

1 **SEC. \_\_. MODIFICATION OF THE AUTHORIZED NUMBER AND ACCOUNTING**  
2 **METHOD FOR SENIOR ENLISTED PERSONNEL.**

3 (a) IN GENERAL.—Section 517 of title 10, United States Code, is amended—

4 (1) in the section heading, by striking “**daily average**” and inserting “**enlisted**  
5 **end strength**”;

6 (2) in subsection (a)—

7 (A) by striking “daily average number of” and inserting “end strength  
8 for”;

9 (B) by striking “in a fiscal year” and inserting “as of the last day of a  
10 fiscal year”;

11 (C) by striking “2.5 percent” and inserting “3.0 percent”; and

12 (D) by striking “on the first day of that fiscal year”; and

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

14 “(d) Notwithstanding the limitations of subsection (a), the Secretary of a military  
15 department may increase the authorized end strength of enlisted members on active duty  
16 (other than for training) in an armed force in pay grade E-8 or E-9 by a number equal to not  
17 more than 0.25 percent of such end strength when such Secretary determines that an  
18 increase in that end strength would enhance manning and readiness in essential units or in  
19 critical specialties or ratings.”.

20 (b) CLERICAL AMENDMENT.—The table of chapters at the beginning of chapter 31 of  
21 such title is amended by striking the item relating to section 517 and inserting the following  
22 new item:

“517. Authorized enlisted end strength: members in pay grades E-8 and E-9.”.

**Please note: The following “Changes to Existing Law” section sets out in red-line format how the legislative text would amend existing law.**

### **Section-by-Section Analysis**

This proposal would change the method of calculating the authorized number of senior enlisted members in the grades of E-8 and E-9 from the daily average to an authorized end strength and would increase the authorized number of members in the grade of E-8 from 2.5 percent to 3.0 percent of the total number of enlisted members. Additionally, this proposal would authorize a Secretary of a military department to increase the authorized end strength of E-8s and E-9s by 0.25 percent when the Secretary of a military department determines that such an increase would enhance manning and readiness in essential units or in critical specialties or ratings.

Currently, section 517 limits the average daily strength of E-8s to 2.5 percent and E-9s to 1.25 percent of the total enlisted strength at the beginning of the fiscal year. The current metric (percent daily average number of enlisted members of the specified grade divided by the total enlisted strength at the first day of the fiscal year) is less flexible. By changing the method of calculating the authorized number of senior enlisted members, the military departments will have greater flexibility in determining the appropriate force structure.

Section 517 also limits the authorized number of members in the grade of E-8 to 2.5 percent of the total enlisted strength in a given armed force who are on active duty on the first day of a fiscal year. This limit is becoming too restrictive in today’s modern high-tech Army, as the types of capabilities required for future conflicts are different from the past. The Army has seen a rise in the need for E-8s (as a proportion of the total enlisted force) from 2012 to 2018 for several reasons.

The leading factor was the drawdown from fiscal year 2012 (FY12) to FY16 where operational line units and support (mostly lower enlisted) were reduced. For example, a brigade combat team (BCT) has 52 E-8s, or 1.4 percent of the enlisted force. During the drawdown, the Army deactivated 14 BCTs, affecting over 50,000 enlisted authorizations. The reduction of BCTs disproportionately lowered the number of enlisted members in the Army, causing the active component Army E-8 percentage to increase by 0.2 percent.

Additionally, the types of units added were grade heavy (such as Special Forces, Cyber, and security force assistance brigades (SFABs)). For example, each SFAB has 31 E-8s, comprising 4.8 percent of enlisted members in the brigade. Over the Future Years Defense Program, the Army added six SFABs, increasing the E-8 rate by 0.11 percent. Additionally, the Army judiciously under-filled noncommissioned officer (NCO) ranks during the drawdown. The current growth and focus on readiness has reversed this practice, requiring an additional 500 E-8s and 100 E-9s. Promoting to required levels further increases the E-8 rate by 0.13 percent and E-9s by 0.03 percent. Finally, the calculation of the E-8 limit using beginning year strength is 0.08 percent higher than an end of year calculation.

The current limit of 2.5 percent for E-8s prevents the Army from fully manning the necessary formations, as determined by the deliberate and rigorous Total Army Analysis process, to support the current National Defense Policy.

Finally, this proposal would give the Secretaries of the military departments greater flexibility to enhance manning and readiness in essential units, like SFABs, or in critical specialties or ratings, like Cyber. Under section 517, the Secretaries of the military departments concerned lack the authority to exceed temporarily the authorized percentages of senior enlisted members. Furthermore, the Secretary of Defense may only suspend the limitations of section 517 when the President has suspended the operation of section 523, 525, or 526 of title 10, United States Code, in time of war or national emergency. This proposal would give flexibility to the Secretaries of the military departments when force structure changes, or unit missions require a greater number of senior enlisted members.

**Budget Implications:** The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President’s Budget request. The amounts in the tables below represent the maximum possible cost and manning differential as a result of the proposed authority.

RESOURCE IMPACT (\$MILLIONS)										
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation	Budget Activity	BLI/SAG	Program Element	
Army	53.7	55.3	57.0	58.2	59.4	Military Personnel, Army	02			
Navy	Navy does not intend to use this authority.									
Air Force	54.6	57.6	57.5	58.7	59.9	Military Personnel, Air Force	02			
Marines	Marines do not intend to use this authority.									
Total	87.7	90.4	93.0	95.2	97.4					

NUMBER OF PERSONNEL AFFECTED						
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation From
Army	1968	1979	1997	1996	1996	Military Personnel, Army
Navy	Navy does not intend to use this authority.					
Air Force	2001	2061	2014	2014	2014	Military Personnel, Air Force
Marines	Marines do not intend to use this authority.					
Total	3969	4040	4011	4010	4010	

**Changes to Existing Law:** This proposal would amend section 517 of title 10, United States Code, as follows:

**§ 517. Authorized ~~daily average~~ enlisted end strength:** members in pay grades E–8 and E–9

(a) The authorized ~~daily average number of~~ end strength for enlisted members on active duty (other than for training) in an armed force in pay grades E-8 and E-9 ~~in a fiscal year~~ as of the last day of a fiscal year may not be more than ~~2.5~~ 3.0 percent and 1.25 percent, respectively, of the number of enlisted members of that armed force who are on active duty (other than for training) ~~on the first day of that fiscal year~~. In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty as authorized under section 115(a)(1)(B) or 115(b) of this title, or excluded from counting for active duty end strengths under section 115(i) of this title.

(b) Whenever the number of members serving in pay grade E-9 is less than the number authorized for that grade under subsection (a), the difference between the two numbers may be applied to increase the number authorized under such subsection for pay grade E-8.

(c) Whenever under section 527 of this title the President may suspend the operation of any provision of section 523, 525, or 526 of this title, the Secretary of Defense may suspend the operation of any provision of this section. Any such suspension shall, if not sooner ended, end in the manner specified in section 527 for a suspension under that section.

(d) Notwithstanding the limitations of subsection (a), the Secretary of a military department may increase the authorized end strength of enlisted members on active duty (other than for training) in an armed force in pay grade E-8 or E-9 by a number equal to not more than 0.25 percent of such end strength when such Secretary determines that an increase in that end strength would enhance manning and readiness in essential units or in critical specialties or ratings.

1 **SEC. \_\_\_\_. AUTHORITY TO AWARD OR PRESENT A DECORATION FOLLOWING A**  
2 **CONGRESSIONALLY REQUESTED REVIEW.**

3 (a) IN GENERAL.—Section 1130 of title 10, United States Code, is amended—

4 (1) in the section heading, by inserting “**and award or presentation**” after “**for**  
5 **review**”;

6 (2) in subsection (a), by striking “shall” each place it appears and inserting “may”;

7 (3) by redesignating subsection (d) as subsection (e); and

8 (4) by inserting after subsection (c) the following:

9 “(d)(1) A decoration may be awarded or presented following submission of a favorable  
10 recommendation for the award or presentation under subsection (b).

11 “(2) An award or presentation under paragraph (1) may not occur before the expiration of  
12 a 60-day period for congressional review beginning on the date of submission of the favorable  
13 recommendation under subsection (b) regarding the award or presentation.

14 “(3) The authority to make an award or presentation under this subsection shall apply  
15 notwithstanding any limitation described in subsection (a).”.

16 (b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of title  
17 10, United States Code, is amended by striking the item relating to section 1130 and inserting the  
18 following new item:

“1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for  
review and award or presentation.”.

**[The “Changes to Existing Law” section below sets out in red-line format how the  
legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This proposal would amend section 1130 of title 10, United States Code (U.S.C.), to add authority to award or present a decoration following (1) submission to the Committee on Armed Services of the Senate (SASC) and the Committee on Armed Services of the House of

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Representatives (HASC) and to the requesting Member of Congress of a favorable determination and a detailed discussion of the rationale supporting the determination, and (2) a 60-day period for congressional review of that determination. This would allow for timely award or presentation of decorations pursuant to section 1130 of such title while providing SASC and HASC with ample oversight authority following submission of favorable notifications pursuant to subsection (b) of that section.

Currently, a Medal of Honor, Distinguished Service Cross, Navy Cross, Air Force Cross, or Distinguished Service Medal may not be awarded or presented following submission of a favorable determination pursuant to section 1130(b) of title 10, U.S.C., until by-name legislation waiving the five-year statutory time limit on award (10 U.S.C. 3744, 6248, or 8744) is enacted. This results in extensive delays in awarding decorations to deserving veterans who are often elderly and sometimes in poor health. Further exasperating this issue is the practice of only including time waiver legislation for military medals in the annual National Defense Authorization Act (NDAA), which results in some award recommendations being held in abeyance by the Department of Defense for up to a year pending NDAA enactment. This process, although effective, is not efficient and further delays recognition of deserving veterans, many of whom have already waited numerous years to be appropriately recognized.

Including authority to award and present decorations 60 days following submission of a favorable recommendation pursuant to section 1130(b) of title 10, U.S.C., is a practical solution that eliminates the excessive delays in awarding or presenting decorations to deserving veterans, while still providing SASC and HASC with ample oversight on decoration recommendations resulting from favorable determinations pursuant to that section.

**Budgetary Implications:** This proposal has no significant budgetary impact. Resources impacted are incidental in nature and amount and are included within the Fiscal Year (FY) 2021 President's Budget.

**Changes to Existing Law:** This proposal would make the following changes to section 1130 of title 10, United States Code:

### **§1130. Consideration of proposals for decorations not previously submitted in timely fashion: procedures for review and award or presentation**

(a) Upon request of a Member of Congress, the Secretary concerned ~~shall~~ may review a proposal for the award or presentation of a decoration (or the upgrading of a decoration), either for an individual or a unit, that is not otherwise authorized to be presented or awarded due to limitations established by law or policy for timely submission of a recommendation for such award or presentation. Based upon such review, the Secretary ~~shall~~ may make a determination as to the merits of approving the award or presentation of the decoration.

(b) Upon making a determination under subsection (a) as to the merits of approving the award or presentation of the decoration, the Secretary concerned shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives and to the requesting Member of Congress a detailed discussion of the rationale

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supporting the determination. If the determination includes a favorable recommendation for the award of the Medal of Honor, the Secretary of Defense, instead of the Secretary concerned, shall make the submission under this subsection.

(c) Determinations under this section regarding the award or presentation of a decoration shall be made in accordance with the same procedures that apply to the approval or disapproval of the award or presentation of a decoration when a recommendation for such award or presentation is submitted in a timely manner as prescribed by law or regulation.

(d)(1) A decoration may be awarded or presented following submission of a favorable recommendation for the award or presentation under subsection (b).

(2) An award or presentation under paragraph (1) may not occur before the expiration of a 60-day period for congressional review beginning on the date of the favorable submission under subsection (b) regarding the award or presentation.

(3) The authority to make an award or presentation under this subsection shall apply notwithstanding any limitation described in subsection (a).

~~(d)~~(e) In this section:

(1) The term “Member of Congress” means-

(A) a Senator; or

(B) a Representative in, or a Delegate or Resident Commissioner to, Congress.

(2) The term “decoration” means any decoration or award that may be presented or awarded to a member or unit of the armed forces.

1 **SEC. \_\_. BASIC ALLOWANCE FOR HOUSING FOR MEMBERS WITHOUT**  
2 **DEPENDENTS WHEN HOMEPORT CHANGE WOULD FINANCIALLY**  
3 **DISADVANTAGE MEMBER.**

4 Section 403(o) of title 37, United States Code, is amended—

- 5 (1) by inserting “(1)” before “In the case of a member who is assigned”; and  
6 (2) by adding at the end the following new paragraph:

7 “(2) In the case of a member without dependents who is assigned to a unit that undergoes  
8 a change of home port or a change of permanent duty station, the member may be treated for the  
9 purposes of this section as if the unit to which the member is assigned did not undergo such a  
10 change if the Secretary concerned determines that it would be inequitable to base the member’s  
11 entitlement to, and amount of, a basic allowance for housing on the new home port or permanent  
12 duty station.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

**Section-by-Section Analysis**

This proposal would amend 37 U.S.C. 403, to allow the Secretaries of the military departments discretionary authority to authorize a housing allowance based on the old homeport or permanent duty station for single members disadvantaged as a result of a unit’s change of homeport or permanent duty station. If enacted, the Secretary concerned may determine that when undergoing a change in homeport or change in permanent duty station it would be inequitable to pay a housing allowance other than based on the previous homeport or permanent duty station. Currently, members who undergo homeport changes from CONUS to OCONUS must be on board for at least 12 months after the effective date of the homeport change to warrant a fully-funded permanent change of station move. When members are in receipt of orders to return to the area of the previous homeport or permanent duty station, rather than receiving a fully-funded move under the homeport change order, this proposal would authorize the Secretary authority to approve retention of a previously-authorized housing allowance until return to the previous homeport or duty station.

During the most recent three-carrier ship swaps, housing allowances for a number of single Sailors living in commercial housing were stopped upon the effective date of the homeport shift, as all resided on ship and there is no authority to pay a housing allowance when a member without dependents is assigned to Government quarters. Some of these Sailors were already in receipt of follow-on orders back to the old homeport where they had to terminate commercial



housing leases. Under current law, these members lost their housing allowance and either had to move out of their current residence (despite returning in a few months) or pay rent/mortgage out-of-pocket. Married Sailors with dependents are afforded the opportunity to retain housing allowance at the old homeport rate. In light of the inequity between married and single members, Navy requested a waiver to pay a housing allowance to single members at the old permanent duty station or other than the permanent duty station/homeport rate. OSD denied the request due to absence of authority to approve such a waiver. The number of Sailors impacted due to the denial is unknown. Enactment of this proposal would eliminate an inequity to single Sailors with orders to return to their old permanent duty station/homeport.

This proposal considers provisions under current law of a low-cost or no-cost move, which permit a member to retain eligibility for a previously authorized housing allowance if not offered a funded permanent change of station order. This proposal would allow the Secretary concerned to treat members assigned to units that undergo a change of home port or permanent duty station in the same manner as a low-cost or no-cost move.

**Budget Implications:** The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President’s Budget request. Based on typical planned Organized Unit Moves (OUM) affecting roughly 450 officers and 2500 E-5 through E-9 per year, approximately 15 officers and 80 enlisted would receive this entitlement per year. E-4 and below were not included in the estimate because nearly all single junior Sailors should be berthed in barracks. The estimate assumes one-half of the crew has no dependents, one-fourth of the crew has received transfer orders (within ~9 months of transfer), and one-fourth of transfer orders are to the original Permanent Duty Station (PDS). The last two assumptions will be greatly affected by PCS funding availability and assignment detailer action. The mean duration of entitlement for Sailors affected is approximately 6 months. The majority of Sailors affected typically reside in barracks at the new PDS, thus, receiving no BAH. Therefore, the cost would be the BAH rate at the old PDS rate for 6 months, per affected Sailor. The cost estimate is based on an average of fleet homeport BAH rates for officers in pay grade O3, and enlisted in pay grade E5, in FY18. After inflation, the cost is approximately \$0.9M in FY21. The resources required are reflected in the table below and are included within the Fiscal Year (FY) 2021 President’s Budget.

RESOURCE IMPACT (\$MILLIONS)									
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation From	Budget Activity	BLI/SAG	Program Element
Navy Basic Allowance for Housing	0.9	0.9	1.0	1.0	1.1	Military Personnel, Navy	01	Various	NA
Marine Corps does not intend to use this authority									
Army does not intend to use this authority									
Air Force does not intend to use this authority									
Total	0.9	0.9	1.0	1.0	1.1				

**Changes to Existing Law:** This proposal would make the following changes to section 403(o) of title 37, United States Code:

**§ 403. Basic allowance for housing**

(a) GENERAL ENTITLEMENT.—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be made in accordance with regulations prescribed by the Secretary of Defense.

\* \* \* \* \*

(o) TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.—

(1) In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be reassigned under the conditions of low-cost or no-cost permanent change of station or permanent change of assignment, the member may be treated for the purposes of this section as if the member were not reassigned if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the cost of housing in the area to which the member is reassigned.

(2) In the case of a member without dependents who is assigned to a unit that undergoes a change of home port or a change of permanent duty station, the member may be treated for the purposes of this section as if the unit to which the member is assigned did not undergo such a change if the Secretary concerned determines that it would be inequitable to base the member's entitlement to, and amount of, a basic allowance for housing on the new home port or permanent duty station.

1 **SEC. \_\_\_\_. CHANGING TITLE OF ASSISTANT SECRETARY OF DEFENSE FOR**  
2 **SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT.**

3 (a) IN GENERAL.—Section 138(b)(2) of title 10, United States Code, is amended—

4 (1) in the first sentence, by striking “Assistant Secretary of Defense for Special  
5 Operations and Low Intensity Conflict” and inserting “Assistant Secretary of Defense for  
6 Special Operations and Irregular Warfare”; and

7 (2) in the second and third sentences, by striking “low intensity conflict” each  
8 place it appears and inserting “irregular warfare.”

9 (b) CONFORMING AMENDMENTS.—(1) Section 127e(g) of title 10, United States Code, is  
10 amended—

11 (A) in the subsection heading, by striking “SOLIC” and inserting “SOIW”; and

12 (B) by striking “Assistant Secretary of Defense for Special Operations and Low-  
13 Intensity Conflict” and inserting “Assistant Secretary of Defense for Special Operations  
14 and Irregular Warfare”.

15 (2) The following provisions of title 10, United States Code, are amended by striking  
16 “Assistant Secretary of Defense for Special Operations and Low Intensity Conflict” and inserting  
17 “Assistant Secretary of Defense for Special Operations and Irregular Warfare”:

18 (A) Section 139b(a).

19 (B) Subsections (e)(2), (f)(1)(B), and (f)(1)(C) of section 167.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how  
the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This proposal seeks to amend the title of ASD Special Operations and Low Intensity Conflict (SO/LIC) to Special Operations and Irregular Warfare (SO/IW) to more accurately

reflect SO/LIC's current mission and responsibilities in implementing the National Defense Strategy (NDS) and its recently approved Irregular Warfare Annex. The position of the ASD SO/LIC was established by the Nunn-Cohen amendment to the NDAA for FY1987, which also established U.S. Special Operations Command. The term "low-intensity conflict" is a Cold War-era term that reflects proxy conflicts prevalent during that period and does not adequately reflect the full range of the ASD's responsibilities for IW and related activities. The term is not clearly defined in 10 U.S.C. 138(b)(4), does not appear in current DoD joint doctrine, and is not used within the Defense enterprise except when referring to this office.

In April 2019, the ASD SO/LIC approved a reorganization of SO/LIC in order to institutionalize his Title 10 administrative chain-of-command responsibilities overseeing the SOF Enterprise, and to support the objectives of the NDS. Based on a comprehensive review of SO/LIC's legislative history, current structure, roles, and missions, changing the name of the position and organization is an important part of this effort. Maintaining "Special Operations" in the ASD's title remains important to reflect the ASD's core responsibility in the administrative chain-of-command for SOCOM:

The current term "Low-Intensity Conflict" fails to capture the full breadth of activities and unconventional threats falling under the ASD's responsibilities. It also lacks meaning to other departments and agencies, allies, and partners. The descriptor "low-intensity" is seen as inaccurate, bordering on a slight, by those who have waged close combat against unconventional enemies, or taken risk in amorphous situations.

The term "irregular warfare" is specifically referenced as a responsibility of the ASD in 10 U.S.C. 138(b)(4), and in March the Acting Secretary of Defense approved an IW Annex to the NDS in order to institutionalize IW as a critical core competency for the Department. ASD (SO/LIC) is leading this department-wide effort. Irregular warfare missions span from stability operations and counterterrorism to information operations and unconventional warfare, reflecting the core portfolio of ASD (SO/LIC).

**Budget Implications:** This proposal has no significant budgetary impact. Resources impacted are incidental in nature and amount and are included within the Fiscal Year (FY) 2021 President's Budget request. Since this proposal only seeks a change in title, any additional costs for letterhead and other materials would be minimal and easily absorbed within resources programmed for SO/LIC headquarters support.

