SEC. ___. AMENDMENTS TO THE JOHN S. MCCAIN STRATEGIC DEFENSE FELLOWS PROGRAM.

(a) NONCOMPETITIVE APPOINTMENT AND CONVERSION AUTHORITY.—Section 932(f) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 10 U.S.C. 1580 note prec.) is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) NONCOMPETITIVE APPOINTMENT OR CONVERSION.—Upon a participant's successful completion of the fellows program, the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, noncompetitively appoint or convert the participant into a vacant competitive or excepted service position in the Department, if the Secretary determines that such appointment or conversion will contribute to the development of highly qualified future senior leaders for the Department. The Secretary may appoint or convert the participant into a position up to the GS-13 level of the General Schedule or an equivalent position for which the participant is qualified without regard to any minimum time in grade requirements. Before converting an individual to the competitive service under this paragraph, the Secretary shall notify and receive written consent from the individual of the individual's change in status.

"(3) APPOINTMENT OF FORMER PARTICIPANTS.—The Secretary may utilize the authority in paragraph (2) for a participant—

"(A) not later than one year after the date of the participant's successful completion of the fellows program; or

"(B) in the case of a participant who entered the fellows program before the date of the enactment of this subparagraph, not later than one year after such date of enactment.".

(b) CONFORMING AMENDMENT.—Section 932(e)(2) of such Act is amended by inserting before the period at the end of the last sentence the following: "and subsection (f)(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 would amend section 932 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (John S. McCain Strategic Defense Fellows Program) to improve the conversion of fellows into competitive and excepted service positions. The proposed changes will resolve technical problems with the provision and allow for smoother transition of participants into junior and mid-level career civilian positions. These amendments have been informed by implementation and feedback from the Human Resources Directorate (HRD) of Washington Headquarters Services, Defense Civilian Personnel Advisory Service, Senate Armed Services Committee staff, and past and current Fellows.

The current provision does not provide for an explicit appointment authority (both at the beginning and at the end of the fellowship). HRD was unable to convert past and current Fellows into competitive service positions because the current statute does not provide sufficient discretion. As a result, one-third of the initial cohort dropped out of the fellows program to secure higher-grade competitive service positions in their placement office, in another office in the Department, in another federal agency, or in the private sector. The goal of the McCain Fellows Program is to convert Fellows into civilian positions in the Department, which consist of competitive and excepted service positions. Although WHS has the discretion in existing law to appoint individuals, including Fellows, into the excepted service, WHS lacks the authority to: (1) directly appoint Fellows into the competitive service; and (2) appoint Fellows into higher-grade competitive service positions based on their education and work experience. The Department proposes amending subsection (f) to allow WHS to convert Fellows noncompetitively into vacant competitive and excepted service positions based on the Fellows' cumulative work experience, qualifications, and skills. The fellows could be initially appointed at GS-10 through GS-12 (or equivalent) and be eligible for non-competitive conversion to GS-13 upon completion of the fellowship. Participants would be notified of any changes to a participant's appointment type (e.g., from excepted to competitive service), and would be required to provide their consent to such change in writing.

The Department recommends including a provision that would allow past participants in the fellows program to take advantage of the conversion authority, if they have successfully completed the fellowship. The proposal also provides for up to one year after successful

completion of the program to convert (providing for greater flexibility and more opportunities to find placement).

Resource Information: The table below reflects the existing resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
McCain Fellows Program	10	10	10	10	10	Operation and Maintenance, DW	04	Various	
Total	10	10	10	10	10				

Changes to Existing Law: This proposal would amend section 932 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 1580 note prec.), as amended, as follows:

SEC. 932. JOHN S. MCCAIN STRATEGIC DEFENSE FELLOWS PROGRAM.

(a) FELLOWSHIP PROGRAM.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall establish within the Department of Defense a civilian fellowship program designed to provide leadership development and the commencement of a career track toward senior leadership in the Department.

(2) DESIGNATION.—The fellowship program shall be known as the "John S. McCain Strategic Defense Fellows Program" (in this section referred to as the "fellows program").

