

(B) the length of time documentary evidence relating to sexual assaults must be retained shall be not less than the length of time investigative records relating to reports of sexual assaults of that type (restricted or unrestricted reports) must be retained.

(5) Locations where records must be stored.

(6) Media which may be used to preserve records and assure access, including an electronic systems of records.

(7) Protection of privacy of individuals named in records and status of records under section 552 of title 5, United States Code (commonly referred to as the ``Freedom of

Information Act''), section 552a of title 5, United States Code (commonly referred to as the ``Privacy Act''), restricted reporting cases, and laws related to privilege.

(8) Access to records by victims of sexual assault, the Department of Veterans Affairs, and others, including alleged assailants and law enforcement authorities.

(9) Responsibilities for record retention by the military departments.

(10) Education and training on record retention requirements.

(11) Uniform collection of data on the incidence of sexual assaults and on disciplinary actions taken in substantiated cases of sexual assault.

(d) UNIFORM APPLICATION TO MILITARY DEPARTMENTS.--The Secretary of Defense shall ensure that, to the maximum extent practicable, the policy developed under subsection (a) is implemented uniformly by the military departments.

(e) COPY OF RECORDS OF COURT-MARTIAL TO VICTIM OF SEXUAL ASSAULT.--Section 854 of title 10, United States Code (article 54 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

``(e) In the case of a general or special court-martial involving a sexual assault or other offense covered by section 920 of this title (article 120), a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records authenticated. The victim shall be notified of the opportunity to receive the records of the proceedings.''.

(f) RETURN OF PERSONAL PROPERTY UPON COMPLETION OF RELATED PROCEEDINGS.—Notwithstanding subsection (c)(4)(A), personal property retained as evidence in connection with an alleged incident of sexual assault involving a member of the Armed Forces may be returned to the rightful owner of such property after the conclusion of all legal, adverse action, and administrative proceedings related to such incident.

Subtitle E—Other Matters

Section 1041 would make technical and clerical corrections to title 10, United States Code, and various annual National Defense Authorization Acts (NDAA). This proposal is

consistent in format and intent with the technical corrections included each year in the annual NDAA. For the most recent examples, see section 1076 of the NDAA for Fiscal Year 2013 (P.L. 112-239) and section 1081 of H.R. 1960 of the 113th Congress as passed by the House, the House version of the NDAA for FY 2014.

The proposal would make no substantive change in existing law, but would correct inadvertent errors and update U.S. Code citations to reflect recent developments.

Subsection (a) would correct a nonsubstantive reference error in section 604(b)(1) of P.L. 112-239, the FY 2013 NDAA.

Subsections (b) and (c) would amend, respectively, title 10, United States Code, and various annual NDAAs in order to reflect the enactment of title 41, United States Code, as positive law. Public Law 111-350, enacted on January 4, 2011, enacted title 41 into positive law and, accordingly, repealed the various statutes that had previously been editorially classified to the pre-enactment title 41, U.S.C., and that were replaced in the codification.

Section 5(b) of that Public Law ("Conforming Cross-References") amended a number of sections of title 10 to replace references in those sections to the repealed laws with the corresponding new title 41 references. However, there are a number of additional provisions of title 10 with references to those repealed laws that were not so amended; subsection (b) of the proposal would amend those provisions to update references in those provisions to the current provision of title 41.

In addition, there are a number of provisions of annual NDAAs that have ongoing applicability and that include references to those repealed laws. Subsection (c) of the proposal would amend those provisions to update references in those provisions to the current provision of title 41 that replaced the repealed laws referred to in those provisions. Subsection (c) would also make similar amendments to two provisions of annual defense appropriations Acts that are permanent law.

As to the current status of a provision of law with a cross-reference to an Act repealed as part of the title 41 codification, it should be noted that section 6(d) of Public Law 111-350 ("References to Provisions Replaced") provides: "A reference to a provision of law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act." Thus, the amendments that would be made by subsections (b) and (c) do not make any substantive changes, but merely update cross-references to the correct current citations.

Subsections (d) and (e) would amend, respectively, title 10, United States Code, and various annual NDAAs in order to reflect the action of the Office of the Law Revision Counsel of the House of Representatives in early 2013 to reclassify within title 50, United States Code, certain national security statutes. Laws previously set forth in chapter 15 of title 50, U.S.C., were reorganized into four new chapters in order to set forth more clearly in the Code the provisions of the National Security Act of 1947, the Central Intelligence Agency Act of 1949, the National Security Agency Act of 1959, and certain other related statutes. As that Office noted in their website page titled Editorial Reclassification, "No statutory text is altered by this action. The

provisions are merely being transferred from one place to another in title 50, United States Code." http://uscodebeta.house.gov/editorialreclassification/reclassification.html

As a result of the editorial reclassification of those statutes, any parenthetical U.S.C. citation that is included in a cross-reference to one of those statutes is now outdated.

Subsection (d) would amend provisions of title 10, United States Code, that include references to a reclassified section in order to conform the parenthetical U.S.C. citation to the new title 50 section number. Similarly, subsection (e) would amend provisions of annual NDAAs that have ongoing applicability and that include a reference to one of those reclassified laws in order to conform the parenthetical U.S.C. citation to the new title 50 section number.

Subsection (f) would make certain other cross-reference corrections. Paragraph (1) would correct two cross-references within title 10, U.S.C. Paragraph (2) would amend a section of title 40, U.S.C., to correct a reference in that section to section 2394 of title 10. Section 2394 was renumbered as section 2922a in the FY 2007 NDAA.

Subsection (g) would revise "date of enactment" references in certain provisions of title 10, United States Code. These changes either substitute a date certain for a reference to the date of enactment of an amendatory law or delete a reference to passage of a period of time from enactment that has passed.

Subsection (h) would make miscellaneous addition amendments to title 10, United States Code. These amendments would correct errors in punctuation, capitalization, spelling, etc.

Subsection (i) would transfer section 2814 of title 10, U.S.C., from the title 10 chapter relating to military construction and military family housing to the title 10 chapter relating to administration of the Department of the Navy. That is a more logical location for this section, which relates only to Navy Department matters. Incident to the transfer, the section would be renumbered as section 7206.

Subsection (j) would provide the customary language relating to coordination with other amendments.

Budget Implications: This proposal would not affect the budgetary requirements of the Department of Defense. It would not change the operation of any legal authority, but merely would make technical corrections to existing law, and as such would neither increase nor decrease costs or expenditures.

Changes to Existing Law: This proposal would make the following changes to existing law:

List of Statutes Affected:

Title 10, United States Code
Title 40, United States Code (one cross-reference amendment)
National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239)
Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (P.L. 111-383)

National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181)
John Warner National Defense Authorization Act for Fiscal Year 2007 (P.L. 109-364)
Department of Defense Appropriations Act, 2005 (P.L. 108-287) (one amendment – permanent provision)
National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136)
Department of Defense Appropriations Act, 2004 (P.L. 108-87) (one amendment – permanent provision)
Bob Stump National Defense Authorization Act for Fiscal Year 2003 (P.L. 107-314)
National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107)
Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (P.L. 105-261)
National Defense Authorization Act for Fiscal Year 1998 (P.L. 105-85)
National Defense Authorization Act for Fiscal Year 1997 (P.L. 104-201)
National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106)
National Defense Authorization Act for Fiscal Year 1994 (P.L. 103-160)
National Defense Authorization Act for Fiscal Year 1993 (P.L. 102-484)
National Defense Authorization Act for Fiscal Year 1992 and 1993 (P.L. 102-190)
National Defense Authorization Act for Fiscal Year 1991 (P.L. 101-510)

TITLE 10, UNITED STATES CODE

§113. Secretary of Defense

(a) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 ~~(50 U.S.C. 401)~~ (50 U.S.C. 3002), he has authority, direction, and control over the Department of Defense.

(c) ***

(d) ***

(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)-

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043) for the fiscal year concerned.

(f) ***

* * * * * * *

§117. Readiness reporting system: establishment; reporting to congressional committees

(a) REQUIRED READINESS REPORTING SYSTEM.—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out-

(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043);

(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

(b) ***

* * * * * * *

~~(g) CONSIDERATION OF EFFECT OF CLIMATE CHANGE ON DEPARTMENT FACILITIES, CAPABILITIES, AND MISSIONS.—(1) The first national security strategy and national defense strategy prepared after January 28, 2008, shall include guidance for military planners-~~

~~(A) to assess the risks of projected climate change to current and future missions of the armed forces;~~

~~(B) to update defense plans based on these assessments, including working with allies and partners to incorporate climate mitigation strategies, capacity building, and relevant research and development; and~~

~~(C) to develop the capabilities needed to reduce future impacts.~~

~~(2) The first quadrennial defense review prepared after January 28, 2008, shall also examine the capabilities of the armed forces to respond to the consequences of climate change, in particular, preparedness for natural disasters from extreme weather events and other missions the armed forces may be asked to support inside the United States and overseas.~~

~~(3) For planning purposes to comply with the requirements of this subsection, the Secretary of Defense shall use-~~

~~(A) the mid-range projections of the fourth assessment report of the Intergovernmental Panel on Climate Change;~~

~~(B) subsequent mid-range consensus climate projections if more recent information is available when the next national security strategy, national defense strategy, or quadrennial defense review, as the case may be, is conducted; and~~

~~(C) findings of appropriate and available estimations or studies of the anticipated strategic, social, political, and economic effects of global climate change and the implications of such effects on the national security of the United States.~~

~~(4) In this subsection, the term "national security strategy" means the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a).~~

(h) ***

* * * * * * *

§118a. Quadrennial quality of life review

(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the "quadrennial quality of life review"). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as-

(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043);

(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

(c) ***

(d) ***

* * * * * * *

§125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 2 of the National Security Act of 1947 ~~(50 U.S.C. 401)~~ (50 U.S.C. 3002), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished.

(b) ***

(c) ***

* * * * * * *

§153. Chairman: functions

(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

(1) ***

* * * * * * * *

(b) NATIONAL MILITARY STRATEGY.—

(1) NATIONAL MILITARY STRATEGY.—(A) The Chairman shall determine each even-numbered year whether to prepare a new National Military Strategy in accordance with this subparagraph or to update a strategy previously prepared in accordance with this subsection. The Chairman shall complete preparation of the National Military Strategy or update in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion of the report of the Secretary of Defense, if any, under paragraph (4).

(B) Each National Military Strategy (or update) under this paragraph shall be based on a comprehensive review conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified combatant commands.

(C) Each National Military Strategy (or update) submitted under this paragraph shall describe how the military will achieve the objectives of the United States as articulated in-

(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043);

(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title;

(iii) the most recent Quadrennial Defense Review conducted by the Secretary of Defense pursuant to section 118 of this title; and

(iv) any other national security or defense strategic guidance issued by the President or the Secretary of Defense.

* * * * * * *

(2) RISK ASSESSMENT.—(A) The Chairman shall prepare each year an assessment of the risks associated with the most current National Military Strategy (or update) under paragraph (1). The risk assessment shall be known as the "Risk Assessment of the Chairman of the Joint Chiefs of Staff". The Chairman shall complete preparation of the Risk Assessment in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion of the report of the Secretary of Defense, if any, under paragraph (4).

(B) The Risk Assessment shall do the following:

(i) As the Chairman considers appropriate, update any changes to the strategic environment, threats, objectives, force planning and sizing constructs, assessments, and assumptions that informed the National Military Strategy required by this section.

(ii) Identify and define the strategic risks to United States interests and the military risks in executing the missions of the National Military Strategy.

(iii) Identify and define levels of risk distinguishing between the concepts of probability and consequences, including an identification of what constitutes "significant" risk in the judgment of the Chairman.

(iv)(I) Identify and assess risk in the National Military Strategy by category and level and the ways in which risk might manifest itself, including how risk is projected to increase, decrease, or remain stable over time; and

(II) for each category of risk, assess the extent to which current or future risk increases, decreases, or is stable as a result of budgetary priorities, tradeoffs, or fiscal constraints or limitations as currently estimated and applied in the most current future-years defense program under section 221 of this title.

(v) Identify and assess risk associated with the assumptions or plans of the National Military Strategy about the contributions or support of-

(I) other departments and agencies of the United States Government (including their capabilities and availability);

(II) alliances, allies, and other friendly nations (including their capabilities, availability, and interoperability); and

(III) contractors.

(vi) Identify and assess the critical deficiencies and strengths in force capabilities (including manpower, logistics, intelligence, and mobility support) identified during the preparation and review of the contingency plans of each unified combatant command, and identify and assess the effect of such deficiencies and strengths for the National Military Strategy.

(3) ***

(c) ***

* * * * * * *

§155. Joint Staff

(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff in carrying out their responsibilities.

(2) ***

* * * * * * *

(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 ~~(50 U.S.C. 401)~~ (50 U.S.C. 3002) to provide-

(1) for the unified strategic direction of the combatant forces;

(2) for their operation under unified command; and

(3) for their integration into an efficient team of land, naval, and air forces.

* * * * * * *

§167. Unified combatant command for special operations forces

(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the "special operations command"). The principal function of the command is to prepare special operations forces to carry out assigned missions.

* * * * * * *

(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the

Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 ~~(50 U.S.C. 413 et seq.)~~ (50 U.S.C. 3091 et seq.).

* * * * * * *

§201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 ~~(50 U.S.C. 403–6(b))~~ (50 U.S.C. 3041(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) ***

* * * * * * *

§231. Budgeting for construction of naval vessels: annual plan and certification

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year—

(1) a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the naval vessel force provided for under that plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan should be designed so that the naval vessel force provided for under that plan is capable of supporting the ship force structure recommended in the report of the most recent quadrennial defense review.

(2) Each such naval vessel construction plan shall include the following:

(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

(B) A description of the necessary naval vessel force structure to meet the requirements of the national security strategy of the United States or the most recent quadrennial defense review, whichever is applicable under paragraph (1).

(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

(c) ***

* * * * * * *

§231a. Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year of [1] Defense shall submit to the congressional defense committees—

(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy, the Department of the Army, and the Department of the Air Force developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

(b) ***

(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the aviation force provided for under the plan is capable of supporting the national military strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043), except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

(2) Each annual aircraft procurement plan shall include the following:

(A) ***

* * * * * * *

(d) ***

* * * * * * *

§407. Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian demining assistance and stockpiled conventional munitions assistance in a country if the Secretary concerned determines that the assistance will promote either-

(A) the security interests of both the United States and the country in which the activities are to be carried out; or

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian demining assistance and stockpiled conventional munitions assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance or stockpiled conventional munitions assistance under this section—

(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war, or stockpiled conventional munitions, as applicable~~,~~ (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.

(b) ***

* * * * * * *

§421. Funds for foreign cryptologic support

(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

(b) ***

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 ~~(50 U.S.C. 413 et seq.)~~ (50 U.S.C. 3091 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

* * * * * * *

§429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority

(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the

activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may also receive transfers from the Director of National Intelligence if made pursuant to ~~Section~~ section 102A of the National Security Act of 1947 ~~(50 U.S.C. 403–1)~~ (50 U.S.C. 3024), and transfers and reimbursements arising from transactions, as authorized by law, between a Defense intelligence element and another entity. Appropriation balances in each such account may be transferred back to the account or accounts from which such appropriations originated as appropriation refunds.

(b) ***

(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the same limitations provided in the ~~**act**~~ **law** making the appropriation.

(d) ***

(e) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term "Defense intelligence element" means any of the Department of Defense agencies, offices, and elements included within the definition of "intelligence community" under section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4)).

* * * * * * *

§442. Missions

(a) NATIONAL SECURITY MISSIONS.—(1) The National Geospatial-Intelligence Agency shall, in support of the national security objectives of the United States, provide geospatial intelligence consisting of the following:

(A) Imagery.

(B) Imagery intelligence.

(C) Geospatial information

(2) ***

* * * * * * *

(d) NATIONAL MISSIONS.—The National Geospatial-Intelligence Agency also has national missions as specified in section 110(a) of the National Security Act of 1947 ~~(50 U.S.C. 404e(a))~~ (50 U.S.C. 3045(a)).

(e) ***

* * * * * * *

§444. Support from Central Intelligence Agency

(a) SUPPORT AUTHORIZED.—The Director of the Central Intelligence Agency may provide support in accordance with this section to the Director of the National Geospatial-Intelligence Agency. The Director of the National Geospatial-Intelligence Agency may accept support provided under this section.

(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of the Central Intelligence Agency may provide administrative and contract services to the National Geospatial-Intelligence Agency as if that agency were an organizational element of the Central Intelligence Agency.

(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 ~~(50 U.S.C. 403o)~~ (50 U.S.C. 3515), an installation of the National Geospatial-Intelligence Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

(c) ***

(d) ***

(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Geospatial-Intelligence Agency may transfer funds available for that agency to the Director of the Central Intelligence Agency for the Central Intelligence Agency.

(2) The Director of the Central Intelligence Agency-

(A) may accept funds transferred under paragraph (1); and

(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 ~~(50 U.S.C. 403a et seq.)~~ (50 U.S.C. 3501 et seq.), to provide administrative and contract services or detail personnel to the National Geospatial-Intelligence Agency under this section.

* * * * * * *

§457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure

(a) AUTHORITY.—The Secretary of Defense may withhold from public disclosure operational files described in subsection (b) to the same extent that operational files may be withheld under section 701 of the National Security Act of 1947 ~~(50 U.S.C. 431)~~ (50 U.S.C. 3141).

(b) ***

(c) OPERATIONAL FILES DEFINED.—In this section, the term "operational files" has the meaning given that term in section 701(b) of the National Security Act of 1947 ~~(50 U.S.C. 431(b))~~ (50 U.S.C. 3141(b)).

* * * * * * *

§462. Financial assistance to certain employees in acquisition of critical skills

The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Geospatial-Intelligence Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 ~~(50 U.S.C. 402 note)~~ (50 U.S.C. 3614) for civilian employees of the National Security Agency.

* * * * * * *

§491. Nuclear weapons employment strategy of the United States: reports on modification of strategy

(a) REPORTS.—By not later than 60 days before the date on which the President implements a nuclear weapons employment strategy of the United States that differs from the nuclear weapons

employment strategy of the United States then in force, the President shall submit to Congress a report setting forth the following:

(1) ***

* * * * * * *

(b) ***

(c) REPORTS ON 2010 NUCLEAR POSTURE REVIEW IMPLEMENTATION STUDY DECISIONS.—During each of fiscal years 2012 through 2021, not later than 60 days before the date on which the President carries out the results of the decisions made pursuant to the 2010 Nuclear Posture Review Implementation Study that would alter the nuclear weapons employment strategy, guidance, plans, or options of the United States, the President shall—

(1) ensure that the annual report required under section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is transmitted to Congress, if so required;

(2) ensure that the report required under section 494(a)(2)(A) of this title is transmitted to Congress, if so required under such section; and

(3) transmit to the congressional defense committees a report providing the high-, medium-, and low- confidence assessments of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4))) as to whether the United States will have significant warning of a strategic surprise or breakout caused by foreign nuclear weapons developments.

* * * * * * *

§494. Nuclear force reductions

(a) ***

* * * * * * *

(d) PREVENTION OF ASYMMETRY IN REDUCTIONS.—

(1) CERTIFICATION.—During any year in which the President recommends to reduce the number of nuclear weapons in the active and inactive stockpiles of the United States by a number that is greater than a de minimis reduction, the President shall certify in writing to the congressional defense committees whether such reductions will cause the number of nuclear weapons in such stockpiles to be fewer than the high-confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4))) with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation.

(2) NOTIFICATION.—If the President certifies under paragraph (1) that the recommended number of nuclear weapons in the active and inactive stockpiles of the United States is fewer than the high-confidence assessment of the intelligence community with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation, the President shall transmit to the congressional defense committees a report by the Commander of the United States Strategic Command, without change, detailing whether the recommended reduction would create a strategic imbalance or degrade deterrence and extended deterrence between the total number of nuclear weapons of the United States and the total number of nuclear weapons of the Russian Federation. The President shall transmit such report by not later than 60 days before the date on which the President carries out any such recommended reductions.

(3) EXCEPTION.—The notification in paragraph (2) shall not apply to-

(A) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

(B) nuclear warheads that are retired or awaiting dismantlement on the date of the certification under paragraph (1).

(4) ADDITIONAL VIEWS.—On the date on which the President transmits to the congressional defense committees a report by the Commander of the United States Strategic Command under paragraph (2), the President may transmit to such committees a report by the President with respect to whether the recommended reductions covered by the report of the Commander will impact the deterrence or extended deterrence capabilities of the United States.

* * * * * * *

§496. Consideration of expansion of nuclear forces of other countries

(a) REPORT AND CERTIFICATION.—Not later than 60 days before the President recommends any reductions to the nuclear forces of the United States-

(1) the President shall transmit to the appropriate congressional committees a report detailing, for each country with nuclear weapons, the high-, medium-, and low- confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ 50 U.S.C. 3003(4))) with respect to-

(A) the number of each type of nuclear weapons possessed by such country;

(B) the modernization plans for such weapons of such country;

(C) the production capacity of nuclear warheads and strategic delivery systems (as defined in section 495(e)(2) of this title) of such country;

(D) the nuclear doctrine of such country; and

(E) the impact of such recommended reductions on the deterrence and extended deterrence capabilities of the United States; and

(2) the Commander of the United States Strategic Command shall certify to the appropriate congressional committees whether such recommended reductions in the nuclear forces of the United States will-

(A) impair the ability of the United States to address-

(i) unplanned strategic or geopolitical events; or

(ii) technical challenge; or

(B) degrade the deterrence or assurance provided by the United States to friends and allies of the United States.

(b) ***

* * * * * * *

§1074m. Mental health assessments for members of the armed forces deployed in support of a contingency operation

(a) MENTAL HEALTH ASSESSMENTS.—(1) The Secretary of Defense shall provide a person-to-person mental health assessment for each member of the armed forces who is deployed in support of a contingency operation as follows:

(A) Once during the period beginning 120 days before the date of the deployment.

(B) Once during the period beginning 90 days after the date of redeployment from the contingency operation and ending 180 days after such redeployment date.

(C) Subject to subsection (d), not later than once during each of-

(i) the period beginning 180 days after the date of redeployment from the contingency operation and ending 18 months after such redeployment date; and

(ii) the period beginning 18 months after such redeployment date and ending 30 months after such redeployment date.

(2) A mental health assessment is not required for a member of the armed forces under ~~subparagraph~~ subparagraphs (B) and (C) of paragraph (1) if the Secretary determines that—

(A) the member was not subjected or exposed to operational risk factors during deployment in the contingency operation concerned; or

(B) providing such assessment to the member during the time periods under such subparagraphs would remove the member from forward deployment or put members or operational objectives at risk.

* * * * * * *

§1154. Assistance to eligible members and former members to obtain employment as teachers: Troops-to-Teachers Program

(a) DEFINITIONS.—In this section:

(1) CHARTER SCHOOL.—The term "charter school" has the meaning given that term in section 5210(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7221i(1)).

(2) ELIGIBLE SCHOOL.—The term "eligible school" means-

(A) a public school, including a charter school, at which-

(i) at least 30 percent of the students enrolled in the school are from families with incomes below 185 percent of poverty level (as defined by the Office of Management and Budget and revised at least annually in accordance with section 9(b)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(1)) applicable to a family of the size involved; or

(ii) at least 13 percent of the students enrolled in the school qualify for assistance under part B of the Individuals with Disabilities Education Act (20 ~~U.S.C.1411~~ U.S.C. 1411 et seq.); or

(B) a Bureau-funded school as defined in section 1141(3) of the Education Amendments of 1978 (25 U.S.C. 2021(3)).

* * * * * * *

§1218. Discharge or release from active duty: claims for compensation, pension, or hospitalization

(a) ***

(b) ***

(c) ***

(d)(1) The Secretary of a military department shall ensure that each member of a reserve component under the jurisdiction of the Secretary who is determined, after a mobilization and deployment to an area in which imminent danger pay is authorized under section 310 of title 37, to require evaluation for a physical or mental disability which could result in separation or retirement for disability under this chapter or placement on the temporary disability retired list or inactive status list under this chapter is retained on active duty during the disability evaluation process until such time as such member is-

(A) cleared by appropriate authorities for continuation on active duty; or

(B) separated, retired, or placed on the temporary disability retired list or inactive status list.

(2)(A) A member described in paragraph (1) may request termination of active duty under such paragraph at any time during the demobilization or disability evaluation process of such member.

(B) Upon a request under subparagraph (A), a member described in paragraph (1) shall only be released from active duty after the member receives counseling about the consequences of termination of active duty.

(C) Each release from active duty under subparagraph (B) shall be thoroughly documented.

(3) The requirements in paragraph (1) shall expire ~~on the date that is five years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010~~ October 28, 2014.

* * * * * * *

§1566a. Voting assistance: voter assistance offices

(a) DESIGNATION OF OFFICES ON MILITARY INSTALLATIONS AS VOTER ASSISTANCE OFFICES.—~~Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010 and under~~ Under regulations prescribed by the Secretary of Defense under subsection (f), the Secretaries of the military departments shall designate offices on installations under their jurisdiction to provide absent uniformed services voters, particularly those individuals described in subsection (b), and their family members with the following:

(1) Information on voter registration procedures and absentee ballot procedures (including the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff)).

(2) Information and assistance, if requested, including access to the Internet where practicable, to register to vote in an election for Federal office.

(3) Information and assistance, if requested, including access to the Internet where practicable, to update the individual's voter registration information, including instructions for absent uniformed services voters to change their address by submitting the official post card form prescribed under section 101 of the Uniformed and Overseas Citizens Absentee Voting Act to the appropriate State election official.

(4) Information and assistance, if requested, to request an absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

* * * * * *

§1599a. Financial assistance to certain employees in acquisition of critical skills

(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Department Civilian Intelligence

Personnel Management System that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 ~~(50 U.S.C. 402 note)~~ (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(b) USE OF FUNDS FOR TRAINING PROGRAM.—Any payment made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

* * * * * * *

§1605. Benefits for certain employees assigned outside the United States

(a)(1) The Secretary of Defense may provide to civilian personnel described in subsection (d) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (2), (3), (4), (5), (6), (7), (8), and (13) of section 901 and sections 705 and 903 of the Foreign Service Act of 1980 (22 U.S.C. 4081(2), (3), (4), (5), (6), (7), (8), and (13), 4025, 4083) and under section 5924(4) of title 5.

(2) The Secretary may also provide to any such civilian personnel special retirement accrual benefits in the same manner provided for certain officers and employees of the Central Intelligence Agency in section 303 of the Central Intelligence Agency Retirement Act (50 U.S.C. 2153) and in section 18 of the Central Intelligence Agency Act of 1949 ~~(50 U.S.C. 403r)~~ (50 U.S.C. 3518).

(b) The authority of the Secretary of Defense to make payments under subsection (a) is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

(c) ***

(d) ***

* * * * * * *

§1623. Financial assistance to certain employees in acquisition of critical skills

(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 ~~(50 U.S.C. 402 note)~~ (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.

* * * * * * *

§2013. Training at non-Government facilities

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—(1) The Secretary concerned, without regard to ~~section 6101(b)–(d) of title 41~~ section 6101 of title 41, may make agreements or other arrangements for the training of members of the uniformed services under the jurisdiction of that Secretary by, in, or through non-Government facilities.

(2) In this section, the term “non-Government facility” means any of the following:

(A) The government of a State or of a territory or possession of the United States, including the Commonwealth of Puerto Rico, an interstate governmental organization, and a unit, subdivision, or instrumentality of any of the foregoing.

(B) A foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this section.

(C) A medical, scientific, technical, educational, research, or professional institution, foundation, or organization.