**Changes to Existing Law:** This proposal would amend title 10, United States Code, as follows:

\* \* \* \* \*

### **§138. Assistant Secretaries of Defense**

- (a)(1) There are 13 Assistant Secretaries of Defense.
- (2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) One of the Assistant Secretaries is the ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and ~~low intensity conflict~~ irregular warfare activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and ~~low intensity conflict~~ irregular warfare matters and (after the Secretary and Deputy Secretary) is the principal special operations and ~~low intensity conflict~~ irregular warfare official within the senior management of the Department of Defense. Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k)<sup>1</sup> of this title.

(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

(iii) Such other matters as may be specified by the Secretary and the Under Secretary.

\* \* \* \* \*

### **§139b. Special Operations Policy and Oversight Council**

(a) In General.-In order to fulfill the responsibilities specified in section 138(b)(4) of this title, the ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare, or the designee of the Assistant Secretary, shall establish and lead a team to be known as the "Special Operations Policy and Oversight Council" (in this section referred to as the "Council").

\* \* \* \* \*

### **§167. Unified combatant command for special operations**

(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.

\* \* \* \* \*

(e) Authority of Combatant Commander.-

(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities.

(2) Subject to the authority, direction, and control of the ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare, the commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):

\* \* \* \* \*

(f) Administrative Chain of Command.- (1) Unless otherwise directed by the President, the administrative chain of command to the special operations command runs-

(A) from the President to the Secretary of Defense;

(B) from the Secretary of Defense to the ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare; and

(C) from the ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare to the commander of the special operations command.

\* \* \* \* \*

#### **§127e. Support of special operations to combat terrorism**

\* \* \* \* \*

(g) Oversight by ASD for ~~SOLIC~~ SOIW.-The ~~Assistant Secretary of Defense for Special Operations and Low Intensity Conflict~~ Assistant Secretary of Defense for Special Operations and Irregular Warfare shall have primary responsibility within the Office of the Secretary of Defense for oversight of policies and programs for support authorized by this section.

1 **SEC. \_\_. EXTENSION OF COMMANDERS’ EMERGENCY RESPONSE PROGRAM IN**  
2 **AFGHANISTAN.**

3 Section 1201 of the National Defense Authorization Act for Fiscal Year 2012 (Public  
4 Law 112–81; 125 Stat. 1619), as most recently amended by section 1208 of the National  
5 Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92), is further amended—

6 (1) in subsection (a), by striking “December 31, 2020” and inserting  
7 “December 31, 2021”;

8 (2) in subsection (b)(1), by striking “2020” and inserting “2021”; and

9 (3) in subsection (f) in the first sentence, by striking “December 31, 2020”  
10 and inserting “December 31, 2021”.

**[Note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text above would amend existing law.]**

**Section-by-Section Analysis**

This proposal would extend through December 31, 2021 the authorization for the Commanders’ Emergency Response Program (CERP) in Afghanistan under section 1201 of the National Defense Authorization Act for Fiscal Year 2012 and would authorize \$2,500,000 for that program for use during calendar year 2021. CERP remains an important tool for military commanders for battle damage, condolence payments, and small-scale projects that enhance local conditions and contribute to force protection. CERP is essential for commanders in Afghanistan.

**Budget Implications:** The resources reflected in the table below are funded within the FY 2021 President’s Overseas Contingency Operations (OCO) Budget.

<b>RESOURCE REQUIREMENTS (\$MILLIONS)</b>									
	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>	<b>Appropriation From</b>	<b>Budget Activity</b>	<b>Dash-1 Line Item</b>	<b>Program Element</b>
CERP	\$2.5					Operation and Maintenance, Army OCO	01	136	0201195A
Total	\$2.5								

**Changes to Existing Law:** This proposal would make the following changes to section 1201 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81):

SEC. 1201. COMMANDERS' EMERGENCY RESPONSE PROGRAM IN AFGHANISTAN.

(a) **AUTHORITY.**—During the period beginning on October 1, 2019, and ending on ~~December 31, 2020~~ December 31, 2021, from funds made available to the Department of Defense for operation and maintenance, not to exceed \$2,500,000 may be used by the Secretary of Defense in such period to provide funds for the Commanders' Emergency Response Program in Afghanistan.

(b) **SEMI-ANNUAL REPORTS.**—

(1) **SEMI-ANNUAL REPORTS.**—Not later than 45 days after the end of each half fiscal year of fiscal years 2017 through ~~2020~~ 2021, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that half fiscal year that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the program under subsection (a).

(2) **FORM.**—Each report required under paragraph (1) shall be submitted, at a minimum, in a searchable electronic format that enables the congressional defense committees to sort the report by amount expended, location of each project, type of project, or any other field of data that is included in the report.

(c) **SUBMISSION OF GUIDANCE.**—

(1) **INITIAL SUBMISSION.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a copy of the guidance issued by the Secretary to the Armed Forces concerning the allocation of funds through the Commanders' Emergency Response Program in Afghanistan.

(2) **MODIFICATIONS.**—If the guidance in effect for the purpose stated in paragraph (1) is modified, the Secretary shall submit to the congressional defense committees a copy of the modification not later than 15 days after the date on which the Secretary makes the modification.

(d) **WAIVER AUTHORITY.**—For purposes of exercising the authority provided by this section or any other provision of law making funding available for the Commanders' Emergency Response Program in Afghanistan, the Secretary of Defense may waive any provision of law not contained in this section that would (but for the waiver) prohibit, restrict, limit, or otherwise constrain the exercise of that authority.

(e) **RESTRICTION ON AMOUNT OF PAYMENTS.**—Funds made available under this section for the Commanders' Emergency Response Program in Afghanistan may not be obligated or expended to carry out any project if the total amount of funds made available for the purpose of carrying out the project, including any ancillary or related elements of the project, exceeds \$500,000.



(f) **AUTHORITY TO ACCEPT CONTRIBUTIONS.**—The Secretary of Defense may accept cash contributions from any person, foreign government, or international organization to provide funds for the Commanders' Emergency Response Program in Afghanistan during the period beginning on October 1, 2019, and ending on ~~December 31, 2020~~ December 31, 2021. Funds received by the Secretary may be credited to the operation and maintenance account from which funds are made available to provide such funds, and may be used for such purpose until expended in addition to the funds specified in subsection (a).

(g) **NOTIFICATION.**—Not less than 15 days before obligating or expending funds made available under this section for the Commanders' Emergency Response Program in Afghanistan for a project in Afghanistan with a total anticipated cost of \$500,000 or more, the Secretary of Defense shall submit to the congressional defense committees a written notice containing the following information:

(1) The location, nature, and purpose of the proposed project, including how the project is intended to directly benefit the security or stability of the people of Afghanistan.

(2) The budget and implementation timeline for the proposed project, including any other funding under the Commanders' Emergency Response Program in Afghanistan that has been or is anticipated to be contributed to the completion of the project.

(3) A plan for the sustainment of the proposed project, including any written agreement with either the Government of Afghanistan, an entity owned or controlled by the Government of Afghanistan, a department or agency of the United States Government other than the Department of Defense, or a third party contributor to finance the sustainment of the activities and maintenance of any equipment or facilities to be provided through the proposed project.

(h) **COMMANDERS' EMERGENCY RESPONSE PROGRAM IN AFGHANISTAN DEFINED.**—In this section, the term “Commanders' Emergency Response Program in Afghanistan” means the program that—

(1) authorizes United States military commanders in Afghanistan to carry out small-scale projects designed to meet urgent humanitarian relief requirements or urgent reconstruction requirements within their areas of responsibility; and

(2) provides an immediate and direct benefit to the people of Afghanistan.

(i) **CONFORMING AMENDMENT.**—Section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3455), as most recently amended by section 1212 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383; 124 Stat. 4389), is hereby repealed.

1 **SEC. \_\_. CONTRACT AUTHORITY FOR COLUMBIA CLASS SUBMARINE**  
2 **PROGRAM.**

3 (a) CONTRACT AUTHORITY.—The Secretary of the Navy may enter into a contract,  
4 beginning with fiscal year 2021, for the procurement of up to two Columbia class submarines.

5 (b) INCREMENTAL FUNDING.—With respect to a contract entered into under subsection  
6 (a), the Secretary of the Navy may use incremental funding to make payments under the contract.

7 (c) LIABILITY.—Any contract entered into under subsection (a) shall provide that—

8 (1) any obligation of the United States to make a payment under the contract is  
9 subject to the availability of appropriations for that purpose; and

10 (2) that total liability of the Federal Government for termination of any contract  
11 entered into shall be limited to the total amount of funding obligated to the contract at  
12 time of termination.

**Section-by-Section Analysis**

This section would permit the Navy to enter into one contract for up to two COLUMBIA class submarines (SSBN 826 and SSBN 827), providing industrial base stability, production efficiencies, and cost savings when compared to an annual procurement with options cost estimate. This contract approach is aimed at minimizing the impact on the Department of the Navy’s Shipbuilding and Conversion, Navy (SCN) account through construction efficiencies and workforce stability. This contracting authority would provide the prime contractor and vendors with a reasonable advance assurance of authority to buy two ships and associated material, while also limiting the Government’s liability to the funds obligated to the contract in the event of termination. Providing such assurances to both the prime contractor and vendors will strengthen the industrial base, gives confidence to vendors to make long-term investments in both facilities and labor. Such assurances also, combined with various advanced construction and continuous production initiatives already underway, will further stabilize production lines, allowing for construction efficiencies and cost savings. Long-term investments in the labor force further de-risks schedule by reducing ramp-up/ramp-down costs related to hiring and training.

Subsection (a) of this proposal would permit the award of a contract in Fiscal Year (FY) 2021, enabling SSBN 826 ship construction and Advance Procurement/Advance Construction funding in FY 2021 through FY 2023 for SSBN 827. Full funding for construction of SSBN 827 starts in FY 2024 in accordance with the program’s Acquisition Strategy.

Subsection (b) of the proposal would permit the Secretary of the Navy to incrementally fund the contract using full funding for COLUMBIA Class SSBN 826 in FY 2021 and SSBN 827 in FY 2024. Instead of appropriating the entire amount needed to construct SSBN 826 FY 2021, incremental full funding allows the Navy to spread that cost out over three years, facilitating shipbuilding efforts to support the Navy the nation needs. Continuing this strategy to support construction for SSBN 827 over two years (FY 2024 and FY 2025) would further reduce the pressure on the Navy’s shipbuilding account.

Subsection (c) of this proposal ensures that the Government’s liability for the procurement is limited to funding that is obligated to the contract at the time of termination.

**Budget Implications:** This proposal includes significant budgetary savings that are already incorporated into the requested budget profiles. Resources impacted are incidental in nature and amount, and are included within the FY 2021 President’s Budget Request.

Based on cost reductions seen for Virginia Class Submarine block buy contracts, the budget request assumes estimated savings of at least \$800 million resulting from material procurement through a clear demand signal to the industrial base and production efficiencies. This represents approximately an eight percent savings over an annual procurement with options. These savings are already part of the program budgets. In the event this legislative proposal is not enacted, increases in required funding within the FY 2021 President’s Budget Request will be necessary.

The resources reflected in the tables below show the funding requested in FY 2021 BES and a comparison of funding required for a contract for SSBN 826 with an option for SSBN 827 without incremental funding and funding required for a single two-ship contract for SSBN 826 and SSBN 827 with incremental funding.

RESOURCE REQUIREMENTS (\$M)										
	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation From	Budget Activity	Dash-1 Line Item	Program Element
Navy	\$1,821	\$1,123	\$1,229	\$1,644	\$2,211	\$2,760	Shipbuilding Conversion Navy (SCN)	1	1045C	0101221N
Navy	\$0	\$2,891	\$2,768	\$2,506	\$2,993	\$3,348	Shipbuilding Conversion Navy (SCN)	1	1045	0101221N
Total	\$1,821	\$4,015	\$3,997	\$4,150	\$5,204	\$6,108	Shipbuilding Conversion Navy (SCN)	1	1045 (Advanced Procurement and Shipbuilding Conversion Navy)	--

<b>CLB Class SCN (\$M)</b>	<b>FY2020</b>	<b>FY2021</b>	<b>FY2022</b>	<b>FY2023</b>	<b>FY2024</b>	<b>FY2025</b>	<b>Total FY20-FY25</b>
Quantity		1			1		2
Contract for SSBN 826 with option for SSBN 827 without incremental funding	\$1,821	\$9,689	\$1,229	\$1,644	\$8,952	\$2,760	\$26,094
Single contract for SSBN 826 and SSBN 827 with incremental funding	\$1,821	\$4,015	\$3,997	\$4,150	\$5,204	\$6,108	\$25,294

**Changes to Existing Law:** None.

1 **SEC. \_\_\_\_. PILOT PROGRAM TO EXPAND ELIGIBILITY FOR THE DEPARTMENT**  
2 **OF DEFENSE EDUCATION ACTIVITY VIRTUAL HIGH SCHOOL**  
3 **PROGRAM.**

4 Section 2164 of title 10, United States Code, is amended by adding at the end the  
5 following new subsection:

6 “(m) PILOT PROGRAM TO EXPAND ELIGIBILITY FOR THE DEPARTMENT OF DEFENSE  
7 EDUCATION ACTIVITY VIRTUAL HIGH SCHOOL PROGRAM.—(1) Notwithstanding any provision of  
8 subsection (l), the Secretary of Defense shall carry out a four-year pilot program authorizing  
9 dependents of full-time active-duty military service members to enroll into the Department of  
10 Defense Education Activity Virtual High School program (in this section referred to as the  
11 ‘DVHS program’).

12 “(2) The purpose of the pilot program shall be to evaluate the feasibility and  
13 scalability of the DVHS program, to evaluate the advisability of a larger expansion of the  
14 DVHS program, and to determine the impact that increased access to the DVHS program  
15 has on military and family readiness.

16 “(3) The Secretary may authorize not more than 400 course enrollments per academic  
17 year into the pilot program, with one single student taking no more than two courses per  
18 academic year.

19 “(4)(A) The Secretary shall select to participate in the pilot program dependents of full-  
20 time active-duty service members who—

21 “(i) are in grades 9 through 12 and are currently ineligible to enroll in the DVHS  
22 program;

1           “(ii) require supplementary courses to meet graduation requirements in the current  
2 State of residence; or

3           “(iii) have demonstrated to the Secretary a clear need to participate in the  
4 program.

5           “(B) In selecting participants under subparagraph (A), the Secretary shall give priority to  
6 each of the following types of students:

7           “(i) Full-time active-duty military dependents who reside in rural areas.

8           “(ii) Full-time active-duty dependents who are home-schooled students or  
9 enrolled in a home school program.

10          “(5) In this section:

11           “(A) The term ‘rural area’ has the meaning given the term in section 520 of  
12 the Housing Act of 1949 (42 U.S.C. 1490).

13           “(B) The term ‘home-schooled student’ means a student in a grade equivalent to  
14 at least kindergarten and not higher than 12th grade who receives educational  
15 instruction at home or by other non-traditional means outside of a public or private school  
16 system, either all or most of the time.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This proposal would establish a four-year pilot program that would expand eligibility in the Defense Virtual High School (DVHS) to allow certain full-time active-duty military-dependent students to attend who are not currently eligible for enrollment. In order to determine the scalability and to assess the viability of expanding the current DVHS model, this pilot program would authorize up to an additional 400 course enrollments per academic year, with one single student taking no more than two courses per academic year.

This pilot program would be open only to military-dependent students within the United States (including its commonwealths, territories, and possessions) who are in grades

9-12, are not eligible to enroll into the DVHS program, require supplementary courses to meet the graduation requirements in their State, or can demonstrate to the Secretary of Defense a clear need to participate in the program. Additionally, the Secretary shall prioritize full-time active-duty military-dependent students who reside in rural areas and military-dependent students who are enrolled in a home school program.

Under current Federal law, the Department of Defense Education Activity (DoDEA) estimates there to be approximately 133,000 full-time active-duty military-dependent students currently not eligible to enroll into DoDEA schools, including the DVHS program. Within that population, there are an estimated 10,000 military-dependent students who would potentially be eligible to participate in this pilot program.

The Department of Defense has long recognized the significance of family readiness and its impact on overall military readiness, performance, retention, and recruitment. A quality education is both a stabilizing influence in the lives of our children and their families and an overall element in the readiness, retention, and morale of our Force. With nearly one million school-age active-duty military dependent children worldwide, Service members have growing concerns about the quality and level of support offered by local primary and secondary education programs in some locations. Lack of access to high quality educational programs may compel some Service members to shorten their military careers or leave families behind to keep their children in preferred educational programs. Recent survey data suggests that such a decision puts undue hardship on military families, and affects the choice to continue to pursue a military career.

It has been reported through various surveys and media round-tables that spouses of active duty Service members and active duty members both consider child education as a top issue. In addition, many families have chosen to geographically separate away from their active duty member in order to support their children's education. The Military Department Secretaries highlighted these and other quality of life points in their tri-signature memo signed Feb 23, 2018, notifying State governors that the Services will consider quality of life issues such as K-12 education in decisions on future basing or mission alternatives.

**Budget Implications:** The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2021 President’s Budget request. The identified resource impact includes the requirement for additional educators to maintain appropriate teacher to student ratios, a dedicated Registrar, curriculum development, and additional text and curriculum materials to support the increased number of students. The virtual platform also requires expanded infrastructure and licensure for increased use.

RESOURCE IMPACT (\$MILLIONS)								
Program	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation	Budget Activity	BLI/SAG

DoD Dependents Section VI Schools	\$0	\$1.25	\$1.25	\$1.25	\$1.25	Operations & Maintenance 97 0100	04	4GTJ
Total	\$0	\$1.25	\$1.25	\$1.25	\$1.25			

**Changes to Existing Law:** This proposal would make the following changes to section 2164 of title 10, United States Code.

**§ 2164. Department of Defense domestic dependent elementary and secondary schools**

\* \* \* \* \*

(1) ENROLLMENT IN VIRTUAL ELEMENTARY AND SECONDARY EDUCATION PROGRAM.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in the virtual elementary and secondary education program established as a component of the Department of Defense education program of a dependent of a member of the armed forces on active duty who—

(A) is enrolled in an elementary or secondary school operated by a local educational agency or another accredited educational program in the United States (other than a school operated by the Department of Defense education program); and

(B) immediately before such enrollment, was enrolled in the defense dependents' education system established under section 1402 of the [Defense Dependents' Education Act of 1978](#) (20 U.S.C. [921](#)).

(2) Enrollment of a dependent described in paragraph (1) pursuant to such paragraph shall be on a tuition basis.

(3) Any payments received by the Secretary of Defense under this subsection shall be credited to the account designated by the Secretary for the operation of the virtual educational program under this subsection. Payments so credited shall be merged with other funds in the account and shall be available, to the extent provided in advance in appropriation Acts, for the same purposes and the same period as other funds in the account.

(m) PILOT PROGRAM TO EXPAND ELIGIBILITY FOR THE DEPARTMENT OF DEFENSE EDUCATION ACTIVITY VIRTUAL HIGH SCHOOL PROGRAM.—(1) Notwithstanding any provision of subsection (l), the Secretary of Defense shall carry out a four-year pilot program authorizing dependents of full-time active-duty military service members to enroll into the Department of Defense Education Activity Virtual High School program (in this section referred to as the 'DVHS program').

(2) The purpose of the pilot program shall be to evaluate the feasibility and scalability of the DVHS program, to evaluate the advisability of a larger expansion of the DVHS program, and to determine the impact that increased access to the DVHS program has on military and family readiness.

(3) The Secretary may authorize not more than 400 course enrollments per academic year into the pilot program, with one single student taking no more than two courses per academic year.

(4)(A) The Secretary shall select to participate in the pilot program dependents of full-time active-duty service members who—



(i) are in grades 9 through 12 and are currently ineligible to enroll in the DVHS program;  
(ii) require supplementary courses to meet graduation requirements in the current State of residence; or

(iii) have demonstrated to the Secretary a clear need to participate in the program.

(B) In selecting participants under subparagraph (A), the Secretary shall give priority to each of the following types of students:

(i) Full-time active-duty military dependents who reside in rural areas.

(ii) Full-time active-duty dependents who are home-schooled students or enrolled in a home school program.

(5) In this section:

(A) The term 'rural area' has the meaning given the term in section 520 of the Housing Act of 1949 (42 U.S.C. 1490).

(B) The term 'home-schooled student' means a student in a grade equivalent to at least kindergarten and not higher than 12th grade who receives educational instruction at home or by other non-traditional means outside of a public or private school system, either all or most of the time.

## DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

Sec. 2002. Expiration of authorizations and amounts required to be specified by law.

Sec. 2003. Effective date.

### TITLE XXI—ARMY MILITARY CONSTRUCTION

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Authorization of appropriations, Army.

Sec. 2104. Modification of authority to carry out certain fiscal year 2017 project.

### TITLE XXII—NAVY MILITARY CONSTRUCTION

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorization of appropriations, Navy.

### TITLE XXIII—AIR FORCE MILITARY CONSTRUCTION

Sec. 2301. Authorized Air Force construction and land acquisition projects.

Sec. 2302. Family housing.

Sec. 2303. Improvements to military family housing units.

Sec. 2304. Authorization of appropriations, Air Force.