(b) ELIGIBILITY.—An individual is eligible for participation in the fellows program if the individual—

(1) is a citizen of the United States or a lawful permanent resident of the United States in the year in which the individual applies for participation in the fellows program; and

(2) either—

(A) possesses a graduate degree from an accredited institution of higher education in the United States that was awarded not later than two years before the date of the acceptance of the individual into the fellows program; or

(B) will be awarded a graduate degree from an accredited institution of higher education in the United States not later than six months after the date of the acceptance of the individual into the fellows program.

(c) APPLICATION.—

(1) APPLICATION REQUIRED.—Each individual seeking to participate in the fellows program shall submit to the Secretary of Defense an application therefore at such time and in such manner as the Secretary shall specify.

(2) ELEMENTS.—Each application of an individual under this subsection shall include the following:

(A) Transcripts of educational achievement at the undergraduate and graduate level.

(B) A resume.

(C) Proof of citizenship or lawful permanent residence.

(D) An endorsement from the applicant's graduate institution of higher education.

(E) An academic writing sample.

(F) Letters of recommendation addressing the applicant's character, academic ability, and any extracurricular activities.

(G) A personal statement by the applicant explaining career areas of interest and motivations for service in the Department.

(H) Such other information as the Secretary considers appropriate.

(d) SELECTION.—

(1) IN GENERAL.—Each year, the Secretary of Defense shall select participants in the fellows program from among applicants for the fellows program for such year who qualify for participation in the fellows program based on character, commitment to public service, academic achievement, extracurricular activities, and such other qualifications for participation in the fellows program as the Secretary considers appropriate.

(2) GEOGRAPHICAL REPRESENTATION.—Out of the total number of individuals selected to participate in the fellows program, which shall not exceed 60 individuals in any year, no more than 20 percent may be from any of the following geographic regions:

(A) The Northeast United States.

(B) The Southeast United States.

(C) The Midwest United States.

(D) The Southwest United States

(E) The Western United States.

(F) Alaska, Hawaii, United States territories, and areas outside the United States.

(3) BACKGROUND INVESTIGATION.—An individual selected to participate in the fellows program may not participate in the program unless the individual successfully undergoes a background investigation applicable to the position to which the individual will be appointed under the fellows program and otherwise meets such requirements applicable to appointment to a sensitive position within the Department that the Secretary considers appropriate.

(e) APPOINTMENT.—

(1) IN GENERAL.—An individual who participates in the fellows program shall be appointed into an excepted service position in the Department.

(2) POSITION REQUIREMENTS.—Each year, the head of each Department of Defense Component shall submit to the Secretary of Defense placement opportunities for

participants in the fellow program. Such placement opportunities shall provide for leadership development and potential commencement of a career track toward a position of senior leadership in the Department. The Secretary of Defense, in coordination with the heads of Department of Defense Components, shall establish qualification requirements for the appointment of participants under paragraph (1) and subsection (f)(2).

(3) APPOINTMENT TO POSITIONS.—Each year, the Secretary of Defense shall appoint participants in the fellows program to positions in Department of Defense Components. In making such appointments, the Secretary shall seek to match best the qualifications and skills of the participants with the requirements for positions available for appointment.

(4) TERM.—The term of each appointment under the fellows program shall be one year with the option to extend the appointment up to one additional year.

(5) GRADE.—An individual appointed to a position under the fellows program shall be appointed at a level between GS–10 and GS–12 of the General Schedule based on the directly-related qualifications, skills, and professional experience of the individual.

(6) EDUCATION LOAN REPAYMENT.—To the extent that funds are provided in advance in appropriations Acts, the Secretary of Defense may repay a loan of a participant in the fellows program if the loan is described by subparagraph (A), (B), or (C) of section 16301(a)(1) of title 10, United States Code. Any repayment of a loan under this paragraph may require a minimum service agreement, as determined by the Secretary.

(7) DEPARTMENT OF DEFENSE COMPONENT DEFINED.—In this subsection, the term "Department of Defense Component" means a Department of Defense Component, as set forth in section 111 of title 10 United States Code.