(D) A business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization.

(E) Individuals other than civilian or military personnel of the Government.

(F) The services and property of any of the foregoing providing the training.

(b) ****

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§2222. Defense business systems: architecture, accountability, and modernization

(a) ***

* * * * * * *

(g) DEFENSE BUSINESS SYSTEM INVESTMENT REVIEW.—(1) The Secretary of Defense shall require the Deputy Chief Management Officer of the Department of Defense, not later than March 15, 2012, to establish an investment review board and investment management process, consistent with section 11312 of title 40, to review and certify the planning, design, acquisition, development, deployment, operation, maintenance, modernization, and project cost benefits and risks of covered defense business systems programs. The investment review board and investment management process so established shall specifically address the requirements of subsection (a).

(2) The review of defense business systems programs under the investment management process shall include the following:

(A) ***

* * * * * * *

(3)~~(A)~~ The investment management process required by paragraph (1) shall include requirements for the military departments and the Defense Agencies to make available to the Deputy Chief Management Officer such information on covered defense business system programs and other business functions as the Deputy Chief Management Officer shall require for the review of defense business system programs under the process. Such information shall be made available to the Deputy Chief Management Officer through existing data sources or in a standardized format established by the Deputy Chief Management Officer for purposes of this paragraph.

(h) ***

* * * * * * *

§2275. Reports on integration of acquisition and capability delivery schedules for segments of major satellite acquisition programs and funding for such programs

(a) ***

(b) ***

(c) ***

(d) SUBMITTAL OF REPORTS.—(1) In the case of a major satellite acquisition program initiated ~~before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013~~ before January 2, 2013, the Under Secretary shall submit the report required by subsection (a) with respect to the program not later than one year after such date of enactment.

(2) In the case of a major satellite acquisition program initiated ~~on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2013~~ on or after January 2, 2013, the Under Secretary shall submit the report required by subsection (a) with respect to the program at the time of the Milestone B approval of the program.

(e) ***

* * * * * * *

§2302. Definitions

In this chapter:

(1) ***

* * * * * * *

(7) The term "simplified acquisition threshold" has the meaning provided that term in section 134 of title 41, except that, in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of a contingency operation or a humanitarian or peacekeeping operation, the term means an amount equal to two times the amount specified for that term in ~~section 4 of such Act~~ such section.

(8) ***

(9) The term "nontraditional defense contractor", with respect to a procurement or with respect to a transaction authorized under section 2371(a) of this title, means an entity that is not currently performing and has not performed, for at least the one-year period preceding the solicitation of sources by the Department of Defense for the procurement or transaction, any of the following for the Department of Defense:

(A) Any contract or subcontract that is subject to full coverage under the cost accounting standards prescribed pursuant to ~~section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422)~~ chapter 15 of title 41 and the regulations implementing such ~~section~~ chapter.

(B) Any other contract in excess of $500,000 under which the contractor is required to submit certified cost or pricing data under section 2306a of this title.

* * * * * * *

§2306a. Cost or pricing data: truth in negotiations

(a) REQUIRED COST OR PRICING DATA AND CERTIFICATION.-(1) The head of an agency shall require offerors, contractors, and subcontractors to make cost or pricing data available as follows:

(A) ***

* * * * * * *

(b) EXCEPTIONS.—

(1) IN GENERAL.—Submission of certified cost or pricing data shall not be required under subsection (a) in the case of a contract, a subcontract, or modification of a contract or subcontract—

(A) for which the price agreed upon is based on-

(i) adequate price competition; or

(ii) prices set by law or regulation;

(B) for the acquisition of a commercial item; or

(C) in an exceptional case when the head of the procuring activity, without delegation, determines that the requirements of this section may be waived and justifies in writing the reasons for such determination.

(2) ***

(3) NONCOMMERCIAL MODIFICATIONS OF COMMERCIAL ITEMS.—(A) The exception in paragraph (1)(B) does not apply to cost or pricing data on noncommercial modifications of a commercial item that are expected to cost, in the aggregate, more than the amount specified in subsection (a)(1)(A)(i), as adjusted from time to time under subsection (a)(7), or 5 percent of the total price of the contract (at the time of contract award), whichever is greater.

(B) In this paragraph, the term "noncommercial modification", with respect to a commercial item, means a modification of such item that is not a modification described in ~~section 4(12)(C)(i) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(C)(i))~~ section 103(3)(A) of title 41.

(C) Nothing in subparagraph (A) shall be construed-

(i) to limit the applicability of the exception in subparagraph (A) or (C) of paragraph (1) to cost or pricing data on a noncommercial modification of a commercial item; or

(ii) to require the submission of cost or pricing data on any aspect of an acquisition of a commercial item other than the cost and pricing of noncommercial modifications of such item.

(c) ***

* * * * * * *

§2314. Laws inapplicable to agencies named in section 2303 of this title

~~Sections 6101(b)–(d)~~ Sections 6101 and 6304 of title 41 do not apply to the procurement or sale of property or services by the agencies named in section 2303 of this title.

* * * * * * *

§2321. Validation of proprietary data restrictions

(a) ***

* * * * * * *

(f) PRESUMPTION OF DEVELOPMENT EXCLUSIVELY AT PRIVATE EXPENSE.—(1) Except as provided in paragraph (2), in the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor under a contract for commercial items, the contracting officer shall presume that the contractor or subcontractor has justified the restriction on the basis that the item was developed exclusively at private expense, whether or not the contractor or subcontractor submits a justification in response to the notice provided pursuant to subsection (d)(3). In such a case, the challenge to the use or release restriction may be sustained only if information provided by the Department of Defense demonstrates that the item was not developed exclusively at private expense.

(2) In the case of a challenge to a use or release restriction that is asserted with respect to technical data of a contractor or subcontractor (other than technical data for a commercially available off-the-shelf item as defined in section ~~35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c)))~~ section 104 of title 41 for a major system or a subsystem or component thereof on the basis that the major system, subsystem or component was developed exclusively at private expense, the challenge to the use or release restriction shall be sustained unless information provided by the contractor or subcontractor demonstrates that the item was developed exclusively at private expense.

(g) ***

(h) ***

(i) ***

(j) ***

* * * * * * *

§2335. Prohibition on collection of political information

(a) ***

(b) ***

(c) ***

(d) DEFINITIONS.—In this section:

(1) CONTRACTOR.—The term "contractor" includes contractors, bidders, and offerors, and individuals and legal entities who would reasonably be expected to submit offers or bids for Federal Government contracts.

(2) POLITICAL INFORMATION.—The term "political information" means information relating to political spending, including any payment consisting of a contribution, expenditure, independent expenditure, or disbursement for an electioneering communication that is made by the contractor, any of its partners, officers, directors or employees, or any of its affiliates or subsidiaries to a candidate or on behalf of a candidate for election for Federal office, to a political committee, to a political party, to a third party entity with the intention or reasonable expectation that it would use the payment to make independent expenditures or electioneering communications, or that is otherwise made with respect to any election for Federal office, party affiliation, and voting history.

(3) Other Terms.—Each of the terms "contribution", "expenditure", "independent expenditure", "candidate", "election", "electioneering communication", and "Federal office" has the meaning given ~~the term~~ that term in the Federal Campaign Election Act of 1971 (2 U.S.C. 431 et seq.).

* * * * * *

§2359b. Defense Acquisition Challenge Program

(a) ***

* * * * * *

(k) PILOT PROGRAM FOR PROGRAMS OTHER THAN MAJOR DEFENSE ACQUISITION PROGRAMS.—

(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall carry out a pilot program to expand the use of the authority provided in this section to provide opportunities for the introduction of innovative and cost-saving approaches to programs other than major defense acquisition programs through the submission, review, and implementation, where appropriate, of qualifying proposals.

(2) QUALIFYING PROPOSALS.—For purposes of this subsection, a qualifying proposal is an offer to supply a nondevelopmental item that-

(A) is evaluated as achieving a level of performance that is at least equal to the level of performance of an item being procured under a covered acquisition program and as providing savings in excess of 15 percent after considering all costs to the Government of implementing such proposal; or

(B) is evaluated as achieving a level of performance that is significantly better than the level of performance of an item being procured under a covered acquisition program without any increase in cost to the Government.

(3) REVIEW PROCEDURES.—The Under Secretary shall adopt modifications as may be needed to the procedures applicable to the Challenge Program to provide for Department of Defense review of, and action on, qualifying proposals. Such procedures shall include, at a minimum, the issuance of a broad agency announcement inviting interested parties to submit qualifying proposals in areas of interest to the Department.

(4) DEFINITIONS.—In this subsection:

(A) Nondevelopmental item.—The term "nondevelopmental item" has the meaning given that term in ~~section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)~~ section 110 of title 41.

(B) COVERED ACQUISITION PROGRAM.—The term "covered acquisition program" means any acquisition program of the Department of Defense other than a major defense acquisition program, but does not include any contract awarded under an exception to competitive acquisition authorized by the Small Business Act (15 U.S.C. 631 et seq.)

(C) LEVEL OF PERFORMANCE.—The term "level of performance", with respect to a nondevelopmental item, means the extent to which the item demonstrates required item functional characteristics.

(5) SUNSET.—The authority to carry out the pilot program under this subsection shall terminate on January 7, 2016.

* * * * * *

§2371. Research projects: transactions other than contracts and grants

(a) ADDITIONAL FORMS OF TRANSACTIONS AUTHORIZED.—The Secretary of Defense and the Secretary of each military department may enter into transactions (other than contracts, cooperative agreements, and grants) under the authority of this subsection in carrying out basic,

applied, and advanced research projects. The authority under this subsection is in addition to the authority provided in section 2358 of this title to use contracts, cooperative agreements, and grants in carrying out such projects.

(b) ***

* * * * * *

~~(h) ANNUAL REPORT.—(1) Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use by the Department of Defense during such fiscal year of~~

~~(A) cooperative agreements authorized under section 2358 of this title that contain a clause under subsection (d); and~~

~~(B) transactions authorized by subsection (a).~~

~~(2) The report shall include, with respect to the cooperative agreements and other transactions covered by the report, the following:~~

~~(A) The technology areas in which research projects were conducted under such agreements or other transactions.~~

~~(B) The extent of the cost-sharing among Federal Government and non-Federal sources.~~

~~(C) The extent to which the use of the cooperative agreements and other transactions~~

~~(i) has contributed to a broadening of the technology and industrial base available for meeting Department of Defense needs; and~~

~~(ii) has fostered within the technology and industrial base new relationships and practices that support the national security of the United States.~~

~~(D) The total amount of payments, if any, that were received by the Federal Government during the fiscal year covered by the report pursuant to a clause described in subsection (d) that was included in the cooperative agreements and other transactions, and the amount of such payments, if any, that were credited to each account established under subsection (f).~~

~~(3) No report is required under this subsection for a fiscal year after fiscal year 2006.~~

(i) ***

* * * * * * *

§2379. Requirement for determination by Secretary of Defense and notification to Congress before procurement of major weapon systems as commercial items

(a) REQUIREMENT FOR DETERMINATION AND NOTIFICATION.—A major weapon system of the Department of Defense may be treated as a commercial item, or purchased under procedures established for the procurement of commercial items, only if-

(1) the Secretary of Defense determines that-

(A) the major weapon system is a commercial item, as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41; and

(B) such treatment is necessary to meet national security objectives;

(2) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such system; and

(3) the congressional defense committees are notified at least 30 days before such treatment or purchase occurs.

(b) TREATMENT OF SUBSYSTEMS AS COMMERCIAL ITEMS.—A subsystem of a major weapon system (other than a commercially available off-the-shelf item as defined in ~~section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))~~section 104 of title 41) shall be treated as a commercial item and purchased under procedures established for the procurement of commercial items only if-

(1) the subsystem is intended for a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (a); or

(2) the contracting officer determines in writing that-

(A) the subsystem is a commercial item, as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41; and

(B) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such subsystem.

(c) TREATMENT OF COMPONENTS AND SPARE PARTS AS COMMERCIAL ITEMS.—(1) A component or spare part for a major weapon system (other than a commercially available off-the-shelf item as defined in ~~section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))~~section 104 of title 41) may be treated as a commercial item for the purposes of section 2306a of this title only if—

(A) the component or spare part is intended for—

(i) a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (a); or

(ii) a subsystem of a major weapon system that is being purchased, or has been purchased, under procedures established for the procurement of commercial items in accordance with the requirements of subsection (b); or

(B) the contracting officer determines in writing that—

(i) the component or spare part is a commercial item, as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41; and

(ii) the offeror has submitted sufficient information to evaluate, through price analysis, the reasonableness of the price for such component or spare part.

(2) This subsection shall apply only to components and spare parts that are acquired by the Department of Defense through a prime contract or a modification to a prime contract (or through a subcontract under a prime contract or modification to a prime contract on which the prime contractor adds no, or negligible, value).

(d) ****

(e) ****

(f) ***

* * * * * *

§2409. Contractor employees: protection from reprisal for disclosure of certain information

(a) PROHIBITION OF REPRISALS.-(1) An employee of a contractor or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or

body described in paragraph (2) information that the employee reasonably believes is evidence of the following:

(A) ***

* * * * * *

(e) EXCEPTIONS.—(1) This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4)).

(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, or grantee of an element of the intelligence community if such disclosure—

(A) relates to an activity of an element of the intelligence community; or

(B) was discovered during contract, subcontract, or grantee services provided to an element of the intelligence community.

(f) ***

* * * * * *

§2410m. Retention of amounts collected from contractor during the pendency of contract dispute

(a) RETENTION OF FUNDS.—Notwithstanding sections 1552(a) and 3302(b) of title 31, any amount, including interest, collected from a contractor as a result of a claim made by a military department or Defense Agency under chapter 71 of title 41, shall remain available in accordance with this section to pay—

(1) any settlement of the claim by the parties;

(2) any judgment rendered in the contractor's favor on an appeal of the decision on that claim to the Armed Services Board of Contract Appeals under section 7104(a) of title 41; or

(3) any judgment rendered in the contractor's favor in an action on that claim in a court of the United States.

(b) PERIOD OF AVAILABILITY.—(1) The period of availability of an amount under subsection (a), in connection with a claim—

(A) expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 7104(b) of title 41 if, within that 180-day period-

(i) no appeal on the claim is commenced at the Armed Services Board of Contract Appeals under ~~section 7 of such Act~~ section7104(a) of such title; and

(ii) no action on the claim is commenced in a court of the United States; or

(B) if not expiring under subparagraph (A), expires-

(i) in the case of a settlement of the claim, 180 days after the date of the settlement; or

(ii) in the case of a judgment rendered on the claim in an appeal to the Armed Services Board of Contract Appeals under ~~section 7 of the Contract Disputes Act of 1978~~ section 7104(a) of title 41 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the amount shall be covered into the Treasury as miscellaneous receipts.

* * * * * *

§2430. Major defense acquisition program defined

(a) In this chapter, the term "major defense acquisition program" means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and-

(1) that is designated by the Secretary of Defense as a major defense acquisition program; or

(2) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars) or an eventual total expenditure for procurement, including all planned increments or spirals, of more than $1,800,000,000 (based on fiscal year 1990 constant dollars).

(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(2) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(c) For purposes of subsection (a)(2), the Secretary shall consider, as applicable, the following:

(1) The estimated level of resources required to fulfill the relevant joint military requirement, as determined by the Joint Requirements Oversight Council pursuant to section 181 of this title.

(2) The cost estimate referred to in section ~~2366a(a)(4)~~ section 2366a(a)(7) of this title.

(3) The cost estimate referred to in section 2366b(a)(1)(C) of this title.

(4) The cost estimate within a baseline description as required by section 2435 of this title.

* * * * * *

§2501. National security strategy for national technology and industrial base

(a) NATIONAL SECURITY STRATEGY FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—The Secretary of Defense shall develop a national security strategy for the national technology and industrial base. Such strategy shall be based on a prioritized assessment of risks and challenges to the defense supply chain and shall ensure that the national technology and industrial base is capable of achieving the following national security objectives:

(1) Supplying, equipping, and supporting the force structure of the armed forces that is necessary to achieve—

(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 108 of the National Security Act of 1947 ~~(50 U.S.C. 404a)~~ (50 U.S.C. 3043);

(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title; and

(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of this title.

* * * * * *

(b) ***

* * * * * *

§2533. Determinations of public interest under chapter 83 of title 41

(a) In determining under section 8302 of title 41 whether application of ~~such Act~~ chapter 83 of such title is inconsistent with the public interest, the Secretary of Defense shall consider the following:

(1) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

(2) ***

* * * * * *

(b) ***

* * * * * *

§2533b. Requirement to buy strategic materials critical to national security from American sources; exceptions

(a) REQUIREMENT.—Except as provided in subsections (b) through (m), the acquisition by the Department of Defense of the following items is prohibited:

(1) The following types of end items, or components thereof, containing a specialty metal not melted or produced in the United States: aircraft, missile and space systems, ships, tank and automotive items, weapon systems, or ammunition.

(2) A specialty metal that is not melted or produced in the United States and that is to be purchased directly by the Department of Defense or a prime contractor of the Department.

* * * * * *

(h) APPLICABILITY TO ACQUISITIONS OF COMMERCIAL ITEMS.—(1) Except as provided in paragraphs (2) and (3), this section applies to acquisitions of commercial items, notwithstanding ~~sections 34 and 35 of the Office of Federal Procurement Policy Act (41 U.S.C. 430 and 431)~~ sections 1906 and 1907 of title 41.

(2) This section does not apply to contracts or subcontracts for the acquisition of commercially available off-the-shelf items, as defined in ~~section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))~~ section 104 of title 41, other than—

(A) contracts or subcontracts for the acquisition of specialty metals, including mill products, such as bar, billet, slab, wire, plate and sheet, that have not been incorporated into end items, subsystems, assemblies, or components;

(B) contracts or subcontracts for the acquisition of forgings or castings of specialty metals, unless such forgings or castings are incorporated into commercially available off-the-shelf end items, subsystems, or assemblies;

(C) contracts or subcontracts for commercially available high performance magnets unless such high performance magnets are incorporated into commercially available off-the-shelf-end items or subsystems; and

(D) contracts or subcontracts for commercially available off-the-shelf fasteners, unless such fasteners are—

(i) incorporated into commercially available off-the-shelf end items, subsystems, assemblies, or components; or

(ii) purchased as provided in paragraph (3).

* * * * * *

(m) ADDITIONAL DEFINITIONS.—In this section:

(1) The term "United States" includes possessions of the United States.

(2) The term "component" has the meaning provided in ~~section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)~~ section 105 of title 41.

(3) The term "acquisition" has the meaning provided in ~~section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)~~ section 131 of title 41.

(4) The term "required form" shall not apply to end items or to their components at any tier. The term "required form" means in the form of mill product, such as bar, billet, wire, slab, plate or sheet, and in the grade appropriate for the production of-

(A) a finished end item delivered to the Department of Defense; or

(B) a finished component assembled into an end item delivered to the Department of Defense.

(5) The term "commercially available off-the-shelf", has the meaning provided in ~~section 35(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 431(c))~~ section 104 of title 41.

(6) The term "assemblies" means items forming a portion of a system or subsystem that can be provisioned and replaced as an entity and which incorporates multiple, replaceable parts.

(7) The term "commercial derivative military article" means an item procured by the Department of Defense that is or will be produced using the same production facilities, a common supply chain, and the same or similar production processes that are used for the production of articles predominantly used by the general public or by nongovernmental entities for purposes other than governmental purposes.

(8) The term "subsystem" means a functional grouping of items that combine to perform a major function within an end item, such as electrical power, attitude control, and propulsion.

(9) The term "end item" means the final production product when assembled or completed, and ready for issue, delivery, or deployment.

(10) The term "subcontract" includes a subcontract at any tier.

* * * * * *

§2545. Definitions

In this chapter:

(1) The term "acquisition" has the meaning provided in ~~section 4(16) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(16))~~ section 131 of title 41.

(2) The term "defense acquisition system" means the workforce engaged in carrying out the acquisition of property and services for the Department of Defense; the management structure responsible for directing and overseeing the acquisition of property and services for the Department of Defense; and the statutory, regulatory, and policy framework that guides the acquisition of property and services for the Department of Defense.

(3) The term "element of the defense acquisition system" means an organization that employs members of the acquisition workforce, carries out acquisition functions, and focuses primarily on acquisition.

(4) The term “acquisition workforce” has the meaning provided in section 101(a)(18) of this title.

* * * * * *

§2557. Excess nonlethal supplies: availability for humanitarian relief, domestic emergency assistance, and homeless veterans assistance

(a)***

(b)***

(c) This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the intelligence committees under title V of the National Security Act of 1947 ~~(50 U.S.C. 413 et seq.)~~ (50 U.S.C. 3091 et seq.).

(d) ***

* * * * * *

§2601a. Direct acceptance of gifts by members of the armed forces and Department of Defense and Coast Guard employees and their families

(a) REGULATIONS GOVERNING ACCEPTANCE OF GIFTS.—(1) The Secretary of Defense (and the Secretary of Homeland Security in the case of the Coast Guard when it is not operating as a service in the Navy) shall ~~issue~~ prescribe regulations to provide that, subject to such limitations as may be specified in such regulations, the following individuals may accept gifts from nonprofit organizations, private parties, and other sources outside the Department of Defense or the Department of Homeland Security:

(A) A member of the armed forces described in subsection (b).

(B) A civilian employee of the Department of Defense or Coast Guard described in subsection (c).

(C) The family members of such a member or employee.

(D) Survivors of such a member or employee who is killed.

(2) The regulations required by this subsection shall—

(A) apply uniformly to all elements of the Department of Defense and, to the maximum extent feasible, to the Coast Guard; and

(B) require review and approval by a designated agency ethics official before acceptance of a gift to ensure that acceptance of the gift complies with the Joint Ethics Regulation.

(b) COVERED MEMBERS.—This section applies to a member of the armed forces who, while performing active duty, full-time National Guard duty, or inactive-duty training on or after September 11, 2001, incurred an injury or illness—

(1) as described in section 1413a(e)(2) of this title;

(2) in an operation or area designated as a combat operation or a combat zone, respectively, by the Secretary of Defense in accordance with the regulations prescribed under subsection (a); or

(3) under other circumstances determined by the Secretary concerned to warrant treatment analogous to members covered by paragraph (1).

(c) COVERED EMPLOYEES.—This section applies to a civilian employee of the Department of Defense or Coast Guard who, while an employee on or after September 11, 2001, incurred an injury or illness under a circumstance described in paragraph (1), (2) or (3) of subsection (b).

(d) GIFTS FROM CERTAIN SOURCES PROHIBITED.—The regulations ~~issued~~ prescribed under subsection (a) may not authorize the acceptance of a gift from a foreign government or international organization or their agents.

(e) APPLICATION OF CERTAIN REGULATIONS.—To the extent provided in the regulations issued under subsection (a) to implement subsection (b)(2), the regulations shall apply to the acceptance of gifts received ~~after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2012~~ after December 31, 2011 for injuries or illnesses incurred on or after September 11, 2001.

* * * * * *

§2723. Notice to congressional committees of certain security and counterintelligence failures within defense programs

(a) REQUIRED NOTIFICATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a notification of each security or counterintelligence failure or compromise of classified information relating to any defense operation, system, or technology of the United States that the Secretary considers likely to cause significant harm or damage to the national security interests of the United States. The Secretary shall consult with the Director of National Intelligence and the Director of the Federal Bureau of Investigation, as appropriate, before submitting any such notification.

(b) ***

(c) ***

(d) STATUTORY CONSTRUCTION.—(1) Nothing in this section shall be construed as authority to withhold any information from the Committees on Armed Services of the Senate and House of Representatives on the grounds that providing the information to those committees would constitute the unauthorized disclosure of classified information, information relating to intelligence sources and methods, or sensitive law enforcement information.

(2) Nothing in this section shall be construed to modify or supersede any other requirement to report information on intelligence activities to the Congress, including the requirement under section 501 of the National Security Act of 1947 ~~(50 U.S.C. 413)~~ (50 U.S.C. 3091).

* * * * * *

~~**§2814. Special authority for development of Ford Island, Hawaii**~~

~~(a) IN GENERAL.—(1) Subject to paragraph (2), the Secretary of the Navy may exercise any authority or combination of authorities in this section for the purpose of developing or facilitating the development of Ford Island, Hawaii, to the extent that the Secretary determines the development is compatible with the mission of the Navy.~~

~~(2) The Secretary of the Navy may not exercise any authority under this section until—~~

~~(A) the Secretary submits to the appropriate committees of Congress a master plan for the development of Ford Island, Hawaii; and~~

~~(B) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees.~~

(b) CONVEYANCE AUTHORITY.—(1) The Secretary of the Navy may convey to any public or private person or entity all right, title, and interest of the United States in and to any real property (including any improvements thereon) or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines-

(A) is excess to the needs of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A conveyance under this subsection may include such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) LEASE AUTHORITY.—(1) The Secretary of the Navy may lease to any public or private person or entity any real property or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines-

(A) is not needed for current operations of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A lease under this subsection shall be subject to section 2667(b)(1) of this title and may include such other terms as the Secretary considers appropriate to protect the interests of the United States.

(3) A lease of real property under this subsection may provide that, upon termination of the lease term, the lessee shall have the right of first refusal to acquire the real property covered by the lease if the property is then conveyed under subsection (b).

(4)(A) The Secretary may provide property support services to or for real property leased under this subsection.

(B) To the extent provided in appropriations Acts, any payment made to the Secretary for services provided under this paragraph shall be credited to the appropriation, account, or fund from which the cost of providing the services was paid.

(d) ACQUISITION OF LEASEHOLD INTEREST BY SECRETARY.—(1) The Secretary of the Navy may acquire a leasehold interest in any facility constructed under subsection (f) as consideration for a transaction authorized by this section upon such terms as the Secretary considers appropriate to promote the purpose of this section.

(2) The term of a lease under paragraph (1) may not exceed 10 years, unless the Secretary of Defense approves a term in excess of 10 years for purposes of this section.

(3) A lease under this subsection may provide that, upon termination of the lease term, the United States shall have the right of first refusal to acquire the facility covered by the lease.

(e) REQUIREMENT FOR COMPETITION.—The Secretary of the Navy shall use competitive procedures for purposes of selecting the recipient of real or personal property under subsection (b) and the lessee of real or personal property under subsection (c).

(f) CONSIDERATION.—(1) As consideration for the conveyance of real or personal property under subsection (b), or for the lease of real or personal property under subsection (c), the Secretary of the Navy shall accept cash, real property, personal property, or services, or any combination thereof, in an aggregate amount equal to not less than the fair market value of the real or personal property conveyed or leased.

(2) Subject to subsection (i), the services accepted by the Secretary under paragraph (1) may include the following:

(A) The construction or improvement of facilities at Ford Island.

(B) The restoration or rehabilitation of real property at Ford Island.

(C) The provision of property support services for property or facilities at Ford Island.

(g) NOTICE AND WAIT REQUIREMENTS.—The Secretary of the Navy may not carry out a transaction authorized by this section until—

(1) the Secretary submits to the appropriate committees of Congress a notification of the transaction, including—

(A) a detailed description of the transaction; and

(B) a justification for the transaction specifying the manner in which the transaction will meet the purposes of this section; and

(2) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees or, if earlier, a period of 20 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(h) FORD ISLAND IMPROVEMENT ACCOUNT.—(1) There is established on the books of the Treasury an account to be known as the "Ford Island Improvement Account".

(2) There shall be deposited into the account the following amounts:

(A) Amounts authorized and appropriated to the account.

(B) Except as provided in subsection (c)(4)(B), the amount of any cash payment received by the Secretary for a transaction under this section.