Sec. 2305. Modification of authority to carry out certain fiscal year 2018 project.

Sec. 2306. Modification of authority to carry out certain fiscal year 2019 projects.

Sec. 2307. Modification of authority to carry out certain fiscal year 2020 Family Housing projects.

Sec. 2308. Modification of authority to carry out certain fiscal year 2020 projects.

### TITLE XXIV—DEFENSE AGENCIES MILITARY CONSTRUCTION

Sec. 2401. Authorized defense agencies construction and land acquisition projects.

Sec. 2402. Authorized energy conservation projects.

Sec. 2403. Authorization of appropriations, defense agencies.

### TITLE XXV—INTERNATIONAL PROGRAMS

#### Subtitle A—North Atlantic Treaty Organization Security Investment Program

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

#### Subtitle B—Host Country In-kind Contributions

Sec. 2511. Republic of Korea funded construction projects.

### TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Army National Guard construction and land acquisition projects.

Sec. 2602. Authorized Army Reserve construction and land acquisition projects.

Sec. 2603. Authorized Navy Reserve and Marine Corps Reserve construction and land acquisition projects.

Sec. 2604. Authorized Air National Guard construction and land acquisition projects.

Sec. 2605. Authorized Air Force Reserve construction and land acquisition projects.

Sec. 2606. Authorization of appropriations, National Guard and Reserve.

Sec. 2607. Modification of authority to carry out certain fiscal year 2020 projects.

TITLE XXVII—BASE REALIGNMENT AND CLOSURE ACTIVITIES

Sec. 2701. Authorization of appropriations for base realignment and closure activities funded through Department of Defense base closure account.

TITLE XXVIII—MILITARY CONSTRUCTION GENERAL PROVISIONS

TITLE XXIX—OVERSEAS CONTINGENCY OPERATIONS MILITARY CONSTRUCTION

Sec. 2901. Authorized Navy construction and land acquisition projects.

Sec. 2902. Authorized Air Force construction and land acquisition projects.

Sec. 2903. Authorization of appropriations.

TITLE XXX—MILITARY CONSTRUCTION FUNDING

Sec. 3001. Authorization of amounts in funding tables.

Sec. 3002. Military construction table.

Sec. 3003. Military construction table for overseas contingency operations.

1           **DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS**

2           **SEC. 2001. SHORT TITLE.**

3                   This division may be cited as the “Military Construction Authorization Act for Fiscal  
4           Year 2021”.

5           **SEC. 2002. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO**  
6                   **BE SPECIFIED BY LAW.**

7                   (a) EXPIRATION OF AUTHORIZATIONS AFTER FIVE YEARS.—Except as provided in  
8           subsection (b), all authorizations contained in titles XXI through XXVII for military construction  
9           projects, land acquisition, family housing projects and facilities, and contributions to the North  
10          Atlantic Treaty Organization Security Investment Program (and authorizations of appropriations  
11          therefor) shall expire on the later of—

12                          (1) October 1, 2025; or

13                          (2) the date of the enactment of an Act authorizing funds for military construction  
14          for fiscal year 2026.

1 (b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military  
2 construction projects, land acquisition, family housing projects and facilities, and contributions  
3 to the North Atlantic Treaty Organization Security Investment Program (and authorizations of  
4 appropriations therefor), for which appropriated funds have been obligated before the later of—

5 (1) October 1, 2025; or

6 (2) the date of the enactment of an Act authorizing funds for fiscal year 2026 for  
7 military construction projects, land acquisition, family housing projects and facilities, or  
8 contributions to the North Atlantic Treaty Organization Security Investment Program.

9 **SEC. 2003. EFFECTIVE DATE.**

10 Titles XXI through XXVII and title XXIX shall take effect on the later of—

11 (1) October 1, 2020; or

12 (2) the date of the enactment of this Act.

13 **TITLE XXI—ARMY MILITARY CONSTRUCTION**

14 **SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION**

15 **PROJECTS.**

16 Using amounts appropriated pursuant to the authorization of appropriations in section  
17 2103(a) and available for military construction projects inside the United States as specified in  
18 the funding table in section 3002, the Secretary of the Army may acquire real property and carry  
19 out military construction projects for the installations or locations inside the United States, and in  
20 the amounts, set forth in the following table:

<b>Army: Inside the United States</b>		
<b>State</b>	<b>Installation</b>	<b>Amount</b>
Arizona	Yuma Proving Ground	\$14,000,000
Colorado	Fort Carson	\$28,000,000
Georgia	Fort Gillem	\$71,000,000
	Fort Gordon	\$80,000,000

Hawaii	Wheeler Army Air Field	\$89,000,000
Louisiana	Fort Polk	\$25,000,000
Oklahoma	McAlester AAP	\$35,000,000
Virginia	Humphreys Engineer Center	\$51,000,000

1 **SEC. 2102. FAMILY HOUSING.**

2 (a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the  
3 authorization of appropriations in section 2103(a) and available for military family housing  
4 functions as specified in the funding table in section 3002, the Secretary of the Army may  
5 construct or acquire family housing units (including land acquisition and supporting facilities) at  
6 the installations or locations, in the number of units, and in the amounts set forth in the following  
7 table:

**Army: Family Housing**

Country	Installation	Units	Amount
Italy	Vicenza	Family Housing New Construction	\$84,100,000
Kwajalein	Kwajalein Atoll	Family Housing Replacement Construction	\$32,000,000

8 (b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization  
9 of appropriations in section 2103(a) and available for military family housing functions as  
10 specified in the funding table in section 3002, the Secretary of the Army may carry out  
11 architectural and engineering services and construction design activities with respect to the  
12 construction or improvement of family housing units in an amount not to exceed \$3,300,000.

13 **SEC. 2103. AUTHORIZATION OF APPROPRIATIONS, ARMY.**

14 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be  
15 appropriated for fiscal years beginning after September 30, 2020, for military construction, land  
16 acquisition, and military family housing functions of the Department of the Army as specified in  
17 the funding table in section 3002.

1 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost  
2 variations authorized by section 2853 of title 10, United States Code, and any other cost variation  
3 authorized by law, the total cost of all projects carried out under section 2101 of this Act may not  
4 exceed the total amount authorized to be appropriated under subsection (a), as specified in the  
5 funding table in section 3002.

6 **SEC. 2104. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL**  
7 **YEAR 2017 PROJECT.**

8 In the case of the authorization contained in the table in section 2102(a) of the Military  
9 Construction Authorization Act for Fiscal Year 2017 (division B of Public Law 114-92; 129 Stat.  
10 1146) for Camp Walker, Korea, the Secretary of the Army may construct an elevated walkway  
11 between two existing parking garages to connect children’s playgrounds for Family Housing  
12 New Construction, as specified in the funding table in section 4601 of such Act (129 Stat. 1290).

13 **TITLE XXII—NAVY MILITARY CONSTRUCTION**

14 **SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION**  
15 **PROJECTS.**

16 (a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
17 authorization of appropriations in section 2204(a) and available for military construction projects  
18 inside the United States as specified in the funding table in section 3002, the Secretary of the  
19 Navy may acquire real property and carry out military construction projects for the installations  
20 or locations inside the United States, and in the amounts, set forth in the following table:

<b>Navy: Inside the United States</b>		
<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
California	Camp Pendleton	\$68,530,000
	Lemoore	\$187,220,000
	San Diego	\$128,500,000
	Twentynine Palms	\$76,500,000

Hawaii	Joint Base Pearl Harbor-Hickam	\$114,900,000
Maine	Kittery	\$715,000,000
Nevada	Fallon	\$29,040,000
Virginia	Norfolk	\$30,400,000

1 (b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
2 authorization of appropriations in section 2204(a) and available for military construction projects  
3 outside the United States as specified in the funding table in section 3002, the Secretary of the  
4 Navy may acquire real property and carry out military construction projects for the installation or  
5 location outside the United States, and in the amounts, set forth in the following table:

**Navy: Outside the United States**

<b>Country</b>	<b>Installation or Location</b>	<b>Amount</b>
Bahrain Island	SW Asia	\$68,340,000
Greece	Souda Bay	\$50,180,000
Guam	Andersen Air Force Base	\$21,280,000
	Joint Region Marianas	\$546,550,000
Spain	Rota	\$60,110,000

6 **SEC. 2202. FAMILY HOUSING.**

7 Using amounts appropriated pursuant to the authorization of appropriations in section  
8 2204(a) and available for military family housing functions as specified in the funding table in  
9 section 3002, the Secretary of the Navy may carry out architectural and engineering services and  
10 construction design activities with respect to the construction or improvement of family housing  
11 units in an amount not to exceed \$5,854,000.

12 **SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

13 Subject to section 2825 of title 10, United States Code, and using amounts appropriated  
14 pursuant to the authorization of appropriations in section 2204(a) and available for military  
15 family housing functions as specified in the funding table in section 3002, the Secretary of the

1 Navy may improve existing military family housing units in an amount not to exceed  
2 \$37,043,000.

3 **SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be  
5 appropriated for fiscal years beginning after September 30, 2020, for military construction, land  
6 acquisition, and military family housing functions of the Department of the Navy, as specified in  
7 the funding table in section 3002.

8 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost  
9 variations authorized by section 2853 of title 10, United States Code, and any other cost variation  
10 authorized by law, the total cost of all projects carried out under section 2201 of this Act may not  
11 exceed the total amount authorized to be appropriated under subsection (a), as specified in the  
12 funding table in section 3002.

13 **TITLE XXIII—AIR FORCE MILITARY CONSTRUCTION**

14 **SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION**  
15 **PROJECTS.**

16 (a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
17 authorization of appropriations in section 2304(a) and available for military construction projects  
18 inside the United States as specified in the funding table in section 3002, the Secretary of the Air  
19 Force may acquire real property and carry out military construction projects for the installations  
20 or locations inside the United States, and in the amounts, set forth in the following table:

<b>Air Force: Inside the United States</b>		
<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
New Jersey	Joint Base McGuire-Dix-Lakehurst	\$22,000,000
Texas	Joint Base San Antonio	\$19,500,000
Virginia	Joint Base Langley-Eustis	\$19,500,000



1 (b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
2 authorization of appropriations in section 2304(a) and available for military construction projects  
3 outside the United States as specified in the funding table in section 3002, the Secretary of the  
4 Air Force may acquire real property and carry out military construction projects for the  
5 installation or location outside the United States, and in the amount, set forth in the following  
6 table:

<b>Air Force: Outside the United States</b>		
<b>Country</b>	<b>Installation or Location</b>	<b>Amount</b>
Guam	Andersen Air Force Base	\$56,000,000
Qatar	Al Udeid	\$26,000,000

7 **SEC. 2302. FAMILY HOUSING.**

8 Using amounts appropriated pursuant to the authorization of appropriations in section  
9 2304(a) and available for military family housing functions as specified in the funding table in  
10 section 3002, the Secretary of the Air Force may carry out architectural and engineering services  
11 and construction design activities with respect to the construction or improvement of family  
12 housing units in an amount not to exceed \$2,969,000.

13 **SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.**

14 Subject to section 2825 of title 10, United States Code, and using amounts appropriated  
15 pursuant to the authorization of appropriations in section 2304(a) and available for military  
16 family housing functions as specified in the funding table in section 3002, the Secretary of the  
17 Air Force may improve existing military family housing units in an amount not to exceed  
18 \$94,245,000.

19 **SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be  
21 appropriated for fiscal years beginning after September 30, 2020, for military construction, land

1 acquisition, and military family housing functions of the Department of the Air Force, as  
2 specified in the funding table in section 3002.

3 (b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost  
4 variations authorized by section 2853 of title 10, United States Code, and any other cost variation  
5 authorized by law, the total cost of all projects carried out under section 2301 of this Act may not  
6 exceed the total amount authorized to be appropriated under subsection (a), as specified in the  
7 funding table in section 3002.

8 **SEC. 2305. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL**  
9 **YEAR 2018 PROJECT.**

10 In the case of the authorization contained in the table in section 2301(b) of the Military  
11 Construction Authorization Act for Fiscal Year 2018 (division B of Public Law 115-91; 131 Stat.  
12 1825) for Royal Air Force Lakenheath, the Secretary of the Air Force may construct a 2,700  
13 square-meter Consolidated Corrosion Control and Wash Rack Facility by striking “20,000,000”  
14 as specified in the funding table of section 4601 of such Act (131 Stat. 1999) and inserting  
15 “55,300,000”.

16 **SEC. 2306. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL**  
17 **YEAR 2019 PROJECTS.**

18 (a) EIELSON AIR FORCE BASE, ALASKA.—In the case of the authorization contained in  
19 table in section 2301(a) of the Military Construction Authorization Act for Fiscal Year 2019  
20 (division B of Public Law 115-232; 132 Stat. 2246) for Eielson Air Force Base, Alaska, the  
21 Secretary of the Air Force may construct a 426 square-meter non-contained (outdoor) range with  
22 covered and heated firing line for construction of a F-35 CATM Range, as specified in the  
23 funding table in section 4601 of such Act (132 Stat. 2404).

1 (b) ROYAL AIR FORCE LAKENHEATH, UNITED KINGDOM.—In the case of the authorization  
2 contained in the table in section 2301(b) of the Military Construction Authorization Act for  
3 Fiscal Year 2019 (division B of Public Law 115-232; 132 Stat. 2246) for Royal Air Force  
4 Lakenheath, the Secretary of the Air Force may construct a 1,206 square-meter maintenance  
5 facility for construction of an F-35A ADAL Conventional Munitions MX, as specified in the  
6 funding table of section 4601 of such Act (132 Stat. 2400).

7 (c) FORCE PROTECTION AND SAFETY.—The table in section 4601 of the Military  
8 Construction Authorization Act for Fiscal Year 2019 (division B of Public Law 115-232; 132  
9 Stat. 2406) for Force Protection and Safety, Air Force, is amended in the item relating to Force  
10 Protection and Safety, Air Force, by striking “\$35,000” and inserting “\$50,000”.

11 **SEC. 2307. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL**  
12 **YEAR 2020 FAMILY HOUSING PROJECTS.**

13 (a) CONSTRUCTION AND ACQUISITION.—Section 2302 of the Military Construction  
14 Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. XXXX) is amended—

15 (1) by striking “Using amounts” and inserting “(a) PLANNING AND DESIGN.—  
16 Using amounts”; and

17 (2) by adding at the end the following new subsection:

18 “(b) CONSTRUCTION AND ACQUISITION.— Using amounts appropriated pursuant to the  
19 authorization of appropriations in section 2304(a), the Secretary of the Air Force may construct  
20 or acquire family housing units (including land, acquisition, and supporting facilities) at the  
21 installation, in the number of units, and in the amounts set forth in the following table:

22 **Air Force: Family Housing**

<b>Country</b>	<b>Installation</b>	<b>Purpose</b>	<b>Amount</b>
Germany	Spangdahlem Air Base	76 Units	\$53,584,000

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(b) FUNDING.—Section 2303 of the Military Construction Authorization Act for Fiscal Year 2020 (Public Law 116–92; 133 Stat. XXXX) is amended by striking “\$53,584,000” and inserting “\$46,638,000”.

**SEC. 2308. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2020 PROJECTS.**

(a) TYNDALL AIR FORCE BASE, FLORIDA.—In the case of the authorization contained in the table in section 2912(a) of the Military Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133 Stat. XXXX) for Tyndall Air Force Base, Florida, the Secretary of the Air Force may construct—

(1) up to 4,770 square meters of aircraft support equipment storage for construction of an Auxiliary Ground Equipment Facility, as specified in the funding table in section 4603 of such Act (133 Stat. XXXX);

(2) up to 18,770 square meters of visiting quarters for construction of Dorm Complex Phase 1, as specified in the funding table in section 4603 of such Act (133 Stat. XXXX);

(3) 2,127 square meters of squadron operations and 2,875 square meters of aircraft maintenance unit for construction of Ops/Aircraft Maintenance Unit/Hangar number 2, as specified in the funding table in section 4603 of such Act (133 Stat. XXXX);

(4) 2,127 square meters of squadron operations and 2,875 square meters of aircraft maintenance unit for construction of Ops/Aircraft Maintenance Unit/Hangar

1 number 3, as specified in the funding table in section 4603 of such Act (133 Stat.  
2 XXXX);

3 (5) up to 3,420 square meters of headquarters for construction of an Operations  
4 Group/Maintenance Group HQ at the installation, as specified in the funding table in  
5 section 4603 of such Act (133 Stat. XXXX);

6 (6) up to 930 square meters of equipment storage for construction of a Security  
7 Forces Mobility Storage Facility, as specified in the funding table in section 4603 of such  
8 Act (133 Stat. XXXX);

9 (7) up to 7,000 meters of storm water piping, box culverts, underground detention,  
10 and grading for surface detention for construction of Site Development, Utilities, and  
11 Demolition Phase 2, as specified in the funding table in section 4603 of such Act (133  
12 Stat. XXXX); AND

13 (8) up to 12,471 meters of visiting quarters for construction of Lodging Facilities  
14 Phase 1, as specified in the funding table in section 4603 of such Act (133 Stat. XXXX).

15 (b) OFFUTT AIR FORCE BASE, NEBRASKA.—In the case of the authorization contained in  
16 the table in section 2912(a) of the Military Construction Authorization Act for Fiscal Year 2020  
17 (division B of Public Law 116–92; 133 Stat. XXXX) for Offutt Air Force Base, Nebraska, the  
18 Secretary of the Air Force may construct—

19 (1) seven 2.5-megawatt diesel engine generators, seven diesel exhaust fluid  
20 systems, 15-kV switchgear, two import/export inter-ties, five import-only inter-ties, and  
21 800 square meters of switchgear facility for construction of an Emergency Power  
22 Microgrid, as specified in the funding table in section 4603 of such Act (133 Stat.  
23 XXXX);

1 (2) 2,536 square meters of warehouse for construction of Logistics Readiness  
2 Squadron Campus, as specified in the funding table in section 4603 of such Act (133 Stat.  
3 XXXX);

4 (3) 4,218 square meters of operations center and 1,343 square meters of military  
5 working dog kennel for construction of Security Campus, as specified in the funding  
6 table in section 4603 of such Act (133 Stat. XXXX);

7 (4) 445 square meter of petroleum operations center, 268 square meters of de-  
8 icing liquid storage, and 173 square meters of warehouse for construction of a Flightline  
9 Hangars Campus, as specified in the funding table in section 4603 of such Act (133 Stat.  
10 XXXX); and

11 (5) 240 square meters of recreation complex and 270 square meters of storage for  
12 construction of a Lake Campus, as specified in the funding table in section 4603 of such  
13 Act (133 Stat. XXXX).

14 (c) JOINT BASE LANGLEY-EUSTIS, VIRGINIA.—In the case of the authorization contained  
15 in the table in section 2912(a) of the Military Construction Authorization Act for Fiscal Year  
16 2020 (division B of Public Law 116–92; 133 Stat. XXXX) for Joint Base Langley-Eustis,  
17 Virginia, the Secretary of the Air Force may construct up to 6,720 square meters of dormitory for  
18 construction of a Dormitory at the installation, as specified in the funding table in section 4603  
19 of such Act (133 Stat. XXXX).

20 **TITLE XXIV—DEFENSE AGENCIES MILITARY CONSTRUCTION**

21 **SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND**

22 **ACQUISITION PROJECTS.**

1 (a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
 2 authorization of appropriations in section 2403(a) and available for military construction projects  
 3 inside the United States as specified in the funding table in section 3002, the Secretary of  
 4 Defense may acquire real property and carry out military construction projects for the  
 5 installations or locations inside the United States, and in the amounts, set forth in the following  
 6 table:

**Defense Agencies: Inside the United States**

State	Installation or Location	Amount
Alabama	Anniston Army Depot	\$18,000,000
Alaska	Fort Greely	\$48,000,000
Arizona	Fort Huachuca	\$33,728,000
	Yuma	\$49,500,000
California	Beale Air Force Base	\$22,800,000
Colorado	Fort Carson	\$15,600,000
Conus Unspecified	CONUS Unspecified	\$14,400,000
Florida	Hurlburt Field	\$83,120,000
Kentucky	Fort Knox	\$69,310,000
New Mexico	Kirtland Air Force Base	\$46,600,000
North Carolina	Fort Bragg	\$113,800,000
Ohio	Wright-Patterson Air Force Base	\$23,500,000
Texas	Fort Hood	\$32,700,000
Virginia	Joint Expeditionary Base Little Creek-Fort Story	\$112,500,000
Washington	Joint Base Lewis-McChord	\$21,800,000
	Manchester	\$82,000,000

7 (b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the  
 8 authorization of appropriations in section 2403(a) and available for military construction projects  
 9 outside the United States as specified in the funding table in section 3002, the Secretary of  
 10 Defense may acquire real property and carry out military construction projects for the  
 11 installations or locations outside the United States, and in the amounts, set forth in the following  
 12 table:

**Defense Agencies: Outside the United States**

Country	Installation or Location	Amount
Japan	Def Fuel Support Point Tsurumi	\$49,500,000

1 **SEC. 2402. AUTHORIZED ENERGY CONSERVATION PROJECTS.**

2           Using amounts appropriated pursuant to the authorization of appropriations in section  
3 2403(a) and available for energy conservation projects as specified in the funding table in section  
4 3002, the Secretary of Defense may carry out energy conservation projects under chapter 173 of  
5 title 10, United States Code, in the amount set forth in the table.