(f) CAREER DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of Defense shall ensure that participants in the fellows program—

(A) receive career development opportunities and support appropriate for the commencement of a career track within the Department leading toward a future position of senior leadership within the Department, including ongoing mentorship support through appropriate personnel from entities within the Department; and

(B) are provided appropriate employment opportunities for competitive and excepted service positions in the Department upon successful completion of the fellows program.

(2) NONCOMPETITIVE APPOINTMENT OR CONVERSION.—Upon a participant's successful completion of the fellows program, the Secretary may, without regard to the provisions of subchapter I of chapter 33 of title 5, United States Code, noncompetitively appoint or convert the participant into a vacant competitive or excepted service position, in the Department if the Secretary determines that such appointment or conversion will contribute to the development of highly qualified future senior leaders for the Department. The Secretary may appoint or convert the participant into a position up to the GS-13 level of the General Schedule or an equivalent position for which the participant is qualified without regard to any minimum time in grade requirements.

Before converting an individual to the competitive service under this paragraph, the Secretary shall notify and receive written consent from the individual of the individual's change in status.

(3) APPOINTMENT OF FORMER PARTICIPANTS.—The Secretary may utilize the authority in paragraph (2) for a participant—

(A) not later than one year after the date of the participant's successful completion of the fellows program; or

(B) in the case of a participant who entered the fellows program before the date of the enactment of this subparagraph, not later than one year after such date of enactment.

(~~2~~4) PUBLICATION OF SELECTION.—The Secretary shall publish on an Internet website of the Department available to the public the names of the individuals selected to participate in the fellows program.

(g) OUTREACH.—The Secretary of Defense shall undertake appropriate outreach to inform potential participants in the fellows program of the nature and benefits of participation in the fellows program.

(h) REGULATIONS.—The Secretary of Defense shall carry out this section in accordance with such regulations as the Secretary may prescribe for purposes of this section.

(i) FUNDING.—Of the amounts authorized to be appropriated for each fiscal year for the Department of Defense for operation and maintenance, Defense-wide, $10,000,000 may be available to carry out the fellows program in such fiscal year.

SEC. ___. AMENDMENTS TO SUSTAINMENT REVIEWS

Section 4323 of title 10, United States Code, is amended—

(1) in subsection (d)(1)—

(A) by striking "September 30 of each fiscal year" and inserting "December 31 of each year"; and

(B) by striking "such fiscal year" and inserting "the preceding fiscal year"; and

(2) in subsection (e), by amending paragraph (2) to read as follows:

"(2) CRITICAL OPERATING AND SUPPORT COST GROWTH.—The term 'critical operating and support cost growth' means operating and support cost growth of at least 25 percent more than the estimate documented in the most recent independent cost estimate for the covered system.".

[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 clarify several statutory elements associated with post-Initial Operational Capability (IOC) Sustainment Reviews (SR), as governed by section 4323 of title 10, United States Code, as revised by section 802 of the William M. ("Mac") Thornberry National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Public Law 116–283), which revised such section 4323 to implement additional requirements for the SR process. Specifically, among other changes, section 802 of the FY21 NDAA expanded the requirement to conduct SRs to all covered systems, required the Department to submit SRs to Congress, and added a requirement to include a critical operating and support (O&S) cost growth comparison in SRs.

The expansion of the requirement to conduct SRs to all covered systems added a large execution and review burden for Military Department program offices and cost estimators, as did the new requirement to submit all SRs to Congress by September 30 of each fiscal year. The requirement to submit SRs to Congress compressed the timeframe to conduct SRs, as SRs must be reviewed and approved by each Military Department Secretary before they are provided to Congress, which requires additional time for these large packages to be moved through the chain for approval. This proposal resolves that shortened timeframe to conduct SRs by extending the

deadline until December 31 to allow a full fiscal year to conduct SRs and route them up to the Military Department Secretaries for approval.