(i) USE OF ACCOUNT.—(1) Subject to paragraph (2), to the extent provided in advance in appropriations Acts, funds in the Ford Island Improvement Account may be used as follows:

(A) To carry out or facilitate the carrying out of a transaction authorized by this section.

(B) To carry out improvements of property or facilities at Ford Island.

(C) To obtain property support services for property or facilities at Ford Island.

(2) To extent that the authorities provided under subchapter IV of this chapter are available to the Secretary of the Navy, the Secretary may not use the authorities in this section to acquire, construct, or improve family housing units, military unaccompanied housing units, or ancillary supporting facilities related to military housing.

(3)(A) The Secretary may transfer funds from the Ford Island Improvement Account to the following funds:

(i) The Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of this title.

(ii) The Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of this title.

(B) Amounts transferred under subparagraph (A) to a fund referred to in that subparagraph shall be available in accordance with the provisions of section 2883 of this title for activities authorized under subchapter IV of this chapter at Ford Island.

(j) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—Except as otherwise provided in this section, transactions under this section shall not be subject to the following:

(1) Sections 2667 and 2696 of this title.

(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(3) Subchapter II of chapter 5 and sections 541–555 of title 40.

~~(k) SCORING.—Nothing in this section shall be construed to waive the applicability to any lease entered into under this section of the budget scorekeeping guidelines used to measure compliance with the Balanced Budget and Emergency Deficit Control Act of 1985.~~

~~(l) PROPERTY SUPPORT SERVICE DEFINED.—In this section, the term 'property support service' means the following:~~

~~(1) Any utility service or other service listed in section 2686(a) of this title.~~

~~(2) Any other service determined by the Secretary to be a service that supports the operation and maintenance of real property, personal property, or facilities.~~

* * * * * *

§2853. Authorized cost and scope of work variations

(a) ***

(b)***

(c) The limitation on cost variations in subsection (a) or the limitation on scope reduction in subsection (b)(1) does not apply if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and-

(1) in the case of a cost increase or a reduction in the scope of work-

(A) the Secretary concerned notifies the appropriate committees of Congress in writing of the cost increase or reduction in scope, the reasons therefor, a certification that the mission requirement identified in the justification data provided to Congress ~~can be still be~~ can still be met with the reduced scope, and a description of the funds proposed to be used to finance any increased costs; and

(B) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title; or

(2) in the case of a cost decrease, the Secretary concerned notifies the appropriate committees of Congress in writing not later than 14 days after the date funds are obligated in connection with the military construction project or military family housing project.

(d) ***

* * * * * *

§2866. Water conservation at military installations

(a) WATER CONSERVATION ACTIVITIES.—(1) The Secretary of Defense shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by a utility for the management of water demand or for water conservation.

(2) The Secretary of Defense may authorize a military installation to accept a financial incentive (including an agreement to reduce the amount of a future water bill), goods, or services generally available from a utility, for the purpose of adopting technologies and practices that-

(A) relate to the management of water demand or to water conservation; and

(B) as determined by the Secretary, are cost effective for the Federal Government.

(3) Subject to paragraph (4), the Secretary of Defense may authorize the Secretary of a military department having jurisdiction over a military installation to enter into an agreement with a utility to design and implement a cost-effective program that provides incentives for the

management of water demand and for water conservation and that addresses the requirements and circumstances of the installation. Activities under the program may include the provision of water management services, the alteration of a facility, and the installation and maintenance by the utility of a water-saving device or technology.

(4)(A) If an agreement under paragraph (3) provides for a utility to pay in advance the financing costs for the design or implementation of a program referred to in that paragraph and for such advance payment to be ~~repayed~~ repaid by the United States, the cost of such advance payment may be recovered by the utility under terms that are not less favorable than the terms applicable to the most favored customer of the utility.

(B) Subject to the availability of appropriations, a repayment of an advance payment under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

(C) An agreement under paragraph (3) shall provide that title to a water-saving device or technology installed at a military installation pursuant to the agreement shall vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.

(b) ***

(c) ***

* * * * * *

§2884. Reports

(a) ***

(b) ***

(c) ANNUAL REPORT ON PRIVATIZATION PROJECTS.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual report containing ~~on evaluation~~ an evaluation of the status of oversight and accountability measures under section 2885 of this title for military housing privatization projects. To the extent each Secretary concerned has the right to attain the information described in this subsection, each report shall include, at a minimum, the following:

(1) ***

*** * * * * ***

§6328. Computation of years of service: voluntary retirement

(a) ***

(b) ***

(c) TIME SPENT IN SEAMAN TO ADMIRAL PROGRAM.—The months of active service in pursuit of a baccalaureate-level degree under the Seaman to Admiral (STA–21) program of the Navy of officer candidates selected for the program ~~on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010~~ after October 27, 2009, shall be excluded in computing the years of service of an officer who was appointed to the grade of ensign in the Navy upon completion of the program to determine the eligibility of the officer for retirement, unless the officer becomes subject to involuntary separation or retirement due to physical disability. Such active service shall be counted in computing the years of active service of the officer for all other purposes.

* * * * * * *

§~~2814~~ 7206. Special authority for development of Ford Island, Hawaii

(a) IN GENERAL.—(1) Subject to paragraph (2), the Secretary of the Navy may exercise any authority or combination of authorities in this section for the purpose of developing or facilitating the development of Ford Island, Hawaii, to the extent that the Secretary determines the development is compatible with the mission of the Navy.

(2) The Secretary of the Navy may not exercise any authority under this section until-

(A) the Secretary submits to the appropriate committees of Congress a master plan for the development of Ford Island, Hawaii; and

(B) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees.

(b) CONVEYANCE AUTHORITY.—(1) The Secretary of the Navy may convey to any public or private person or entity all right, title, and interest of the United States in and to any real property (including any improvements thereon) or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines-

(A) is excess to the needs of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A conveyance under this subsection may include such terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(c) LEASE AUTHORITY.—(1) The Secretary of the Navy may lease to any public or private person or entity any real property or personal property under the jurisdiction of the Secretary in the State of Hawaii that the Secretary determines-

(A) is not needed for current operations of the Navy and all of the other armed forces; and

(B) will promote the purpose of this section.

(2) A lease under this subsection shall be subject to section 2667(b)(1) of this title and may include such other terms as the Secretary considers appropriate to protect the interests of the United States.

(3) A lease of real property under this subsection may provide that, upon termination of the lease term, the lessee shall have the right of first refusal to acquire the real property covered by the lease if the property is then conveyed under subsection (b).

(4)(A) The Secretary may provide property support services to or for real property leased under this subsection.

(B) To the extent provided in appropriations Acts, any payment made to the Secretary for services provided under this paragraph shall be credited to the appropriation, account, or fund from which the cost of providing the services was paid.

(d) ACQUISITION OF LEASEHOLD INTEREST BY SECRETARY.—(1) The Secretary of the Navy may acquire a leasehold interest in any facility constructed under subsection (f) as consideration for a transaction authorized by this section upon such terms as the Secretary considers appropriate to promote the purpose of this section.

(2) The term of a lease under paragraph (1) may not exceed 10 years, unless the Secretary of Defense approves a term in excess of 10 years for purposes of this section.

(3) A lease under this subsection may provide that, upon termination of the lease term, the United States shall have the right of first refusal to acquire the facility covered by the lease.

(e) REQUIREMENT FOR COMPETITION.—The Secretary of the Navy shall use competitive procedures for purposes of selecting the recipient of real or personal property under subsection (b) and the lessee of real or personal property under subsection (c).

(f) CONSIDERATION.—(1) As consideration for the conveyance of real or personal property under subsection (b), or for the lease of real or personal property under subsection (c), the Secretary of the Navy shall accept cash, real property, personal property, or services, or any combination thereof, in an aggregate amount equal to not less than the fair market value of the real or personal property conveyed or leased.

(2) Subject to subsection (i), the services accepted by the Secretary under paragraph (1) may include the following:

(A) The construction or improvement of facilities at Ford Island.

(B) The restoration or rehabilitation of real property at Ford Island.

(C) The provision of property support services for property or facilities at Ford Island.

(g) NOTICE AND WAIT REQUIREMENTS.—The Secretary of the Navy may not carry out a transaction authorized by this section until-

(1) the Secretary submits to the appropriate committees of Congress a notification of the transaction, including-

(A) a detailed description of the transaction; and

(B) a justification for the transaction specifying the manner in which the transaction will meet the purposes of this section; and

(2) a period of 30 calendar days has elapsed following the date on which the notification is received by those committees or, if earlier, a period of 20 days has elapsed from the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(h) FORD ISLAND IMPROVEMENT ACCOUNT.—(1) There is established on the books of the Treasury an account to be known as the "Ford Island Improvement Account".

(2) There shall be deposited into the account the following amounts:

(A) Amounts authorized and appropriated to the account.

(B) Except as provided in subsection (c)(4)(B), the amount of any cash payment received by the Secretary for a transaction under this section.

(i) USE OF ACCOUNT.—(1) Subject to paragraph (2), to the extent provided in advance in appropriations Acts, funds in the Ford Island Improvement Account may be used as follows:

(A) To carry out or facilitate the carrying out of a transaction authorized by this section.

(B) To carry out improvements of property or facilities at Ford Island.

(C) To obtain property support services for property or facilities at Ford Island.

(2) To extent that the authorities provided under subchapter IV of ~~this chapter~~ chapter 169 of this title are available to the Secretary of the Navy, the Secretary may not use the authorities in this section to acquire, construct, or improve family housing units, military unaccompanied housing units, or ancillary supporting facilities related to military housing.

(3)(A) The Secretary may transfer funds from the Ford Island Improvement Account to the following funds:

(i) The Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of this title.

(ii) The Department of Defense Military Unaccompanied Housing Improvement Fund established by section 2883(a)(2) of this title.

(B) Amounts transferred under subparagraph (A) to a fund referred to in that subparagraph shall be available in accordance with the provisions of section 2883 of this title for activities authorized under subchapter IV of ~~this chapter~~ chapter 169 of this title at Ford Island.

(j) INAPPLICABILITY OF CERTAIN PROPERTY MANAGEMENT LAWS.—Except as otherwise provided in this section, transactions under this section shall not be subject to the following:

(1) Sections 2667 and 2696 of this title.

(2) Section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(3) Subchapter II of chapter 5 and sections 541–555 of title 40.

(k) SCORING.—Nothing in this section shall be construed to waive the applicability to any lease entered into under this section of the budget scorekeeping guidelines used to measure compliance with the Balanced Budget and Emergency Deficit Control Act of 1985.

~~(l) PROPERTY SUPPORT SERVICE DEFINED.—In this section, the term 'property support service' means the following:~~

~~(1) Any utility service or other service listed in section 2686(a) of this title.~~

~~(2) Any other service determined by the Secretary to be a service that supports the operation and maintenance of real property, personal property, or facilities.~~

(l) DEFINITIONS. –In this section:

(1) The term "appropriate committees of Congress" has the meaning given such term in section 2801 of this title.

(2) The term "property support services" means the following:

(A) Any utility service or other service listed in section 2686(a) of this title.

(B) Any other service determined by the Secretary to be a service that supports the operation and maintenance of real property, personal property, or facilities.

* * * * * * *

§7292. Naming

(a) Not more than one vessel of the Navy may have the same name.

(b) Each battleship shall be named for a State. However, if the names of all the States are in use, a battleship may be named for a city, place, or person.

(c) The Secretary of the Navy may change the name of any vessel bought for the Navy.

(d)(1) The Secretary of the Navy may not announce or implement any proposal to name a vessel of the Navy until 30 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such proposal.

(2) Each report under this subsection shall describe the justification for the proposal covered by such report in accordance with the standards referred to in section ~~1024(a)~~ 1018(a) of the National Defense Authorization Act for Fiscal Year 2013

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§7312. Service craft stricken from Naval Vessel Register; obsolete boats: use of proceeds from exchange or sale

(a) ***

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(e) OBSOLETE SERVICE CRAFT.—For purposes of this section, an obsolete service craft is a service craft that has been stricken from the Naval Vessel Register.

(f) INAPPLICABILITY OF ADVERTISING REQUIREMENT.—~~Section 3709 of the Revised Statutes (41 U.S.C. 5)~~ Section 6101 of title 41 does not apply to sales of service craft and boats described in subsection (a).

(g) REGULATIONS.—***

TITLE 40, UNITED STATES CODE

§591. Purchase of electricity

(a) ***

(b) EXCEPTIONS.—

(1) ENERGY SAVINGS.—This section does not preclude the head of a federal agency from entering into a contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).

(2) ENERGY SAVINGS FOR MILITARY INSTALLATIONS.—This section does not preclude the Secretary of a military department from—

(A) entering into a contract under section ~~2394 of title 10~~ 2922a of tittle 10; or

(B) purchasing electricity from any provider if the Secretary finds that the utility having the applicable state-approved franchise (or other service authorization) is unwilling or unable to meet unusual standards of service reliability that are necessary for purposes of national defense.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013
(PUBLIC LAW 112–239)

SEC. 604. RATES OF BASIC ALLOWANCE FOR HOUSING FOR MEMBERS PERFORMING ACTIVE GUARD AND RESERVE DUTY.

(a) ***

(b) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—~~-~~The basic allowance for housing paid to a member of a reserve component described in subparagraph (A) of paragraph (6) of section 403(g) of title 37, United States Code, as added by subsection (a), who on the date of the enactment of the ~~National Defense Authorization Act for Fiscal Year 2013~~ this Act is being paid basic allowance for housing at a rate that is based on a housing area other than the member's permanent duty station, shall be paid at that current rate until the member is

assigned to perform duty at the member's permanent duty station, at which time the member shall be paid basic allowance for housing at the prevailing permanent duty station housing area rate or at the permanent duty station housing rate for which the member has qualified under such paragraph (6).

(2) ALTERNATIVE RATE.—-The Secretary of a military department, with the approval of the Secretary of Defense, may pay a member covered by paragraph (1) and under the jurisdiction of that Secretary a basic allowance for housing at a rate higher than the rate provided under such paragraph to ensure that the member is treated fairly and equitably or to serve the best interests of the United States.

IKE SKELTON NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011
(PUBLIC LAW 111-383)

SEC. 846. PROCUREMENT OF PHOTOVOLTAIC DEVICES.

(a) CONTRACT REQUIREMENT.—The Secretary of Defense shall ensure that each contract described in subsection (b) awarded by the Department of Defense includes a provision requiring the photovoltaic devices provided under the contract to comply with ~~the Buy American Act (41 U.S.C. 10a et seq.)~~ chapter 83 of title 41, United States Code, subject to the exceptions to ~~that Act~~ that chapter provided in the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) or otherwise provided by law.

(b) CONTRACTS DESCRIBED.—The contracts described in this subsection include energy savings performance contracts, utility service contracts, land leases, and private housing contracts, to the extent that such contracts result in ownership of photovoltaic devices by the Department of Defense. For the purposes of this section, the Department of Defense is deemed to own a photovoltaic device if the device is—

(1) installed on Department of Defense property or in a facility owned by the Department of Defense; and

(2) reserved for the exclusive use of the Department of Defense for the full economic life of the device.

(c) DEFINITION OF PHOTOVOLTAIC DEVICES.—In this section, the term “photovoltaic devices” means devices that convert light directly into electricity through a solid-state, semiconductor process.

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SEC. 866. PILOT PROGRAM ON ACQUISITION OF MILITARY PURPOSE NONDEVELOPMENTAL ITEMS.

(a) PILOT PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense may carry out a pilot program to assess the feasability [sic] and advisability of acquiring military purpose nondevelopmental items in accordance with this section.

(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may enter into contracts with nontraditional defense contractors for the acquisition of military purpose nondevelopmental items in accordance with the requirements set forth in subsection (b).

(b) CONTRACT REQUIREMENTS.—Each contract entered into under the pilot program—

(1) shall be a firm, fixed price contract, or a firm, fixed price contract with an economic price adjustment clause awarded using competitive procedures in accordance with chapter 137 of title 10, United States Code;

(2) shall be in an amount not in excess of $50,000,000, including all options;

(3) shall provide—

(A) for the delivery of an initial lot of production quantities of completed items not later than nine months after the date of the award of such contract; and

(B) that failure to make delivery as provided for under subparagraph (A) may result in the termination of such contract for default; and

(4) shall be—

(A) exempt from the requirement to submit certified cost or pricing data under section 2306a of title 10, United States Code, and the cost accounting standards under ~~section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422)~~ chapter 15 of title 41, United States Code; and

(B) subject to the requirement to provide data other than certified cost or pricing data for the purpose of price reasonableness determinations, as provided in section 2306a(d) of title 10, United States Code.

(c) REGULATIONS.—***

(d) REPORTS.—***

* * * * * * *

(e) DEFINITIONS.—In this section:

(1) The term ‘military purpose nondevelopmental item’ means a nondevelopmental item that meets a validated military requirement, as determined in writing by the responsible program manager, and has been developed exclusively at private expense. For purposes of this paragraph, an item shall not be considered to be developed exclusively at private expense if development of the item was paid for in whole or in part through—

(A) independent research and development costs or bid and proposal costs that have been reimbursed directly or indirectly by a Federal agency or have been submitted to a Federal agency for reimbursement; or

(B) foreign government funding.

(2) The term ‘nondevelopmental item’—

(A) has the meaning given that term in ~~section 4(13) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(13))~~ section 110 of title 41, United States Code; and

(B) also includes previously developed items of supply that require modifications other than those customarily available in the commercial marketplace if such modifications are consistent with the requirement in subsection (b)(3)(A).

(3) The term ‘nontraditional defense contractor’ has the meaning given that term in section 2302(9) of title 10, United States Code (as added by subsection (g)).

(4) The terms ‘independent research and developments costs’ and ‘bid and proposal costs’ have the meaning given such terms in section 31.205–18 of the Federal Acquisition Regulation.

(f) SUNSET.—

(1) IN GENERAL.—The authority to carry out the pilot program shall expire on the date that is five years after the date of the enactment of this Act [Jan. 7, 2011].

(2) CONTINUATION OF CURRENT CONTRACTS.—The expiration under paragraph (1) of the authority to carry out the pilot program shall not affect the validity of any contract awarded under the pilot program before the date of the expiration of the pilot program under that paragraph.

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SEC. 893. CONTRACTOR BUSINESS SYSTEMS.

(a) ***

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(f) DEFINITIONS.—In this section:

(1) The term 'CONTRACTOR BUSINESS SYSTEM' means an accounting system, estimating system, purchasing system, earned value management system, material management and accounting system, or property management system of a contractor.

(2) The term 'COVERED CONTRACTOR' means a contractor that is subject to the cost accounting standards under ~~section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422)~~ chapter 15 of title 41, United States Code.

(3) The term 'covered contract' means a contract that is subject to the cost accounting standards promulgated pursuant to section 1502 of title 41, United States Code, that could be affected if the data produced by a contractor business system has a significant deficiency.

(4) The term 'significant deficiency', in the case of a contractor business system, means a shortcoming in the system that materially affects the ability of officials of the Department of Defense and the contractor to rely upon information produced by the system that is needed for management purposes.

(g) ***

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SEC. 911. INTEGRATED SPACE ARCHITECTURES.

The Secretary of Defense and the Director of National Intelligence shall develop an integrated process for national security space architecture planning, development, coordination, and analysis that–

(1) encompasses defense and intelligence space plans, programs, budgets, and organizations;

(2) provides mid-term to long-term recommendations to guide space-related defense and intelligence acquisitions, requirements, and investment decisions;

(3) is independent of, but coordinated with, the space architecture planning, development, coordination, and analysis activities of each military department and each element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4)~~ 50 U.S.C. 3003(4))); and

(4) makes use of, to the maximum extent practicable, joint duty assignment (as defined in section 668 of title 10, United States Code) positions.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008
(PUBLIC LAW 110-181)

SEC. 801. INTERNAL CONTROLS FOR PROCUREMENTS ON BEHALF OF THE DEPARTMENT OF DEFENSE BY CERTAIN NON-DEFENSE AGENCIES.

(a) ***

(b) LIMITATION ON PROCUREMENTS ON BEHALF OF DEPARTMENT OF DEFENSE.—

(1) Except as provided in paragraph (2), an acquisition official of the Department of Defense may place an order, make a purchase, or otherwise procure property or services for the Department of Defense in excess of the simplified acquisition threshold through a non-defense agency only if—

(A) in the case of a procurement by any non-defense agency in any fiscal year, the head of the non-defense agency has certified that the non-defense agency will comply with applicable procurement requirements for the fiscal year;

(B) in the case of-—

(i) a procurement by a covered non-defense agency in a fiscal year for which a memorandum of understanding is to be entered into under subsection (a)(3), the Inspector General of the Department of Defense and the Inspector General of the covered non-defense agency have entered into such a memorandum of understanding; or

(ii) a procurement by a covered non-defense agency in a fiscal year following the Inspectors General review and determination provided for under subsection (a), the Inspectors General have determined that a covered non-defense agency is compliant with applicable procurement requirements or have terminated a prior determination of non-compliance in accordance with subsection (a)(4); and

(C) the procurement is not otherwise prohibited by section 817 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364) or section 811 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163).

(2) EXCEPTION FOR PROCUREMENTS OF NECESSARY PROPERTY AND SERVICES.—

(A) IN GENERAL.—The limitation in paragraph (1) shall not apply to the procurement of property and services on behalf of the Department of Defense by a non-defense agency during any fiscal year for which there is in effect a written determination of the Under Secretary of Defense for Acquisition, Technology, and Logistics that it is necessary in the interest of the Department of Defense to procure property and services through the non-defense agency during such fiscal year.

(B) SCOPE OF PARTICULAR EXCEPTION.—A written determination with respect to a non-defense agency under subparagraph (A) shall apply to any category of procurements through the non-defense agency that is specified in the determination.

(3) Treatment of procurements under joint programs with intelligence community.—For purposes of this subsection, a contract entered into by a non-defense agency that is an element of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4))) for the performance of a joint program conducted to meet the needs of the Department of Defense and the non-defense

agency shall not be considered a procurement of property or services for the Department of Defense through a non-defense agency.

(c) ***

(d) ***

(e) ***

(f) ***

* * * * * * *

SEC. 805. PROCUREMENT OF COMMERCIAL SERVICES.

(a) ***

(b) ***

(c) TIME-AND-MATERIALS CONTRACTS.—

(1) COMMERCIAL ITEM ACQUISITIONS.—The regulations modified pursuant to subsection (a) shall ensure that procedures applicable to time-and-materials contracts and labor-hour contracts for commercial item acquisitions may be used only for the following:

(A) Services procured for support of a commercial item, as described in ~~section 4(12)(E) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(E))~~ section 103(5) of title 41, United States Code.

(B) Emergency repair services.

(C) Any other commercial services only to the extent that the head of the agency concerned approves a determination in writing by the contracting officer that-

(i) the services to be acquired are commercial services as defined in ~~section 4(12)(F) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(F))~~ section 103(6) of title 41, United States Code;

(ii) if the services to be acquired are subject to subsection (b), the offeror of the services has submitted sufficient information in accordance with that subsection;

(iii) such services are commonly sold to the general public through use of time-and-materials or labor-hour contracts; and

(iv) the use of a time-and-materials or labor-hour contract type is in the best interest of the Government.

(2) NON-COMMERCIAL ITEM ACQUISITIONS.—Nothing in this subsection shall be construed to preclude the use of procedures applicable to time-and-materials contracts and labor-hour contracts for non-commercial item acquisitions for the acquisition of any category of services.

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SEC. 821. PLAN FOR RESTRICTING GOVERNMENT-UNIQUE CONTRACT CLAUSES ON COMMERCIAL CONTRACTS.

(a) ***

(b) COMMERCIAL CONTRACT.—In this section:

(1) The term ‘commercial contract’ means a contract awarded by the Federal Government for the procurement of a commercial item.

(2) The term 'commercial item' has the meaning provided by section ~~4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41, United States Code.

* * * * * * *

SEC. 847. REQUIREMENTS FOR SENIOR DEPARTMENT OF DEFENSE OFFICIALS SEEKING EMPLOYMENT WITH DEFENSE CONTRACTORS.

(a) REQUIREMENT TO SEEK AND OBTAIN WRITTEN OPINION.—

(1) REQUEST.—An official or former official of the Department of Defense described in subsection (c) who, within two years after leaving service in the Department of Defense, expects to receive compensation from a Department of Defense contractor, shall, prior to accepting such compensation, request a written opinion regarding the applicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

(2) SUBMISSION OF REQUEST.—A request for a written opinion under paragraph (1) shall be submitted in writing to an ethics official of the Department of Defense having responsibility for the organization in which the official or former official serves or served and shall set forth all information relevant to the request, including information relating to government positions held and major duties in those positions, actions taken concerning future employment, positions sought, and future job descriptions, if applicable.

(3) WRITTEN OPINION.—Not later than 30 days after receiving a request by an official or former official of the Department of Defense described in subsection (c), the appropriate ethics counselor shall provide such official or former official a written opinion regarding the applicability or inapplicability of post-employment restrictions to activities that the official or former official may undertake on behalf of a contractor.

(4) CONTRACTOR REQUIREMENT.—A Department of Defense contractor may not knowingly provide compensation to a former Department of Defense official described in subsection (c) within two years after such former official leaves service in the Department of Defense, without first determining that the former official has sought and received (or has not received after 30 days of seeking) a written opinion from the appropriate ethics counselor regarding the applicability of post-employment restrictions to the activities that the former official is expected to undertake on behalf of the contractor.

(5) ADMINISTRATIVE ACTIONS.—In the event that an official or former official of the Department of Defense described in subsection (c), or a Department of Defense contractor, knowingly fails to comply with the requirements of this subsection, the Secretary of Defense may take any of the administrative actions set forth in ~~section 27(e) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e))~~ section 2105 of title 41, United States Code that the Secretary of Defense determines to be appropriate.

(b) ***

(c) COVERED DEPARTMENT OF DEFENSE OFFICIALS.—An official or former official of the Department of Defense is covered by the requirements of this section if such official or former official—

(1) participated personally and substantially in an acquisition as defined in ~~section 4(16) of the Office of Federal Procurement Policy Act~~ section 131 of title 41, United States Code with a value in excess of $10,000,000 and serves or served—

(A) in an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code;

(B) in a position in the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code; or

(C) in a general or flag officer position compensated at a rate of pay for grade O–7 or above under section 201 of title 37, United States Code; or

(2) serves or served as a program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in an amount in excess of $10,000,000.

(d) DEFINITION.—In this section, the term 'post-employment restrictions' includes—

(1) ~~section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)~~ chapter 21 of title 41, United States Code;

(2) section 207 of title 18, United States Code; and

(3) any other statute or regulation restricting the employment or activities of individuals who leave government service in the Department of Defense.

* * * * * * *

SEC. 862. CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS IN AREAS OF COMBAT OPERATIONS OR OTHER SIGNIFICANT MILITARY OPERATIONS.

(a) ***

(b) CONTRACT CLAUSE ON CONTRACTORS PERFORMING PRIVATE SECURITY FUNCTIONS.—

(1) REQUIREMENT UNDER FAR.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Federal Acquisition Regulation issued in accordance with ~~section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421)~~ section 1303 of title 41, United States Code shall be revised to require the insertion into each covered contract (or, in the case of a task order, the contract under which the task order is issued) of a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions under such contract.