6 **SEC. 2403. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.**

7           (a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be  
8 appropriated for fiscal years beginning after September 30, 2020, for military construction, land  
9 acquisition, and military family housing functions of the Department of Defense (other than the  
10 military departments), as specified in the funding table in section 3002.

11           (b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost  
12 variations authorized by section 2853 of title 10, United States Code, and any other cost variation  
13 authorized by law, the total cost of all projects carried out under section 2401 of this Act may not  
14 exceed the total amount authorized to be appropriated under subsection (a), as specified in the  
15 funding table in section 3002.

16 **TITLE XXV—INTERNATIONAL PROGRAMS**

17 **Subtitle A—North Atlantic Treaty Organization Security Investment**

18 **Program**

19 **SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION**  
20 **PROJECTS.**





<b>Component</b>	<b>Installation or Location</b>	<b>Project</b>	<b>Amount</b>
Army	Camp Carroll	Site Development	\$49,000,000
Army	Camp Humphreys	Attack Reconnaissance Battalion Hangar	\$99,000,000
Army	Camp Humphreys	Hot Refuel Point	\$35,000,000
Navy	COMROKFLT Naval Base, Busan	Maritime Operations Center	\$26,000,000
Air Force	Daegu Air Base	AGE Facility and Parking Apron	\$14,000,000
Air Force	Kunsan Air Base	Backup Generator Plant	\$19,000,000
Air Force	Osan Air Base	Aircraft Corrosion Control Facility (Phase 3)	\$12,000,000
Air Force	Osan Air Base	Child Development Center	\$20,000,000
Air Force	Osan Air Base	Relocate Munitions Storage Area Delta (Phase 1)	\$84,000,000
Defense-Wide	Camp Humphreys	Elementary School	\$58,000,000

1           **TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES**

2           **SEC. 2601. AUTHORIZED ARMY NATIONAL GUARD CONSTRUCTION AND LAND**  
3           **ACQUISITION PROJECTS.**

4           Using amounts appropriated pursuant to the authorization of appropriations in section  
5 2606 and available for the National Guard and Reserve as specified in the funding table in  
6 section 3002, the Secretary of the Army may acquire real property and carry out military  
7 construction projects for the Army National Guard locations inside the United States, and in the  
8 amounts, set forth in the following table:

<b>Army National Guard</b>		
<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
Arizona	Tucson	\$18,100,000
Colorado	Peterson Air Force Base	\$15,000,000
Indiana	Shelbyville	\$12,000,000
Kentucky	Frankfort	\$15,000,000
Mississippi	Brandon	\$10,400,000
Nebraska	North Platte	\$9,300,000
New Jersey	Joint Base McGuire-Dix-Lakehurst	\$15,000,000

Ohio	Columbus	\$15,000,000
Oregon	Hermiston	\$9,300,000
South Carolina	Joint Base Charleston	\$15,000,000
Tennessee	McMinnville	\$11,200,000
Texas	Fort Worth	\$13,800,000
Utah	Nephi	\$12,000,000
Wisconsin	Appleton	\$11,600,000

1 **SEC. 2602. AUTHORIZED ARMY RESERVE CONSTRUCTION AND LAND**  
2 **ACQUISITION PROJECTS.**

3 Using amounts appropriated pursuant to the authorization of appropriations in section  
4 2606 and available for the National Guard and Reserve as specified in the funding table in  
5 section 3002, the Secretary of the Army may acquire real property and carry out military  
6 construction projects for the Army Reserve locations inside the United States, and in the  
7 amounts, set forth in the following table:

<b>Army Reserve</b>		
<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
Florida	Gainesville	\$36,000,000
Massachusetts	Devens Reserve Forces Training Area	\$8,700,000
North Carolina	Asheville	\$24,000,000
Wisconsin	Fort McCoy	\$14,600,000

8 **SEC. 2603. AUTHORIZED NAVY RESERVE AND MARINE CORPS RESERVE**  
9 **CONSTRUCTION AND LAND ACQUISITION PROJECTS.**

10 Using amounts appropriated pursuant to the authorization of appropriations in section  
11 2606 and available for the National Guard and Reserve as specified in the funding table in  
12 section 3002, the Secretary of the Navy may acquire real property and carry out military  
13 construction projects for the Navy Reserve and Marine Corps Reserve locations inside the  
14 United States, and in the amounts, set forth in the following table:

<b>Navy Reserve and Marine Corps Reserve</b>		
<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>

Maryland	Reisterstown	\$39,500,000
Utah	Hill Air Force Base	\$25,010,000

1 **SEC. 2604. AUTHORIZED AIR NATIONAL GUARD CONSTRUCTION AND LAND**

2 **ACQUISITION PROJECTS.**

3 Using amounts appropriated pursuant to the authorization of appropriations in section  
4 2606 and available for the National Guard and Reserve as specified in the funding table in  
5 section 3002, the Secretary of the Air Force may acquire real property and carry out military  
6 construction projects for the Air National Guard locations inside the United States, and in the  
7 amounts, set forth in the following table:

**Air National Guard**

<b>State</b>	<b>Installation or Location</b>	<b>Amount</b>
Alabama	Montgomery Regional Airport (ANG) Base	\$11,600,000
Guam	Joint Region Marianas	\$20,000,000
Maryland	Joint Base Andrews	\$9,400,000
Texas	Joint Base San Antonio	\$10,800,000

8 **SEC. 2605. AUTHORIZED AIR FORCE RESERVE CONSTRUCTION AND LAND**

9 **ACQUISITION PROJECTS.**

10 Using amounts appropriated pursuant to the authorization of appropriations in section  
11 2606 and available for the National Guard and Reserve as specified in the funding table in  
12 section 3002, the Secretary of the Air Force may acquire real property and carry out military  
13 construction projects for the Air Force Reserve locations inside the United States, and in the  
14 amounts, set forth in the following table:

**Air Force Reserve**

<b>State</b>	<b>Location</b>	<b>Amount</b>
Texas	Fort Worth	\$14,200,000

1 **SEC. 2606. AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND**  
2 **RESERVE.**

3 Funds are hereby authorized to be appropriated for fiscal years beginning after September  
4 30, 2020, for the costs of acquisition, architectural and engineering services, and construction of  
5 facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of  
6 title 10, United States Code (including the cost of acquisition of land for those facilities), as  
7 specified in the funding table in section 3002.

8 **SEC. 2607. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL**  
9 **YEAR 2020 PROJECT.**

10 In the case of the authorization contained in the table in section 2601 of the Military  
11 Construction Authorization Act for Fiscal Year 2020 (division B of Public Law 116–92; 133  
12 Stat. XXXX) for Anniston Army Depot, Alabama, for construction of a Training Barracks as  
13 specified in the funding table in section 4601 of such Act, the Secretary of the Army may  
14 construct a Training Barracks at Fort McClellan, Alabama.

15 **TITLE XXVII—BASE REALIGNMENT AND CLOSURE ACTIVITIES**

16 **SEC. 2701. AUTHORIZATION OF APPROPRIATIONS FOR BASE REALIGNMENT**  
17 **AND CLOSURE ACTIVITIES FUNDED THROUGH DEPARTMENT OF**  
18 **DEFENSE BASE CLOSURE ACCOUNT.**

19 Funds are hereby authorized to be appropriated for fiscal years beginning after September  
20 30, 2020, for base realignment and closure activities, including real property acquisition and  
21 military construction projects, as authorized by the Defense Base Closure and Realignment Act  
22 of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and funded through  
23 the Department of Defense Base Closure Account established by section 2906 of such Act (as

1 amended by section 2711 of the Military Construction Authorization Act for Fiscal Year 2013  
2 (division B of Public Law 112-239; 126 Stat. 2140)), as specified in the funding table in section  
3 3002.

4 **TITLE XXIX—OVERSEAS CONTINGENCY OPERATIONS MILITARY**  
5 **CONSTRUCTION**

6 **SEC. 2901. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION**  
7 **PROJECTS.**

8 The Secretary of the Navy may acquire real property and carry out the military  
9 construction projects for the installations outside the United States, and in the amounts, set forth  
10 in the following table:

<b>Navy: Outside the United States</b>		
<b>Country</b>	<b>Installation</b>	<b>Amount</b>
Spain	Rota	\$59,230,000

11 **SEC. 2902. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION**  
12 **PROJECTS.**

13 The Secretary of the Air Force may acquire real property and carry out the military  
14 construction projects for the installations outside the United States, and in the amounts, set forth  
15 in the following table:

**Air Force: Outside the United States**

Country	Installation	Amount
Germany	Ramstein	\$36,345,000
	Spangdahlem Air Base	\$25,824,000
Romania	Campia Turzii	\$130,500,000

1    **SEC. 2903. AUTHORIZATION OF APPROPRIATIONS.**

2           Funds are hereby authorized to be appropriated for fiscal years beginning after September  
3    30, 2020, for the military construction projects outside the United States authorized by this title  
4    as specified in the funding table in section 3003.

5                           **TITLE XXX—MILITARY CONSTRUCTION FUNDING**

6    **SEC. 3001. AUTHORIZATION OF AMOUNTS IN FUNDING TABLES.**

7           (a) IN GENERAL.—Whenever a funding table in this title specifies a dollar amount  
8    authorized for a project, program, or activity, the obligation and expenditure of the specified  
9    dollar amount for the project, program, or activity is hereby authorized, subject to the availability  
10   of appropriations.

11          (b) MERIT-BASED DECISIONS.—A decision to commit, obligate, or expend funds with or  
12   to a specific entity on the basis of a dollar amount authorized pursuant to subsection (a) shall—

13                   (1) be based on merit-based selection procedures in accordance with the  
14                   requirements of sections 2304(k) and 2374 of title 10, United States Code, or on  
15                   competitive procedures; and

16                   (2) comply with other applicable provisions of law.

17          (c) RELATIONSHIP TO TRANSFER AND PROGRAMMING AUTHORITY.—An amount specified  
18   in the funding tables in this title may be transferred or reprogrammed under a transfer or  
19   reprogramming authority provided by another provision of this Act or by other law. The transfer  
20   or reprogramming of an amount specified in such funding tables shall not count against a ceiling

1 on such transfers or reprogrammings under any other provision of this Act or any other provision  
 2 of law, unless such transfer or reprogramming would move funds between appropriation  
 3 accounts.

4 (d) APPLICABILITY TO CLASSIFIED ANNEX.—This section applies to any classified annex  
 5 that accompanies this Act.

6 (e) ORAL AND WRITTEN COMMUNICATIONS.—No oral or written communication  
 7 concerning any amount specified in the funding tables in this division shall supersede the  
 8 requirements of this section.

9 **SEC. 3002. MILITARY CONSTRUCTION TABLE.**

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**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

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<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
	Arizona		
Army	Yuma Proving Ground	Ready Building	14,000
	Colorado		
Army	Fort Carson	Physical Fitness Facility	28,000
	Georgia		
Army	Fort Gillem	Forensic Laboratory	71,000
Army	Fort Gordon	Adv Individual Training Barracks Cplx, Ph3	80,000
	Hawaii		
Army	Wheeler Army Air Field	Aircraft Maintenance Hangar	89,000
	Louisiana		
Army	Fort Polk	Information Systems Facility	25,000
	Oklahoma		
Army	McAlester AAP	Ammunition Demolition Shop	35,000
	Pennsylvania		
Army	Carlisle Barracks	General Instruction Building, Incr2	38,000
	Virginia		
Army	Humphreys Engineer Center	Training Support Facility	51,000
	Worldwide Unspecified		
Army	Unspecified Worldwide Locations	Host Nation Support	39,000



**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
Army	Unspecified Worldwide Locations	Planning and Design	129,436
Army	Unspecified Worldwide Locations	Unspecified Minor Construction	50,900
<b>Total Military Construction, Army</b>			<b>650,336</b>
Bahrain Island			
Navy	SW Asia	Ship to Shore Utility Services	68,340
California			
Navy	Camp Pendleton	1ST MARDIV Operations Complex	68,530
Navy	Camp Pendleton	I MEF Consolidated Information Center (INC)	37,000
Navy	Lemoore	F-35C Hangar 6 Phase 2 (Mod 3/4)	128,070
Navy	Lemoore	F-35C Simulator Facility & Electrical Upgrade	59,150
Navy	San Diego	Pier 6 Replacement	128,500
Navy	Twentynine Palms	Wastewater Treatment Plant	76,500
Greece			
Navy	Souda Bay	Communication Center	50,180
Guam			
Navy	Andersen Air Force Base	Ordnance Operations Admin	21,280
Navy	Joint Region Marianas	Bachelor Enlisted Quarters H (INC)	80,000
Navy	Joint Region Marianas	Base Warehouse	55,410
Navy	Joint Region Marianas	Central Fuel Station	35,950
Navy	Joint Region Marianas	Central Issue Facility	45,290
Navy	Joint Region Marianas	Combined EOD Facility	37,600
Navy	Joint Region Marianas	DAR Bridge Improvements	40,180
Navy	Joint Region Marianas	DAR Road Strengthening	70,760
Navy	Joint Region Marianas	Distribution Warehouse	77,930
Navy	Joint Region Marianas	Individual Combat Skills Training	17,430
Navy	Joint Region Marianas	Joint Communication Upgrade	166,000
Hawaii			
Navy	Joint Base Pearl Harbor-Hickam	Waterfront Improve, Wharves S1,S11-13,S20-21	48,990
Navy	Joint Base Pearl Harbor-Hickam	Waterfront Improvements Wharves S8-S10	65,910
Japan			
Navy	Yokosuka	Pier 5 (Berths 2 and 3) (INC)	74,692
Maine			
Navy	Kittery	Multi-Mission Drydock #1 Exten., Ph 1 (INC)	160,000
Nevada			
Navy	Fallon	Range Training Complex, Phase 1	29,040

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

Account	State/Country and Installation	Project Title	FY 2021 Budget Request
	North Carolina		
Navy	Camp Lejeune	II MEF Operations Center Replacement (INC)	20,000
	Spain		
Navy	Rota	MH-60R Squadron Support Facilities	60,110
	Virginia		
Navy	Norfolk	E-2D Training Facility	30,400
Navy	Norfolk	MH60 & CMV-22B Corrosion Control & Paint Fac	17,671
	Worldwide Unspecified		
Navy	Unspecified Worldwide Locations	Planning & Design	165,710
Navy	Unspecified Worldwide Locations	Unspecified Minor Construction	38,983
<b>Total Military Construction, Navy</b>			<b>1,975,606</b>
	Colorado		
AF	Schriever Air Force Base	Consolidated Space Operations Facility, Inc 2	88,000
	Guam		
AF	Andersen Air Force Base	Stand Off Weapons Complex, MSA 2	56,000
	Mariana Islands		
AF	Tinian	Airfield Development Phase 1, Inc 2	20,000
AF	Tinian	Fuel Tanks with Pipeline & Hydrant Sys, Inc 2	7,000
AF	Tinian	Parking Apron, Inc 2	15,000
	Montana		
AF	Malmstrom Air Force Base	Weapons Storage & Maintenance Facility, Inc 2	25,000
	New Jersey		
AF	Joint Base McGuire-Dix-Lakehurst	Munitions Storage Area	22,000
	Qatar		
AF	Al Udeid, Qatar	Cargo Marshalling Yard	26,000
	Texas		
AF	Joint Base San Antonio	BMT Recruit Dormitory 8, Inc 2	36,000
AF	Joint Base San Antonio	T-X ADAL Ground Based Trng Sys Sim	19,500
	Utah		
AF	Hill AFB	GBSD Mission Integration Facility, Inc 2	68,000
	Virginia		
AF	Joint Base Langley-Eustis	Access Control Point Main Gate With Land Acq	19,500
	Worldwide Unspecified		
AF	Unspecified Worldwide Locations	Planning & Design	296,532
AF	Unspecified Worldwide Locations	Unspecified Minor Construction	68,600

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

Account	State/Country and Installation	Project Title	FY 2021 Budget Request
<b>Total Military Construction, Air Force</b>			<b>767,132</b>
	Alabama		
Def - Wide	Anniston Army Depot	Demilitarization Facility	18,000
	Alaska		
Def - Wide	Fort Greely	Communications Center	48,000
	Arizona		
Def - Wide	Fort Huachuca	Laboratory Building	33,728
Def - Wide	Yuma	SOF Hangar	49,500
	California		
Def - Wide	Beale Air Force Base	Bulk Fuel Tank	22,800
	Colorado		
Def - Wide	Fort Carson	SOF Tactical Equipment Maintenance Facility	15,600
	Conus Unspecified		
Def - Wide	CONUS Unspecified	Training Target Structure	14,400
	Florida		
Def - Wide	Hurlburt Field	SOF Combat Aircraft Parking Apron-North	38,310
Def - Wide	Hurlburt Field	SOF Special Tactics Ops Facility (23 STS)	44,810
	Germany		
Def - Wide	Rhine Ordnance Barracks	Medical Center Replacement INC 9	200,000
	Japan		
Def - Wide	Def Fuel Support Point Tsurumi	Fuel Wharf	49,500
Def - Wide	Yokosuka	Kinnick High School INC	30,000
	Kentucky		
Def - Wide	Fort Knox	Van Voorhis Elementary School	69,310
	Maryland		
Def - Wide	Bethesda Naval Hospital	MEDCEN Addition/Alteration Incr 4	180,000
Def - Wide	Fort Meade	NSAW Recapitalize Building #3 INC	250,000
	Missouri		
Def - Wide	Fort Leonard Wood	Hospital Replacement INC 3	40,000
Def - Wide	St Louis	Next NGA West (N2W) Complex Phase 2 INC	119,000
	New Mexico		
Def - Wide	Kirtland Air Force Base	Administrative Building	46,600
	North Carolina		
Def - Wide	Fort Bragg	SOF Group Headquarters	53,100
Def - Wide	Fort Bragg	SOF Military Working Dog Facility	17,700

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
Def - Wide	Fort Bragg Ohio	SOF Operations Facility	43,000
Def - Wide	Wright-Patterson Air Force Base Texas	Hydrant Fuel System	23,500
Def - Wide	Fort Hood, Texas Virginia	Fuel Facilities	32,700
Def - Wide	Joint Expeditionary Base Little Creek - Story	SOF DCS Operations Fac. and Command Center	54,500
Def - Wide	Joint Expeditionary Base Little Creek - Story Washington	SOF NSWG-2 NSWTG CSS Facilities	58,000
Def - Wide	Joint Base Lewis-Mcchord	Fuel Facilities (Lewis Main)	10,900
Def - Wide	Joint Base Lewis-Mcchord	Fuel Facilities (Lewis North)	10,900
Def - Wide	Manchester Worldwide Unspecified	Bulk Fuel Storage Tanks Phase 1	82,000
Def - Wide	Unspecified Worldwide Locations	Energy Resilience and Conserv. Invest. Prog.	142,500
Def - Wide	Unspecified Worldwide Locations	Exercise Related Minor Construction, TJS	5,840
Def - Wide	Unspecified Worldwide Locations	Unspecified Minor Construction, Defense Level Activities	3,000
Def - Wide	Unspecified Worldwide Locations	Unspecified Minor Construction, DHA	20,000
Def - Wide	Unspecified Worldwide Locations	Unspecified Minor Construction, DODEA	8,000
Def - Wide	Unspecified Worldwide Locations	Unspecified Minor Construction, MDA	4,922
Def - Wide	Unspecified Worldwide Locations	Unspecified Minor Construction, SOCOM	17,698
Def - Wide	Unspecified Worldwide Locations	ERCIP Design	14,250
Def - Wide	Unspecified Worldwide Locations	Planning and Design, Defense Level Activities	10,647
Def - Wide	Unspecified Worldwide Locations	Planning and Design, DODEA	27,746
Def - Wide	Unspecified Worldwide Locations	Planning and Design, NSA	10,303
Def - Wide	Various Worldwide Locations	Unspecified Minor Construction, DLA	9,726
Def - Wide	Various Worldwide Locations	Planning and Design, DHA	64,406
Def - Wide	Various Worldwide Locations	Planning and Design, SOCOM	32,624
<b>Total Military Construction, Defense-Wide</b>			<b>2,027,520</b>
Worldwide Unspecified			
Def - Wide	Unspecified Worldwide Locations	Administrative Expenses - UHIF	600
<b>Total Military Unaccompanied Housing Improvement Fund</b>			<b>600</b>
Worldwide Unspecified			
Def - Wide	NATO Security Investment Program	NATO Security Investment Program	<b>173,030</b>
<b>Total NATO Security Investment Program</b>			<b>173,030</b>