Additionally, this proposal refines the new requirement to capture critical operating and support (O&S) cost growth comparison in SRs. Specifically, this proposal removes the comparison to the original baseline estimate, which is typically the Milestone B (MS B) Acquisition Program Baseline (APB) O&S cost threshold. Due to the age of many DoD programs, this comparison is often omitted as O&S was not included in program baselines before the mid-1990s, and the DoD had not yet established central libraries and data repositories for storing program cost estimates and supporting documentation. In addition, many changes beyond a Program Manager or Product Support Manager's control (operational tempo, fuel/manpower costs, changes in quantity, etc.) can result in significant increases that would generate critical O&S cost growth. Analyzing and documenting the impacts of these types of changes adds limited value to the overall sustainment review process. Removing the comparison to the original baseline allows the cost estimating teams to focus on the comparison to the most recent independent cost estimate, which is updated every five years through the sustainment review process. With the addition of standardized O&S cost estimating structures, central data repositories for storing estimates and supporting documentation, and other cost estimating best practices, this comparison has proven to be less cumbersome and more impactful for calculating and tracking causality.

Resource Information:
This proposal has no impact on the use of resources requested within the FY 2025 President's Budget.

Changes to Existing Law: This proposal would amend section 4323 of title 10, United States Code, as follow:

§4323. Sustainment Reviews

(a) IN GENERAL.—The Secretary of each military department shall conduct a sustainment review of each covered system not later than five years after declaration of initial operational capability of a major defense acquisition program, and every five years thereafter throughout the life cycle of the covered system, to assess the product support strategy, performance, and operation and support costs of the covered system. The results of the sustainment review shall be documented in a memorandum by the relevant decision authority. The Secretary concerned shall make the memorandum and supporting documentation for each sustainment review available to the Under Secretary of Defense for Acquisition and Sustainment within 30 days after the review is completed.

(b) ELEMENTS.—At a minimum, the review required under subsection (a) shall assess execution of the life cycle sustainment plan of the covered system and include the following elements:

(1) An independent cost estimate for the remainder of the life cycle of the program.

(2) A comparison of actual costs to the amount of funds budgeted and appropriated in the previous five years, and if funding shortfalls exist, an explanation of the implications on equipment availability.

(3) A comparison between the assumed and achieved system reliabilities.

(4) An analysis of the most cost-effective source of repairs and maintenance.

(5) An evaluation of the cost of consumables and depot-level repairables.

(6) An evaluation of the costs of information technology, networks, computer hardware, and software maintenance and upgrades.

(7) As applicable, an assessment of the actual fuel efficiencies compared to the projected fuel efficiencies as demonstrated in tests or operations.

(8) As applicable, a comparison of actual manpower requirements to previous estimates.

(9) An analysis of whether accurate and complete data are being reported in the cost systems of the military department concerned, and if deficiencies exist, a plan to update the data and ensure accurate and complete data are submitted in the future.

(10) As applicable, information regarding any decision to restructure the life cycle sustainment plan for a covered system or any other action that will lead to critical operating and support cost growth.

(c) COORDINATION.—The review required under subsection (a) shall be conducted in coordination with the requirements of sections 4324 and 4325 of this title.

(d) SUBMISSION TO CONGRESS.—

(1) Not later than ~~September 30 of each fiscal year~~ December 31 of each year, the Secretary of each military department shall annually submit to the congressional defense committees the sustainment reviews required by this section for ~~such~~ the preceding fiscal year.

(2) Each submission under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(3) For a covered system with critical operating and support cost growth, such submission shall include a remediation plan to reduce operating and support costs or a certification by the Secretary concerned that such critical operating and support cost growth is necessary to meet national security requirements.

(e) DEFINITIONS.—In this section:

(1) COVERED SYSTEM.-The term "covered system" shall have the meaning given in section 4324 of this title.