(2) ***

* * * * * *

(c) ***

(d) REMEDIES.—The failure of a contractor under a covered contract to comply with the requirements of the regulations prescribed under subsection (a) or the contract clause inserted in a covered contract pursuant to subsection (b), as determined by the contracting officer for the covered contract-

(1) shall be included in appropriate databases of past performance and considered in any responsibility determination or evaluation of the past performance of the contractor for the purpose of a contract award decision, as provided in ~~section 6(j) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(j))~~ section 1126 of title 41, United States Code;

(2) in the case of an award fee contract—

(A) shall be considered in any evaluation of contract performance by the contractor for the relevant award fee period; and

(B) may be a basis for reducing or denying award fees for such period, or for recovering all or part of award fees previously paid for such period; and

(3) in the case of a failure to comply that is severe, prolonged, or repeated—

(A) shall be referred to the suspension or debarment official for the appropriate agency; and

(B) may be a basis for suspension or debarment of the contractor.

(e) ***

(f) ***

(g) ***

(h) ***

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SEC. 911. SPACE PROTECTION STRATEGY.

(a) ***

* * * * * *

(e) DEFINITIONS.—In this section—

(1) the term 'capabilities' means space, airborne, and ground systems and capabilities for space situational awareness and for space systems protection; and

(2) the term 'intelligence community' has the meaning given such term in section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ 50 U.S.C. 3003(4)).

(f) ***

JOHN WARNER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

(Public Law 109-364)

SEC. 832. LIMITATION ON CONTRACTS FOR THE ACQUISITION OF CERTAIN SERVICES.

(a) ***

(b) ***

(c) ****.

(d) DEFINITIONS.—In this section:

(1) The term 'military flight simulator' means any major system to simulate the form, fit, and function of a military aircraft that has no commonly available commercial variant.

(2) The term 'service contract' means any contract entered into by the Department of Defense the principal purpose of which is to furnish services in the United States through the use of service employees.

(3) The term 'service employees' has the meaning provided in ~~section 8(b) of the Service Contract Act of 1965 (41 U.S.C. 357(b))~~ section 6701(3) of title 41, United States Code.

(e) ***

* * * * * *

SEC. 852. REPORT AND REGULATIONS ON EXCESSIVE PASS-THROUGH CHARGES.

(a) ***

(b) REGULATIONS REQUIRED.—

(1) IN GENERAL.—Not later than May 1, 2007, the Secretary of Defense shall prescribe regulations to ensure that pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this subsection—

(A) shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is—

(i) awarded on the basis of adequate price competition; or

(ii) for the acquisition of a commercial item, as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41, United States Code; and

(B) may include such additional exceptions as the Secretary determines to be necessary in the interest of the national defense.

(3) ***

* * * * * * *

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2005
(PUBLIC LAW 108-287)

SEC. 8118. Notwithstanding any other provision of law, section 2533a(f) of title 10, United States Code, shall hereafter not apply to any fish, shellfish, or seafood product. This section applies to contracts and subcontracts for the procurement of commercial items notwithstanding ~~section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430)~~ section 1906 of title 41, United States Code.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004
(PUBLIC LAW 108-136)

SEC. 812. ASSESSMENT AND ANNUAL REPORT OF UNITED STATES DEFENSE INDUSTRIAL BASE CAPABILITIES AND ACQUISITIONS OF ARTICLES, MATERIALS, AND SUPPLIES MANUFACTURED OUTSIDE THE UNITED STATES.

(a) ***

(b) USE OF EXISTING DATA.—(1) At a minimum, with respect to each prime contract with a value greater than $25,000 for the procurement of defense items and components, the following information from existing sources shall be used for purposes of the assessment program:

(A) Whether the contractor is a United States or foreign contractor.

(B) The principal place of business of the contractor and the principal place of performance of the contract.

(C) Whether the contract was awarded on a sole source basis or after receipt of competitive offers.

(D) The dollar value of the contract.

(2) The Federal Procurement Data System described in ~~section 6(d)(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)(A))~~ section 1122(a)(4)(A) of title 41, United States Code, or any successor system, shall collect from contracts described in paragraph (1) the information specified in that paragraph.

(3) ***

* * * * * * *

(e) APPLICABILITY.—This section shall not apply to acquisitions made by an agency, or component thereof, that is an element of the intelligence community as set forth in or designated under section 3(4) of the National Security Act of 1947 ~~(50 U.S.C. 401a(4))~~ (50 U.S.C. 3003(4)).

* * * * * * *

SEC. 1601. RESEARCH AND DEVELOPMENT OF DEFENSE BIOMEDICAL COUNTERMEASURES.

(a) ***

(b) ***

(c) EXPEDITED PROCUREMENT AUTHORITY.—(1) For any procurement of property or services for use (as determined by the Secretary) in performing, administering, or supporting biomedical countermeasures research and development, the Secretary may, when appropriate, use streamlined acquisition procedures and other expedited procurement procedures authorized in-

(A) ~~section 32A of the Office of Federal Procurement Policy Act, as added by section 1443 of this Act~~ section 1903 of title 41, United States Code; and

(B) section 2371 of title 10, United States Code, and section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note).

(2) Notwithstanding paragraph (1) and the provisions of law referred to in such paragraph, each of the following provisions shall apply to the procurements described in this subsection to the same extent that such provisions would apply to such procurements in the absence of paragraph (1):

(A) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

(B) ~~Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b))~~ Section 8703(a) of title 41, United States Code.

(C) Section 2313 of title 10, United States Code (relating to the examination of contractor records).

(3) The Secretary shall institute appropriate internal controls for use of the authority under paragraph (1), including requirements for documenting the justification for each use of such authority.

(d) ***

(e) ***

(f) ***

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2004
(PUBLIC LAW 108-87)

SEC. 8025. (a) Of the funds for the procurement of supplies or services appropriated by this Act and hereafter, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year and hereafter, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase 'qualified nonprofit agency for the blind or other severely handicapped' means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under ~~the Javits-Wagner-O'Day Act (41 U.S.C. 46–48)~~ chapter 85 of title 41, United States Code.

BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003

(Public Law 107-314)

SEC. 817. GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS.

(a) ***

* * * * * * *

(e) DEFINITIONS.—In this section:

(1) The term 'exceptional case exception or waiver' means either of the following:

(A) An exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code, relating to submission of certified cost and pricing data.

(B) A waiver pursuant to ~~section 26(f)(5)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(B))~~ section 1502(b)(3)(B) of title 41, United States Code, relating to the applicability of cost accounting standards to contracts and subcontracts.

(2) The term 'commercial item exception' means an exception pursuant to section 2306a(b)(1)(B) of title 10, United States Code, relating to submission of certified cost and pricing data.

* * * * * * *

SEC. 901. RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947.

Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 ~~(50 U.S.C. 401 et seq.)~~ (50 U.S.C. 3001 et seq.)

* * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2002
(PUBLIC LAW 107-107)

SEC. 801. PROCUREMENT PROGRAM REVIEW STRUCTURE; COMPTROLLER GENERAL REVIEW.

(a) ***

* * * * * * *

(f) DEFINITIONS.—In this section:

(1) The term 'senior procurement executive' means the official designated as the senior procurement executive under ~~section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))~~ section 1702(c)(1) and (2) of title 41, United States Code.

(2) The term 'performance-based', with respect to a contract or a task order means that the contract or task order, respectively, includes the use of performance work statements that set forth contract requirements in clear, specific, and objective terms with measurable outcomes.

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999
(Public Law 105-261)

SEC. 803. DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

(a) ***

(b) UNIFIED MANAGEMENT OF PROCUREMENT OF EXEMPT COMMERCIAL ITEMS.—The Secretary of Defense shall develop and implement procedures to ensure that, whenever appropriate, a single item manager or contracting officer is responsible for negotiating and entering into all contracts from a single contractor for the procurement of exempt commercial items or for the procurement of items in a category of exempt commercial items.

(c) ***

(d) EXEMPT COMMERCIAL ITEMS DEFINED.—For the purposes of this section, the term 'exempt commercial item' means a commercial item that is exempt under subsection (b)(1)(B) of section 2306a of title 10, United States Code, or ~~subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b)~~ section 3503(a)(2) of title 41, United States Code, from the requirements for submission of certified cost or pricing data under that section.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998
(Public Law 105-85)

SEC. 848. REQUIREMENTS RELATING TO MICRO-PURCHASES.

(a) ***

* * * * * *

(e) DEFINITIONS.—In this section:

(1) The term 'micro-purchase threshold' has the meaning provided in ~~section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428)~~ section 1902 of title 41, United States Code.

(2) The term 'streamlined micro-purchase procedures' means procedures providing for the use of the Government-wide commercial purchase card or any other method for carrying out micro-purchases that the Secretary of Defense prescribes in the regulations implementing this subsection.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1997
(Public Law 104-201)

SEC. 722. INCLUSION OF DESIGNATED PROVIDERS IN UNIFORMED SERVICES HEALTH CARE DELIVERY SYSTEM.

(a) INCLUSION IN SYSTEM.—The health care delivery system of the uniformed services shall include the designated providers.

(b) AGREEMENTS TO PROVIDE MANAGED HEALTH CARE SERVICES.—(1) After consultation with the other administering Secretaries, the Secretary of Defense shall negotiate and enter into an agreement with each designated provider under which the designated provider will provide health care services in or through managed care plans to covered beneficiaries who enroll with the designated provider.

(2) The agreement shall be entered into on a sole source basis. The Federal Acquisition Regulation, except for those requirements regarding competition, issued pursuant to ~~section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))~~ section 1303(a) of title 41, United States Code shall apply to the agreements as acquisitions of commercial items.

(3) The implementation of an agreement is subject to availability of funds for such purpose.

(c) ***

* * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1996
(Public Law 104-106)

SEC. 3412. SALE OF NAVAL PETROLEUM RESERVE NUMBERED 1.

(a) ***

* * * * * *

(k) ACQUISITION OF SERVICES.—The Secretary may enter into contracts for the acquisition of services required under this section under the authority of paragraph (7) of ~~section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c))~~ section 3304(a) of title 41, United States Code, except that the notification required under subparagraph (B) of such paragraph for each contract shall be submitted to Congress not less than 7 days before the award of the contract.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1994
(Public Law 103-160)

SEC. 845. AUTHORITY OF DEFENSE ADVANCED RESEARCH PROJECTS AGENCY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

(a) AUTHORITY.—(1) Subject to paragraph (2), the Director of the Defense Advanced Research Projects Agency, the Secretary of a military department, or any other official designated by the Secretary of Defense may, under the authority of section 2371 of title 10, United States Code, carry out prototype projects that are directly relevant to weapons or weapon systems proposed to be acquired or developed by the Department of Defense, or to improvement of weapons or weapon systems in use by the Armed Forces.

(2) The authority of this section-

(A) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of $20,000,000 but not in excess of $100,000,000 (including all options) only upon a written determination by the senior procurement executive for the agency (as designated for the purpose of ~~section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))~~ section 1702(c) of title 41, United States Code, or, for the Defense Advanced Research Projects Agency or the Missile Defense Agency, the director of the agency that-

(i) the requirements of subsection (d) will be met; and

(ii) the use of the authority of this section is essential to promoting the success of the prototype project; and

(B) may be exercised for a prototype project that is expected to cost the Department of Defense in excess of $100,000,000 (including all options) only if-

(i) the Under Secretary of Defense for Acquisition, Technology, and Logistics determines in writing that-

(I) the requirements of subsection (d) will be met; and

(II) the use of the authority of this section is essential to meet critical national security objectives; and

(ii) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] are notified in writing at least 30 days before such authority is exercised.

(3) The authority of a senior procurement executive or director of the Defense Advanced Research Projects Agency or Missile Defense Agency under paragraph (2)(A), and the authority of the Under Secretary of Defense for Acquisition, Technology, and Logistics under paragraph (2)(B), may not be delegated.

(b) ***

(c) ***

(d) APPROPRIATE USE OF AUTHORITY.—(1) The Secretary of Defense shall ensure that no official of an agency enters into a transaction (other than a contract, grant, or cooperative agreement) for a prototype project under the authority of this section unless-

(A) there is at least one nontraditional defense contractor participating to a significant extent in the prototype project; or

(B) no nontraditional defense contractor is participating to a significant extent in the prototype project, but at least one of the following circumstances exists:

(i) At least one third of the total cost of the prototype project is to be paid out of funds provided by parties to the transaction other than the Federal Government.

(ii) The senior procurement executive for the agency (as designated for the purposes of ~~section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))~~ paragraphs (1) and (2) of section 1702(c) of title 41, United States Code) determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a contract.

(2)(A) Except as provided in subparagraph (B), the amounts counted for the purposes of this subsection as being provided, or to be provided, by a party to a transaction with respect to a prototype project that is entered into under this section other than the Federal Government do not include costs that were incurred before the date on which the transaction becomes effective.

(B) Costs that were incurred for a prototype project by a party after the beginning of negotiations resulting in a transaction (other than a contract, grant, or cooperative agreement) with respect to the project before the date on which the transaction becomes effective may be counted for purposes of this subsection as being provided, or to be provided, by the party to the transaction if and to the extent that the official responsible for entering into the transaction determines in writing that-

(i) the party incurred the costs in anticipation of entering into the transaction; and

(ii) it was appropriate for the party to incur the costs before the transaction became effective in order to ensure the successful implementation of the transaction.

(e) PILOT PROGRAM FOR TRANSITION TO FOLLOW-ON CONTRACTS.—(1) The Secretary of Defense is authorized to carry out a pilot program for follow-on contracting for the production of items or processes developed under prototype projects carried out under this section or research projects carried out pursuant to section 2371 of title 10, United States Code.

(2) Under the pilot program-

(A) a qualifying contract for the procurement of such an item or process, or a qualifying subcontract under a contract for the procurement of such an item or process, may be treated as a contract or subcontract, respectively, for the procurement of commercial items, as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12))~~ section 103 of title 41, United States Code; and

(B) the item or process may be treated as an item or process, respectively, that is developed in part with Federal funds and in part at private expense for the purposes of section 2320 of title 10, United States Code.

(3) For the purposes of the pilot program, a qualifying contract or subcontract is a contract or subcontract, respectively, with a nontraditional defense contractor that-

(A) does not exceed $50,000,000 (including all options); and

(B) is either-

(i) a firm, fixed-price contract or subcontract; or

(ii) a fixed-price contract or subcontract with economic price adjustment.

(4) The authority to conduct a pilot program under this subsection shall terminate on September 30, 2010. The termination of the authority shall not affect the validity of contracts or subcontracts that are awarded or modified during the period of the pilot program, without regard to whether the contracts or subcontracts are performed during the period.

(f) ***

(g) ***

(h) APPLICABILITY OF PROCUREMENT ETHICS REQUIREMENTS.—An agreement entered into under the authority of this section shall be treated as a Federal agency procurement for the

purposes of ~~section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423)~~ chapter 21 of title 41, United States Code.

(i) ***

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993
(Public Law 102-484)

SEC. 326. ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENT CONTRACTS.

(a) ***

(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may adjust the price of the contract in a manner consistent with the Federal Acquisition Regulation.

(c) DEFINITIONS.—In this section:

(1) The term 'class I ozone-depleting substance' means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

(2) The term 'Federal Acquisition Regulation' means the single Government-wide procurement regulation issued under ~~section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))~~ section 1303(a) of title 41, United States Code.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1992 AND 1993
(Public Law 102-190)

SEC. 806. PAYMENT PROTECTIONS FOR SUBCONT*RA*CTORS AND SUPPLIERS.

(a) REGULATIONS.—***

(b) INAPPLICABILITY TO CERTAIN CONTRACTS.—Regulations prescribed under this section shall not apply to a contract for the acquisition of commercial items (as defined in ~~section 4(12) of the Office of Federal Procurement Policy Act~~ section 103 of title 41, United States Code).

(c) GOVERNMENT-WIDE APPLICABILITY.—The Federal Acquisition Regulatory Council (established by ~~section 25(a) of the Office of Federal Procurement Policy Act~~ section 1302(a) of title 41, United States Code) shall modify the Federal Acquisition Regulation (issued pursuant to ~~section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1))~~ section 1303(a)(1) of such title 41) to apply Government-wide the requirements that the Secretary is required under subsection (a) to prescribe in regulations applicable with respect to the Department of Defense contracts.

(d) ***

* * * * * *

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

(Public Law 101-510)

SEC. 831. MENTOR-PROTEGE PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program to be known as the "Mentor-Protege Program".

(b) ***

* * * * * *

(~~l~~ l) DEFINITIONS.—In this section:

(1) ***

(8) The term "severely disabled individual" means an individual who has a physical or mental disability which constitutes a substantial handicap to employment and which, in accordance with criteria prescribed by the Committee for the Purchase From the Blind and Other Severely Handicapped established ~~by the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the 'Wagner-O'Day Act')~~ section 8502 of title 41, United States Code, is of such a nature that the individual is otherwise prevented from engaging in normal competitive employment.

Section 1042 would allow for renewal or extension (without competition) of an existing real estate lease in support of an on-base Financial Institution (FI) selected to operate on a Department of Defense (DoD) installation. The legislation will allow for direct and exclusive lease negotiations with the on-base FI to avoid a conflict with the FI's Operating Agreement (OA), satisfy DoD policy directives, and permit uninterrupted service to customers and government operations.

The designation of on-base FIs is made pursuant to the DoD Financial Management Regulation, DoD 7000.14R, Volume 5, Chapter 34 ("Financial Institutions on DoD Installations"). In accordance with said DoD Regulation, the FI and the Installation Commander enter into an OA, which specifies the benefits/services that the FI is required to provide.

The designation of a FI as the on-base bank reflects that a determination has been made that the FI is authorized to provide financial services on the base to enhance the morale and welfare of the base personnel and facilitate the administration of public and quasi-public monies, consistent with the policies set forth in 32 C.F.R. § 230.4(2). The benefits to be provided by the FI are more specifically defined in the OA, and the FI agrees to provide them. The OA also provides that the FI will continue to be the designated on-base bank until terminated.

The location of FI facilities, buildings, and ATMs is authorized through a real estate agreement separate from the OA. In most cases, a ground lease issued pursuant to 10 U.S.C. 2667 is utilized. Section 2667 requires competition, with limited exception, for all leases longer than 1 year or in excess of $100,000.00 fair market value. Extensions and renewals of existing leases, which do not provide for such extensions or renewals by their respective terms and provisions are deemed new leases, for which competition is required. The limited "Public Interest" exception to competition found in section 2667(h) (2) is the only authority available to

allow a continuation or renewal of an existing lease. That requires a case-by-case analysis to determine whether the exception is available and whether its use is appropriate.

The ground lease has a finite term, whereas the OA does not. Conditions for termination of the OA are set forth in the DoD FMR, which provides specific reasons and procedures for terminating an on-base bank's right to operate. The specific reasons for terminating the FI's operations on the base must be justified by the Installation Commander to its Service Secretary, who will coordinate these actions with the Office of the Secretary of Defense (Comptroller) and the Defense Finance and Accounting Service. The reasons for termination must fall under one of the four specified conditions and ground lease termination is not one of the four. Thus, the failure to extend or renew the lease may place the installation in breach of the OA.

A potential conflict is created in applying the statutory requirement to compete leases for banks selected under the DoD FMR "One Bank" Policy. Competition of a new lease may result in an awardee different then the selected FI under the DoD FMR process. The lease awardee would have a lease with no right to operate and the selected FI would have a right to operate but be without a location from which to operate.

The DoD FMR requires banks to go through a competitive process in order to be selected as the on-base bank and results in the establishment of a long-term relationship with both the military community and the installation as envisioned by the DoD FMR. Any change in the on-base FI outside of the procedures outlined in the DoD FMR would be both disruptive and interfere with the ongoing mission of the installation. The need to perform the exhaustive analysis and review necessary to justify and document the possible use of the Public Interest exception at the expiration of each lease creates an untenable situation for both the on-base FI and the installation as they negotiate a new rent structure as required every five years by the DoD FMR.

This is not a limited concern. There are approximately 26 on-base banks presently on Department of the Navy (DON) installations with conflicting termination provisions in the lease when compared to the respective OA. This proposed legislation would allow direct and exclusive negotiations with the on-base FI to avoid the conflict, satisfy the DoD FMR policy directives, and permit uninterrupted service to customers and government operations.

Budget Implications: There are no budget increases or decreases as the proposal addresses lease and operating agreement terms.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would add a new paragraph (4) to subsection (h) of section 2667 of title 10, United States Code, as follows:

§ 2667. Leases: non-excess property of military departments and Defense Agencies

(a) LEASE AUTHORITY.—Whenever the Secretary concerned considers it advantageous to the United States, the Secretary concerned may lease to such lessee and upon such terms as the Secretary concerned considers will promote the national defense or to be in the public interest, real or personal property that—

(1) is under the control of the Secretary concerned;

(2) is not for the time needed for public use; and

(3) is not excess property, as defined by section 102 of title 40.

(b) CONDITIONS ON LEASES.—A lease under subsection (a)—

(1) may not be for more than five years, unless the Secretary concerned determines that a lease for a longer period will promote the national defense or be in the public interest;

(2) may give the lessee the first right to buy the property if the lease is revoked to allow the United States to sell the property under any other provision of law;

(3) shall permit the Secretary to revoke the lease at any time, unless he determines that the omission of such a provision will promote the national defense or be in the public interest;

(4) shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary;

(5) may provide, notwithstanding section 1302 of title 40 or any other provision of law, for the alteration, repair, or improvement, by the lessee, of the property leased as the payment of part or all of the consideration for the lease;

(6) except as otherwise provided in subsection (d), shall require the lessee to provide the covered entities specified in paragraph (1) of that subsection the right to establish and operate a community support facility or provide community support services, or seek equitable compensation for morale, welfare, and recreation programs of the Department of Defense in lieu of the operation of such a facility or the provision of such services, if the Secretary determines that the lessee will provide merchandise or services in direct competition with covered entities through the lease; and

(7) may not provide for a leaseback by the Secretary concerned with an annual payment in excess of $ 500,000, or otherwise commit the Secretary concerned or the Department of Defense to annual payments in excess of such amount.

(c) TYPES OF IN-KIND CONSIDERATION.—(1) In addition to any in-kind consideration accepted under subsection (b)(5), in-kind consideration accepted with respect to a lease under this section may include the following:

(A) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities under the control of the Secretary concerned.

(B) Construction of new facilities for the Secretary concerned.

(C) Provision of facilities for use by the Secretary concerned.

(D) Provision or payment of utility services for the Secretary concerned.

(E) Provision of real property maintenance services for the Secretary concerned.

(F) Provision of such other services relating to activities that will occur on the leased property as the Secretary concerned considers appropriate.

(2) In-kind consideration under paragraph (1) may be accepted at any property or facilities under the control of the Secretary concerned that are selected for that purpose by the Secretary concerned.

(3) Sections 2662 and 2802 of this title shall not apply to any new facilities whose construction is accepted as in-kind consideration under this subsection.

(d) COMMUNITY SUPPORT FACILITIES AND COMMUNITY SUPPORT SERVICES UNDER LEASE; WAIVER.—(1) In this subsection and subsection (b)(6), the term "covered entity" means each of the following:

(A) The Army and Air Force Exchange Service.

(B) The Navy Exchange Service Command.

(C) The Marine Corps exchanges.

(D) The Defense Commissary Agency.

(E) The revenue-generating nonappropriated fund activities of the Department of Defense conducted for the morale, welfare, and recreation of members of the armed forces.

(2) The Secretary concerned may waive the requirement in subsection (b)(6) with respect to a lease if—

(A) the lease is entered into under subsection (g); or

(B) the Secretary determines that the waiver is in the best interests of the Government.

(3) The Secretary concerned shall provide to the congressional defense committees written notice of each waiver under paragraph (2), including the reasons for the waiver.

(4) The covered entities shall exercise the right provided in subsection (b)(6) with respect to a lease, if at all, not later than 90 days after receiving notice from the Secretary concerned regarding the opportunity to exercise such right with respect to the lease. The Secretary may, at the discretion of the Secretary, extend the period under this paragraph for the exercise of the right with respect to a lease for such additional period as the Secretary considers appropriate.

(5) The Secretary of Defense shall prescribe in regulations uniform procedures and criteria for the evaluation of proposals for enhanced use leases involving the operation of community support facilities or the provision of community support services by either a lessee under this section or a covered entity.

(e) DEPOSIT AND USE OF PROCEEDS.—(1)(A) The Secretary concerned shall deposit in a special account in the Treasury established for that Secretary the following:

(i) All money rentals received pursuant to leases entered into by that Secretary under this section.

(ii) All proceeds received pursuant to the granting of easements by that Secretary under section 2668 of this title.

(iii) All proceeds received by that Secretary from authorizing the temporary use of other property under the control of that Secretary.

(B) Subparagraph (A) does not apply to the following proceeds:

(i) Amounts paid for utilities and services furnished lessees by the Secretary concerned pursuant to leases entered into under this section.

(ii) Money rentals referred to in paragraph (3), (4), or (5).

(C) Subject to subparagraphs (D) and (E), the proceeds deposited in the special account established for the Secretary concerned shall be available to the Secretary, in such amounts as provided in appropriation Acts, for the following:

(i) Maintenance, protection, alteration, repair, improvement, or restoration (including environmental restoration) of property or facilities.

(ii) Construction or acquisition of new facilities.

(iii) Lease of facilities.

(iv) Payment of utility services.

(v) Real property maintenance services.

(D) At least 50 percent of the proceeds deposited in the special account established for the Secretary concerned shall be available for activities described in subparagraph (C) only at the military installation or Defense Agency location where the proceeds were derived.

(E) If the proceeds deposited in the special account established for the Secretary concerned are derived from activities associated with a military museum described in section 489(a) of this title, the proceeds shall be available for activities described in subparagraph (C) only at that museum.

(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to the appropriation account or working capital fund from which the cost of furnishing the utilities and services was paid.

(3) Money rentals received by the United States directly from a lease under this section for agricultural or grazing purposes of lands under the control of the Secretary concerned (other than lands acquired by the United States for flood control or navigation purposes or any related purpose, including the development of hydroelectric power) may be retained and spent by the Secretary concerned in such amounts as the Secretary considers necessary to cover the administrative expenses of leasing for such purposes and to cover the financing of multiple-land use management programs at any installation under the jurisdiction of the Secretary.

(4) Money rentals received by the United States from a lease under subsection (g) at a military installation approved for closure or realignment under a base closure law before January 1, 2005, shall be deposited into the account established under section 2906(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(5) Money rentals received by the United States from a lease under subsection (g) at a military installation approved for closure or realignment under a base closure law on or after January 1, 2005, shall be deposited into the account established under section 2906A(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(f) TREATMENT OF LESSEE INTEREST IN PROPERTY.—The interest of a lessee of property leased under this section may be taxed by State or local governments. A lease under this section shall provide that, if and to the extent that the leased property is later made taxable by State or local governments under an Act of Congress, the lease shall be renegotiated.

(g) SPECIAL RULES FOR BASE CLOSURE AND REALIGNMENT PROPERTY.—(1) Notwithstanding subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 (to the extent those provisions are inconsistent with this subsection) or subsection (a)(2) of this section, pending the final disposition of real property and personal property located at a military installation to be closed or realigned under a base closure law, the

Secretary concerned may lease the property to any individual or entity under this subsection if the Secretary determines that such a lease would facilitate State or local economic adjustment efforts.

(2) Notwithstanding subsection (b)(4), the Secretary concerned may accept consideration in an amount that is less than the fair market value of the lease interest if the Secretary concerned determines that—

(A) a public interest will be served as a result of the lease; and

(B) the fair market value of the lease is (i) unobtainable, or (ii) not compatible with such public benefit.

(3) Before entering into any lease under this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency in order to determine whether the environmental condition of the property proposed for leasing is such that the lease of the property is advisable. The Secretary and the Administrator shall enter into a memorandum of understanding setting forth procedures for carrying out the determinations under this paragraph.