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
	Arizona		
Army NG	Tucson	National Guard Readiness Center	18,100
	Colorado		
Army NG	Peterson Air Force Base	National Guard Readiness Center	15,000
	Indiana		
Army NG	Shelbyville	National Guard/Reserve Center Building Add/Al	12,000
	Kentucky		
Army NG	Frankfort	National Guard/Reserve Center Building	15,000
	Mississippi		
Army NG	Brandon	National Guard Vehicle Maintenance Shop	10,400
	Nebraska		
Army NG	North Platte	National Guard Vehicle Maintenance Shop	9,300
	New Jersey		
Army NG	Joint Base McGuire-Dix-Lakehurst	National Guard Readiness Center	15,000
	Ohio		
Army NG	Columbus	National Guard Readiness Center	15,000
	Oregon		
Army NG	Hermiston	Enlisted Barracks, Transient Training	9,300
	Puerto Rico		
Army NG	Fort Allen	National Guard Readiness Center	37,000
	South Carolina		
Army NG	Joint Base Charleston	National Guard Readiness Center	15,000
	Tennessee		
Army NG	McMinnville	National Guard Readiness Center	11,200
	Texas		
Army NG	Fort Worth	Aircraft Maintenance Hangar Addition/Alt	6,000
Army NG	Fort Worth	National Guard Vehicle Maintenance Shop	7,800
	Utah		
Army NG	Nephi	National Guard Readiness Center	12,000
	Virgin Islands		
Army NG	St. Croix	Army Aviation Support Facility (AASF)	28,000
Army NG	St. Croix	CST Ready Building	11,400
	Wisconsin		
Army NG	Appleton	National Guard Readiness Center Add/Alt	11,600
	Worldwide Unspecified		

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
Army NG	Unspecified Worldwide Locations	Planning and Design	29,593
Army NG	Unspecified Worldwide Locations	Unspecified Minor Construction	32,744
<b>Total Military Construction, Army National Guard</b>			<b>321,437</b>
	Florida		
Army Res	Gainesville	ECS TEMF/Warehouse	36,000
	Massachusetts		
Army Res	Devens Reserve Forces Training Area	Automated Multipurpose Machine Gun Range	8,700
	North Carolina		
Army Res	Asheville	Army Reserve Center/Land	24,000
	Wisconsin		
Army Res	Fort McCoy	Scout Reconnaissance Range	14,600
	Worldwide Unspecified		
Army Res	Unspecified Worldwide Locations	Planning and Design	1,218
Army Res	Unspecified Worldwide Locations	Unspecified Minor Construction	3,819
<b>Total Military Construction, Army Reserve</b>			<b>88,337</b>
	Maryland		
N/MC Res	Reisterstown	Reserve Training Center, Camp Fretterd, MD	39,500
	Utah		
N/MC Res	Hill Air Force Base	Naval Operational Support Center	25,010
	Worldwide Unspecified		
N/MC Res	Unspecified Worldwide Locations	MCNR Minor Construction	3,000
N/MC Res	Unspecified Worldwide Locations	MCNR Planning & Design	3,485
<b>Total Military Construction, Naval Reserve</b>			<b>70,995</b>
	Alabama		
Air NG	Montgomery Regional Airport (ANG) Base	F-35 Simulator Facility	11,600
	Guam		
Air NG	Joint Region Marianas	Space Control Facility #5	20,000
	Maryland		
Air NG	Joint Base Andrews	F-16 Mission Training Center	9,400
	Texas		
Air NG	Joint Base San Antonio	F-16 Mission Training Center	10,800
	Worldwide Unspecified		
Air NG	Unspecified Worldwide Locations	Unspecified Minor Construction	9,000
Air NG	Various Worldwide Locations	Planning and Design	3,414

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

Account	State/Country and Installation	Project Title	FY 2021 Budget Request
<b>Total Military Construction, Air National Guard Total</b>			<b>64,214</b>
	Texas		
AF Res	Fort Worth	F-35A Simulator Facility	14,200
	Worldwide Unspecified		
AF Res	Unspecified Worldwide Locations	Planning & Design	3,270
AF Res	Unspecified Worldwide Locations	Unspecified Minor Construction	5,647
<b>Total Military Construction, Air Force Reserve</b>			<b>23,117</b>
	Italy		
FH Con Army	Vicenza	Family Housing New Construction	84,100
	Kwajalein		
FH Con Army	Kwajalein Atoll	Family Housing Replacement Construction	32,000
	Worldwide Unspecified		
FH Con Army	Unspecified Worldwide Locations	Family Housing P & D	3,300
<b>Total Family Housing Construction, Army</b>			<b>119,400</b>
	Worldwide Unspecified		
FH Ops Army	Unspecified Worldwide Locations	Furnishings	18,004
FH Ops Army	Unspecified Worldwide Locations	Housing Privatization Support	37,948
FH Ops Army	Unspecified Worldwide Locations	Leasing	123,841
FH Ops Army	Unspecified Worldwide Locations	Maintenance	97,789
FH Ops Army	Unspecified Worldwide Locations	Management	39,716
FH Ops Army	Unspecified Worldwide Locations	Miscellaneous	526
FH Ops Army	Unspecified Worldwide Locations	Services	8,135
FH Ops Army	Unspecified Worldwide Locations	Utilities	41,183
<b>Total Family Housing Operation &amp; Maintenance, Army</b>			<b>367,142</b>
	Worldwide Unspecified		
FH Con Navy	Unspecified Worldwide Locations	Construction Improvements	37,043
FH Con Navy	Unspecified Worldwide Locations	Planning & Design	3,128
FH Con Navy	Unspecified Worldwide Locations	USMC DPRI/GUAM PLANNING AND DESIGN	2,726
<b>Total Family Housing Construction, Navy</b>			<b>42,897</b>

**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

Account	State/Country and Installation	Project Title	FY 2021 Budget Request
	Worldwide Unspecified		
FH Ops Navy	Unspecified Worldwide Locations	Furnishings	17,977
FH Ops Navy	Unspecified Worldwide Locations	Housing Privatization Support	53,700
FH Ops Navy	Unspecified Worldwide Locations	Leasing	62,658
FH Ops Navy	Unspecified Worldwide Locations	Maintenance	85,630
FH Ops Navy	Unspecified Worldwide Locations	Management	51,006
FH Ops Navy	Unspecified Worldwide Locations	Miscellaneous	350
FH Ops Navy	Unspecified Worldwide Locations	Services	16,743
FH Ops Navy	Unspecified Worldwide Locations	Utilities	58,429
<b>Total Family Housing Operation &amp; Maintenance, Navy &amp; Marine Corps</b>			<b>346,493</b>
	Worldwide Unspecified		
FH Con AF	Unspecified Worldwide Locations	Construction Improvements	94,245
FH Con AF	Unspecified Worldwide Locations	Planning & Design	2,969
<b>Total Family Housing Construction, Air Force</b>			<b>97,214</b>
	Worldwide Unspecified		
FH Ops AF	Unspecified Worldwide Locations	Furnishings	25,805
FH Ops AF	Unspecified Worldwide Locations	Housing Privatization	23,175
FH Ops AF	Unspecified Worldwide Locations	Leasing	9,318
FH Ops AF	Unspecified Worldwide Locations	Maintenance	140,666
FH Ops AF	Unspecified Worldwide Locations	Management	64,732
FH Ops AF	Unspecified Worldwide Locations	Miscellaneous	2,184
FH Ops AF	Unspecified Worldwide Locations	Services	7,968
FH Ops AF	Unspecified Worldwide Locations	Utilities	43,173
<b>Total Family Housing Operations &amp; Maintenance, Air Force</b>			<b>317,021</b>
	Worldwide Unspecified		
FH Ops DW	Unspecified Worldwide Locations	Furnishings	727
FH Ops DW	Unspecified Worldwide Locations	Leasing	49,856
FH Ops DW	Unspecified Worldwide Locations	Maintenance	32
FH Ops DW	Unspecified Worldwide Locations	Utilities	4,113
<b>Total Family Housing Operations &amp; Maintenance, Defense-Wide</b>			<b>54,728</b>



**SEC. 3002. MILITARY CONSTRUCTION**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
	Worldwide Unspecified		
FH IF DW	Unspecified Worldwide Locations	Administrative Expenses - FHIF	5,897
<b>Total Family Housing Improvement Fund, Defense-Wide</b>			<b>5,897</b>
	Worldwide Unspecified		
FH UHIF DW	Unspecified Worldwide Locations	Administrative Expenses - UHIF	600
<b>Total Unaccompanied Housing Improvement Fund, Defense-Wide</b>			<b>600</b>
	Worldwide Unspecified		
BRAC	Unspecified Worldwide Locations	Base Realignment & Closure, Army	66,060
BRAC	Unspecified Worldwide Locations	Base Realignment & Closure, Navy	125,165
BRAC	Unspecified Worldwide Locations	DoD BRAC Activities - Air Force	109,222
<b>Total Base Realignment and Closure Account</b>			<b>300,447</b>

1 **SEC. 3003. MILITARY CONSTRUCTION TABLE FOR OVERSEAS CONTINGENCY**

2 **OPERATIONS.**

**SEC. 3003. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS**  
**(In Thousands of Dollars)**

<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
	Worldwide Unspecified		
Army	Unspecified Worldwide Locations	EDI: Minor Construction	3,970
Army	Unspecified Worldwide Locations	EDI: Planning and Design	11,903
<b>Total Military Construction, Army</b>			<b>15,873</b>
	Spain		
Navy	Rota	EDI: EOD Boat Shop	31,760
Navy	Rota	EDI: Expeditionary Maintenance Facility	27,470
	Worldwide Unspecified		
Navy	Unspecified Worldwide Locations	Planning and Design	10,790
<b>Total Military Construction, Navy</b>			<b>70,020</b>
	Germany		
AF	Ramstein	EDI: Rapid Airfield Damage Repair Storage	36,345
AF	Spangdahlem AB	EDI: Rapid Airfield Damage Repair Storage	25,824
	Romania		
AF	Campia Turzii	EDI: Dangerous Cargo Pad	11,000
AF	Campia Turzii	EDI: ECAOS DABS-FEV Storage Complex	68,000

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**SEC. 3003. MILITARY CONSTRUCTION FOR OVERSEAS CONTINGENCY OPERATIONS**  
**(In Thousands of Dollars)**

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<b>Account</b>	<b>State/Country and Installation</b>	<b>Project Title</b>	<b>FY 2021 Budget Request</b>
AF	Campia Turzii	EDI: Parking Apron	19,500
AF	Campia Turzii	EDI: POL Increase Capacity	32,000
	Worldwide Unspecified		
AF	Unspecified Worldwide Locations	EDI: Unspecified Minor Military Construction	16,400
AF	Various Worldwide Locations	EDI: Planning & Design	54,800
<b>Total Military Construction, Air Force</b>			<b>263,869</b>
<b>Total Military Construction For Overseas Contingency Operations</b>			<b>349,762</b>

1    **SEC. \_\_\_\_ . INAPPLICABILITY OF ADVANCE BILLING DOLLAR LIMITATION**  
2                           **AND CONGRESSIONAL NOTIFICATION REQUIREMENT FOR**  
3                           **CERTAIN BACKGROUND INVESTIGATIONS.**

4            Section 2208(l) of title 10, United States Code, is amended by adding at the end the  
5 following new paragraph:

6            “(5) This subsection shall not apply to advance billing for background investigation and  
7 related services performed by the Defense Counterintelligence and Services Agency.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

**Section-by-Section Analysis**

This proposal would authorize the Secretary of Defense to exclude advance billings for background investigations (BIs) and related services provided by the Defense Counterintelligence and Security Agency from the requirement for Congressional notification and the advance billing \$1 billion limitation.

The National Defense Authorization Act for Fiscal Year 2018 (FY 2018 NDAA) (Public Law 115–91), section 925, provided the Secretary of Defense the authority to conduct security, suitability, and credentialing BIs for DoD personnel.

Executive Order (EO) 13869 of April 24, 2019, amending EO 13467 of June 30, 2008, directed transfer of authority to conduct BIs Government-wide from the Office of Personnel Management (OPM) National Background Investigations Bureau (NBIB) to the DoD, and renamed the Defense Security Service (DSS) as the Defense Counterintelligence and Security Agency (DCSA).

In the FY 2020 Passback #3, Department of Defense, dated December 21, 2018, the Office of Management and Budget (OMB) directed that the “DoD should confirm that the Department’s FY 2020 budget request will include a working capital fund that has advanced billing and is capable of receiving agency payments for BIs by October 1, 2019.”

The NBIB advance bills all of its customers for background investigations and related services. This minimizes the cash corpus required for the WCF. Due to the requirement to implement the transition to the DoD one year earlier than directed by the FY 2018 NDAA, the most expedient way forward was to leverage NBIB back-office processes where appropriate, including advanced billing.

The current law requires the Secretary of the military department concerned to submit to Congress written notification of the advance billing within 30 days after the end of the month in which the advanced billing was made. The current law also includes a permanent cap of \$1 billion in total for all working-capital fund billings in any fiscal year across the Department of Defense (DOD).

Since the DCSA will be advance billing all of its customers as part of its normal operations, the requirement to notify Congress for advance billings for background investigations and related services should be waived. In addition, the DCSA expects to receive approximately \$1.2 billion in new orders annually. Advance billing for background investigations and related services should be exempt from the \$1 billion annual cap.

The DoD, through the Defense Logistics Agency (DLA), typically advance bills the Federal Emergency Management Agency (FEMA) in support of hurricane relief and other humanitarian efforts. The DLA advance billed FEMA \$721 million in FY 2017 and \$964 million in FY 2018. Similar FEMA advance billing in future years, combined with the expected DCSA amount, would result in \$2 billion or more in total advance billings in a given year.

**Budget Implications:** None

**Changes to Existing Law:** This proposal would amend section 2208 of title 10, United States Code, as follows:

#### **§ 2208 Working-capital funds**

(a) To control and account more effectively for the cost of programs and work performed in the Department of Defense, the Secretary of Defense may require the establishment of working-capital funds in the Department of Defense to-

- (1) finance inventories of such supplies as he may designate; and
- (2) provide working capital for such industrial-type activities, and such commercial-type activities that provide common services within or among departments and agencies of the Department of Defense, as he may designate.

(b) Upon the request of the Secretary of Defense, the Secretary of the Treasury shall establish working-capital funds established under this section on the books of the Department of the Treasury.

(c) Working-capital funds shall be charged, when appropriate, with the cost of-

- (1) supplies that are procured or otherwise acquired, manufactured, repaired, issued, or used, including the cost of the procurement and qualification of technology-enhanced maintenance capabilities that improve either reliability, maintainability, sustainability, or supportability and have, at a minimum, been demonstrated to be functional in an actual system application or operational environment; and
- (2) services or work performed; including applicable administrative expenses, and be reimbursed from available appropriations or otherwise credited for those costs, including applicable administrative expenses and costs of using equipment.

(d) The Secretary of Defense may provide capital for working-capital funds by capitalizing inventories. In addition, such amounts may be appropriated for the purpose of providing capital for working-capital funds as have been specifically authorized by law.

(e) Subject to the authority and direction of the Secretary of Defense, the Secretary of each military department shall allocate responsibility for its functions, powers, and duties to accomplish the most economical and efficient organization and operation of the activities, and the most economical and efficient use of the inventories, for which working-capital funds are authorized by this section. The accomplishment of the most economical and efficient organization and operation of working capital fund activities for the purposes of this subsection shall include actions toward the following:

(1) Undertaking efforts to optimize the rate structure for all requisitioning entities.

(2) Encouraging a working capital fund activity to perform reimbursable work for other entities to sustain the efficient use of the workforce.

(3) Determining the appropriate leadership level for approving work from outside entities to maximize efficiency.

(f) The requisitioning agency may not incur a cost for supplies drawn from inventories, or services or work performed by industrial-type or commercial-type activities for which working-capital funds may be established under this section, that is more than the amount of appropriations or other funds available for those purposes.

(g) The appraised value of supplies returned to working-capital funds by a department, activity, or agency may be charged to that fund. The proceeds thereof shall be credited to current applicable appropriations and are available for expenditure for the same purposes that those appropriations are so available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories under subsection (d).

(h) The Secretary of Defense shall prescribe regulations governing the operation of activities and use of inventories authorized by this section. The regulations may, if the needs of the Department of Defense require it and it is otherwise authorized by law, authorize supplies to be sold to, or services to be rendered or work performed for, persons outside the Department of Defense. However, supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense. Working-capital funds shall be reimbursed for supplies so sold, services so rendered, or work so performed by charges to applicable appropriations or payments received in cash.

(i) For provisions relating to sales outside the Department of Defense of manufactured articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, see section 7543 of this title.

(j)(1) The Secretary of a military department may authorize a working capital funded industrial facility of that department to manufacture or remanufacture articles and sell these articles, as well as manufacturing, remanufacturing, and engineering services provided by such facilities, to persons outside the Department of Defense if-

(A) the person purchasing the article or service is fulfilling a Department of Defense contract or a subcontract under a Department of Defense contract, and the solicitation for the contract or subcontract is open to competition between Department of Defense activities and private firms; or

(B) the Secretary would advance the objectives set forth in section 2474(b)(2) of this title by authorizing the facility to do so.

(2) The Secretary of Defense may waive the conditions in paragraph (1) in the case of a particular sale if the Secretary determines that the waiver is necessary for reasons of national security and notifies Congress regarding the reasons for the waiver.

(k)(1) Subject to paragraph (2), a contract for the procurement of a capital asset financed by a working-capital fund may be awarded in advance of the availability of funds in the working-capital fund for the procurement.

(2) Paragraph (1) applies to any of the following capital assets that have a development or acquisition cost of not less than \$500,000 for procurements by a major range and test facility installation or a science and technology reinvention laboratory and not less than \$250,000 for procurements at all other facilities:

(A) An unspecified minor military construction project under [section 2805\(c\) of this title](#).

(B) Automatic data processing equipment or software.

(C) Any other equipment.

(D) Any other capital improvement.

(l)(1) An advance billing of a customer of a working-capital fund may be made if the Secretary of the military department concerned submits to Congress written notification of the advance billing within 30 days after the end of the month in which the advanced billing was made. The notification shall include the following:

(A) The reasons for the advance billing.

(B) An analysis of the effects of the advance billing on military readiness.

(C) An analysis of the effects of the advance billing on the customer.

(2) The Secretary of Defense may waive the notification requirements of paragraph (1)-

(A) during a period of war or national emergency; or;

(B) to the extent that the Secretary determines necessary to support a contingency operation.

(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed \$1,000,000,000.

(4) In this subsection:

(A) The term "advance billing", with respect to a working-capital fund, means a billing of a customer by the fund, or a requirement for a customer to reimburse or otherwise credit the fund, for the cost of goods or services provided (or for other expenses incurred) on behalf of the customer that is rendered or imposed before the customer receives the goods or before the services have been performed.

(B) The term "customer" means a requisitioning component or agency.

(5) This subsection shall not apply to advance billing for background investigations and related services provided by the Defense Counterintelligence and Services Agency.

(m) Capital Asset Subaccounts.-Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

(n) Separate Accounting, Reporting, and Auditing of Funds and Activities.-The Secretary of Defense, with respect to the working-capital funds of each Defense Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

(o) Charges for Goods and Services Provided Through the Fund.-**(1)** Charges for goods and services provided for an activity through a working-capital fund shall include the following:

(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

(2) Charges for goods and services provided through a working-capital fund may not include the following:

(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c) of this title.

(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

(p) Procedures For Accumulation of Funds.-The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary.

(q) Annual Reports and Budget.-The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President's budget.

(4) A report on the capital asset subaccount of the fund that contains the following information:

(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

(r) Notification of Transfers.- (1) Notwithstanding any authority provided in this section to transfer funds, the transfer of funds from a working-capital fund, including a transfer to another working-capital fund, shall not be made under such authority unless the Secretary of Defense submits, in advance, a notification of the proposed transfer to the congressional defense committees in accordance with customary procedures.

(2) The amount of a transfer covered by a notification under paragraph (1) that is made in a fiscal year does not count toward any limitation on the total amount of transfers that may be made for that fiscal year under authority provided to the Secretary of Defense in a law authorizing appropriations for a fiscal year for military activities of the Department of Defense or a law making appropriations for the Department of Defense.

(s) Limitation on Cessation or Suspension of Distribution of Funds for Certain Workload.- (1) Except as provided in paragraph (2), the Secretary of Defense or the Secretary of a military department is not authorized-

(A) to suspend the employment of indirectly funded Government employees of the Department of Defense who are paid for out of working-capital funds by ceasing or suspending the distribution of such funds; or

(B) to cease or suspend the distribution of funds from a working-capital fund for a current project undertaken to carry out the functions or activities of the Department.

(2) Paragraph (1) shall not apply with respect to a working-capital fund if-

(A) the working-capital fund is insolvent; or

(B) there are insufficient funds in the working-capital fund to pay labor costs for the current project concerned.

(3) The Secretary of Defense or the Secretary of a military department may waive the limitation in paragraph (1) if such Secretary determines that the waiver is in the national security interests of the United States.

(4) This subsection shall not be construed to provide for the exclusion of any particular category of employees of the Department of Defense from furlough due to absence of or inadequate funding.

(t) Market Fluctuation Account.- (1) From amounts available for Working Capital Fund, Defense, the Secretary shall reserve up to \$1,000,000,000, to remain available without fiscal year limitation, for petroleum market price fluctuations. Such amounts may only be disbursed if the Secretary determines such a disbursement is necessary to absorb volatile market changes in fuel prices without affecting the standard price charged for fuel.