(4)(A) Notwithstanding the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the scope of any environmental impact analysis necessary to support an interim lease of property under this subsection shall be limited to the environmental consequences of activities authorized under the proposed lease and the cumulative impacts of other past, present, and reasonably foreseeable future actions during the period of the proposed lease.

(B) Interim leases entered into under this subsection shall be deemed not to prejudice the final disposal decision with respect to the property, even if final disposal of the property is delayed until completion of the term of the interim lease. An interim lease under this subsection shall not be entered into without prior consultation with the redevelopment authority concerned.

(C) Subparagraphs (A) and (B) shall not apply to an interim lease under this subsection if authorized activities under the lease would—

(i) significantly affect the quality of the human environment; or

(ii) irreversibly alter the environment in a way that would preclude any reasonable disposal alternative of the property concerned.

(h) COMPETITIVE PROCEDURES FOR SELECTION OF CERTAIN LESSEES; EXCEPTION.—(1) If a proposed lease under subsection (a) involves only personal property, the lease term exceeds one year, or the fair market value of the lease interest exceeds $ 100,000, as determined by the Secretary concerned, the Secretary shall use competitive procedures to select the lessee.

(2) Paragraph (1) does not apply if the Secretary concerned determines that—

(A) a public interest will be served as a result of the lease; and

(B) the use of competitive procedures for the selection of certain lessees is unobtainable or not compatible with the public benefit served under subparagraph (A).

(3) Paragraph (1) does not apply to a renewal or extension of a lease by the Secretary of the Navy with a selected institution for operation of a ship within the University National Oceanographic Laboratory System if, under the lease, each of the following applies:

(A) Use of the ship is restricted to federally supported research programs and to non-Federal uses under specific conditions with approval by the Secretary of the Navy.

(B) Because of the anticipated value to the Navy of the oceanographic research and training that will result from the ship's operation, no monetary lease payments are required from the lessee under the initial lease or under any renewal or extension.

(C) The lessee is required to maintain the ship in a good state of repair, readiness, and efficient operating condition, conform to all applicable regulatory requirements, and

assume full responsibility for the safety of the ship, its crew, and scientific personnel aboard.

(4)(A) Paragraph (1) does not apply to a renewal, extension or succeeding lease by the Secretary concerned with a financial institution selected in accordance with Department of Defense Financial Management Regulation providing for the selection of financial institutions to operate on military installations if each of the following applies:

(i) The on-base financial institution was selected before the date of the enactment of this paragraph or competitive procedures are used for the selection of any new financial institutions.

(ii) A current and binding operating agreement is in place between the installation commander and the selected on-base financial institution.

(B) The renewal, extension or succeeding lease shall terminate upon the termination of the operating agreement described in subparagraph (A)(ii).

(i) DEFINITIONS.—In this section:

(1) The term "community support facility" includes an ancillary supporting facility (as that term is defined in section 2871(1) of this title).

(2) The term "community support services" includes revenue-generating food, recreational, lodging support services, and resale operations and other retail facilities and services intended to support a community.

(3) The term "military installation" has the meaning given such term in section 2687 of this title.

(j) EXCLUSION OF CERTAIN LANDS.—This section does not apply to oil, mineral, or phosphate lands.

Section 1043 would provide permanent authority to the United States to secure copyrights in certain scholarly works written by Department of Defense personnel who are faculty members at Department of Defense service academies and schools of professional military education as part of their official duties in order to submit such works for publication, and other purposes.

The proposed legislation seeks to address existing law which prohibits the Government from owning and assigning a copyright for any Government work written by a Federal Government employee as part of the employee's official duties. Specifically, section 105 of title 17, United States Code, prevents the U.S. Government from owning copyright in works written by faculty members at Department of Defense service academies and schools of professional military education and thus prevents the assignment of the copyright in such works reflecting research done by the authors on duty hours or with Government equipment and Government resources. This effectively prevents Federal Government authors from publishing in many prestige outlets, including civilian university presses, which require copyright protection for their output. This undermines the Services' ability to reach elite audiences with arguments, insights and research findings crucial to the Services and critical to making of sound U.S. national security policy. It further undermines the effectiveness of the Department of Defense service academies and schools of professional military education that are relied upon to educate the future leaders by undercutting their ability to recruit and retain quality faculty who must publish in such outlets to preserve their reputations as quality faculty. The academic reputation of any

academic institution derives to a large degree from the individual academic reputations of its faculty. Those reputations, in turn, are grounded in their records of scholarly publication, and the highest level of that publication occurs in referred journals and university press books. However, those publication venues insist on owning the copyright of the work they publish and, in the case of university press books, on the ability to sell sufficient copies of their work. The current legal restraints undermine the ability of faculty to develop their academic work, reputations and visibility in their respective disciplines. This poses an enormous barrier on our ability to recruit and retain the highest levels of academic talent.

The proposed legislation also seeks to overcome an existing statutory requirement under section 501 of title 44, United States Code, to publish nearly all official works through the Government Printing Office (GPO) or other DoD field printing plant. This process generally does not consider the academic credentials of the printing house, which, as previously discussed, is essential to bolstering the credibility of the individual author(s) and that of the DoD academic institution as a whole.

This proposed new section of title 10, United States Code, would help Department of Defense service academies and schools of professional military education achieve their desired purpose of recruiting, retaining and developing well-known scholars and thereby gaining the kind of academic reputation that Congress and the American public desire for PME institutions. This would facilitate recruiting and retention of high quality faculty who would contribute more effectively to the development of future senior leaders and policy. Moreover, it has the necessary safeguards to prevent the individual author(s) from reaping an illegal personal financial windfall for official work performed in the course of duties for which the faculty member is already receiving pay from the U.S. Government. Lastly, it does not incur any expenditure of appropriated funds.

Budget Implications: This proposal has no budgetary implications due to the fact that no royalties or other compensation may be accepted by a person described in the proposed section 1033a(a) by reason of copyright protection that exists by reason of the proposed section 1033a(a). The proposal enables the U.S. Government to retain use of the underlying substantive materials being provided to the publisher without paying additional royalties.

RESOURCE REQUIREMENTS ($MILLION)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	$0	$0	$0	$0	$0	N/A	N/A	N/A	N/A
Total	$0	$0	$0	$0	$0				

Changes to Existing Law: This proposal would add a new section to title 10, United States Code. The proposed new section is set forth in full in the legislative text at the beginning of the proposal.

Section 1044 would amend subsection (c) of section 44309 of title 49, United States Code, relating to the filing of claims and payment of such claims for losses covered by the

Federal Aviation Administration's War Risk Insurance Program. The policy for processing claims in the amended subsection would match the policy of the Federal Tort Claims Act in title 28, United States Code, section 2401(b). The amended subsection would require any claim against the United States stemming from a policy issued under chapter 443 of title 49 to be filed within two years of the loss. Filing a lawsuit contesting a denial of a claim under Chapter 443 must be commenced within six months after the mailing of the notice of final denial of the claim by the Secretary or designee. Under this program, the Secretary of Transportation, with the approval of the President, may provide insurance and reinsurance to American and foreign aircraft. Section 44305 of title 49 allows other agencies of the federal government to request that the Federal Aviation Administration provide insurance to air carriers operating under contract with those departments or agencies. Whenever it appears to the Secretary that the insurance cannot be obtained on reasonable terms and conditions from the commercial insurance market, then such war risk insurance may be provided. This insurance program is vital to the existence of the Civil Reserve Air Fleet program. Currently the program does not clearly identify a maximum time frame for the filing of claims due to incurred losses during periods of coverage, but would normally be presumed to be 6 years as is the case with other administrative claims. Due to difficulty in proving causation, finding witnesses, and maintaining evidence in oftentimes combat situations where war-risk insurance is most often used by the Department of Defense and other federal agencies, timely filing of claims is essential to allow proper adjudication of claims.

Finally, the proposal provides that the amendments made to 49 U.S.C. 44309(c) shall apply only with respect to claims arising after the date of the enactment of the proposal.

Budget Implications: If enacted, this proposal will not increase the budgetary requirements of the Department of Defense or the Department of Transportation.

RESOURCE SAVINGS ($THOUSANDS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**		**Appropriation To**	**Budget Activity**	**Dash-1 Line Item**
Army	+0	+0	+0	+0	+0		O&M, Army-		
Navy	+0	+0	+0	+0	+0		O&M, Navy		
Marine Corps	+0	+0	+0	+0	+0		O&M, Marine Corps		
Coast Guard	+0	+0	+0	+0	+0		O&M, Coast Guard		
Air Force	+0	+0	+0	+0	+0		O&M, Air Force – 3400		
Total	0	0	0	0	0				

NUMBER OF PERSONNEL AFFECTED

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Appropriation To	Personnel Type (Officer, Enlisted, or Civilian)
Army	0	0	0	0	0	0	N/A	N/A
Navy	0	0	0	0	0	0	N/A	N/A
*Marine Corps	0	0	0	0	0	0	N/A	N/A
Air Force	0	0	0	0	0	0	N/A	N/A
Total	0	0	0	0	0	0		

COST METHODOLOGY:

The Department of Defense has been using Federal Aviation Administration provided aviation war-risk insurance in various forms since 1958. Usage increased significantly during Operation Desert Shield/Desert Storm where over 5500 missions were insured with no losses. In 1993 the Navy's Military Sealift Command conducted an analysis of the War Risk Insurance Program's impact on Operation Desert Shield/Storm where 380 ships were insured under the similar MARAD vessel insurance program. The analysis revealed that in terms of 1991 dollars, the U.S. Government avoided $436 million in insurance costs which would have been passed on to the U.S. Government by the maritime industry. Adjusting for inflation this amount today would be about $689 million. Considering that not one of the 5500 air carrier flights received any damage, the cost/benefit ration of the program is very favorable to the United States Government. More recently, the Federal Aviation Administration has provided insurance for both international flights in support of Operation Iraqi Freedom and Operation Enduring Freedom and subsequent support of operations in Afghanistan, as well as helicopter and Short Take Off and Landing cargo and passenger aircraft operations in Afghanistan. Although there has been an increase in claims from small arms ground fire, only one helicopter loss, costing $4 million, has occurred. Based on the approximately $1 million per helicopter or aircraft per year cost of commercial war risk insurance operating in Afghanistan, the avoided costs have far exceed all payouts under the aviation insurance program.

Changes to Existing Law: This section would make the following changes to section 44309 of title 49, United States Code:

§ 44309. Civil actions

(a) LOSSES.—

(1) ACTIONS AGAINST UNITED STATES.—A person may bring a civil action in a district court of the United States or in the United States Court of Federal Claims against the United States

Government when—

(A) a loss insured under this chapter is in dispute; or

(B)(i) the person is subrogated under a contract between the person and a party insured under this chapter (other than section 44305(b)) to the rights of the insured party against the United States Government; and

(ii) the person has paid to the insured party, with the approval of the Secretary of Transportation, an amount for a physical damage loss that the Secretary has determined is a loss covered by insurance issued under this chapter (other than section 44305(b)).

(2) LIMITATION.—A civil action involving the same matter (except the action authorized by this subsection) may not be brought against an agent, officer, or employee of the Government carrying out this chapter.

(3) PROCEDURE.—To the extent applicable, the procedure in an action brought under section 1346(a)(2) of title 28, United States Code, applies to an action under this subsection.

(b) VENUE AND JOINDER.—(1) A civil action under subsection (a) of this section may be brought in the judicial district for the District of Columbia or in the judicial district in which the plaintiff or the agent of the plaintiff resides if the plaintiff resides in the United States. If the plaintiff does not reside in the United States, the action may be brought in the judicial district for the District of Columbia or in the judicial district in which the Attorney General agrees to accept service.

(2) An interested person may be joined as a party to a civil action brought under subsection (a) of this section initially or on motion of either party to the action.

(c) TIME REQUIREMENTS.—**A claim under the authority of this chapter against the United States shall be forever barred unless it is presented in writing to the Secretary of Transportation within two years after such claim accrues or unless action is begun within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Secretary**. When an insurance claim is made under this chapter, the period during which~~, under section 2401 of title 28,~~ a civil action must be brought under ~~subsection (a) of~~ this section is suspended until 60 days after the Secretary of Transportation denies the claim. The claim is deemed to be administratively denied if the Secretary does not act on the claim not later than 6 months after filing, unless the Secretary makes a

different agreement with the claimant when there is good cause for an agreement.

(d) INTERPLEADER.—(1) If the Secretary admits the Government owes money under an insurance claim under this chapter and there is a dispute about the person that is entitled to payment, the Government may bring a civil action of interpleader in a district court of the United States against the persons that may be entitled to payment. The action may be brought in the judicial district for the District of Columbia or in the judicial district in which any party resides.

(2) The district court may order a party not residing or found in the judicial district in which the action is brought to appear in a civil action under this subsection. The order shall be served in a reasonable manner decided by the district court. If the court decides an unknown person might assert a claim under the insurance that is the subject of the action, the court may order service on that person by publication in the Federal Register.

(3) Judgment in a civil action under this subsection discharges the Government from further liability to the parties to the action and to all other persons served by publication under paragraph (2) of this subsection.

Section 1045. In support of the Secretary of Defense's efficiency initiatives "designed to reduce duplication, overhead, and excess, and instill a culture of savings and cost accountability across the Department of Defense [DoD]," DoD is recommending the repeal of the statutory requirement for a Federal Advisory Committee Act (FACA) advisory board for the Radiation Dose Reconstruction Program. DoD believes that this advisory board has achieved its objectives, and its functions can now be more effectively conducted through an interagency effort rather than through a FACA advisory board.

Beginning in 1978, radiation dose reconstructions have been performed for veterans with radiogenic diseases; in particular, atomic veterans. The term "atomic veteran" applies to United States (U.S.) military personnel who participated in the atmospheric testing of nuclear weapons from 1945 to 1962, or those who were either prisoners of war in Japan or stationed in Hiroshima or Nagasaki around the time the atomic bombs were detonated. Dose reconstruction is the scientific estimation of radiation dose levels received by a particular individual. These dose levels are used to determine the increased risk of cancer, illness, or other adverse health effects, as well as the compensation that will be provided to those individuals. The Veterans' Advisory Board on Dose Reconstruction (VBDR) is a Federal Advisory Committee composed of private sector experts and scientists, in addition to one representative each from the Defense Threat Reduction Agency and U.S. Strategic Command Center for Combating Weapons of Mass Destruction (DTRA/SCC-WMD), and the Department of Veterans Affairs (VA), who provide technical and academic advice on DoD's Radiation Dose Reconstruction Program and the VA's radiological disease claims processing procedures.

Due to the VBDR's recommendations, the Radiation Dose Reconstruction Program is a mature program with established scientific procedures for determining the overall radiation doses received by affected individuals. In addition, the board's recommendations have streamlined the VA's atomic veteran's claims processes, resulting in significant efficiencies and shortened processing times. To ensure sustained emphasis of this important program, DoD requests that the review and oversight functions of the VBDR be transferred to the Secretaries of Defense and Veterans Affairs.

Budget Implications: The board is jointly funded by DoD and the VA, with DoD providing for the administration of the program. The fiscal year (FY) 2012 committee cost was $427,233, and 0.9 man-year. Of this total committee cost, the VA contributes approximately $157,000. This total includes government salaries, member travel and per diem costs, the program support contract, and costs associated with holding an annual public meeting accessible to atomic veterans. The board's recommended termination schedule will include a final public meeting in July 2013 with the finalization and archival of files required by July 2014. The VBDR public website will be supported by DTRA/SCC-WMD for two years after termination. Savings to DoD after shutdown will be $270,233 per year. This plan is dependent on DoD obtaining required Congressional relief.

	Resource Requirements							
Savings	FY 15	FY16	FY17	FY18	FY19	Approp.	BA	Dash-1 Line Item
DoD	$270,233	$270,233	$270,233	$270,233	$270,233	O&M*	04	04GTN
VA	$157,000	$157,000	$157,000	$157,000	$157,000			
Total	**$427,233**	**$427,233**	**$427,233**	**$427,233**	**$427,233**	--	--	--

*Operation and Maintenance

Changes to Existing Law: This proposal would make the following change to existing law:

Veterans Benefits Act of 2003
(Public Law 108-183 – Dec. 16, 2003)

SEC. 601. [38 U.S.C. 1154 note] RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE.

~~(a) REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Radiation Dose Reconstruction Program of the Department of Defense.~~

~~(2) In conducting the review under paragraph (1), the Secretaries shall—~~

(A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purposes of the program; and

(B) determine the actions that are required to ensure that the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit veterans to review the assumptions utilized in their dose reconstructions.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth—

(A) the results of the review;

(B) a plan for any actions determined to be required under paragraph (2); and

(C) such other recommendations for the improvement of the mission, procedures, and administration of the Radiation Dose Reconstruction Program as the Secretaries jointly consider appropriate.

(b) ON-GOING REVIEW AND OVERSIGHT.—The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose Reconstruction Program, including the establishment of the advisory board required by subsection (c).

(c) ADVISORY BOARD.—(1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Radiation Dose Reconstruction Program.

(2) The advisory board under paragraph (1) shall be composed of the following:

(A) At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.

(B) At least one expert in radiation health matters.

(C) At least one expert in risk communications matters.

(D) A representative of the Department of Veterans Affairs.

(E) A representative of the Defense Threat Reduction Agency.

(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.

(3) The advisory board under paragraph (1) shall—

(A) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program; and

(C) carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretaries shall jointly specify.

(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Radiation Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).

(a) REVIEW AND OVERSIGHT.—The Secretary of Veterans Affairs and the Secretary of Defense shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose Reconstruction Program of the Department of Defense.

(b) DUTIES.—In carrying out subsection (a), the Secretaries shall—

(1) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

(2) communicate to veterans information on the mission, procedures, and evidentiary requirements of the Program; and

(3) carry out such other activities with respect to the review and oversight of the Program as the Secretaries shall jointly specify.

(c) RECOMMENDATIONS.—The Secretaries may make such recommendations on modifications in the mission or procedures of the Program as they consider appropriate as a result of the audits conducted under subsection (b)(1).

Section 1046 would amend section 1588(a) of title 10, United States Code, by adding a new paragraph authorizing the Secretaries of the military departments to institute unpaid internship and externship programs for law students. Currently, section 1588 does not allow for unpaid internships and externships for law students. Existing authority for law student internships is contained in section 3111 of title 5, United States Code. However, that authority is not limited to the Department of Defense or law students and it significantly limits the scope of work that can be conducted by voluntary legal support interns. Specifically, law students providing voluntary services pursuant to section 3111 of title 5 are not considered employees of the Federal government for purposes of section 552a of title 5 ("the Privacy Act"), and therefore, are not permitted access to agency records that are contained within a system of records. Because of the nature of legal work, access to information contained within a system of records (e.g. courts-martial records, legal assistance files, etc.) is a necessary component of the job. The proposed amendment would authorize the acceptance of voluntary legal support services from law students under the authority of title 10 and, pursuant to subsection (d)(1)(C) of 10 U.S.C. 1588, those law students providing such voluntary services would be considered agency employees for purposes of the Privacy Act, and would be permitted access to agency records. This accomplishes two goals: (1) the interns would be able to provide better legal support services because the interns would have direct access to the records, and (2) the interns would be bound by the Privacy Act to maintain confidentiality of those records or suffer punitive consequences under the Act.

Voluntary unpaid internships serve as a critical recruiting tool for prospective judge advocates. In order to attract the highest quality and most diverse group of applicants, the Secretaries concerned must be able to provide both paid and unpaid internships. Voluntary, unpaid internships provide law students with an opportunity to work with active duty judge advocates and experience military life while simultaneously providing a benefit to the military services. Experience shows that the vast majority of interns later apply for commissioning as a judge advocate. Unpaid internships enhance recruitment by providing opportunities for a greater number of law students to participate than otherwise would be possible if forced to rely solely on a paid internship program. Amending this section will ensure that students interning with the

Department of Defense enjoy a robust experience with maximum utility to both the intern and the Department, resulting in recruitment of exceptional prospects for military service.

Budget Implications: There is no additional cost to the government. This amendment authorizes the Secretaries concerned to accept additional voluntary services.

RESOURCE REQUIREMENTS ($ MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Total	0	0	0	0	0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would add a new paragraph to section 1588(a) of title 10, United States Code, as follows:

§ 1588. Authority to accept certain voluntary services

(a) AUTHORITY TO ACCEPT SERVICES.—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the armed forces and the families of such members, including the following programs:

(A) Family support programs.

(B) Child development and youth services programs.

(C) Library and education programs.

(D) Religious programs.

(E) Housing referral programs.

(F) Programs providing employment assistance to spouses of such members.

(G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.

(4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.

(5) Legal services voluntarily provided as legal assistance under section 1044 of this title.

(6) Voluntary services as a proctor for administration to secondary school students of the test known as the "Armed Services Vocational Aptitude Battery".

(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.

(8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.

(9) Voluntary services to facilitate accounting for missing persons.

(10) Voluntary legal support services provided by law students through internship and externship programs approved by the Secretary concerned.

(b) REQUIREMENTS AND LIMITATIONS.-(1) The Secretary concerned shall notify the person of the scope of the services accepted.

(2) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned shall-

(A) supervise the person to the same extent as the Secretary would supervise a compensated employee providing similar services; and

(B) ensure that the person is licensed, privileged, has appropriate credentials, or is otherwise qualified under applicable law or regulations to provide such services.

(3) With respect to a person providing voluntary services accepted under subsection (a), the Secretary concerned may not-

(A) place the person in a policy-making position; or

(B) except as provided in subsection (e), compensate the person for the provision of such services.

(c) AUTHORITY TO RECRUIT AND TRAIN PERSONS PROVIDING SERVICES.-The Secretary concerned may recruit and train persons to provide voluntary services accepted under subsection (a).

(d) STATUS OF PERSONS PROVIDING SERVICES.-(1) Subject to paragraph (3), while providing voluntary services accepted under subsection (a) or receiving training under subsection (c), a person, other than a person referred to in paragraph (2), shall be considered to be an employee of the Federal Government only for purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5 (relating to compensation for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss) and chapters 309 and 311 of title 46 (relating to claims for damages or loss on navigable waters).

(C) Section 552a of title 5 (relating to maintenance of records on individuals).

(D) Chapter 11 of title 18 (relating to conflicts of interest).

(E) Section 1054 of this title (relating to legal malpractice), for a person voluntarily providing legal services accepted under subsection (a)(5), as if the person were providing the services as an attorney of a legal staff within the Department of Defense.

(2) Subject to paragraph (3), while providing a nonappropriated fund instrumentality of the United States with voluntary services accepted under subsection (a), or receiving training under subsection (c) to provide such an instrumentality with services accepted under subsection (a), a person shall be considered an employee of that instrumentality only for the following purposes:

(A) Subchapter II of chapter 81 of title 5 (relating to compensation of nonappropriated fund employees for work-related injuries).

(B) Section 2733 of this title and chapter 171 of title 28 (relating to claims for damages or loss).

(3) A person providing voluntary services accepted under subsection (a) shall be considered to be an employee of the Federal Government under paragraph (1) or (2) only with respect to services that are within the scope of the services so accepted.

(4) For purposes of determining the compensation for work-related injuries payable under chapter 81 of title 5 (pursuant to this subsection) to a person providing voluntary services accepted under subsection (a), the monthly pay of the person for such services shall be deemed to be the amount determined by multiplying-

(A) the average monthly number of hours that the person provided the services, by

(B) the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(e) REIMBURSEMENT OF INCIDENTAL EXPENSES.-The Secretary concerned may provide for reimbursement of a person for incidental expenses incurred by the person in providing voluntary services accepted under subsection (a). The Secretary shall determine which expenses are eligible for reimbursement under this subsection. Any such reimbursement may be made from appropriated or nonappropriated funds.

(f) AUTHORITY TO INSTALL EQUIPMENT.-(1) The Secretary concerned may install telephone lines and any necessary telecommunication equipment in the private residences of persons, designated in accordance with the regulations prescribed under paragraph (4), who provide voluntary services accepted under paragraph (3) or (8) of subsection (a).

(2) In the case of equipment installed under the authority of paragraph (1), the Secretary concerned may pay the charges incurred for the use of the equipment for authorized purposes.

(3) To carry out this subsection, the Secretary concerned may use appropriated funds (notwithstanding section 1348 of title 31) or nonappropriated funds of the military department under the jurisdiction of the Secretary or, with respect to the Coast Guard, the department in which the Coast Guard is operating.

(4) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security shall prescribe regulations to carry out this subsection.

TITLE XI—CIVILIAN PERSONNEL MATTERS

Section 1101 would amend section 115b of title 10, United States Code (U.S.C.), to modify the requirement for the Secretary of Defense to prepare a biennial Strategic Workforce Plan (SWP) so as to cover the "senior management workforce," of the Department of Defense (DoD) rather than the "senior management, functional, and technical workforce (including scientists and engineers)."

Specifically, the proposal would modify the requirement in that section for the Secretary to include in the SWP a separate chapter to address the shaping and improvement of the "senior management, functional, and technical workforce (including scientists and engineers of the

Department of Defense." Rather, the proposal would provide for reporting separately on the "senior management workforce of the Department of Defense," while reporting on four categories of the functional and technical workforce (i.e., (1) Senior Level (SL), (2) senior scientists and engineers appointed pursuant to National Defense Authorization Act (NDAA) authorities, (3) Scientific and Professional (ST), and (4) Defense Intelligence Senior Level (DISL)) within the appropriate functional community workforce assessment (i.e., include in the GS-15 workforce assessment). The proposal would retain the requirement to assess the Highly Qualified Experts (HQE) workforce, but would provide for that assessment separately.

Consequently, the proposal would amend 10 U.S.C. 115b(g) to eliminate the term "senior management, functional, and technical workforce of the Department of Defense" and create the new terms "senior management workforce of the Department of Defense" and "senior functional and technical workforce of the Department of Defense."

DoD hires SL, ST, and DISL employees. The development and training requirements for these employees are specific to each position and are determined at the local level, and should not be included in the overall strategic workforce planning for leadership positions, e.g., Senior Executive Service (SES) and Defense Intelligence Senior Executive Service (DISES). Similarly, scientists and engineers appointed pursuant to section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year (FY) 1999, section 342(b) of the NDAA for FY 1995, and section 5376(a) of title 5 are expected to enter their positions at a highly developed level of expertise and experience. However, DoD believes that the critical skills needed at these senior levels should be assessed, and that they are most appropriately assessed with the GS-15 and below workforces in the appropriate functional communities. The proposal would amend section 115b of title 10 to reflect a proposed shift inDoD's approach to assessing this workforce.

HQEs bring enlightened thinking and innovation to advance the Department's national security mission. They are hired as a temporary infusion of talent and provide non-permanent support for short-term endeavors. As a result, they are expected to enter the position already with an uncommon level of experience and expertise and it would not benefit DoD or the taxpayers to develop this highly technical and temporary workforce.

This change would also enable DoD to appropriately focus enterprise executive development and succession planning efforts on current and future senior leadership within the SES and DISES workforces.

Budget Implications: This is a non-budgetary request. This proposal would distinguish DoD's organizational leaders from its senior technical employees, and group the organizational leaders and the senior technical employees differently for purposes of data gathering and analysis. The proposal does not change any aspect of the relationship between DoD and its employees and, therefore, has no budget implications.

RESOURCE REQUIREMENTS ($MILLIONS) REFLECTED IN PRESIDENT'S BUDGET									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Army	0	0	0	0	0	N/A	N/A	N/A	N/A
Navy	0	0	0	0	0	N/A	N/A	N/A	N/A

Air Force	0	0	0	0	0	N/A	N/A	N/A	N/A
Defense Agencies	0	0	0	0	0	N/A	N/A	N/A	N/A
Total	0	0	0	0	0				

Changes to Existing Law: This proposal would make the following changes to section 115b of title 10, United States Code:

§ 115b. Biennial strategic workforce plan

(a) BIENNIAL PLAN REQUIRED.—**(1)** The Secretary of Defense shall submit to the congressional defense committees in every even-numbered year a strategic workforce plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for developing and implementing the strategic workforce plan, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) CONTENTS.—Each strategic workforce plan under subsection (a) shall include, at a minimum, the following:

(1) An assessment of—

(A) the critical skills and competencies that will be needed in the future within the civilian employee workforce by the Department of Defense to support national security requirements and effectively manage the Department during the five-year period corresponding to the current future-years defense program under section 221 of this title;

(B) the appropriate mix of military, civilian, and contractor personnel capabilities, as determined under the total force management policies and procedures established under section 129a of this title;

(C) the critical skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(D) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraphs (A) and (C).

(2) A plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(D), including—

(A) specific recruiting and retention goals, especially in areas identified as critical skills and competencies under paragraph (1), including the program objectives of the Department to be achieved through such goals and the funding needed to achieve such goals;

(B) specific strategies for developing, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies and the funding needed to implement such strategies;

(C) any incentives necessary to attract or retain any civilian personnel possessing the skills and competencies identified under paragraph (1);

(D) any changes in the number of personnel authorized in any category of personnel listed in subsection (~~f~~h)(1) or (h)(2) or in the acquisition workforce that may be needed to address such gaps and effectively meet the needs of the Department;

(E) any changes in resources or in the rates or methods of pay for any category of personnel listed in subsection (~~f~~h)(1) or (h)(2) or in the acquisition workforce that may be needed to address inequities and ensure that the Department has full access to appropriately qualified personnel to address such gaps and meet the needs of the Department; and

(F) any legislative changes that may be necessary to achieve the goals referred to in subparagraph (A).

(3) An assessment, using results-oriented performance measures, of the progress of the Department in implementing the strategic workforce plan under this section during the previous year.

(4) Any additional matters the Secretary of Defense considers necessary to address.

(c) SENIOR MANAGEMENT~~, FUNCTIONAL, AND TECHNICAL~~ WORKFORCE; SENIOR FUNCTIONAL AND TECHNICAL WORKFORCE.—

(1) Each strategic workforce plan under subsection (a) shall—

(A) ~~include a separate chapter to~~ specifically address the shaping and improvement of the senior management~~, functional, and technical~~ workforce ~~(including scientists and engineers)~~ of the Department of Defense; and

(B) include an assessment of the senior functional and technical workforce of the Department of Defense within the appropriate functional community.

(2) For purposes of paragraph (1), each plan shall include, with respect to such senior management~~, functional, and technical~~ workforce and such senior functional and technical workforce—

(A) an assessment of the matters set forth in subparagraphs (A) through (D) of subsection (b)(1);

(B) a plan of action meeting the requirements set forth in subparagraphs (A) through (F) of subsection (b)(2);

(C) specific strategies for developing, training, deploying, compensating, motivating, and designing career paths and career opportunities; and

(D) specific steps that the Department has taken or plans to take to ensure that such workforce is managed in compliance with the requirements of section 129 of this title and the policies and procedures established under section 129a of this title.

(d) DEFENSE ACQUISITION WORKFORCE.—

(1) Each strategic workforce plan under subsection (a) shall ~~include a separate chapter to~~ specifically address the shaping and improvement of the defense acquisition workforce, including both military and civilian personnel.

(2) For purposes of paragraph (1), each plan shall include, with respect to the defense acquisition workforce—

(A) an assessment of the matters set forth in subparagraphs (A) through (D) of subsection (b)(1);

(B) a plan of action meeting the requirements set forth in subparagraphs (A) through (F) of subsection (b)(2);

(C) specific steps that the Department has taken or plans to take to develop appropriate career paths for civilian employees in the acquisition field and to implement the requirements of section 1722a of this title with regard to members of the armed forces in the acquisition field; and

(D) a plan for funding needed improvements in the acquisition workforce of the Department through the period of the future-years defense program, including—

(i) the funding programmed for defense acquisition workforce improvements, including a specific identification of funding provided in the Department of Defense Acquisition Workforce Fund established under section 1705 of this title, along with a description of how such funding is being implemented and whether it is being fully used; and

(ii) a description of any continuing shortfalls in funding available for the acquisition workforce.

(e) FINANCIAL MANAGEMENT WORKFORCE.—

(1) Each strategic workforce plan under subsection (a) shall ~~include a separate chapter to~~ specifically address the shaping and improvement of the financial management workforce of the Department of Defense, including both military and civilian personnel of that workforce.

(2) For purposes of paragraph (1), each plan shall include, with respect to the financial management workforce of the Department—

(A) an assessment of the matters set forth in subparagraphs (A) through (D) of subsection (b)(1);

(B) a plan of action meeting the requirements set forth in subparagraphs (A) through (F) of subsection (b)(2);

(C) specific steps that the Department has taken or plans to take to develop appropriate career paths for civilian employees in the financial management field and to implement the requirements of section 1599d of this title; and

(D) a plan for funding needed improvements in the financial management workforce of the Department through the period of the current future-years defense program under section 221 of this title, including a description of any continuing shortfalls in funding available for that workforce.

(f) HIGHLY QUALIFIED EXPERTS.—

(1) Each strategic workforce plan under subsection (a) shall include an assessment of the workforce of the Department of Defense comprised of highly qualified experts appointed pursuant to section 9903 of title 5 (in this subsection referred to as the "HQE workforce").

(2) For purposes of paragraph (1), each plan shall include, with respect to the HQE workforce—

(A) an assessment of the critical skills and competencies of the existing HQE workforce and projected trends in that workforce based on expected losses due to retirement and other attrition;

(B) specific strategies for attracting, compensating, and motivating the HQE workforce of the Department, including the program objectives of the Department to be achieved through such strategies and the funding needed to implement such strategies;

(C) any incentives necessary to attract or retain HQE personnel;

(D) any changes that may be necessary in resources or in the rates or methods of pay needed to ensure the Department has full access to appropriately qualified personnel; and

(E) any legislative changes that may be necessary to achieve HQE workforce goals.

(~~f~~g) SUBMITTALS BY SECRETARIES OF THE MILITARY DEPARTMENTS AND HEADS OF THE DEFENSE AGENCIES.—The Secretary of Defense shall require the Secretary of each military department and the head of each Defense Agency to submit a report to the Secretary addressing each of the matters described in this section. The Secretary of Defense shall establish a deadline for the submittal of reports under this subsection that enables the Secretary to consider the material submitted in a timely manner and incorporate such material, as appropriate, into the strategic workforce plan required by this section.

(g~~h~~) DEFINITIONS.—In this section:

~~**(1)** The term "senior management, functional, and technical workforce of the Department of Defense" includes the following categories of Department of Defense civilian personnel:~~

~~**(A)** Appointees in the Senior Executive Service under section 3131 of title 5.~~

~~**(B)** Persons serving in positions described in section 5376 (a) of title 5.~~

~~**(C)** Highly qualified experts appointed pursuant to section 9903 of title 5.~~

~~**(D)** Scientists and engineers appointed pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–315)).~~

~~**(E)** Scientists and engineers appointed pursuant to section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).~~

~~**(F)** Persons serving in the Defense Intelligence Senior Executive Service under section 1606 of this title.~~

~~**(G)** Persons serving in Intelligence Senior Level positions under section 1607 of this title.~~

(1) The term "senior management workforce of the Department of Defense" includes the following categories of Department of Defense civilian personnel:

(A) Appointees in the Senior Executive Service under section 3131 of title 5.

(B) Persons serving in the Defense Intelligence Senior Executive Service under section 1606 of this title.

(2) The term "senior functional and technical workforce of the Department of Defense" includes the following categories of Department of Defense civilian personnel:

(A) Persons serving in positions described in section 5376(a) of title 5.

(B) Scientists and engineers appointed pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A-315)).

(C) Scientists and engineers appointed pursuant to section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).

(D) Persons serving in Intelligence Senior Level positions under section 1607 of this title.

~~(2)~~ (3) The term "acquisition workforce" includes individuals designated under section 1721 of this title as filling acquisition positions.

Section 1102 would authorize the Secretary of Defense to provide civilian employees of the Defense Clandestine Service compensation, in addition to basic pay, similar to that available to employees of the Central Intelligence Agency. Among other matters, this proposal would provide authority for the Secretary of Defense to establish a domestic living quarters allowance to help create and maintain a workforce that is more mobile in support of the Defense Intelligence Agency's worldwide mission. Additional classified justification has been provided separately.

Budget Implications: Classified budget assessment and data display by Fiscal Year has been provided separately.

Changes to Existing Law: This proposal would add a new subsection to section 1603 of title 10, United States Code, as follows:

§ 1603. Additional compensation, incentives, and allowances

(a) ADDITIONAL COMPENSATION BASED ON TITLE 5 AUTHORITIES.—The Secretary of Defense may provide employees in defense intelligence positions compensation (in addition to basic pay), including benefits, incentives, and allowances, consistent with, and not in excess of the level authorized for, comparable positions authorized by title 5.

(b) ALLOWANCES BASED ON LIVING COSTS AND ENVIRONMENT.— (1) In addition to basic pay, employees in defense intelligence positions who are citizens or nationals of the United States and are stationed outside the continental United States or in Alaska may be paid an allowance, in accordance with regulations prescribed by the Secretary of Defense, while they are so stationed.

(2) An allowance under this subsection shall be based on—

(A) living costs substantially higher than in the District of Columbia;

(B) conditions of environment which (i) differ substantially from conditions of environment in the continental United States, and (ii) warrant an allowance as a recruitment incentive; or

(C) both of the factors specified in subparagraphs (A) and (B).

(3) An allowance under this subsection may not exceed the allowance authorized to be paid by section 5941 (a) of title 5 or for employees whose rates of basic pay are fixed by statute.

(c) ADDITIONAL COMPENSATION FOR EMPLOYEES OF THE DEFENSE CLANDESTINE SERVICE.—In addition to the authority to provide compensation under subsection (a), the Secretary of Defense may provide civilian employees of the Defense Clandestine Service, allowances and benefits authorized to be paid to members of the Foreign Service under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.) or any other provision of law, if the Secretary determines such action is necessary to the operational effectiveness of the Defense Clandestine Service.

Section 1103 would establish a Financial Management Exchange Program (FMEP) pilot program between the Department of Defense (DoD) and private industry that would provide a unique opportunity to share best practices, gain a better understanding of each other's financial management practices and challenges, and create a partnership to address these challenges. In addition, the FMEP could be used to enhance the financial management competencies and technical skills of the DoD civilian financial management workforce and their peers in the private sector. Only exceptional Federal employees (those having superior performance accomplishing duties as assigned) would be eligible for this program.

The need to improve skills in financial analysis across all of the Comptroller Mission Critical Occupational Series would be enhanced through a program such as FMEP. The increased knowledge and understanding of our roles and those of private industry would assist in support of audit readiness. Additionally, the FMEP would make our personnel aware of the requirement to improve financial information so that it is more accurate and useful to those financial managers making fiscal decisions for the future.

This proposal is modeled on section 1110 of the National Defense Authorization Act for Fiscal Year (FY) 2010 (Public Law 111-84), which authorized a Pilot Program for the Temporary Exchange of Information Technology Exchange Personnel, known as the DoD Information Technology Exchange Program (ITEP) pilot. That program allows both DoD and private sector IT employees who work in the field of information technology to participate in a temporary detail to the other sector. The FMEP would enable the DoD Financial Management community to remain on par with the private sector and stay abreast of evolving financial issues on a much broader scale.

DoD Instruction (DoDI) 1322.06 establishes policy and assigns responsibilities under which DoD personnel may accept fellowships, scholarships, Training With Industry (TWI) opportunities or grants from corporations, foundations, or educational institutions. However, it does not provide the express authority for DoD to develop, or guidelines for how to establish, a TWI program.

Furthermore, DoDI 1322.06 addresses the TWI from the perspective of the DoD employee going to private industry; it does not address the guidelines for the exchange of personnel and the authorities, rules, and protections provided to the incoming (private industry) person. DoD is requesting authority to create a program specific to meet the needs of the Department to improve skills in financial analysis across all of the Comptroller Mission Critical Occupational Series. This proposal would provide a unique opportunity to share best practices, gain a better understanding of each other's financial management practices and challenges, and create partnerships to address these challenges.

Budget Implications: This proposal does not require any additional resources. Employee salaries are a cost to the Department of Defense regardless of whether or not the employee participates in the program.

RESOURCE REQUIREMENTS ($)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	74,872	75,246	75,999	77,199	78,296	O&M Def-Wide	4	4GTN	
	74,872	75,246	75,999	77,199	78,296	O&M Army	4	431	
	74,872	75,246	75,999	77,199	78,296	O&M Air Force	4	042A	
	149,744	150,492	151,998	154,398	156,592	O&M Navy	4	4A1M	
Total	374,360	376,230	379,995	385,995	391,480	--	--	--	--

Changes to Existing Law: This proposal would not change any existing laws.

TITLE XII—MATTERS RELATING TO FOREIGN NATIONS

Section 1201 would provide contracting officers who support the United States Africa Command (USAFRICOM) mission with an enhanced procurement authority to limit competition by giving preference to products and services produced in Djibouti. This authority is critical to United States counterterrorism efforts in Africa by strengthening and maintaining Djibouti support through local procurements. This proposal is similar to an earlier Department request to establish a preference for the acquisition of products and services in Iraq and Afghanistan. Section 886 of P.L. 110–181, the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008, as amended by section 842 of the NDAA for FY 2013, authorized the Secretary to establish that preference to provide a stable source of jobs and employment where the preference would not have an adverse effect on U.S. military operations or stability operations. As a precedent, section 866 served as a model for this proposal.

The proposal is a part of a comprehensive approach established in the 2011 National Military Strategy to "continue to build partner capacity in Africa, focusing on critical states where the threat of terrorism could pose a threat to our homeland and interests." In line with the 2010 National Security Strategy, which outlines the Administration's desire to "*refocus its priorities on strategic interventions that can promote job creation and economic growth,*" this authority is a critical contributor to strengthening and maintaining local Djibouti support for the presence of U.S. forces while maximizing employment in Djibouti to diminish the pool of the

unemployed, who are more easily drawn into al-Qa'ida and other extremist organizations that have become increasingly networked and adaptable in their recruiting, training, financing, and operations in that region. With Djibouti's unemployment rate at nearly 60 percent, the capacity development opportunities offered by this proposal would open the door to meaningful employment and job skill development for the Djiboutian population. In addition, this authority contributes to providing a source for meeting labor requirements at Camp Lemonier.

USAFRICOM protects and advances vital U.S. national security interests in Africa. The Command focuses its efforts to achieve both short- and long-term counterterrorism objectives by strengthening an enduring strategic partnership with Djibouti. Camp Lemonnier is a critical node for USAFRICOM, USCENTCOM, USSOCOM, and USTRANSCOM supporting U.S. counterterrorism and objectives to counter violent extremist organizations.

The 2011 National Military Strategy tasks the Joint Force to "*continue to build partner capacity in Africa, focusing on critical states where the threat of terrorism could pose a threat to our homeland and interests.*" To protect and advance U.S. national security interests in Africa, USAFRICOM focuses on select priority countries. The Republic of Djibouti, strategically located in the midst of a conflict-prone region with Eritrea, Somalia, and Ethiopia at its borders and Yemen directly across from Djibouti on the Gulf of Aden, is one such high-priority country. As noted in the Department of State Djibouti fact sheet, "*the Djiboutian Government has been supportive of U.S. interests and takes a proactive position against terrorism. Djibouti hosts a U.S. military presence at Camp Lemonnier, a former French Foreign Legion base in the capital. Djibouti has also allowed the U.S. military… access to its port facilities and airport*."

Further, the Port of Djibouti has served not only the U.S. military but has also been critical to trade in eastern Africa, particularly to Ethiopia. According to the U.S. Department of State, Bureau of African Affairs, "*Djibouti is eligible for preferential trade benefits under the African Growth and Opportunity Act (AGOA). In 2009, a joint venture between Dubai Ports World and the Government of Djibouti led to the construction of a deep-sea port, which has increased private sector investment. U.S. exports to Djibouti include vegetable oil, wheat, machinery, and foodstuffs. U.S. imports typically transit Djibouti from origin countries farther inland, like Ethiopia. These imports include coffee, vegetables, and perfumery and cosmetics. In addition, Djibouti's port serves landlocked Ethiopia which receives substantial U.S. food aid. The United States has signed a trade and investment framework agreement with the Common Market for Eastern and Southern Africa, of which Djibouti is a member."*

The USAFRICOM Commander's intent is to continue to build the capacity of Djibouti to create a secure environment that promotes stability and economic development. Purchasing products and services from Djibouti in support of USAFRICOM operations would further that objective by providing economic opportunity for Djibouti businesses and employment opportunity for its citizens. From FYs 2008 to 2013, approximately 2,700 contract actions, estimated at $1.25 billion, were executed by the Department of Defense for performance in Djibouti. Approximately four percent of contracts and six percent of funding were awarded to contractors in Djibouti. Giving preference to products and services produced in Djibouti will promote job creation, stimulate economic growth, and strengthen diplomatic ties and support for U.S. interests. Furthermore, this authority will help put concrete action behind U.S. commitments to building a more stable, secure, and prosperous Djibouti.

The Senate Committee on Armed Services recently noted that USAFRICOM has been "thrust to the forefront of our Nation's security interests," yet suffers from "persistent resource shortfalls." The Committee noted that many of our partners in the region lack capacity to counter terrorist organizations and require further support. Djibouti is one such critical partner. The Committee expressed its understanding of the need to properly resource the Command and its support for USAFRICOM efforts to build partnerships to combat the terrorist threat from violent extremists on pages 97 and 98 of S. Rep. 113-44, Report to Accompany S. 1197, National Defense Authorization Act for Fiscal Year 2014. The requested authority would effectively enhance the Command's support to Djiboutian capacity-building without requiring the allocation of additional resources.

Enactment of this authority would be in line with the strategic guidance provided in the National Security Strategy, the Defense Strategic Guidance, the National Military Strategy, the Presidential Policy Directive for Political and Economic Reform in the Middle East and North Africa (PPD 13), and the United States Strategy Toward Sub-Saharan Africa.

Budget Implications: This proposal only addresses procurement processes and not amounts appropriated for the procurement of items or services. This proposal would not increase costs to the U.S. Government by granting contracting officers the authority to limit competition by providing preference to products and services from Djibouti.

Changes to Existing Law: This proposal does not amend existing law.

Section 1202 would add a new section 2342a to chapter 138 of title 10, United States Code (relating to cooperative agreements with other countries), which would authorize the Secretary of Defense to use acquisition and cross-servicing agreements (ACSAs) to loan certain equipment to coalition partners for the purpose of enhancing personnel protection and aiding in personnel survivability in coalition operations, in certain peacekeeping operations, and in connection with training for deployment to such operations. In essence, this proposal would make permanent and global the current temporary authority for such action in section 1202 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364) (as amended) (Section 1202).

This legislation is necessary for two reasons: First, the current authority for these loans expires on December 31, 2014. Second, based on the United States experience in Iraq and Afghanistan, it is clear that coalition operations will be a fact of life in future military, stability, and peacekeeping operations, and that it will continue to be a requirement that the United States have the ability to loan equipment to coalition partners as described in the preceding paragraph.

In connection with the loan of equipment during training for deployment, this proposal would add an exception to the current "notify and wait" requirement in Section 1202 in situations where the equipment would be used (1) in a facility that is under the control of the United States, or (2) in connection with training directed by United States personnel. As long as the equipment is under the control or direct observation of the United States, the Department of

Defense (DoD) does not believe that it is necessary to go through this notification process before this potentially life-saving equipment can be lent to foreign partners for training purposes.

Finally, the proposal would authorize the Secretary of Defense to waive reimbursement when equipment is damaged or destroyed as a result of combat operations. Although reimbursement for combat losses of loaned equipment may be appropriate for certain countries in certain circumstances, providing the Secretary with discretionary waiver authority would help the Department – and more specifically, a Combatant Commander conducting such operations -- avoid situations where coalition partners with limited resources decide against contributing forces due to potential combat loss reimbursement liability for high-value equipment (e.g., MRAPs) that the United States is authorized and willing to loan them via an ACSA. Furthermore, DoD views this provision as cost-neutral since the probability of potential combat losses by United States and coalition forces operating the same types of equipment in similar operating environments would be essentially identical. Accordingly, in the event the Secretary exercises the waiver authority and does not seek reimbursement for combat losses from a coalition partner, efforts by DoD to replace coalition combat losses of ACSA-loaned equipment would be implemented through the U.S. Government's budgeting process (either base budget or supplemental) and DoD's acquisition decisions regarding replacement just as if the equipment were damaged or destroyed in combat operations conducted by the United States.

Budgetary Implications: This proposal is cost-neutral. Acquisitions and transfers pursuant to ACSAs are on a cash-reimbursement, replacement-in-kind, or exchange-of-equal-value basis.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
	0	0	0	0	0	N/A	N/A	N/A	N/A
Total	0	0	0	0	0				

Changes to Existing Law: This proposal would make the following changes to existing law:

(1) Repeal section 1202 of Public Law 109-364, as amended, as follows**:**

~~**SEC. 1202. TEMPORARY AUTHORITY TO USE ACQUISITION AND CROSS-SERVICING AGREEMENTS TO LEND CERTAIN MILITARY EQUIPMENT TO CERTAIN FOREIGN FORCES FOR PERSONNEL PROTECTION AND SURVIVABILITY.**~~

~~(a) AUTHORITY.—~~

~~(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary of Defense may treat covered military equipment as logistic support, supplies, and services under subchapter I of chapter 138 of title 10, United States Code, for the purpose of providing for the use of such equipment by military forces of a nation participating in combined operations with the United States in Afghanistan or participating in combined operations with the United States as part of a peacekeeping operation under the Charter of the United Nations or another international agreement.~~

~~(2) REQUIRED DETERMINATIONS.—Equipment may be provided to the military forces of a nation under the authority of this section only upon—~~

(A) a determination by the Secretary of Defense that the United States forces in the combined operation have no unfilled requirements for that equipment; and

(B) a determination by the Secretary of Defense, with the concurrence of the Secretary of State, that it is in the national security interest of the United States to provide for the use of such equipment by the military forces of that nation under this section.

(3) LIMITATION ON USE OF EQUIPMENT.--Equipment provided to the military forces of a nation under the authority of this section may be used by those forces only for personnel protection or to aid in the personnel survivability of those forces and only—

(A) in Afghanistan;

(B) in a peacekeeping operation described in paragraph (1); or

(C) in connection with the training of those forces to be deployed to Afghanistan or a peacekeeping operation described in paragraph (1) for such deployment.

(4) LIMITATION ON DURATION OF PROVISION OF EQUIPMENT.-- Equipment provided to the military forces of a nation under the authority of this section may be used by the military forces of that nation for not longer than one year.

(5) NOTICE AND WAIT ON PROVISION OF EQUIPMENT FOR CERTAIN PURPOSES.—Equipment may not be provided under paragraph (1) in connection with training as specified in paragraph (3)(C) until 15 days after the date on which the Secretary of Defense submits to the specified congressional committees written notice on the provision of such equipment for such purpose.

(b) SEMIANNUAL REPORTS TO CONGRESSIONAL COMMITTEES.—

(1) USE OF AUTHORITY DURING FIRST SIX MONTHS OF FISCAL YEAR.--If the authority provided in subsection (a) is exercised during the first six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following April 30.

(2) USE OF AUTHORITY DURING SECOND SIX MONTHS OF FISCAL YEAR.--If the authority provided in subsection (a) is exercised during the second six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following October 30.

(3) CONTENT.--Each report under paragraph (1) or (2) shall include, with respect to each exercise of the authority provided in subsection (a) during the period covered by the report, the following:

(A) A description of the basis for the determination of the Secretary of Defense that it is in the national security interests of the United States to provide for the use of covered military equipment in the manner authorized in subsection (a).

(B) Identification of each foreign force that receives such equipment.

(C) A description of the type, quantity, and value of the equipment provided to each foreign force that receives such equipment.

(D) A description of the terms and duration of the provision of the equipment to each foreign force that receives such equipment.

(E) With respect to equipment provided to each foreign force that is not returned to the United States, a description of the terms of disposition of the equipment to the foreign force.

~~(F) The percentage of equipment provided to foreign forces under the authority of this section that is not returned to the United States.~~

~~(4) COORDINATION.--Each report under paragraph (1) or (2) shall be prepared in coordination with the Secretary of State.~~

~~(c) LIMITATIONS ON PROVISION OF MILITARY EQUIPMENT.--The provision of military equipment under this section is subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and of any other export control process under laws relating to the transfer of military equipment and technology to foreign nations.~~

~~(d) DEFINITIONS.--In this section:~~

~~(1) The term "covered military equipment" means items designated as significant military equipment in categories I, II, III, VII, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).~~

~~(2) The term "specified congressional committees" means--~~

~~(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and~~

~~(B) the Committee on Armed Services and the Committee on International Relations of the House of Representatives.~~

~~(e) EXPIRATION.--The authority to provide military equipment to the military forces of a foreign nation under this section expires on December 31, 2014.~~

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(2) Add to title 10, United States Code, a new section 2342a as follows **[changes from section 1202 are shown by stricken-thru text (for deletions) and underlined text (for insertions]**:

§ 2342a. Acquisition and cross-servicing agreements: authority to lend certain military equipment to certain foreign forces for personnel protection and survivability

(a) AUTHORITY.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), the Secretary of Defense may treat covered military equipment as logistic support, supplies, and services ~~under subchapter I of chapter 138 of title 10, United States Code,~~ for the purpose of providing for the use of such equipment by military forces of a nation participating in combined military or stability operations with the United States ~~in Afghanistan~~ or participating in combined operations with the United States as part of a peacekeeping operation under the Charter of the United Nations or another international agreement.

(2) REQUIRED DETERMINATIONS.—Equipment may be provided to the military forces of a nation under the authority of this section only upon—

(A) a determination by the Secretary of Defense that the United States forces in the combined operation have no unfilled requirements for that equipment; and

(B) a determination by the Secretary of Defense, with the concurrence of the Secretary of State, that it is in the national security interest of the United

States to provide for the use of such equipment by the military forces of that nation under this section.

(3) LIMITATION ON USE OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by those forces only for personnel protection or to aid in the personnel survivability of those forces and only—

(A) in ~~Afghanistan~~ a combined military or stability operation with the United States;

(B) in a peacekeeping operation described in paragraph (1); or

(C) in connection with the training of those forces to be deployed to ~~Afghanistan or~~ a combined military or stability operation or peacekeeping operation described in paragraph (1) for such deployment.

(4) LIMITATION ON DURATION OF PROVISION OF EQUIPMENT.—Equipment provided to the military forces of a nation under the authority of this section may be used by the military forces of that nation for not longer than one year.

(5) NOTICE AND WAIT ON PROVISION OF EQUIPMENT FOR CERTAIN PURPOSES.—(A) Equipment may not be provided under paragraph (1) in connection with training as specified in paragraph (3)(C) until 15 days after the date on which the Secretary of Defense submits to the specified congressional committees written notice on the provision of such equipment for such purpose.

(B) EXCEPTION.—The notice required in subparagraph (A) shall not be required when the equipment to be loaned is intended to be used—

(i) in a facility that is under the control of the United States; or

(ii) in connection with training directed by United States personnel.