(2) A budget request for the anticipated costs of fuel may not take into account the availability of funds reserved under paragraph (1).

(u) Use for Unspecified Minor Military Construction Projects to Revitalize and Recapitalize Defense Industrial Base Facilities.- (1) The Secretary of a military department may use a working capital fund of the department under this section to carry out an unspecified minor military construction project under section 2805 for the revitalization and recapitalization of a defense industrial base facility owned by the United States and under the jurisdiction of the Secretary.

(2) Section 2805 shall apply with respect to a project carried out with a working capital fund under the authority of this subsection in the same manner as such section applies to any unspecified minor military construction project under section 2805.



(3) In this subsection, the term "defense industrial base facility" means any Department of Defense depot, arsenal, shipyard, or plant located within the United States.

(4) The authority to use a working capital fund to carry out a project under the authority of this subsection expires on September 30, 2023.

1 **SEC. \_\_\_\_ . INAPPLICABILITY OF ADVANCE BILLING DOLLAR LIMITATION FOR**  
2 **RELIEF EFFORTS FOR MAJOR DISASTERS OR EMERGENCIES.**

3 Section 2208(1)(3) of title 10, United States Code, is amended by adding at the end the  
4 following: “The dollar limitation in the preceding sentence on advance billing of a customer of a  
5 working-capital fund shall not apply with respect to advance billing for relief efforts following a  
6 declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and  
7 Emergency Assistance Act (42 U.S.C. 5121 et seq.).”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how  
the legislative text would amend existing law.]**

**Section-by-Section Analysis**

This proposal would authorize the Secretary of Defense to exclude advance billings for declared disasters or major emergencies from the advance billing \$1 billion limitation.

The current law includes a permanent cap of \$1 Billion in total for all Working Capital Fund billings in any fiscal year across the Department of Defense (DOD). DLA supports other federal agencies, particular the Federal Emergency Management Agency (FEMA), through interagency agreements that permit FEMA to place reimbursable orders with DLA for support in its disaster response missions. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §§5121—5206, FEMA is responsible for coordinating Federal government response to support state, local, tribal, and territorial efforts under the National Response Framework.

In past years, Congress has waived or modified the advance billing limitation to accommodate DLA’s efforts in supporting federal disaster relief efforts. This was most recently done in Public Law 115-72, enacted on October 26, 2017, Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2017. In that law, section 310 read “Notwithstanding section 2208(1)(3) of title 10, United States Code, during fiscal year 2018, the dollar limitation on advance billing of a customer of a working-capital fund in such section shall not apply with respect to the advance billing of the Federal Emergency Management Agency. In the preceding sentence, the term ‘advance billing’ has the meaning given the term in section 2208(1)(4) of title 10, United States Code”.

Section (1)(3) of 10 U.S.C. 2208 was previously modified in Public Law 109-234, title I, §1206, enacted June 15, 2006, in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror and Hurricane Recovery, 2006. Section 1206 provided “Notwithstanding 10 U.S.C. 2208(1), the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in fiscal year 2006 shall not exceed

\$1,200,000,000: *Provided*, That the amounts made available pursuant to this section are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.”.

In 2005, Public Law 109-13, div. A, Title I, §1005, enacted May 11, 2005, in the Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief Act, provided “ For fiscal year 2005, the limitation under paragraph (3) of section 2208(1) of title 10, United States Code, on the total amount of advance billings rendered or imposed for all working capital funds of the Department of Defense in a fiscal year shall be applied by substituting “\$1,500,000,000” for “\$1,000,000,000”.

Support to these relief efforts continue to increase and are outside normal operating requests and are not included in cyclic budget requirements. Working Capital Funds must maintain sufficient cash balances to execute their primary mission of warfighter support and set aside a reserve for price fluctuations in petroleum prices. The availability of cash depends on outcomes from the budget cycle (workload, costs, rate setting); supporting unforeseen world events that are not part of the budget directly impacts the agency’s ability to do so and the timing of disbursements to vendors and collections from customers. Therefore, DLA is requesting the law include permanent authority to advance bill for support to disaster relief efforts up to the amount of the orders received. Implementing this change will improve cash solvency while ensuring DLA’s primary mission of warfighter support is not adversely impacted and enable DLA to support disaster relief efforts.

**Budget Implications:** The resources required are reflected in the table below and are included in the Fiscal Year (FY) 2021 President’s Budget. Note: After querying DOD Components, only the DLA DWCF is impacted by this proposal.

RESOURCE REQUIREMENTS (\$MILLIONS)								
Program	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation	Budget Activity	BLI / SAG
Labor	.03	.03	.03	.03	.03	Working Capital Fund, Defense-wide	08	ES08
<b>Total</b>	<b>.03</b>	<b>.03</b>	<b>.03</b>	<b>.03</b>	<b>.03</b>			

**Changes to Existing Law:** This proposal would amend section 2208 of title 10, United States Code, as follows:

**§ 2208 Working-capital funds**

(a) To control and account more effectively for the cost of programs and work performed in the Department of Defense, the Secretary of Defense may require the establishment of working-capital funds in the Department of Defense to-

(1) finance inventories of such supplies as he may designate; and

(2) provide working capital for such industrial-type activities, and such commercial-type activities that provide common services within or among departments and agencies of the Department of Defense, as he may designate.

(b) Upon the request of the Secretary of Defense, the Secretary of the Treasury shall establish working-capital funds established under this section on the books of the Department of the Treasury.

(c) Working-capital funds shall be charged, when appropriate, with the cost of-

(1) supplies that are procured or otherwise acquired, manufactured, repaired, issued, or used, including the cost of the procurement and qualification of technology-enhanced maintenance capabilities that improve either reliability, maintainability, sustainability, or supportability and have, at a minimum, been demonstrated to be functional in an actual system application or operational environment; and

(2) services or work performed; including applicable administrative expenses, and be reimbursed from available appropriations or otherwise credited for those costs, including applicable administrative expenses and costs of using equipment.

(d) The Secretary of Defense may provide capital for working-capital funds by capitalizing inventories. In addition, such amounts may be appropriated for the purpose of providing capital for working-capital funds as have been specifically authorized by law.

(e) Subject to the authority and direction of the Secretary of Defense, the Secretary of each military department shall allocate responsibility for its functions, powers, and duties to accomplish the most economical and efficient organization and operation of the activities, and the most economical and efficient use of the inventories, for which working-capital funds are authorized by this section.

(f) The requisitioning agency may not incur a cost for supplies drawn from inventories, or services or work performed by industrial-type or commercial-type activities for which working-capital funds may be established under this section, that is more than the amount of appropriations or other funds available for those purposes.

(g) The appraised value of supplies returned to working-capital funds by a department, activity, or agency may be charged to that fund. The proceeds thereof shall be credited to current applicable appropriations and are available for expenditure for the same purposes that those appropriations are so available. Credits may not be made to appropriations under this subsection as the result of capitalization of inventories under subsection (d).

(h) The Secretary of Defense shall prescribe regulations governing the operation of activities and use of inventories authorized by this section. The regulations may, if the needs of the Department of Defense require it and it is otherwise authorized by law, authorize supplies to be sold to, or services to be rendered or work performed for, persons outside the Department of Defense. However, supplies available in inventories financed by working capital funds established under this section may be sold to contractors for use in performing contracts with the Department of Defense. Working-capital funds shall be reimbursed for supplies so sold, services so rendered, or work so performed by charges to applicable appropriations or payments received in cash.

(i) For provisions relating to sales outside the Department of Defense of manufactured articles and services by a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof, see section 4543 of this title.

(j)(1) The Secretary of a military department may authorize a working capital funded industrial facility of that department to manufacture or remanufacture articles and sell these articles, as well as manufacturing, remanufacturing, and engineering services provided by such facilities, to persons outside the Department of Defense if-

(A) the person purchasing the article or service is fulfilling a Department of Defense contract or a subcontract under a Department of Defense contract, and the solicitation for the contract or subcontract is open to competition between Department of Defense activities and private firms; or

(B) the Secretary would advance the objectives set forth in section 2474(b)(2) of this title by authorizing the facility to do so.

(2) The Secretary of Defense may waive the conditions in paragraph (1) in the case of a particular sale if the Secretary determines that the waiver is necessary for reasons of national security and notifies Congress regarding the reasons for the waiver.

(k)(1) Subject to paragraph (2), a contract for the procurement of a capital asset financed by a working-capital fund may be awarded in advance of the availability of funds in the working-capital fund for the procurement.

(2) Paragraph (1) applies to any of the following capital assets that have a development or acquisition cost of not less than \$500,000 for procurements by a major range and test facility installation or a science and technology reinvention laboratory and not less than \$250,000 for procurements at all other facilities:

(A) An unspecified minor military construction project under section 2805(c) of this title.

(B) Automatic data processing equipment or software.

(C) Any other equipment.

(D) Any other capital improvement.

(l)(1) An advance billing of a customer of a working-capital fund may be made if the Secretary of the military department concerned submits to Congress written notification of the advance billing within 30 days after the end of the month in which the advanced billing was made. The notification shall include the following:

(A) The reasons for the advance billing.

(B) An analysis of the effects of the advance billing on military readiness.

(C) An analysis of the effects of the advance billing on the customer.

(2) The Secretary of Defense may waive the notification requirements of paragraph (1)-

(A) during a period of war or national emergency; or;

(B) to the extent that the Secretary determines necessary to support a contingency operation.

(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed \$1,000,000,000. The dollar limitation in the preceding sentence on advance billing of a customer of a working-capital fund shall not apply to advance billing for relief efforts following a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) In this subsection:

(A) The term "advance billing", with respect to a working-capital fund, means a billing of a customer by the fund, or a requirement for a customer to reimburse or otherwise credit the fund, for the cost of goods or services provided (or for other expenses incurred) on behalf of the customer that is rendered or imposed before the customer receives the goods or before the services have been performed.

(B) The term "customer" means a requisitioning component or agency.

(m) Capital Asset Subaccounts.-Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

(n) Separate Accounting, Reporting, and Auditing of Funds and Activities.-The Secretary of Defense, with respect to the working-capital funds of each Defense Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

(o) Charges for Goods and Services Provided Through the Fund.- (1) Charges for goods and services provided for an activity through a working-capital fund shall include the following:

(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

(2) Charges for goods and services provided through a working-capital fund may not include the following:

(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c) of this title.

(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

(p) Procedures For Accumulation of Funds.-The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary.

(q) Annual Reports and Budget.-The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President's budget.

(4) A report on the capital asset subaccount of the fund that contains the following information:

(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

(r) Notification of Transfers.- (1) Notwithstanding any authority provided in this section to transfer funds, the transfer of funds from a working-capital fund, including a transfer to another working-capital fund, shall not be made under such authority unless the Secretary of Defense submits, in advance, a notification of the proposed transfer to the congressional defense committees in accordance with customary procedures.

(2) The amount of a transfer covered by a notification under paragraph (1) that is made in a fiscal year does not count toward any limitation on the total amount of transfers that may be made for that fiscal year under authority provided to the Secretary of Defense in a law authorizing appropriations for a fiscal year for military activities of the Department of Defense or a law making appropriations for the Department of Defense.

(s) Limitation on Cessation or Suspension of Distribution of Funds for Certain Workload.- (1) Except as provided in paragraph (2), the Secretary of Defense or the Secretary of a military department is not authorized-

(A) to suspend the employment of indirectly funded Government employees of the Department of Defense who are paid for out of working-capital funds by ceasing or suspending the distribution of such funds; or

(B) to cease or suspend the distribution of funds from a working-capital fund for a current project undertaken to carry out the functions or activities of the Department.

(2) Paragraph (1) shall not apply with respect to a working-capital fund if-

(A) the working-capital fund is insolvent; or

(B) there are insufficient funds in the working-capital fund to pay labor costs for the current project concerned.

(3) The Secretary of Defense or the Secretary of a military department may waive the limitation in paragraph (1) if such Secretary determines that the waiver is in the national security interests of the United States.

(4) This subsection shall not be construed to provide for the exclusion of any particular category of employees of the Department of Defense from furlough due to absence of or inadequate funding.

(t) Market Fluctuation Account.- (1) From amounts available for Working Capital Fund, Defense, the Secretary shall reserve up to \$1,000,000,000, to remain available without fiscal year limitation, for petroleum market price fluctuations. Such amounts may only be disbursed if the Secretary determines such a disbursement is necessary to absorb volatile market changes in fuel prices without affecting the standard price charged for fuel.

(2) A budget request for the anticipated costs of fuel may not take into account the availability of funds reserved under paragraph (1).

(u) Use for Unspecified Minor Military Construction Projects to Revitalize and Recapitalize Defense Industrial Base Facilities.—(1) The Secretary of a military department may use a working capital fund of the department under this section to fund an unspecified minor military construction project under section 2805 of this title for the revitalization and recapitalization of a defense industrial base facility owned by the United States and under the jurisdiction of the Secretary.

(2)(A) Except as provided in subparagraph (B), section 2805 of this title shall apply with respect to a project funded using a working capital fund under the authority of this subsection in the same manner as such section applies to any unspecified minor military construction project under section 2805.

(B) For purposes of applying subparagraph (A), the dollar limitation specified in subsection (a)(2) of section 2805 of this title, subject to adjustment as provided in subsection (f) of such section, shall apply rather than the dollar limitation specified in subsection (c) of such section.

(3) In this subsection, the term “defense industrial base facility” means any Department of Defense depot, arsenal, shipyard, or plant located within the United States.

(4) The authority to use a working capital fund to fund a project under the authority of this subsection expires on September 30, 2023.



1 **SEC. \_\_\_\_. INCREASED ACCESS TO POTENTIAL RECRUITS.**

2 (a) SECONDARY SCHOOLS.—Section 503(c)(1) of title 10, United States Code, is  
3 amended—

4 (1) in subparagraph (A)—

5 (A) in clause (i), by striking “and” at the end;

6 (B) in clause (ii), by striking “and telephone listings,” and all that follows  
7 through the period at the end and inserting “email addresses, home telephone  
8 numbers, and mobile telephone numbers, notwithstanding subsection (a)(5)(B) or  
9 (b) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g);  
10 and”; and

11 (C) by adding at the end the following new clause:

12 “(iii) shall provide information requested pursuant to clause (ii) within a  
13 reasonable period of time, but in no case later than the 60th day following the date of the  
14 request.”; and

15 (2) in subparagraph (B), by striking “and telephone listing” and inserting “email  
16 address, home telephone number, or mobile telephone number”.

17 (b) INSTITUTIONS OF HIGHER EDUCATION.—Section 983(b) of such title is amended—

18 (1) in paragraph (1), by striking “or” at the end;

19 (2) in paragraph (2)—

20 (A) in subparagraph (A), by striking “and telephone listings” and inserting  
21 “email addresses, home telephone numbers, and mobile telephone numbers,  
22 which information shall be made available not later than the 60th day following

1 the start of classes for the current semester or not later than the 60th day following  
2 the date of a request, whichever occurs last”; and  
3 (B) in subparagraph (B), by striking the period at the end and inserting “;  
4 or”; and  
5 (3) by adding at the end the following new paragraph:  
6 “(3) access by military recruiters for purposes of military recruiting to lists of  
7 students (who are 17 years of age or older) not returning to the institution after having  
8 been enrolled during the previous semester, together with student recruiting information  
9 and the reason why the student did not return, if collected by the institution.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This legislative proposal would expand the types of information that military recruiters could have access to under sections 503 and 983 of title 10, United States Code, by adding email addresses and mobile telephone numbers to the list of information required to be provided to recruiters by institutions of higher education and secondary schools. This proposal would also require secondary schools to provide student information within 60 days of a request from a military recruiter. Additionally, this proposal would require colleges and universities to provide student directory information within 60 days of the start of a school year or 60 days after the date of a recruiter’s request as well as “stop-out” lists of those students who do not return to the institution from the previous semester.

Technology has significantly altered the ways in which people communicate with each other. Many people prefer to communicate by email and text message; further, many people no longer have a landline phone number. The statutes as currently written only allow for the collection of outdated communication information, such as address and telephone listing. Further, no timeframe is provided, so many schools do not provide this information until it is too late for military recruiters to make the best use of it by providing students with pertinent information enabling them to explore their options.

Half of today’s youth admit that they know little to nothing about the military. Our goal is to inform the target youth market about all the options available to them. We need the youth market and their influencers to understand the military, what the military does, and what service to country can do for them. This proposal will allow recruiters to collect better information for

contacting today's students, improving the Services' ability to inform students and influencers about the opportunities available to them.

Although the proposal allows for the collection of information about secondary school students, many of whom are minors, their parents could still opt out of releasing their child's information under the same terms and conditions as are currently available under section 8528 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908).

Recruiting the volunteer force to serve in the military is a national security imperative, especially for Services that need to grow end strength to meet National Security Strategy requirements and Combatant Commander demand for forces. While many schools go above and beyond to support military recruiting, many do not. The Army recruited 70K Soldiers in Fiscal Year (FY) 2018, yet fell short of its goal for a number of reasons. Although the Services are taking a comprehensive look at the accessions enterprise, at a minimum, meeting increased recruiting needs requires our military recruiters to have meaningful access to the recruiting pool. Updating existing statutes to reflect cultural and technological changes in how our society communicates and receives information is a necessary first step. It will also assist in opening some hard-to-reach markets so that the military reflects the Nation it serves.

**Budget Implications:** This proposal has no significant budgetary impact. Resources impacted are incidental in nature and amount and are included within the Fiscal Year (FY) 2021 President's Budget request.

**Changes to Existing Law:** This proposal would make the following changes to sections 503 and 983 title 10, United States Code:

### **§ 503. Enlistments: recruiting campaigns; compilation of directory information**

(a) RECRUITING CAMPAIGNS.—(1) The Secretary concerned shall conduct intensive recruiting campaigns to obtain enlistments in the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, and Regular Coast Guard.

(2) The Secretary of Defense shall act on a continuing basis to enhance the effectiveness of recruitment programs of the Department of Defense (including programs conducted jointly and programs conducted by the separate armed forces) through an aggressive program of advertising and market research targeted at prospective recruits for the armed forces and those who may influence prospective recruits. Subchapter I of chapter 35 of title 44 shall not apply to actions taken as part of that program.

(b) COMPILATION OF DIRECTORY INFORMATION.—(1) The Secretary of Defense may collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade (or its equivalent) or higher and who is enrolled in a secondary school in the United States or its territories, possessions, or the Commonwealth of Puerto Rico.

(2) The Secretary may make directory information collected and compiled under this subsection available to the armed forces for military recruiting purposes. Such information may not be disclosed for any other purpose.

(3) Directory information pertaining to any person may not be maintained for more than 3 years after the date the information pertaining to such person is first collected and compiled under this subsection.

(4) Directory information collected and compiled under this subsection shall be confidential, and a person who has had access to such information may not disclose such information except for the purposes described in paragraph (2).

(5) The Secretary of Defense shall prescribe regulations to carry out this subsection. Regulations prescribed under this subsection shall be submitted to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. Regulations prescribed by the Secretaries concerned to carry out this subsection shall be as uniform as practicable.

(6) Nothing in this subsection shall be construed as requiring, or authorizing the Secretary of Defense to require, that any educational institution furnish directory information to the Secretary.

(c) ACCESS TO SECONDARY SCHOOLS.—(1)(A) Each local educational agency receiving assistance under the Elementary and Secondary Education Act of 1965—

(i) shall provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; ~~and~~

(ii) shall, upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, ~~and telephone listings,~~ notwithstanding section 444(a)(5)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(5)(B)); email addresses, home telephone numbers, and mobile telephone numbers, notwithstanding subsection (a)(5)(B) or (b) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g); and

(iii) shall provide information requested pursuant to clause (i) within a reasonable period of time, but in no case later than the 60th day following the date of the request.

(B) A local educational agency may not release a student's name, address, ~~and telephone listing,~~ email address, home telephone number, or mobile telephone number under subparagraph (A)(ii) without the prior written consent of a parent of the student if the student, or a parent of the student, has submitted a request to the local educational agency that the student's information not be released for a purpose covered by that subparagraph without prior written parental consent. Each local educational agency shall notify parents of the rights provided under the preceding sentence.

(2) If a local educational agency denies a request by the Department of Defense for recruiting access, the Secretary of Defense, in cooperation with the Secretary of the military department concerned, shall designate an officer in a grade not below the grade of colonel or, in the case of the Navy, captain, or a senior executive of that military department to meet with representatives of that local educational agency in person, at the offices of that agency, for the purpose of arranging for recruiting access. The designated officer or senior executive shall seek to have that meeting within 120 days of the date of the denial of the request for recruiting access.

(3) If, after a meeting under paragraph (2) with representatives of a local educational agency that has denied a request for recruiting access or (if the educational agency declines a request for the meeting) after the end of such 120-day period, the Secretary of Defense determines that the agency continues to deny recruiting access, the Secretary shall transmit to the chief executive of the State in which the agency is located a notification of the denial of recruiting access and a

request for assistance in obtaining that access. The notification shall be transmitted within 60 days after the date of the determination. The Secretary shall provide to the Secretary of Education a copy of such notification and any other communication between the Secretary and that chief executive with respect to such access.