(6) WAIVER OF LIABILITY IN THE CASE OF COMBAT LOSS.—

(A) AUTHORITY.—In the case of equipment provided to the military forces of another nation under the authority of this section that is damaged or destroyed as a result of combat operations while held by those forces, the Secretary of Defense may, with respect to such equipment, waive any otherwise applicable requirement under this subchapter for—

(i) reimbursement;

(ii) replacement-in-kind; or

(iii) exchange of supplies or services of an equal value.

(B) LIMITATIONS.—Any waiver under this subsection may be made only on a case-by-case basis. Any waiver under this subsection may be made only if the Secretary determines that the waiver is in the national security interest of the United States.

(b) SEMIANNUAL REPORTS TO CONGRESSIONAL COMMITTEES.—

(1) USE OF AUTHORITY DURING FIRST SIX MONTHS OF FISCAL YEAR. —If the authority provided in subsection (a) is exercised during the first six months of a fiscal year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following April 30.

(2) USE OF AUTHORITY DURING SECOND SIX MONTHS OF FISCAL YEAR. —If the authority provided in subsection (a) is exercised during the second six months of a fiscal

year, the Secretary of Defense shall submit to the specified congressional committees a report on that exercise of such authority not later than the following October 30.

(3) CONTENT. —Each report under paragraph (1) or (2) shall include, with respect to each exercise of the authority provided in subsection (a) during the period covered by the report, the following:

(A) A description of the basis for the determination of the Secretary of Defense that it is in the national security interests of the United States to provide for the use of covered military equipment in the manner authorized in subsection (a).

(B) Identification of each foreign force that receives such equipment.

(C) A description of the type, quantity, and value of the equipment provided to each foreign force that receives such equipment.

(D) A description of the terms and duration of the provision of the equipment to each foreign force that receives such equipment.

(E) With respect to equipment provided to each foreign force that is not returned to the United States, a description of the terms of disposition of the equipment to the foreign force.

(F) The percentage of equipment provided to foreign forces under the authority of this section that is not returned to the United States.

(4) COORDINATION. —Each report under paragraph (1) or (2) shall be prepared in coordination with the Secretary of State.

(c) LIMITATIONS ON PROVISION OF MILITARY EQUIPMENT.—The provision of military equipment under this section is subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and of any other export control process under laws relating to the transfer of military equipment and technology to foreign nations.

(d) DEFINITIONS.—In this section:

(1) The term "covered military equipment" means items designated as significant military equipment in categories I, II, III, VII, XI, and XIII of the United States Munitions List under section 38(a)(1) of the Arms Export Control Act (22 U.S.C. 2778(a)(1)).

(2) The term "specified congressional committees" means—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on ~~International Relations~~ Foreign Affairs of the House of Representatives.

~~(e) EXPIRATION.--The authority to provide military equipment to the military forces of a foreign nation under this section expires on December 31, 2014.~~

Section 1203 would allow the Global Security Contingency Fund established by section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) to continue to serve as a critical step to transforming the way the U.S. Government provides security and stabilization assistance to foreign partners confronting the complex and dynamic threats that challenge the security of the United States, its Allies, and its partners.

This proposal would make modifications to the Contingency Fund statute that would clarify the original law, improve efficiency in administration and implementation of the Fund, and better achieve interagency collaboration.

SECTION-BY-SECTION

The amendment to subsection (c)(1) of section 1207 would expand the list of activities that may be undertaken through the Fund to include routine maintenance and repair of GSCF-provided equipment and small-scale construction not to exceed $750,000 per GSCF project. It is possible that some GSCF-provided equipment will require routine maintenance and repair before the recipient country has established the logistics, supply chain, and technical capabilities necessary to do so. This provision would ensure that all GSCF-provided equipment remains operable in the short-term, which provides the recipient country the time necessary to develop a long-term sustainment capability. Additionally, we anticipate that in some limited cases, the absence of modest facilities will impede the ability to assist or to enlist the support of partner forces. The Administration does not anticipate small-scale construction to be a significant portion of the Fund expenditures (no project could exceed $750,000 in small-scale construction), and intends that construction activities would be in support of other capacity building activities.

The amendment to subsection (f)(1) of section 1207 would remove the limitation on the sources of funds to Defense-wide operation and maintenance funds. The Administration believes that it is most efficient to allow the Secretary of Defense the latitude to select from all of the Department's accounts.

In subsection (i) of section 1207, the end date would be changed to September 30, 2017, to account for a possible delay in the passage of the National Defense Authorization Act for Fiscal Year (FY) 2015 (FY 2015 NDAA).

Subsection (p) of section 1207 would be amended to change the expiration date to September 30, 2017, to account for a possible delay in the passage of the FY 2015 NDAA.

Budget Implications: This proposal does not appropriate funds directly to the Fund.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Dept of State	0	0	0	0	0				
Dept of Defense	TBD	TBD	TBD	TBD	TBD	Operation & Maintenance, Defense-Wide	BA 4	4GTD	1022198T

Changes to Existing Law: This proposal would make the following changes to section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 22 U.S.C. 2151 note), as amended by section 1202 of the NDAA for FY 2014:

SEC. 1207. GLOBAL SECURITY CONTINGENCY FUND.

(a) ESTABLISHMENT.—There is established on the books of the Treasury of the United States an account to be known as the ''Global Security Contingency Fund'' (in this section referred to as the ''Fund'').

(b) AUTHORITY.—Notwithstanding any other provision of law (other than the provisions of section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) and the section 620J of such Act relating to limitations on assistance to security forces (22 U.S.C. 2378d)), amounts in the Fund shall be available to either the Secretary of State or the Secretary of Defense to provide assistance to countries or regions designated by the Secretary of State, with the concurrence of the Secretary of Defense, for purposes of this section, as follows:

(1) To enhance the capabilities of a country's national military forces, or other national security forces that conduct border and maritime security, internal defense, and counterterrorism operations, as well as the government agencies responsible for such forces to—

(A) conduct border and maritime security, internal defense, or counterterrorism operations; or

(B) participate in or support military, stability, or peace support operations consistent with United States foreign policy and national security interests.

(2) For the justice sector (including law enforcement and prisons), rule of law programs, and stabilization efforts in a country in cases in which the Secretary of State, in consultation with the Secretary of Defense, determines that conflict or instability in a country or region challenges the existing capability of civilian providers to deliver such assistance.

(c) TYPES OF ASSISTANCE.—

(1) AUTHORIZED ELEMENTS.—A program to provide the assistance under subsection (b)(1) may include the provision of ~~equipment, supplies, and training~~ the following:

(A) Equipment, including routine maintenance and repair of such equipment.

(B) Supplies.

(C) Small-scale construction not exceeding $750,000.

(D) Training.

(2) REQUIRED ELEMENTS.—A program to provide the assistance under subsection (b)(1) shall include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within the country concerned.

(d) FORMULATION AND APPROVAL OF ASSISTANCE PROGRAMS.—

(1) SECURITY PROGRAMS.—The Secretary of State and the Secretary of Defense shall jointly formulate assistance projects under subsection (b)(1). Assistance projects to be carried out pursuant to subsection (b)(1) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

(2) JUSTICE SECTOR AND STABILIZATION PROGRAMS.—The Secretary of State, in consultation with the Secretary of Defense, shall formulate assistance programs under subsection (b)(2). Assistance programs to be carried out under the authority in subsection (b)(2) shall be approved by the Secretary of State, with the concurrence of the Secretary of Defense, before implementation.

(e) RELATION TO OTHER AUTHORITIES.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations. The administrative authorities of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) shall be available to the Secretary of State with respect to funds available to carry out this section.

(f) TRANSFER AUTHORITY.—

(1) DEPARTMENT OF DEFENSE FUNDS.—Funds authorized to be appropriated to the Department of Defense for operation and maintenance ~~for Defense-wide activities~~ may be transferred to the Fund by the Secretary of Defense in accordance with established procedures for reprogramming under section 1001 of this Act and successor provisions of law. Amounts transferred under this paragraph shall be merged with funds otherwise made available under this section and remain available until expended as provided in subsection (i) for the purposes specified in subsection (b).

(2) LIMITATION.—The total amount of funds transferred to the Fund in any fiscal year from the Department of Defense may not exceed $200,000,000.

(3) TRANSFERS TO OTHER ACCOUNTS.—Funds available to carry out assistance authorized by this section may be transferred to an agency or account determined most appropriate to facilitate the provision of assistance authorized by this section.

(4) RELATION TO OTHER TRANSFER AUTHORITIES.—The transfer authorities in paragraphs (1) and (3) are in addition to any other transfer authority available to the Department of Defense.

(g) ALLOCATION OF CONTRIBUTIONS TO ASSISTANCE.—The contribution of the Secretary of State to an activity under the authority in subsection (b) shall be not less than 20 percent of the total amount required for such activity. The contribution of the Secretary of Defense to such activity shall be not more than 80 percent of the total amount required.

(h) AUTHORITY TO ACCEPT GIFTS.—The Secretary of State may use money, funds, property, and services accepted pursuant to the authority of section 635(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2395(d)) to fulfill the purposes of subsection (b).

(i) AVAILABILITY OF FUNDS.—Amounts in the Fund shall remain available until September 30, ~~2015~~ 2017, except that amounts appropriated or transferred to the Fund before that date shall remain available for obligation and expenditure after that date for activities under programs commenced under subsection (b) before that date.

(j) ADMINISTRATIVE EXPENSES.—Amounts in the Fund may be used for necessary administrative expenses in connection with the provision of assistance under this section.

(k) DETAIL OF PERSONNEL.—The head of an agency of the United States Government may detail personnel to the Department of State to carry out the purposes of this section, with or

without reimbursement for all or part of the costs of salaries and other expenses associated with such personnel.

(l) NOTICES TO CONGRESS.—Not less than 30 days before initiating an activity under a program of assistance under subsection (b), the Secretary of State and the Secretary of Defense shall jointly submit to the specified congressional committees a notification that includes the following:

(1) A notification of the intent to transfer funds into the Fund under subsection (f) or any other authority, including the original source of the funds.

(2) A detailed justification for the total anticipated program for each country, including total anticipated costs and the specific activities contained therein.

(3) The budget, execution plan and timeline, and anticipated completion date for the activity.

(4) A list of other security-related assistance or justice sector and stabilization assistance that the United States is currently providing the country concerned and that is related to or supported by the activity.

(5) Such other information relating to the program or activity as the Secretary of State or Secretary of Defense considers appropriate.

(m) GUIDANCE AND PROCESSES FOR EXERCISE OF AUTHORITY.—Not later than 15 days after the date on which guidance and processes for implementation of the authority in subsection (b) have been issued, the Secretary of State and the Secretary of Defense shall jointly submit a report to the specified congressional committees on such guidance and processes. The Secretary of State and Secretary of Defense shall jointly submit additional reports not later than 15 days after the date on which any future modifications to the guidance and processes for implementation of the authority in subsection (b) are issued.

(n) ANNUAL REPORTS.—Not later than October 30 each year until the expiration of the authority in subsection (b) pursuant to subsection (p), the Secretary of State and the Secretary of Defense jointly shall submit to the specified congressional committees a report on the following:

(1) The obligation of funds from, and transfer of funds into, the Fund during the preceding fiscal year.

(2) The status of programs and activities authorized under this section during the preceding fiscal year.

(o) SPECIFIED CONGRESSIONAL COMMITTEES.—In this section, the term "specified congressional committees" means—

(1) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives; and

(2) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate.

(p) EXPIRATION.—The authority under this section may not be exercised after September 30, ~~2015~~ 2017. An activity under a program authorized by subsection (b) commenced before that date may be completed after that date, but only using funds available for ~~fiscal years 2012 through 2015~~ a fiscal year beginning before that date.

Section 1204 would amend section 516(g)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(g)(1)) by increasing the dollar value of excess defense articles that may be transferred in a fiscal year from $425,000,000 to $500,000,000.

Current law provides that the dollar value of excess defense articles (EDA) transferred pursuant to the authority of section 516 of the Foreign Assistance Act (FAA) is $425,000,000 per fiscal year. This dollar value was last revised in 1999, when it was increased from $350,000,000 to the current $425,000,000 (section 1213 of the Security Assistance Act of 1999, P.L. 106-113). EDA transfer authorizations have steadily increased in recent years. The value of EDA authorizations varies widely each fiscal year. The value of EDA authorized for transfer rose from $201,000,000 in fiscal year 2010 to $408,000,000 in fiscal year 2011, and reduced to $255,000,000 in fiscal year 2012. During the first three quarters of fiscal year 2013, the value of EDA authorized for transfer (and in the process of being authorized) was $215,500,000. The aforementioned authorization values do not include EDA transferred to Iraq and Afghanistan from 2010-2013 because those transfers did not count against the $425,000,000 limitation pursuant to separate temporary authorities (section 1234 of P.L. 111-84, section 1214 of P.L. 111-383, section 1212 of P.L. 112-81, and section 1222 of P.L. 112-239). The current exemption to section 516 of the FAA is scheduled to expire on September 30, 2014. An increase in the authorization cap would allow for additional transfers to support the Afghanistan retrograde.

In recent years, the aggregate value of EDA authorized for transfer has increased due to such factors as inflation, an increased interest by partner countries in obtaining excess defense articles, and the U.S. Government's interest in building partner capacity in less developed countries. The current interest in building partner capacity in African countries, for instance, has resulted in EDA transfers being authorized for new customer countries such as Burundi, Cameroon, Central African Republic, and Sierra Leone in fiscal year 2011, and Libya and Niger in fiscal year 2012. United States Africa Command is extremely interested in adding additional countries to the grant eligibility list for fiscal year 2014 to assist further in building partner capacity with additional countries in Africa.

Budget Implications: The proposed revision to section 516(g)(1) of the FAA to increase the value of EDA that may be transferred in a fiscal year from $425,000,000 to $500,000,000 would not have any budgetary impact on the Department of Defense (DoD). EDA consists of items no longer needed by any of the military departments. EDA is screened through the normal excess property disposition processes. Other U.S. Government agencies and, where applicable, State and local agencies have the opportunity to obtain EDA before it is offered to foreign countries. EDA transferred under section 516 of the FAA is provided to the recipient country at no cost in an as-is, where-is condition. By statute (section 516(e)(1) of the FAA), funds available to DoD may not be expended for the follow-on costs of packing, crating, handling, and transportation (although space available transportation for certain developing countries is authorized in limited circumstances). The recipient country is responsible for these costs.

RESOURCE REQUIREMENTS ($MILLIONS)									
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Appropriation To	Budget Activity	Dash-1 Line	Program Element

								Item	
FMS	0.0	0.0	0.0	0.0	0.0	N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would amend section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

SEC. 516. AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.

(a) ***

* * * * * * *

(g) AGGREGATE ANNUAL LIMITATION.—

(1) IN GENERAL.—The aggregate value of excess defense articles transferred to countries under this section in any fiscal year may not exceed ~~$425,000,000~~ $500,000,000.

(2)***

* * * * * * *

Section 1205 would extend for one year, through the end of fiscal year (FY) 2015, the Afghan Special Immigrant Visa (SIV) program authorized in section 602(b) of the Afghan Allies Protection Act of 2009 (title VI of Public Law 111-8), as most recently amended by section 7034 of Public Law 113-76. Section 602 authorized a number of SIVs for qualifying aliens which will be used within the available time period.

This proposal would extend the program through the end of FY 2015, extend the issuance period through the end of FY 2016, and extend the period to apply to September 30, 2015.

Changes to Existing Law: This proposal would amend the Afghan Allies Protection Act of 2009 (title VI of Public Law 111-8; 8 U.S.C. 1101 note), as amended, as follows:

SEC. 601. SHORT TITLE.

This ~~Act~~ title may be cited as the "Afghan Allies Protection Act of 2009".

SEC. 602. PROTECTION FOR AFGHAN ALLIES.

(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives.

(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN AFGHANS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State in consultation with the Secretary of Homeland Security, may provide an alien described in subparagraph (A), (B), or (C) of paragraph (2) with the status of a special immigrant under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), if the alien—

(A) or an agent acting on behalf of the alien, submits a petition for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(B) is otherwise eligible to receive an immigrant visa;

(C) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)); and

(D) clears a background check and appropriate screening, as determined by the Secretary of Homeland Security.

(2) ALIENS DESCRIBED.—

(A) PRINCIPAL ALIENS.—An alien is described in this subparagraph if the alien—

(i) is a citizen or national of Afghanistan;

(ii) was or is employed by or on behalf of the United States Government in Afghanistan on or after October 7, 2001, for not less than one year;

(iii) provided faithful and valuable service to the United States Government, which is documented in a positive recommendation or evaluation, subject to subparagraph (D), from the employee's senior supervisor or the person currently occupying that position, or a more senior person, if the employee's senior supervisor has left the employer or has left Afghanistan; and

(iv) has experienced or is experiencing an ongoing serious threat as a consequence of the alien's employment by the United States Government.

(B) SPOUSE OR CHILD.—An alien is described in this subparagraph if the alien—

(i) is the spouse or child of a principal alien described in subparagraph (A); and

(ii) is accompanying or following to join the principal alien in the United States.

(C) SURVIVING SPOUSE OR CHILD.—An alien is described in this subparagraph if the alien—

(i) was the spouse or child of a principal alien described in subparagraph (A) who had a petition for classification approved pursuant to this section or section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 8 U.S.C. 1101 note) which included the alien as an accompanying spouse or child; and

(ii) due to the death of the principal alien—

(I) such petition was revoked or terminated (or otherwise rendered null); and

(II) such petition would have been approved if the principal alien had survived.

(D) APPROVAL BY CHIEF OF MISSION REQUIRED.—

(i) IN GENERAL.—Except as provided under clause (ii), a recommendation or evaluation required under subparagraph (A)(iii) shall be accompanied by approval from the appropriate Chief of Mission, or the designee of the appropriate Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable service to the United States Government prior to approval of a petition under this section.

(ii) REVIEW PROCESS FOR DENIAL BY CHIEF OF MISSION.—

(I) IN GENERAL.—An applicant who has been denied Chief of Mission approval shall—

(aa) receive a written decision that provides, to the maximum extent feasible, information describing the basis for the denial, including the facts and inferences underlying the individual determination; and

(bb) be provided not more than one written appeal—

(AA) that shall be submitted not more than 120 days after the date that the applicant receives such decision in writing; and

(BB) that may request reopening of such decision and provide additional information, clarify existing information, or explain any unfavorable information.

(II) AFGHAN SPECIAL IMMIGRANT VISA COORDINATOR.—The Secretary of State shall designate, in the Embassy of the United States in Kabul, Afghanistan, an Afghan Special Immigrant Visa Coordinator responsible for overseeing the efficiency and integrity of the processing of special immigrant visas under this section, who shall be given—

(aa) sufficiently high security clearance to review information supporting Chief of Mission denials if an appeal of a denial is filed;

(bb) responsibility for ensuring that an applicant described in subclause (I) receives the information described in subclause (I)(aa); and

(cc) responsibility for ensuring that every applicant is provided a reasonable opportunity to provide additional information, clarify existing information, or explain any unfavorable information pursuant to clause (I)(bb).

(E) EVIDENCE OF SERIOUS THREAT.—A credible sworn statement depicting dangerous country conditions, together with official evidence of such country conditions from the United States Government, should be considered as a factor in determination of whether the alien has experienced or is experiencing an

ongoing serious threat as a consequence of the alien's employment by the United States Government for purposes of subparagraph (A)(iv).

(F) REPRESENTATION.—An alien applying for admission to the United States pursuant to this title may be represented during the application process, including at relevant interviews and examinations, by an attorney or other accredited representative. Such representation shall not be at the expense of the United States Government.

(3) NUMERICAL LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the total number of principal aliens who may be provided special immigrant status under this section may not exceed 1,500 per year for each of the fiscal years 2009, 2010, 2011, 2012, and 2013.

(B) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant status under this subsection shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

(C) CARRY FORWARD.—

(i) FISCAL YEARS 2009 THROUGH 2013.—If the numerical limitation specified in subparagraph (A) is not reached during a given fiscal year, with respect to fiscal year 2009, 2010, 2011, 2012, or 2013, the numerical limitation specified in such subparagraph for the following fiscal year shall be increased by a number equal to the difference between—

(I) the numerical limitation specified in subparagraph (A) for the given fiscal year; and

(II) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(ii) FISCAL YEAR 2014.—If the numerical limitation determined under clause (i) is not reached in fiscal year 2013, the total number of principal aliens who may be provided special immigrant status under this subsection for fiscal year 2014 shall be equal to the difference between—

(I) the numerical limitation determined under clause (i) for fiscal year 2013; and

(II) the number of principal aliens provided such status under this section during fiscal year 2013.

(D) ADDITIONAL FISCAL ~~YEAR~~ YEARS.—For each of fiscal ~~year~~ years 2014 and 2015, the total number of principal aliens who may be provided special immigrant status under this section may not exceed 3,000 per year, except that any unused balance of the total number of principal aliens who may be provided special immigrant status in fiscal ~~year~~ years 2014 and 2015 may be carried forward and provided through the end of fiscal year ~~2015~~ 2016, notwithstanding the provisions of paragraph (C), except that the one year period during which an alien must have been employed in accordance with subsection (b)(2)(A)(ii) shall be the period from October 7, 2001 through December 31, 2014, and except that the principal alien seeking special immigrant status under this subparagraph shall

apply to the Chief of Mission in accordance with subsection (b)(2)(D) no later than September 30, ~~2014~~ 2015.

(4) APPLICATION PROCESS.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2014 [December 26, 2013], the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall improve the efficiency by which applications for special immigrant visas under paragraph (1), are processed so that all steps under the control of the respective departments incidental to the issuance of such visas, including required screenings and background checks, should be completed not later than 9 months after the date on which an eligible alien submits all required materials to complete an application for such visa.

(B) CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of a Secretary referred to in subparagraph (A) to take longer than 9 months to complete those steps incidental to the issuance of such visas in high-risk cases for which satisfaction of national security concerns requires additional time.

(C) PROHIBITION ON FEES.—The Secretary of Homeland Security or the Secretary of State may not charge an alien described in subparagraph (A), (B), or (C) of paragraph (2) any fee in connection with an application for, or issuance of, a special immigrant visa under this section.

(5) ASSISTANCE WITH PASSPORT ISSUANCE.—The Secretary of State shall make a reasonable effort to ensure that an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is issued a special immigrant visa pursuant to this subsection is provided with the appropriate series Afghan passport necessary to enter the United States.

(6) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other appropriate Federal agencies, shall make a reasonable effort to provide an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is seeking special immigrant status under this subsection protection or to immediately remove such alien from Afghanistan, if possible, if the Secretary determines, after consultation, that such alien is in imminent danger.

(7) OTHER ELIGIBILITY FOR IMMIGRANT STATUS.—No alien shall be denied the opportunity to apply for admission under this subsection solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

(8) RESETTLEMENT SUPPORT.—A citizen or national of Afghanistan who is granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

(9) ADJUSTMENT OF STATUS.—Notwithstanding paragraph (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subparagraph (A), (B), or (C) of paragraph (2) of this subsection or in section 1244(b) of the Refugee Crisis in Iraq Act of 2007 (Public Law 110–181; 122 Stat. 397) to that of an alien lawfully admitted for permanent residence under subsection (a) of such section 245 if the alien—

(A) was paroled or admitted as a nonimmigrant into the United States; and

(B) is otherwise eligible for special immigrant status under—

(i)(I) this subsection; or

(II) such section 1244(b); and

(ii) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(10) REPORT ON IMPLEMENTATION AND AUTHORITY TO CARRY OUT ADMINISTRATIVE MEASURES.—

(A) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act [March 11, 2009], the Secretary of Homeland Security and the Secretary of State, in consultation with the Secretary of Defense, shall submit to the appropriate committees of Congress a report on the implementation of this subsection.

(B) CONTENT OF REPORT.—The report required by subparagraph (A) shall describe actions taken, and additional administrative measures that may be needed, to ensure the integrity of the program established under this subsection and the national security interests of the United States related to such program.

(C) AUTHORITY TO CARRY OUT ADMINISTRATIVE MEASURES.—The Secretary of Homeland Security and the Secretary of State shall implement any additional administrative measures described in subparagraph (B) as they may deem necessary and appropriate to ensure the integrity of the program established under this subsection and the national security interests of the United States related to such program.

(11) ANNUAL REPORT ON USE OF SPECIAL IMMIGRANT STATUS.—

(A) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act [March 11, 2009], and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the number of citizens or nationals of Afghanistan or Iraq who have applied for status as special immigrants under this subsection or section 1244 of the Refugee Crisis in Iraq Act of 2007 (Public Law 110–181; 122 Stat. 396).

(B) CONTENT.—Each report required by subparagraph (A) submitted in a fiscal year shall include the following information for the previous fiscal year:

(i) The number of citizens or nationals of Afghanistan or Iraq who submitted an application for status as a special immigrant pursuant to this section or section 1244 of the Refugee Crisis in Iraq Act of 2007 (Public Law 110–181; 122 Stat. 396), disaggregated—

(I) by the number of principal aliens applying for such status; and

(II) by the number of spouses and children of principal aliens applying for such status.

(ii) The number of applications referred to in clause (i) that—

(I) were approved; or

(II) were denied, including a description of the basis for each denial.

(12) REPORT ON IMPROVEMENTS.—

(A) REQUIREMENT FOR REPORT.—Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2014 [December 26, 2013], the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall submit to the appropriate committees of Congress a report, with a classified annex, if necessary.

(B) CONTENTS.—The report required by subparagraph (A) shall describe the implementation of improvements to the processing of applications for special immigrant visas under this subsection, including information relating to—

(i) enhancing existing systems for conducting background and security checks of persons applying for special immigrant status, which shall—

(I) support immigration security; and

(II) provide for the orderly processing of such applications without significant delay;

(ii) the financial, security, and personnel considerations and resources necessary to carry out this section;

(iii) the number of aliens who have applied for special immigrant visas under this subsection during each month of the preceding fiscal year;

(iv) the reasons for the failure to process any applications that have been pending for longer than 9 months;

(v) the total number of applications that are pending due to the failure—

(I) to receive approval from the Chief of Mission;

(II) of U.S. Citizenship and Immigration Services to complete the adjudication of the Form I–360;

(III) to conduct a visa interview; or

(IV) to issue the visa to an eligible alien;

(vi) the average wait times for an applicant at each of the stages described in clause (v);

(vii) the number of denials or rejections at each of the stages described in clause (v); and

(viii) the reasons for denials by the Chief of Mission based on the categories already made available to denied special immigrant visa applicants in the denial letter sent to them by the Chief of Mission.

(13) PUBLIC QUARTERLY REPORTS.—Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2014 [December 26, 2013], and every 3 months thereafter, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall publish a report

on the website of the Department of State that describes the efficiency improvements made in the process by which applications for special immigrant visas under this subsection are processed, including information described in clauses (iii) through (viii) of paragraph (12)(B).

(c) INFORMATION REGARDING CITIZENS OR NATIONALS OF AFGHANISTAN EMPLOYED BY THE UNITED STATES OR FEDERAL CONTRACTORS IN AFGHANISTAN.—

(1) REQUIREMENT TO COMPILE INFORMATION.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act [March 11, 2009], the Administrator of the United States Agency for International Development, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of State, and the Secretary of the Treasury shall—

(i) review internal records and databases of their respective agencies for information that can be used to verify employment of citizens or nationals of Afghanistan by the United States Government; and

(ii) request from each prime contractor or grantee that has performed work in Afghanistan since October 7, 2001, under a contract, grant, or cooperative agreement with their respective agencies that is valued in excess of $25,000, information that may be used to verify the employment of such citizens or nationals by such contractor or grantee.

(B) INFORMATION REQUIRED.—To the extent data is available, the information referred to in subparagraph (A) shall include the name and dates of employment of, biometric data for, and other data that can be used to verify the employment of each citizen or national of Afghanistan who has performed work in Afghanistan since October 7, 2001, under a contract, grant, or cooperative agreement with an executive agency.

(2) REPORT ON ESTABLISHMENT OF DATABASE.—Not later than 120 days after the date of the enactment of this Act [March 11, 2009], the Secretary of Defense, in consultation with the Administrator of the United States Agency for International Development, the Secretary of Homeland Security, the Secretary of State, and the Secretary of the Treasury, shall submit to the appropriate committees of Congress a report examining the options for establishing a unified and classified database of information related to contracts, grants, or cooperative agreements entered into by executive agencies for the performance of work in Afghanistan since October 7, 2001, including the information described and collected under paragraph (1), to be used by relevant Federal departments and agencies to adjudicate refugee, asylum, special immigrant visa, and other immigration claims and applications.

(3) REPORT ON NONCOMPLIANCE.—Not later than 180 days after the date of the enactment of this Act [March 11, 2009], the President shall submit to the appropriate committees of Congress a report that describes—

(A) the inability or unwillingness of any contractor or grantee to provide the information requested under paragraph (1)(A)(ii); and

(B) the reasons that such contractor or grantee provided for failing to provide such information.

(4) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given that term in ~~section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)~~ section 133 of title 41, United States Code.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 8 U.S.C. 1101 note).

TITLE XIII—OTHER AUTHORIZATIONS

Subtitle A—Military Programs

Section 1301 would authorize appropriations for the Defense Working Capital Funds in the amount equal to the budget authority requested in the President's Budget for fiscal year 2015.

Section 1302 would authorize appropriations for the Joint Urgent Operational Needs Fund in the amount equal to the budget authority requested in the President's Budget for fiscal year 2015.

Section 1303 would authorize appropriations for Chemical Agents and Munitions Destruction, Defense in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015.

Section 1304 would authorize appropriations for Drug Interdiction and Counter-Drug Activities, Defense-wide in the amount equal to the budget authority requested in the President's Budget for fiscal year 2015.

Section 1305 would authorize appropriations for the Defense Inspector General in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015.

Section 1306 would authorize appropriations for the Defense Health Program in amounts equal to the budget authority requested in the President's Budget for fiscal year 2015. However, this bill assumes enactment of legislation contained in section 701 to phase in the replacement of the current TRICARE Prime, Standard, and Extra options with a Consolidated Health Plan that incorporates cost-sharing for certain members. Section 702 would also adjust the prescription drug co-payment for active duty families and all retirees regardless of age of the beneficiary. If sections 701 and 702 are not enacted, the authorization and appropriation for the Defense Health Program would need to be increased by $92 million to restore the savings assumed for DoD's health care proposals.

Subtitle B—Other Matters

Section 1311, within the funds authorized for operation and maintenance under section 507, would authorize funds to be transferred to the Joint Department of Defense–Department of Veterans Affairs Medical Facility Demonstration Fund established by section 1704(a) of the National Defense Authorization Act for Fiscal Year 2010.

Section 1312 would authorize appropriations for fiscal year 2015 for the Armed Forces Retirement Home in the amount equal to the budget authority requested in the President's Budget for fiscal year 2015.

TITLE XIV—UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT AMENDMENTS

Section 1401 is substantially the same as the Department of Justice 2011 proposal as coordinated with the Department of Defense, and amends Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to require that States submit two pre-election reports to the Departments of Justice and Defense on the status of ballot transmission to military and overseas voters. It requires that States submit the first report 55 days before the election and identify any jurisdictions that may not be able to send ballots by the 46th day before the election. It requires that States submit the second report 43 days before the election and certify whether each of its jurisdictions transmitted its ballots by the 46th day. These two pre-election reports would provide the Department with information necessary to assess, at the most critical and timely stages, whether enforcement actions are needed, and alleviate the need to rely on voluntary reporting by the States.

Section 1402 is substantially the same as section 202 of the Department of Justice 2011 proposal as coordinated with the Department of Defense. In addition, it includes Section 204 of the 2011 proposal, repeal of the waiver provision, blended into this provision by Senate staffers who drafted Senator Brown's bill introduced last Congress (S. 3322).

This provision, which changes the 45-day deadline under the MOVE Act to a 46-day deadline, addresses the substance of Section 205 of our 2011 proposal. Our 2011 proposal offered a "Saturday Mailing Date Rule," while maintaining the 45-day deadline. Initially, Senate staff proposed the 46-day rule as a cleaner way of accomplishing the same goal of clarifying the general ballot deadline. We propose incorporating the 46-day deadline in our 2013 proposals. Conforming changes to the 46 day deadline are made throughout this proposal.

This section amends Section 102 of UOCAVA to require States that have failed to mail absentee ballots by the 46-day deadline to voters who request ballots by the 46th day to send them by express delivery, and to require States that have failed to mail absentee ballots by the 41st day to enable such voters to return their ballots by express delivery. These requirements would increase the likelihood that ballots arrive in time for the voters to receive, mark, and return the ballots by Election Day, and would create a strong financial incentive for strict State compliance with the 46-day rule. Our 2011 proposal triggered the requirement to provide for the express return of ballots at the State's expense after the 40th day, *i.e.*, when a ballot was sent late by 5 days or more. The 41st day reference here (in Section 102(g)(1)(B)(ii)) conforms to the new 46 day transmission standard, and provides the same 5 day trigger we envisioned in our 2011 proposal.

This section also repeals UOCAVA's hardship waiver provision, Section 102(g), which currently waives the 45-day deadline for States that cannot comply with the deadline due to an undue hardship created by (1) the date of the State's primary election; (2) a delay in generating ballots due to a legal contest; or (3) a prohibition in the State's Constitution. The Department's

experience with the waiver provision during the 2010 Federal general election cycle shows that its marginal benefits are outweighed by its downsides, including the significant enforcement and administrative resources expended on its implementation. All 11 States that applied for a waiver did so based on the date of their primary elections, and a majority of them were denied a waiver, which required them to take additional, immediate steps to come into compliance at a time when the Federal general election date was fast approaching. Repealing the waiver provision would strengthen the protections of the Act by ensuring that the 46-day deadline is the standard that all States should meet, even if it requires changing the date of their primary elections. A uniform, nationwide standard ensures that all military and overseas voters are afforded its benefits equally.

Section 102(g)(2) is amended because the MOVE Act language (currently in Section 102(a)(8)(b) of UOCAVA) affords no specific requirement to ensure ballots requested between 45 and 30 days of the election (or a later date where states accepted ballot requests closer to the election) are promptly transmitted to voters. Some states have a law or practice of sending ballots promptly; others do not. There remains confusion as to what this provision mandates, if anything. This amendment would ensure that that ballot requests are promptly transmitted by directing that ballots be sent within one business day of receipt

Section 1403 is substantially the same as the Department of Justice 2011 proposal as coordinated with the Department of Defense. This section amends Section 105 of UOCAVA to clarify that States bear the ultimate responsibility for ensuring timely transmission of absentee ballots; to provide for civil penalties for violations of the Act in appropriate circumstances; and to provide for an express private right of action. The clarifying language in this amendment would preclude State officials from successfully arguing, contrary to Congress's intent and the Act's legislative history, that they lack sufficient authority to be held responsible for localities' failures to timely send overseas ballots. This section also repeals 42 U.S.C. 1973ff-1 note, which addresses the delegation of administrative control of absentee voting, to avoid confusion regarding State responsibility for compliance with the Act. The inclusion of civil penalties and an express private right of action strengthens the Act's protections by providing additional incentives for State compliance.

Section 1404. Section 581 of the MOVE Act extended UOCAVA voters' eligibility to use a Federal Write-In Absentee Ballot (FWAB) to all elections for Federal office, effective December 31, 2010. Prior to that time, FWABs could only be cast in federal general elections. Section 581 effects a number of conforming amendments, but fails to revise these two other FWAB references in the Act.

Section 1405 would amend Section 104 of UOCAVA and is based in part on Section 206 of our 2011 proposal the Department of Justice 2011 proposal as coordinated with the Department of Defense. As in our the 2011 proposal, this section amends Section 104 of UOCAVA to add overseas civilian voters to a provision that currently requires States to accept or process absentee ballot requests from military voters received in the same calendar year as the Federal election. The inclusion of overseas civilian voters in this provision is consistent with other provisions of the Act.

This proposal also restores, in part, language the 2009 MOVE Act deleted related to treating a ballot application as valid for subsequent elections. Rather than allowing a voter to use

the application to request ballots through two general election cycles as the pre-MOVE Act law did, this proposal would provide that applications are valid for one general election cycle, which includes any runoff elections that are held after that general election, a provision contained in Senator Brown's bill (S. 3322). We propose one addition to extend the period to cover any special Federal elections that occur between the general election and the end of the following year. It also provides that all absent uniformed services voters and overseas voters have the option of applying for ballots for all Federal elections held during the period prescribed by this section.

Section 1406 is substantially the same as Section 207 of the Department of Justice 2011 proposal coordinated with the Department of Defense. This section amends UOCAVA to make its requirements applicable to the Commonwealth of the Northern Mariana Islands, which, as of 2008, has a nonvoting Delegate to the House of Representatives.

Section 1407. The provision for FVAP to revise the FPCA was included in the Department of Justice 2011 proposal as coordinated with the Department of Defense. We revised the language to conform to the change referenced in Section 1705, and contained in Senator Brown's bill (S. 3322), which would allow voters to request ballots through the next general election and included the additional option we propose to extend it to special Federal elections that may be held after the general election through the following calendar year.

Section 1408. The MOVE Act required that absentee ballots be transmitted 45 days in advance of an election for Federal office. The Department of Justice has interpreted this requirement to apply to all Federal elections, including runoff elections, and a federal district court in Georgia recently affirmed that interpretation. See Order, *U.S. v. State of Georgia*, No. 1:12-cv-02230 (N.D. Ga. Apr. 30, 2013).

In response to the MOVE Act's 45-day deadline, some States changed their State laws to allow sufficient time in their election calendars to transmit runoff ballots if a primary election triggers a runoff. The Virgin Islands and Guam are not able to make a similar change to their runoff election calendars because 48 U.S.C. 1712 requires that runoff elections be held within 14 days after a Federal general election, if no candidate receives a majority of the votes cast at the general election. This proposal provides that the Delegates for the Virgin Islands and Guam be elected by plurality vote. It is consistent with the general rule for the election of Delegates to the other territories and the District of Columbia.

Section 1409 would change the deadline to submit the annual report on the effectiveness of activities of the Federal Voting Assistance Program (FVAP) from March 31 of every year to June 30 of odd-numbered years. It also would clarify that the information submitted in the report should cover the previous calendar year – the year in which the regularly scheduled elections for Federal office occurred. Therefore, the Department of Defense seeks these changes to ensure that the report provides the best quality information about FVAP's program, voter registration and participation in the election and enhance the validity of post-election survey results.

The Department of Defense strongly believes that developing and publishing this report for odd-numbered calendar years in which few Federal elections occur does not provide sufficient information to warrant the time, effort and expense expended in preparing the report.

Few elections for Federal office occur in odd-numbered years. In 2009 there were a total of only four elections for Federal office. Again in 2011, only four elections occurred.

Evaluation and analysis of FVAP activities for special primary or general elections requires the Department of Defense to obtain the election data from the local jurisdiction involved and, in many cases, the specific data required to make accurate analysis is not available or is not available in a timely manner. The Department of Defense has concluded that analysis of odd-numbered year elections could lead to poor policy decisions based upon incomplete data and/or conclusions which may not be valid in even-numbered election years, which have greater public participation and FVAP activity.

In addition, the Department of Defense has determined that the post-election survey results for even-numbered year reports and quadrennial analysis cannot be collected, processed, analyzed and reported by the current March 31 deadline. General elections for Federal office are held in November (potentially with some States conducting run-off elections for Federal office in December). The FVAP's survey instruments will be fielded in January and the Department believes they need to be open for at least three months to garner sufficient participation to make them statistically valid. Thus, the March 31 deadline provides little time after the elections to collect, synthesize and thoughtfully analyze post-election survey data to base program evaluations and policy decisions. Accordingly, the Department of Defense recommends that the reporting deadline be extended from March 31 to June 30, and that the report only be submitted in odd-numbered years.

TITLE XV—AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR OVERSEAS CONTINGENCY OPERATIONS

[RESERVED]

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Section 2001.

Section 2002

TITLE XXI—ARMY MILITARY CONSTRUCTION

Section 2101

Section 2102

Section 2103

Section 2104

Section 2105

TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

Section 2801. Unspecified minor construction (UMC) projects are military construction projects authorized by 10 U.S.C. 2805 that the Department may undertake without specific project authorization from Congress. This proposal consists of two parts: the first would increase various dollar thresholds for UMC projects; the second would provide additional authority for specific types of UMC projects. This proposal would also streamline the language of section 2805 and improve internal consistency and references.

This proposal would increase several general UMC dollar limits in accordance with a generally recognized cost index. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Pub. L. 110-181, enacted January 28, 2008) adjusted the basic general UMC threshold from $1.5 to $2.0 million in apparent recognition of construction market escalation since the previous adjustment in 1991. In the NDAA for FY 2012, the provision for life/health/safety projects using Operation and Maintenance (O&M) funding was eliminated. However, the other three UMC thresholds specified in section 2805 have remained unchanged since their last adjustments (in 1996 and 2002), and cost escalation has rendered them obsolete as well. The following table reflects all of the UMC dollar thresholds, the year each was last amended, and the subsequent change in the Bureau of Labor Statistics Consumer Price Index (CPI) as of June 2013.

10 U.S.C. 2805 subsection	Current limit	Year last amended	CPI* in year last amended	CPI* June 2013	CPI* % chg	Adjusted limit	Proposed limit
(a)(2) (1st sentence)	$2,000,000	2008	218.8	233.5	+7%	$2,134,369	no change
(a)(2) (2nd sentence)	$3,000,000	1996	156.7	233.5	+49%	$4,470,325	$4,000,000
(b)(1)	$750,000	2002	179.9	233.5	+30%	$973,457	$1,000,000
(c)	$750,000	2002	179.9	233.5	+30%	$973,457	$1,000,000

*Consumer Price Index for all urban consumers—U.S. average (U.S. Bureau of Labor Statistics)

The CPI has increased 49 percent since 1996 and 30 percent since 2002. Without an associated amendment to the thresholds, this general cost escalation has significantly degraded the Department's ability to correct life/health/safety-threatening deficiencies and to undertake small, urgent projects using Operation and Maintenance funds.

Based upon the increase in the consumer price index as displayed in the above table, this proposal would accomplish the following:

- For unspecified minor military construction projects to correct deficiencies that are life/health/safety-threatening authorized in the second sentence of subsection (a)(2) of

section 2805, the proposal would increase the project limit from $3,000,000 to $4,000,000.

- For unspecified minor military construction projects for which congressional notification is required under subsection (b)(1) of section 2805, the proposal would increase the threshold from $750,000 to $1,000,000.

- For unspecified minor military construction projects authorized to be funded with Operation and Maintenance appropriations under subsection (c) of section 2805, the proposal would increase the limit from $750,000 to $1,000,000.

Budget Implications: Enacting the proposed amendment would shift the resourcing of some small construction projects from the specified (project-specific) military construction account to the unspecified minor construction account. Likewise, the proposed amendment would also shift the resourcing of some projects from the unspecified minor military construction account to the Operation and Maintenance account. The net impact would be to realign these accounts to their former authorization levels that have since been eroded due to the effect of inflation. Given that both the Military Construction account and the Operation and Maintenance account are underfunded with respect to requirements, this proposal would restore appropriate balance between the two, and would enable the Secretary to respond more effectively to urgent mission requirements and critical life/health/safety deficiencies with properly sized and scoped facilities, using available appropriations.

Changes to Existing Law: This proposal would make the following changes to section 2805 of title 10, United States Code:

§ 2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project that has an approved cost equal to or less than $2,000,000. However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, an unspecified minor military construction project may have an approved cost equal to or less than ~~$3,000,000~~ **the minor military construction exception threshold**.

(3) For purposes of this section, the minor military construction exception threshold is $4,000,000.

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—(1) An unspecified minor military construction project costing more than ~~$750,000~~ **the amount specified in subsection (c)** may not be carried out under this section unless approved in advance by the Secretary concerned.

(2) When a decision is made to carry out an unspecified minor military construction project to which paragraph (1) is applicable, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, and of

the estimated cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(c) USE OF OPERATION AND MAINTENANCE FUNDS.—The Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than ~~$750,000~~ **$1,000,000**.

(d) LABORATORY REVITALIZATION.—(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000, notwithstanding subsection (c); or

(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law or from funds authorized to be made available under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. 2358 note), amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

(2) For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $4,000,000. The Secretary of Defense shall establish procedures for the review and approval of requests from the Secretary of a military department to carry out a construction project under this subsection.

(3) Not later than February 1, 2014, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by this subsection. The report shall include a list and description of the construction projects carried out under this subsection, including the location and cost of each project.

(4) In this subsection, the term "laboratory" includes—

(A) a research, engineering, and development center; and

(B) a test and evaluation activity.

(5) The authority to carry out a project under this subsection expires on September 30, 2018.

(e) PROHIBITION ON USE FOR NEW HOUSING UNITS.—Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

Section 2802. Unspecified minor construction (UMC) is military construction below a prescribed dollar cost threshold per project that the Department of Defense (DoD) may undertake without specific project authorization from Congress. This proposal would allow the Department to normalize the utility of UMC authority across the Department worldwide by accommodating location-based differences in construction cost, using area construction cost indices for specified (major) military construction projects.

Construction costs can vary widely by location due to variations in cost for labor,

materials, equipment, and design requirements for factors such as climate and seismic activity. To account for this, the Department annually develops and publishes area construction cost indices (called area cost factors, or ACFs) for the purpose of adjusting national-average historical facility costs to a specific project location. This allows increased accuracy in estimating the cost of military construction projects during the planning and budgeting process when detailed design information is not available.

ACFs are developed through a process of collecting and comparing cost data on construction labor rates, materials, and equipment from various locations, as well as comparing other factors that impact construction costs such as climate, level of seismic activity, and labor availability. A given ACF represents the relative cost of construction at a specific location compared to the national average. The DoD-published ACF values for Fiscal Year 2013 range from a low of 0.72 at Longhorn Army Ammunition Plant in Marshall, Texas, to a high of 4.27 at Eareckson Air Force Base, Alaska, with the national average of surveyed cities equal to 1.0.

Although the Department applies ACFs to cost estimates (and subsequent authorization requests) for specified (major) construction projects, there is no equivalent provision for minor construction authority. The UMC cost limitations prescribed by 10 U.S.C. section 2805 do not account for local variations in construction costs, and therefore impose differential constraints on the utility and effectiveness of the minor construction program across the Department worldwide. Using the example locations above, the $2 million limitation on minor projects would provide almost six times the effective buying power at Longhorn Army Ammunition Plant than at Eareckson Air Force Base, where the high cost of construction renders the use of minor construction impractical.

Application of the ACF to the UMC program would normalize the usefulness of UMC projects around the world, and enable the Department to more equitably and broadly realize the intended benefits of UMC authority. This approach is wholly consistent with the longstanding flexibility Congress granted to the military family housing program in 10 U.S.C. section 2825, Improvements to Family Housing Units. Section 2825 essentially serves as the UMC authority for the military family housing program, and establishes funding authority that varies based on the "area construction cost index as developed by the Department of Defense for the location concerned". This proposal extends that concept to the mainstream UMC program.

Budget Implications: There are no general budgetary impacts associated with implementing the proposed amendment. Adjusting UMC project cost limitations for location will not directly impact minor construction budgets. Many of the largest military installations have ACFs at or below a value of 1.00. which will mitigate any increased use of UMC authority in higher-cost locations.

Changes to Existing Law: This proposal would make the following change to section 2805 of title 10, United States Code:

§ 2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project that has an approved cost equal to or less than $ 2,000,000. However, if the military construction project is intended solely to correct a deficiency that is life-threatening, health-threatening, or safety-threatening, an unspecified minor military construction project may have an approved cost equal to or less than $ 3,000,000.

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—(1) An unspecified minor military construction project costing more than $ 750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

(2) When a decision is made to carry out an unspecified minor military construction project to which paragraph (1) is applicable, the Secretary concerned shall notify in writing the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(c) USE OF OPERATION AND MAINTENANCE FUNDS.—The Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $ 750,000.

(d) LABORATORY REVITALIZATION.—(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000, notwithstanding subsection (c); or

(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law or from funds authorized to be made available under section 219(a) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 10 U.S.C. 2358 note), amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

(2) For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than $4,000,000. The Secretary of Defense shall establish procedures for the review and approval of requests from the Secretary of a military department to carry out a construction project under this subsection.

(3) Not later than February 1, 2014, the Secretary of Defense shall submit to the congressional defense committees a report on the use of the authority provided by this subsection. The report shall include a list and description of the construction projects carried out under this subsection, including the location and cost of each project.

(4) In this subsection, the term "laboratory" includes—

(A) a research, engineering, and development center; and

(B) a test and evaluation activity.

(5) The authority to carry out a project under this subsection expires on September 30, 2018.

(e) PROHIBITION ON USE FOR NEW HOUSING UNITS.—Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

(f) ADJUSTMENT OF DOLLAR LIMITATIONS FOR LOCATION.—Each fiscal year, the Secretary concerned shall adjust the dollar limitations specified in this section applicable to an unspecified minor military construction project to reflect the area construction cost index for military construction projects published by the Department of Defense during the prior fiscal year for the location of the project.

Section 2803 would allow the Department of Defense (DoD) to increase the scope of a military construction project by up to 10 percent above the amount authorized by Congress after notifying the appropriate committees of Congress and waiting the appropriate time period.

The Department submits its annual requests for military construction projects well before the projects are fully designed. The budget timeline requires DoD to prepare project documentation (including description, size, price, and justification) to Congress for authorization at least 15 months in advance of the award of construction contracts. DoD uses this time to concurrently refine projects and either complete project design work, or prepare packages for soliciting design-build proposals. Therefore, although the functional requirements of a project are generally well defined in a DD Form 1391, for the preceding reasons, the primary and supporting facilities quantities shown are only approximations of the actual quantities that will be needed to fulfill the authorized purpose of the project. Performing more advanced design on the projects to better define the scope quantities on the DD Forms 1391 would not be cost effective, and it would be inconsistent with the design build acquisitions that are used for the majority of projects.

During this 15-month (or longer) period, increases in project scope quantities can occur for generally two reasons. Functional changes are the first reason as DoD Components may refine their facility sizing criteria (e.g., standard designs) to respond to late developing mission changes or to incorporate important lessons learned. Technical design changes are the second reason as designers may identify emerging technologies or life-safety issues that lead to the need for additional space, e.g., thicker wall sections for energy conservation, wastewater collection and reuse, active and passive solar energy collection, high-efficiency heating, ventilating, and air-conditioning (HVAC) components, and egress requirements. Typically, space increases for either reason are modest and may generate no associated increase in overall cost. However, some space increases, primarily associated with functional changes, may exceed five percent.

One example for needing the flexibility to increase scope is in the case where a value-engineering study during design shows that it is more economical for buildings to have self-contained HVAC systems than to be connected to a central energy plant. However, self-contained HVAC systems require larger mechanical rooms that would marginally increase the

square footage of a building. Without scope flexibility, the choices would be either to forgo the cost saving measure, reduce the space of needed functional areas, or delay the project for at least one year to obtain authorization of the additional square footage.

The type of acquisition can also spur a need for scope flexibility. Design-build, which has become the most widely used method for executing military construction projects, allows the government, by using requirements based specifications, to benefit from innovation and alternate solutions developed in the private sector. Design-Build allows competing proposers the opportunity to identify efficiencies and alternative engineering solutions that meet the government's functional requirements within the government's stated criteria. By restricting a project to the precise square footage and engineering attributes stated in a DD Form 1391, the government would hinder industry's ability to contribute towards better design solutions and undermine many of the benefits achieved under the Design-Build approach. For example, the military family housing construction program, which started using design-build in the 1970's quickly recognized that for the government to achieve the best value, proposers needed the flexibility to offer their standard homes, which for same number of bedrooms and features still varied slightly in square footage between different home builders.

In view of a DoD Inspector General report on scope of work (DoDIG-2012-057, February 27, 2012), the Department recognizes that there have been situations where insufficient oversight was being provided to ensure the scope authorized by Congress was not being exceeded. As a result, internal management controls are being established to more clearly define and measure scope. Nevertheless, the current prohibition on any increase to facility size is detrimental to providing facilities that support important missions in a timely and cost efficient manner. Without relief, inevitable changes to projects after being submitted to Congress for approval will lead to a number of unfavorable outcomes such as: reducing needed functional space to accommodate required refinements, not adopting lessons learned that would improve mission accomplishment or reduce energy consumption, or even delaying the project for one or more years until a new authorization can be obtained for the increased scope. For DoD to effectively respond to rapidly changing missions, and to demands for the installation enterprise to become more agile and efficient, it is critical that military construction project authorizations have some limited scope flexibility with Congressional notification. Other federal agencies with large construction programs have such flexibility, which provides added reason for the Department's request.

Budget Implications: There are no budgetary impacts associated with implementing the proposed amendment. Allowing increases to the scope of individual authorized projects will not impact overall military construction budgets, as the total construction appropriation would be locked by the time these changes may occur. Moreover, allowing increases to the authorized scope of a project does not necessarily result in a need to increase the project appropriation. This proposal will allow projects to accommodate the most current criteria and technology at the time of construction, within existing project budgets. Also, this scope increase authority will likely be used only rarely. The Department will continue to develop project budget estimates based upon the most current criteria available at the time of budget preparation.

Changes to Existing Law: This proposal would make the following change to section 2853 of title 10, United States Code:

§ 2853. Authorized cost and scope of work variations

(a) Except as provided in subsection (c), (d), or ~~(d)~~ (e), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the amount appropriated for such project or 200 percent of the minor construction project ceiling specified in section 2805(a) of this title, whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was authorized by Congress.

(b)(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition. Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(2) Except as provided in subsection (d), the ~~The~~ scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(3) In this subsection, the term "scope of work" refers to the function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(c) The limitation on cost variations in subsection (a) or the limitation on scope reduction in subsection (b)(1) does not apply if the variation in cost or reduction in the scope of work is approved by the Secretary concerned and—

(1) in the case of a cost increase or a reduction in the scope of work—

(A) the Secretary concerned notifies the appropriate committees of Congress in writing of the cost increase or reduction in scope, the reasons therefor, a certification that the mission requirement identified in the justification data provided to Congress can ~~be~~ still be met with the reduced scope, and a description of the funds proposed to be used to finance any increased costs; and

(B) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title; or

(2) in the case of a cost decrease, the Secretary concerned notifies the appropriate committees of Congress in writing not later than 14 days after the date funds are obligated in connection with the military construction project or military family housing project.

(d) The limitation in subsection (b)(2) on an increase in the scope of work does not apply if—

(1) the increase in the scope of work is not more than 10 percent of the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition;

(2) the increase is approved by the Secretary concerned;

(3) the Secretary concerned notifies the appropriate committees of Congress in writing of the increase in scope and the reasons therefor; and

(4) a period of 21 days has elapsed after the date on which the notification is received by the committees or, if over sooner, a period of 14 days has elapsed after the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of this title.

(~~d~~e) The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

(~~e~~f) Notwithstanding the authority under subsections (a) through (d), the Secretary concerned shall ensure compliance of contracts for military construction projects and for the construction, improvement, and acquisition of military family housing projects with section 1341 of title 31 (commonly referred to as the 'Anti-Deficiency Act').