(4) If a local educational agency continues to deny recruiting access one year after the date of the transmittal of a notification regarding that agency under paragraph (3), the Secretary—

(A) shall determine whether the agency denies recruiting access to at least two of the armed forces (other than the Coast Guard when it is not operating as a service in the Navy); and

(B) upon making an affirmative determination under subparagraph (A), shall transmit a notification of the denial of recruiting access to-

(i) the specified congressional committees;

(ii) the Senators of the State in which the local educational agency is located; and

(iii) the member of the House of Representatives who represents the district in which the local educational agency is located.

(5) The requirements of this subsection do not apply to a private secondary school that maintains a religious objection to service in the armed forces and which objection is verifiable through the corporate or other organizational documents or materials of that school.

(6) In this subsection:

(A) The term "local educational agency" means-

(i) a local educational agency, within the meaning of that term in section 8101 of the Elementary and Secondary Education Act of 1965; and

(ii) a private secondary school.

(B) The term "recruiting access" means access requested as described in paragraph (1).

(C) The term "senior executive" has the meaning given that term in section 3132(a)(3) of title 5.

(D) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(E) The term "specified congressional committees" means the following:

(i) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(ii) The Committee on Armed Services and the Committee on Education and the Workforce of the House of Representatives.

(F) The term "member of the House of Representatives" includes a Delegate or Resident Commissioner to Congress.

(d) DIRECTORY INFORMATION DEFINED.—In this section, the term "directory information" has the meaning given that term in subsection (a)(5)(A) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

\* \* \* \* \*

**§983. Institutions of higher education that prevent ROTC access or military recruiting on campus: denial of grants and contracts from Department of Defense, Department of Education, and certain other departments and agencies**

(a) DENIAL OF FUNDS FOR PREVENTING ROTC ACCESS TO CAMPUS.—No funds described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents—

- (1) the Secretary of a military department from maintaining, establishing, or operating a unit of the Senior Reserve Officer Training Corps (in accordance with section 654<sup>1</sup> of this title and other applicable Federal laws) at that institution (or any subelement of that institution); or
- (2) a student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior Reserve Officer Training Corps at another institution of higher education.

(b) DENIAL OF FUNDS FOR PREVENTING MILITARY RECRUITING ON CAMPUS.—No funds described in subsection (d)(1) may be provided by contract or by grant to an institution of higher education (including any subelement of such institution) if the Secretary of Defense determines that that institution (or any subelement of that institution) has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents-

- (1) the Secretary of a military department or the Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer; or
- (2) access by military recruiters for purposes of military recruiting to the following information pertaining to students (who are 17 years of age or older) enrolled at that institution (or any subelement of that institution):

(A) Names, addresses, ~~and telephone listings~~ email addresses, home telephone numbers, and mobile telephone numbers, which information shall be made available not later than the 60th day following the start of classes for the current semester or quarter or not later than the 60th day following the date of a request, whichever occurs last.

(B) Date and place of birth, levels of education, academic majors, degrees received, and the most recent educational institution enrolled in by the student: ~~;~~ or

- (3) access by military recruiters for purposes of military recruiting to lists of students (who are 17 years of age or older) not returning to the institution after having been enrolled during the previous semester, together with student recruiting information and the reason why the student did not return, if collected by the institution.

(c) EXCEPTIONS.—The limitation established in subsection (a) or (b) shall not apply to an institution of higher education (or any subelement of that institution) if the Secretary of Defense determines that-

- (1) the institution (and each subelement of that institution) has ceased the policy or practice described in that subsection; or
- (2) the institution of higher education involved has a longstanding policy of pacifism based on historical religious affiliation.

(d) COVERED FUNDS.—(1) Except as provided in paragraph (2), the limitations established in subsections (a) and (b) apply to the following:

(A) Any funds made available for the Department of Defense.

(B) Any funds made available for any department or agency for which regular appropriations are made in a Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act.

(C) Any funds made available for the Department of Homeland Security.

(D) Any funds made available for the National Nuclear Security Administration of the Department of Energy.

(E) Any funds made available for the Department of Transportation.

(F) Any funds made available for the Central Intelligence Agency.

(2) Any Federal funding specified in paragraph (1) that is provided to an institution of higher education, or to an individual, to be available solely for student financial assistance, related administrative costs, or costs associated with attendance, may be used for the purpose for which the funding is provided.

(e) NOTICE OF DETERMINATIONS.—Whenever the Secretary of Defense makes a determination under subsection (a), (b), or (c), the Secretary-

(1) shall transmit a notice of the determination to the Secretary of Education and to the head of each other department and agency the funds of which are subject to the determination; and

(2) shall publish in the Federal Register a notice of the determination and the effect of the determination on the eligibility of the institution of higher education (and any subelement of that institution) for contracts and grants.

1 **SEC. \_\_. AUTHORITY FOR PAYMENT OF DEATH GRATUITY TO TRUSTS.**

2 Section 1477(a) of title 10, United States Code, is amended by adding at the end the  
3 following new paragraph:

4 “(3) In this subsection, the term ‘person’ includes—

5 “(A) the estate of the member; or

6 “(B) a trust legally established under any Federal, State, or territorial law,  
7 including a supplemental or special needs trust established under subparagraph (A) or  
8 (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the  
9 sole benefit of a dependent child considered disabled under section 1614(a)(3) of that  
10 Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or  
11 physical incapacity.”.

**[Please note: The following “Changes to Existing Law” section sets out in red-line format  
how the legislative text above would amend existing law.]**

**Section-by-Section Analysis**

This proposal would allow military members to designate that, upon their death, the gratuity provided pursuant to section 1475 or 1476 of title 10, United States Code (10 USC 1475 or 1476), be paid to a trust that is legally established under any Federal, State, or territorial law, to include a supplemental or special needs trust established for disabled children. The amount of the death gratuity has been increased on several occasions and is currently set at \$100,000 pursuant to 10 USC 1478. Originally designed to meet the immediate needs of a Service member's family following his or her death, the death gratuity, at its current level, frequently accounts for a sizeable portion of a Service member's estate. Allowing payment of the death gratuity to a trust would provide greater planning capability for a Service member to provide payments to those who require the protections of a trust, such as minor children or incapacitated adults.

There is currently no express statutory authority for a Service member to designate a legal entity, such as a trust, as the beneficiary of his or her death gratuity. However, there are several reasons a Service member might prefer to designate a legal entity, such as a trust, as the beneficiary of a death gratuity, rather than to designate a natural person. For example, Service members often wish to name their minor children as beneficiaries of their death gratuity. In some instances, simply designating the gratuity for a surviving spouse is acceptable to the Service member. However, in other situations, such as where a Service member has children and



does not have a good relationship with the other parent, a Service member might prefer to provide directly for a child. When minor children are designated as the death gratuity beneficiary, a person other than an individual designated by the Service member may receive the gratuity payment on behalf of the minor child. For instance, the gratuity may be disbursed into a custodial account for the child, where the Service member did not select the custodian and the minor will gain full control funds upon attaining the age of 18 or 21 years. Such a system does not allow the Service member to designate a trustee where a trustee of the Service member's choosing would manage the monetary asset during and even after the child's minority. Many estate planning professionals suggest that trusts or custodial accounts for minors should not terminate upon the age of majority, but rather at a time when it is anticipated the child will be mature enough to manage his or her own finances. Under this proposal, Service members would have better planning capability to provide for their minor children in a manner that ensures responsible management of the death gratuity payment.

In addition to trusts for minors, trusts are often established for either incapacitated adults or adults who have simply proven incapable of managing significant amounts of money. In the case of incapacitated or special needs adults, trusts allow money to be used on behalf of the beneficiary while not diminishing Social Security disability payments as a result of personal assets. This proposal would allow the death gratuity to serve such individuals while not impacting eligibility for Social Security disability payments. Service members might also desire to name a trustee for a sibling or other adult that the Service member finds incapable of handling a significant payment of money for reasons such as substance abuse or prior financial mismanagement. Under this proposal, Service members could establish a supplemental or special needs trust for the benefit of the intended beneficiary, while naming a separate trustee to ensure the proceeds to the trust are utilized in a responsible manner.

**Budget Implications:** This proposal has no budgetary impact. There are no resource requirements or proposed offsets associated with this proposal. This proposal would reduce the gift tax receipts going to the Department of the Treasury triggered by the transfer of death gratuities directly to trusts instead of first being given to intermediary custodians. The Department of the Treasury estimates the cost to be less than \$1 million per year.

**Changes to Existing Law:** This proposal would make the following changes to section 1477 of title 10, United States Code:

**§ 1477. Death Gratuity: eligible survivors.**

(a) DESIGNATION OF RECIPIENTS.—(1) On and after July 1, 2008, or such earlier date as the Secretary of Defense may prescribe, a person covered by section 1475 or 1476 of this title may designate one or more persons to receive all or a portion of the amount payable under section 1478 of this title. The designation of a person to receive a portion of the amount shall indicate the percentage of the amount, to be specified only in 10 percent increments, that the designated person may receive. The balance of the death gratuity, if any, shall be paid in accordance with subsection (b).

(2) If a person covered by section 1475 or 1476 of this title has a spouse, but designates a person other than the spouse to receive all or a portion of the amount payable under section 1478 of this title, the Secretary concerned shall provide notice of the designation to the spouse.

(3) In this subsection, the term “person” includes—

(A) the estate of the member; or

(B) a trust legally established under any Federal, State, or territorial law, including a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity.

(b) DISTRIBUTION OF REMAINDER; DISTRIBUTION IN ABSENCE OF DESIGNATED RECIPIENT.—If a person covered by section 1475 or 1476 of this title does not make a designation under subsection (a) or designates only a portion of the amount payable under section 1478 of this title, the amount of the death gratuity not covered by a designation shall be paid as follows:

(1) To the surviving spouse of the person, if any.

(2) If there is no surviving spouse, to any surviving children (as prescribed by subsection (d)) of the person and the descendants of any deceased children by representation.

(3) If there is none of the above, to the surviving parents (as prescribed by subsection (c)) of the person or the survivor of them.

(4) If there is none of the above, to the duly-appointed executor or administrator of the estate of the person.

(5) If there is none of the above, to other next of kin of the person entitled under the laws of domicile of the person at the time of the person's death.

(c) TREATMENT OF PARENTS.—For purposes of subsection (b)(3), parents include fathers and mothers through adoption. However, only one father and one mother may be recognized in any case, and preference shall be given to those who exercised a parental relationship on the date, or most nearly before the date, on which the decedent entered a status described in section 1475 or 1476 of this title.

(d) TREATMENT OF CHILDREN.—Subsection (b)(2) applies, without regard to age or marital status, to—

(1) legitimate children;

(2) adopted children;

(3) stepchildren who were a part of the decedent's household at the time of his death;

(4) illegitimate children of a female decedent; and

(5) illegitimate children of a male decedent—

(A) who have been acknowledged in writing signed by the decedent;

(B) who have been judicially determined, before the decedent's death, to be his children;

(C) who have been otherwise proved, by evidence satisfactory to the Secretary of Veterans Affairs, to be children of the decedent; or

(D) to whose support the decedent had been judicially ordered to contribute.

(e) EFFECT OF DEATH BEFORE RECEIPT OF GRATUITY.—If a person entitled to all or a portion of a death gratuity under subsection (a) or (b) dies before the person receives the death gratuity, it shall be paid to the living survivor next in the order prescribed by subsection (b).

1 **SEC. \_\_\_\_. MODIFICATION OF AUTHORITY TO PURCHASE USED VESSELS WITH**  
2 **FUNDS IN THE NATIONAL DEFENSE SEALIFT FUND.**

3 Section 2218(f)(3) of title 10, United States Code, is amended—

4 (1) by striking subparagraphs (E) and (G); and

5 (2) by redesignating subparagraph (F) as subparagraph (E).

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

**Section-by-Section Analysis**

This proposal would amend section 2218 of title 10, United States Codes, to provide the Secretary of Defense with the discretionary authority to purchase seven used, foreign built sealift ships without the accompanying requirement to procure 10 new sealift vessels in U.S. shipyards. This proposal would also waive the requirement for a new construction sealift vessel to be delivered by 2026. This authority is intended to recapitalize the sealift capability in the Ready Reserve Force component of the National Defense Reserve Fleet (NDRF) and the Military Sealift Command’s surge fleet.

The Department of Defense (DoD) has developed a hybrid sealift recapitalization strategy of new construction (long term), extending the service life of certain vessels (short term) and acquiring used vessels in order to maintain capacity at an acceptable level of risk. This proposal facilitates one portion of the overall strategy by permitting the Secretary of Defense to purchase seven used vessels now while the acquisition strategy for new construction is still under development. ), There are a number of sealift vessels approaching the end of their service life. The new construction phase of the strategy is still under development by the Navy and is seeking to explore the most cost effective new construction design. The development of the requirement, as well as design process, will drive an anticipated first delivery in the late 2020’s. Actions must be taken sooner to maintain an acceptable level of risk in sealift capabilities.

**Budget Implications:** If enacted this proposal would not increase the budgetary requirements of the DoD. Funds to purchase the used vessels authorized by this proposal would be included as part of the Department of Navy’s budget submissions for the National Defense Sealift Fund after completion of market surveys and business case assessments. Final budget estimates will be highly dependent on availability of suitable ships, market conditions, material condition, size, and overall military utility.

RESOURCE REQUIREMENTS (\$MILLIONS)									
	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	Appropriation From	Budget Activity	Dash-1 Line Item	Program Element
Navy	60	31				Operation and Maintenance, Navy	02	2A2F	0408042N
Total	60	31				Operation and Maintenance, Navy	02	2A2F	0408042N

**Changes to Existing Law:** This proposal would make the following changes to section 2218 of title 10, United States Code:

**§ 2218. National Defense Sealift Fund**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “National Defense Sealift Fund”.

\* \* \* \* \*

(f) LIMITATIONS.—(1) A vessel built in a foreign ship yard may not be purchased with funds in the National Defense Sealift Fund pursuant to subsection (c)(1), unless specifically authorized by law.

(2) Construction, alteration, or conversion of vessels with funds in the National Defense Sealift Fund pursuant to subsection (c)(1) shall be conducted in United States ship yards and shall be subject to section 1424(b) of Public Law 101–510 (104 Stat. 1683).

(3)(A) Notwithstanding the limitations under subsection (c)(1)(E) and paragraph (1), the Secretary of Defense may, as part of a program to recapitalize the Ready Reserve Force component of the national defense reserve fleet and the Military Sealift Command surge fleet, purchase any used vessel, regardless of where such vessel was constructed if such vessel—

(i) participated in the Maritime Security Fleet; and

(ii) is available for purchase at a reasonable cost, as determined by the Secretary.

(B) If the Secretary determines that no used vessel meeting the requirements under clauses (i) and (ii) of subparagraph (A) is available, the Secretary may purchase a used vessel comparable to a vessel described in clause (i) of subparagraph (A), regardless of the source of the vessel or where the vessel was constructed, if such vessel is available for purchase at a reasonable cost, as determined by the Secretary.

(C) The Secretary may not use the authority under this paragraph to purchase more than seven foreign constructed vessels.

(D) The Secretary shall ensure that the initial conversion, or modernization of any vessel purchased under the authority of subparagraph (A) occurs in a shipyard located in the United States.

~~(E) The Secretary may not use the authority under this paragraph to procure more than two foreign constructed vessels unless the Secretary submits to Congress, by not later than the~~

~~second week of February of the fiscal year during which the Secretary plans to use such authority, a certification that—~~

~~(i) the Secretary has initiated an acquisition strategy for the construction in United States shipyards of not less than ten new sealift vessels; and~~

~~(ii) of such new sealift vessels, the lead ship is anticipated to be delivered by not later than 2026.~~

~~(E)~~ Not later than 30 days before the purchase of any vessel using the authority under this paragraph, the Secretary, in consultation with the Maritime Administrator, shall submit to the congressional defense committees a report that contains each of the following with respect to such purchase:

(i) The proposed date of the purchase.

(ii) The price at which the vessel would be purchased.

(iii) The anticipated cost of modernization of the vessel.

(iv) The proposed military utility of the vessel.

(v) The proposed date on which the vessel will be available for use by the Ready Reserve.

(vi) The contracting office responsible for the completion of the purchase.

(vii) Certification that—

(I) there was no vessel available for purchase at a reasonable price that was constructed in the United States; and

(II) the used vessel purchased supports the recapitalization of the Ready Reserve Force component of the National Defense Reserve Fleet or the Military Sealift Command surge fleet.

(viii) A detailed account of the criteria used to make the determination under subparagraph (B).

~~(G) The Secretary may not finalize or execute the final purchase of any vessel using the authority under this paragraph until 30 days after the date on which a report under subparagraph (E) is submitted with respect to such purchase.~~

\* \* \* \* \*

1 **SEC. \_\_\_\_ . JOINT DUTY ASSIGNMENTS AFTER COMPLETION OF JOINT**  
2 **PROFESSIONAL MILITARY EDUCATION.**

3 Section 663 of title 10, United States Code, is amended—

4 (1) in subsection (a), by striking “a school within the National Defense  
5 University” and inserting “an in-residence program of instruction designated by the  
6 Secretary of Defense as joint professional military education Phase II at a school”;

7 (2) in section (b)—

8 (A) in paragraph (1)—

9 (i) by striking “high proportion (which shall be greater than 50  
10 percent)” and inserting “proportion”;

11 (ii) by striking “a school within the National Defense University”  
12 and inserting “the schools”; and

13 (iii) by striking “, to the extent authorized in paragraph (2),”; and

14 (B) by striking paragraph (2) and inserting the following new paragraph:

15 “(2) The Secretary shall ensure the proportion of officers receiving assignments described  
16 in paragraph (1) is adequate to satisfy the needs of the joint force, as determined by the  
17 Secretary.”;

18 (3) in subsection (c)—

19 (A) in the heading, by striking “WITHIN THE NATIONAL DEFENSE  
20 UNIVERSITY”;

21 (B) in the matter preceding paragraph (1), by striking “within the National  
22 Defense University”; and

23 (C) by adding at the end the following new paragraphs:

- 1 “(4) The United States Army War College.
- 2 “(5) The College of Naval Warfare of the Naval War College.
- 3 “(6) The Marine Corps War College.
- 4 “(7) The Air War College.”; and
- 5 (4) in subsection (d)—
- 6 (A) by striking “(1) Subsection (a) does” and inserting “Subsections (a)
- 7 and (b) do”;
- 8 (B) by striking “within the National Defense University”; and
- 9 (C) by striking paragraph (2).

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This proposal, if enacted, would amend title 10, United States Code, section 663 to (1) ensure that a sufficient number of joint qualified officers are available to the joint force to meet mission requirements, (2) preserve flexibility for the military services to assign officers with Joint Professional Military Education – Level II (JPME II) credit to joint duty and other billets in a manner and timing that supports the joint force and does not conflict with critical career or service requirements, and (3) standardize the assignment requirements across the Department of Defense for officers completing JPME II programs.

JPME II is a career milestone for joint warfighters and future senior military leaders which is mandated by the Department of Defense (DoD) Joint Officer Management Program for an officer to be designated as a Level III Joint Qualified Officer (JQO) and to be eligible for promotion to O7. Currently, 10 USC §663(a) requires that “each officer designated as a joint qualified officer who graduates from a school within the National Defense University specified in subsection (c) shall be assigned to a joint duty assignment for that officer's next duty assignment after such graduation (unless the officer receives a waiver of that requirement by the Secretary in an individual case)” and (b)(1) that “greater than 50 percent” of non-JQO JPME II graduates from the National Defense University’s (NDU) National War College, Joint Forces Staff College, and Dwight D. Eisenhower School for National Security and Resource Strategy are to be detailed to a joint duty assignment on the next or second duty assignment following graduation. This requirement was put in place when NDU was the only institution authorized to award JPME II credit in order to ensure the joint force was adequately manned with JQO and JPME II-qualified officers. Since 2007, however, the U.S. Army War College, the College of Naval Warfare of the Naval War College, the Marine Corps War College, and the Air War



College have all been authorized to award JPME II credit. Thus, the JPME enterprise, comprising all of the schools named above, produces approximately 1,800 JPME II graduates annually to fill O-5 and O-6 joint duty billets. As a result, the problem that 10 USC §663 was designed to solve no longer exists because production capacity across the JPME enterprise has greatly expanded.

10 USC §663 serves as a legal requirement for the military services to supply JQO and JPME-II qualified officers to the joint force as follow-on to in-residence education at NDU. However, this assignment requirement restricts assignment flexibility following graduation only from NDU and no other JPME-II granting schools. This creates an incentive for military services to preferentially assign officers as students to alternative institutions, knowing that more than half the graduates of an NDU program will be subject to a mandatory joint duty assignment following graduation. Additionally, top-performing officers who are already serving in a joint billet will not be assigned to a JPME II program at NDU because 10 USC §663 would subject them to a follow-on joint assignment needed by a different JPME II graduate. To retain flexibility to assign JPME II officers as needed for service and professional development needs, it is to the services' advantage to send them to school at any of the JPME II granting schools other than NDU.

This legislative proposal would standardize the requirement for post-education joint duty assignments without regard for the JPME-II granting school attended.

**Budget Implications:** No budget impact.

**Changes to Existing Law:** This proposal would make the following changes to section 663 of title 10, United States Code:

### **§663. Joint duty assignments after completion of joint professional military education**

(a) JOINT QUALIFIED OFFICERS.—The Secretary of Defense shall ensure that each officer designated as a joint qualified officer who graduates from ~~a school within the National Defense University~~ an in-residence program of instruction designated by the Secretary of Defense as joint professional military education Phase II at a school specified in subsection (c) shall be assigned to a joint duty assignment for that officer's next duty assignment after such graduation (unless the officer receives a waiver of that requirement by the Secretary in an individual case).

(b) OTHER OFFICERS.—(1) The Secretary of Defense shall ensure that a ~~high~~ high proportion ~~(which shall be greater than 50 percent)~~ of the officers graduating from ~~a school within the National Defense University~~ the schools specified in subsection (c) who are not designated as a joint qualified officer shall receive assignments to a joint duty assignment (or, as authorized by the Secretary in an individual case, to a joint assignment other than a joint duty assignment) as their next duty assignment after such graduation or, ~~to the extent authorized in paragraph (2),~~ as their second duty assignment after such graduation.

~~(2) The Secretary may, if the Secretary determines that it is necessary to do so for the efficient management of officer personnel, establish procedures to allow up to one half of the officers subject to the assignment requirement in paragraph (1) to be assigned to such an~~

~~assignment as their second (rather than first) assignment after such graduation from a school referred to in paragraph (1).~~

(2) The Secretary shall ensure the proportion of officers receiving assignments described in paragraph (1) is adequate to satisfy the needs of the joint force, as determined by the Secretary.

(c) COVERED SCHOOLS ~~WITHIN THE NATIONAL DEFENSE UNIVERSITY.~~—For purposes of this section, a school ~~within the National Defense University~~ specified in this subsection is one of the following:

(1) The National War College.

(2) The Dwight D. Eisenhower School for National Security and Resource Strategy.

(3) The Joint Forces Staff College.

(4) The United States Army War College.

(5) The College of Naval Warfare of the Naval War College.

(6) The Marine Corps War College.

(7) The Air War College.

(d) EXCEPTION FOR OFFICERS GRADUATING FROM OTHER-THAN-IN-RESIDENCE PROGRAMS.—~~(1) Subsection~~ Subsections (a) and (b) do ~~does~~ not apply to an officer graduating from a school ~~within the National Defense University~~ specified in subsection (c) following pursuit of a program on an other-than-in-residence basis.

~~(2) Subsection (b) does not apply with respect to any group of officers graduating from a school within the National Defense University specified in subsection (c) following pursuit of a program on an other than in residence basis.~~

1 **SEC. \_\_. TRANSFER OF LANDS UNDER THE ADMINISTRATIVE JURISDICTION**  
2 **OF THE DEPARTMENT OF THE INTERIOR WITHIN NAVAL**  
3 **SUPPORT ACTIVITY PANAMA CITY, FLORIDA.**

4 (a) **AUTHORITY.**—The Secretary of the Interior shall transfer to the Secretary of the  
5 Navy, at no cost, approximately 1.23 acres of land within Naval Support Activity Panama  
6 City, Florida, that are used on the day preceding the date of the enactment of this Act by the  
7 Department of the Navy pursuant to Executive Order 10355 of May 26, 1952 and Public Land  
8 Order Number 952 of April 6, 1954.

9 (b) **STATUS OF FEDERAL LAND AFTER TRANSFER.**—Upon completion of a transfer  
10 under this section, the parcel received by the Secretary of the Navy shall cease to be public  
11 land and shall be treated as property (as defined in section 102(9) of title 40, United States  
12 Code) under the administrative jurisdiction of the Secretary of the Navy.

13 (c) **REIMBURSEMENT.**—The Secretary of the Navy shall reimburse the Secretary of the  
14 Interior for any costs incurred by the Secretary of the Interior for preparing a legal description  
15 of the land to be transferred.

**Section-by-Section Analysis**

Naval Support Activity was established in 1945 and consists of 657 acres, including a 1.23-acre parcel that was withdrawn from the public domain. This parcel is an “inholding” within the installation under the administrative jurisdiction of the BLM while the remainder of the installation is under the administrative jurisdiction of DON.

Subsection (a) directs the Secretary of the Interior to transfer the parcel to the Secretary of the Navy. Subsection (b) determines the status of lands as military lands once transfer is complete. Subsection (c) directs the Secretary of the Navy to reimburse the Secretary of the Interior for certain administrative costs associated with the transfer.

This proposal directs the Department of the Interior to transfer this parcel of land to the Department of the Navy. The transfer would allow more rational and uniform management of the land involved so that this “inholding” is managed in the same manner as the surrounding land under the administrative jurisdiction of the Department of the Navy.

**Budget Implications:** This proposal has no significant budgetary impact. Resources impacted are incidental in nature and amount and are included within the Fiscal Year (FY) 2021 President's Budget request.

**Changes to Existing Law:** This proposal does not make any changes to existing law.

1 **SEC. \_\_\_\_ . UPDATING MISSILE DEFEAT POLICY AND STRATEGY OF THE**  
2 **UNITED STATES.**

3 Section 1684 of the National Defense Authorization Act for Fiscal Year 2017 (Public  
4 Law 114–328; 130 Stat. 2624; 10 U.S.C 2431 note) is amended—

- 5 (1) by striking subsection (e); and  
6 (2) by redesignating subsection (f) as subsection (e).

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

**Section-by-Section Analysis**

This proposal would relieve the Department of Defense from Congressional direction to designate a Service or Agency with acquisition authority to develop capabilities to: 1) defend the homeland from cruise missiles (CMD-H); 2) conduct left of launch ballistic missile defeat operations (LoL). The Department is examining both issues as tasked in the 2019 Missile Defense Review (MDR), aligned with National Defense Strategy priorities and objectives. The MDR direction has a wider scope than the original Congressional language. The MDR directs the Department to consider requirements determination, technology maturation, capability development, and integration along with acquisition authorities as the basis for a recommendation to the Secretary of Defense. In both instances, the Department is conducting analyses to determine future operational requirements as the basis for technology maturation and capability development. These studies will be the basis for a recommendation to the Secretary of Defense for designation of a lead organization for CMD-H and LoL capabilities as directed in the MDR.

This proposal repeals subsections (e), which directs the designation of an acquisition authority for CMD-H and LoL. This would allow the Department to be in compliance with the law until the analysis is completed, required capabilities are identified and an understanding of potential options and the Service or Agency that has the most expertise in developing a cost effective solution(s).

**Budget Implications:** This proposal has no budgetary effect since there are no programs or additional manpower identified.

**Changes to Existing Law:** This proposal would amend subsections (e) and (f) of section 1684 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2624; 10 U.S.C. 2431 note) as follows:

**SEC. 1684. REVIEW OF THE MISSILE DEFEAT POLICY AND STRATEGY OF THE UNITED STATES.**

(a) NEW REVIEW.—The Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly conduct a new review of the missile defeat capability, policy, and strategy of the United States, with respect to—

- (1) left- and right-of-launch ballistic missile defense for—
  - (A) both regional and homeland purposes; and
  - (B) the full range of active, passive, kinetic, and non-kinetic defense measures across the full spectrum of land-, air-, sea-, and space-based platforms;
- (2) the integration of offensive and defensive forces for the defeat of ballistic missiles, including against weapons initially deployed on ballistic missiles, such as hypersonic glide vehicles; and
- (3) cruise missile defense of the homeland.

(b) ELEMENTS.—The review under subsection (a) shall address the following:

- (1) The missile defeat policy, strategy, and objectives of the United States in relation to the national security strategy of the United States and the military strategy of the United States.
- (2) The role of deterrence in the missile defeat policy and strategy of the United States.
- (3) The missile defeat posture, capability, and force structure of the United States.
- (4) With respect to both the five- and ten-year periods beginning on the date of the review, the planned and desired end-state of the missile defeat programs of the United States, including regarding the integration and interoperability of such programs with the joint forces and the integration and interoperability of such programs with allies, and specific benchmarks, milestones, and key steps required to reach such end states.
- (5) The process for determining requirements, force structure, and inventory objectives for missile defeat capabilities under such programs, including input from the joint military requirements process.
- (6) The organization, execution, and oversight of acquisition for the missile defeat programs of the United States.
- (7) The roles and responsibilities of the Office of the Secretary of Defense, Defense Agencies, combatant commands, the Joint Chiefs of Staff, the military departments, and the intelligence community in such programs and the process for ensuring accountability of each stakeholder.
- (8) Standards for the military utility, operational effectiveness, suitability, and survivability of the missile defeat systems of the United States.
- (9) The method in which resources for the missile defeat mission are planned, programmed, and budgeted within the Department of Defense.
- (10) The near-term and long-term costs and cost effectiveness of such programs.
- (11) The options for affecting the offense-defense cost curve.

(12) The role of international cooperation in the missile defeat policy and strategy of the United States and the plans, policies, and requirements for integration and interoperability of missile defeat capability with allies.

(13) Options for increasing the frequency of the co-development of missile defeat capabilities with allies of the United States in the near-term and far-term.

(14) Declaratory policy governing the employment of missile defeat capabilities and the military options and plans and employment options of such capabilities.

(15) The role of multi-mission defense and other assets of the United States, including space and terrestrial sensors and plans to achieve multi-mission capability in current, planned, and other future assets and acquisition programs.

(16) The indications and warning required to meet the missile defeat strategy and objectives of the United States described in paragraph (1) and the key enablers and programs to achieve such indications and warning.

(17) The impact of the mobility, countermeasures, and denial and deception capabilities of adversaries on the indications and warning described in paragraph (16) and the consequences on the missile defeat capability, objectives, and military options of the United States and the plans of the combatant commanders.

(18) Any other matters the Secretary determines relevant.

(c) REPORTS.—

(1) RESULTS.—Not later than January 31, 2018, the Secretary shall submit to the congressional defense committees a report setting forth the results of the review under subsection (a).

(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) ANNUAL IMPLEMENTATION UPDATES.—During the five year period beginning on the date of the submission of the report under paragraph (1), the Director of Cost Assessment and Program Evaluation shall submit to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the congressional defense committees annual status updates detailing the progress of the Secretary in implementing the missile defeat strategy of the United States.

(4) THREAT REPORT.—Not later than 180 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the congressional defense committees, the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report containing an unclassified summary, consistent with the protection of intelligence sources and methods, of—

(A) as of the date of the report required by this paragraph, the ballistic and cruise missile threat to the United States, deployed forces of the United States, and friends and allies of the United States from short-, medium-, intermediate-, and long-range nuclear and non-nuclear ballistic and cruise missile threats; and

(B) an assessment of such threat in 2026.

(5) DECLARATORY POLICY, CONCEPT OF OPERATIONS, AND EMPLOYMENT GUIDELINES FOR LEFT-OF-LAUNCH CAPABILITY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the congressional defense committees the following:

(A) The unclassified declaratory policy of the United States regarding the use of the left-of-launch capability of the United States against potential targets.

(B) Both the classified and unclassified concept of operations for the use of such capability across and between the combatant commands.

(C) Both the classified and unclassified employment strategy, plans, and options for such capability.

(d) NOTIFICATION.—

(1) LIMITATION.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 or fiscal year 2018 for the Secretary of Defense may be obligated or expended to change the non-standard acquisition processes and responsibilities described in paragraph (2) until—

(A) the Secretary notifies the congressional defense committees of such proposed change; and

(B) a period of 180 days has elapsed following the date of such notification.

(2) NON-STANDARD ACQUISITION PROCESSES AND RESPONSIBILITIES

DESCRIBED.—The non-standard acquisition processes and responsibilities described in this paragraph are such processes and responsibilities described in—

(A) the memorandum of the Secretary of Defense titled “Missile Defense Program Direction” signed on January 2, 2002; and

(B) Department of Defense Directive 5134.09, as in effect on the date of the enactment of this Act.

~~(e) DESIGNATION REQUIRED.—~~

~~(1) AUTHORITY.—Not later than March 31, 2018, the Secretary of Defense shall designate a military department or Defense Agency with acquisition authority with respect to—~~

~~(A) the capability to defend the homeland from cruise missiles; and~~

~~(B) left-of-launch ballistic missile defeat capability.~~

~~(2) DISCRETION.—The Secretary may designate a single military department or Defense Agency with the acquisition authority described in paragraph (1) or designate a separate military department or Defense Agency for each function specified in such paragraph.~~

~~(3) VALIDATION.—In making a designation under paragraph (1), the Secretary shall include a description of the manner in which the military requirements for such capabilities will be validated.~~



(fe) DEFINITIONS.—In this section:

(1) The term “Defense Agency” has the meaning given that term in section 101(a)(11) of title 10, United States Code.

(2) The term “intelligence community” has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

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1 **SEC. \_\_\_\_. WHITE SANDS MISSILE RANGE LAND WITHDRAWAL FOR NORTHERN**  
2 **AND WESTERN EXTENSION AREAS.**

3 (a) WITHDRAWAL.—Section 2951(a) of the Military Land Withdrawals Act of 2013 (title  
4 XXIX of Public Law 113–66; 127 Stat. 1025) is amended by striking “the Federal land described  
5 in subsection (b) is withdrawn from—” and inserting “the public land (including interests in  
6 land) described in subsection (b), and all other areas within the boundaries of the land as  
7 depicted on the maps referred to in such subsection that may become subject to actions identified  
8 in paragraphs (1), (2), and (3), including land under the administrative jurisdiction of the  
9 Secretary of the Army, is withdrawn from all forms of—”.

10 (b) DESCRIPTION OF LAW.—Section 2951(b) of such Act is amended—

11 (1) in the subsection heading, by striking “FEDERAL”;

12 (2) by striking “The Federal land referred to in subsection (a) consists of  
13 approximately” and inserting “The public land (including interests in land) referred to in  
14 subsection (a) is the Federal land comprising—

15 “(1) approximately”;

16 (3) by striking the period at the end of paragraph (1), as designated by paragraph  
17 (1) of this subsection, and inserting “; and”; and

18 (4) by inserting the following new paragraph after paragraph (1), as designated by  
19 paragraph (1) of this subsection:

20 “(2) approximately 341,415 acres in Socorro and Torrance Counties, New  
21 Mexico, and 352,115 acres in Sierra, Socorro, and Doña Ana Counties, New Mexico,  
22 depicted as Northern Call-Up Area and Western Call-Up Area, respectively, on the maps

1 entitled ‘WSMR Northern Call-Up Area’ and ‘WSMR Western Call-Up Area’, both  
2 dated August 16, 2016, and filed in accordance with section 2912.”.

3 (c) RESERVATION.—Section 2951(c) of such Act is amended—

4 (1) by striking “The Federal land described in subsection (b)” and inserting “(1)  
5 The Federal land described in subsection (b)(1)”; and

6 (2) by inserting the following new paragraphs after paragraph (1), as designated  
7 by paragraph (1) of this subsection:

8 “(2) The Federal land described in subsection (b)(2), less the approximately  
9 10,775 acres under the administrative jurisdiction of the Secretary of the Army, is  
10 reserved for use by the Secretary of the Army for military purposes consisting of  
11 overflight research, development, test, and evaluation and training but does not extend to  
12 the surface estate below 50 feet above the surface, except that structures above 50 feet in  
13 height above the surface may be allowed with the concurrence of the Secretary of the  
14 Army on a case-by-case basis . The approximately 10,775 acres under the administrative  
15 jurisdiction of the Secretary of the Army is reserved for military purposes as determined  
16 by the Secretary of the Army.

17 “(3) Sections 2914, 2915, and 2916 shall not apply to the lands identified in  
18 subsection (b)(2).”.

19 (d) TERMINATION.—Subtitle D of such Act is amended by inserting the following new  
20 section after section 2952:

21 **“SEC. 2953. TERMINATION OF RESERVATION FOR OVERFLIGHT RESEARCH,**  
22 **DEVELOPMENT, TEST, AND EVALUATION AND TRAINING.**

23 “The reservation made by section 2951(c)(2) shall terminate on October 1, 2046.”.

1 (e) CLERICAL AMENDMENT.—The table of sections at the beginning of such Act is  
2 amended by inserting after the item relating to section 2952 the following new item:

“2953. Termination of reservation for overflight research, development, test, and evaluation and training.”.

**[Please note: The “Changes to Existing Law” section below sets out in red-line format how the legislative text would amend existing law.]**

### **Section-by-Section Analysis**

This proposal would withdraw certain public lands in New Mexico from application of the public land laws and reserve the airspace above 50 feet for use by the Department of Defense’s testing and training activities at White Sands Missile Range (WSMR) for 25 years. The proposal would make no change to existing land uses.

WSMR is the Army’s premier testing range and an essential element of the DoD’s Major Range and Test Facility Base. This proposal would withdraw the Northern Call-up Area and the Western Call-up Area (also known as the Northern and Western Extension Areas (NEA and WEA)) from operation of the public land laws. In particular, it would prevent structures being emplaced that would interfere with the use of the airspace by DoD testing activities. The nature of modern weapons testing is that they require increasingly large areas of airspace. The Army currently has evacuation agreements with the private users of the NEA and WEA to pay them to evacuate the areas during those times when the Army is conducting testing overhead. This is a standard safety measure. The evacuation generally lasts for less than a day.

The utility of the NEA and WEA are contingent, however, on their having unobstructed airspace. There is an increasing danger of structures, particularly wind turbines, being placed in the NEA and the WEA. The presence of such structures would severely degrade, if not destroy, the utility of WSMR as a testing range. This proposal is designed to prevent the emplacement of such structures while not interfering with the current land uses by the local citizens. Consequently, while the proposal would withdraw the public lands from operation of the public land laws, it would only reserve the airspace above 50 feet for use by the DoD, with an exception for structures above 50 feet with the concurrence of the Secretary of the Army on a case-by-case basis, for 25 years. The DoD would obtain no reservation of use of the surface estate and the lands would continue to be managed by the Bureau of Land Management in accordance with its standard procedures.

This proposal is essential to protect a premier DoD testing area in support of the National Defense Strategy. It protects the existing livelihoods of the local residents by preventing encroachment on their current land uses while safeguarding the ability of DoD to protect the Nation.

**Budget Implications:** This proposal has no budget impact. The proposal would protect current operations, not expand them. DoD gains no additional management obligations for the lands in the proposal.

**Changes to Existing Law:** This proposal would amend the Military Land Withdrawals Act of 2013 (title XXIX of Public Law 113–66), as contained in the National Defense Authorization Act for Fiscal Year 2014, as follows:

**Subtitle D—White Sands Missile Range, New Mexico, and Fort Bliss, Texas**

**SEC. 2951. WITHDRAWAL AND RESERVATION OF PUBLIC LAND.**

(a) ~~WITHDRAWAL.—Subject to valid existing rights, the Federal land described in subsection (b) is withdrawn from the public land (including interests in land) described in subsection (b), and all other areas within the boundaries of the land as depicted on the maps referred to in such subsection that may become subject to actions identified in paragraphs (1), (2), and (3), including land under the administrative jurisdiction of the Secretary of the Army, is withdrawn from all forms of—~~

- (1) entry, appropriation, and disposal under the public land laws;
- (2) location, entry, and patent under the mining laws; and
- (3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(b) ~~DESCRIPTION OF FEDERAL LAND.—The Federal land referred to in subsection (a) consists of public land (including interests in land) referred to in subsection (a) is the Federal land comprising—~~

(1) approximately 5,100 acres of land depicted as “Parcel 1” on the map entitled “White Sands Missile Range/Fort Bliss/BLM Land Transfer and Withdrawal”, dated April 3, 2012, and filed in accordance with section 2912.; and

(2) approximately 341,415 acres in Socorro and Torrance Counties, New Mexico, and 352,115 acres in Sierra, Socorro, and Doña Ana Counties, New Mexico, depicted as Northern Call-Up Area and Western Call-Up Area, respectively, on the maps entitled “WSMR Northern Call-Up Area” and “WSMR Western Call-Up Area”, both dated August 16, 2016, and filed in accordance with section 2912.

(c) ~~RESERVATION.—(1) The Federal land described in subsection (b)(1) is reserved for use by the Secretary of the Army for military purposes in accordance with Public Land Order 833, dated May 27, 1952 (17 Fed. Reg. 4822).~~

(2) The Federal land described in subsection (b)(2), less the approximately 10,775 acres under the administrative jurisdiction of the Secretary of the Army, is reserved for use by the Secretary of the Army for military purposes consisting of overflight research, development, test, and evaluation and training but does not extend to the surface estate below 50 feet above the surface, except that structures above 50 feet in height above the surface may be allowed with the concurrence of the Secretary of the Army on a case-by-case basis. The approximately 10,775 acres under the administrative jurisdiction of the Secretary of the Army is reserved for military purposes as determined by the Secretary of the Army.

(3) Sections 2914, 2915, and 2916 shall not apply to the lands identified in subsection (b)(2).

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**SEC. 2953. TERMINATION OF RESERVATION FOR OVERFLIGHT RESEARCH,  
DEVELOPMENT, TEST, AND EVALUATION AND TRAINING.**

The reservation made by section 2951(c)(2) shall terminate on October 1, 2046.