~~(2) Critical operating and support cost growth.-The term "critical operating and support cost growth" means operating and support cost growth—~~

~~(A) of at least 25 percent more than the estimate documented in the most recent independent cost estimate for the covered system; or~~

~~(B) of at least 50 percent more than the estimate documented in the original Baseline Estimate (as defined in section 4214(d) of this title) for the covered system.~~

(2) CRITICAL OPERATING AND SUPPORT COST GROWTH. - The term ”critical operating and support cost growth” means operating and support cost growth of at least

25 percent more than the estimate documented in the most recent independent cost estimate for the covered system.

SEC. ___. AUTHORITY TO ACCEPT HOST NATION FINANCIAL SERVICES IN THE FORM OF AN IRREVOCABLE LETTER OF CREDIT

Section 2350g(a) of title 10, United States Code, is amended —

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period and inserting "; and" at the end of paragraph (2); and

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

"(3) financial services in the form of an irrevocable letter of credit that is—

"(A) established and controlled by the host nation for making payments on behalf of the Department of Defense when executing contracts entered into under the authority of part V of subtitle A of this title; and

"(B) issued by a financial institution acceptable to the Treasurer of the United States.".

Section-by-Section Analysis

This proposal would provide an additional authority for the Department of Defense (DoD) to accept host nation contributions for construction through a financial services vehicle whereby the host nation establishes and controls an irrevocable letter of credit (ILOC) with a financial institution. This would allow DoD to enter into contracts under its own authorities established under part V of subtitle A of title 10, United States Code (sections 3001 et. seq.), and the Federal Acquisition Regulation, but the payment for such contracts would be made by the host nation as part of a bilateral U.S.-host nation contribution agreement.

There are instances where host nations are willing to contribute to costs of having U.S. armed forces in their country but are unwilling to provide DoD direct access to cash. In those cases, DoD is required to rely on host nation contracting capabilities and host nation oversight as part of an "in-kind" contribution. This leads to inefficiencies where DoD loses a portion of the value available to it under the contribution agreement since a significant portion of funds remain with the host nation contract activities to cover their costs.

For example, in the Republic of Korea (ROK), the ROK Government has entered into an international agreement to contribute up to $1.2 billion annually to support the U.S. defense of the Korean Peninsula under the U.S.-ROK Mutual Defense Treaty. In 2024, approximately $500 million of those funds will be used for in-kind construction projects, pursuant to contribution authorities under 10 U.S.C. 2350g and 10 U.S.C. 2687a. Under current processes for such

projects, the ROK Government acts as contracting activity for Korean construction contractors. They also charge the U.S. for construction management and oversight fees, in addition to the construction management and oversight fees also paid to the U.S. Army Corps of Engineers to ensure that construction meets applicable U.S. quality and safety standards. Furthermore, because the U.S. has no privity of contract with engineering and construction firms hired by the host nation to build facilities for DoD, any contract disputes or conflicts with contractors are resolved by the host nation, which may not have a financial stake in the outcome of the dispute resolution process. In several cases, these construction projects funded by the host nation have lost up to 25% of the overall contribution value to the United States in overhead fees and litigation costs before the facility is ready for military use.

This proposal attempts to manage both host nation and U.S. equities. From the host nation perspective, this statutory amendment would allow them to use an ILOC through an acceptable financial institution to control release of their funds with a bilateral role in the execution of those funds. From the U.S. perspective, it allows the U.S. to use well-established contracting procedures under U.S. acquisition laws and regulations, as well as control contractor relations and better address contractor claims. It also provides greater stability and surety to the contracting process, thereby ensuring a more efficient use of host nation contributions, especially in regard to the construction of secure facilities where greater U.S. oversight is necessary. Placing this authority for financial services from the host nation in section 2350g provides a basis for the ILOC to be considered an in-kind contribution instead of a cash contribution. It enables the United States to accomplish the critical need to keep the funds under host nation control, but the contracting and construction oversight in U.S. channels.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. If enacted, the proposal has the potential to provide cost avoidance opportunities.

Changes to Existing Law: This proposal would amend section 2350g of title 10, United States Code, as follows:

§2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

(a) AUTHORITY TO ACCEPT.-The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country-

(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; ~~and~~

(2) services furnished as reciprocal international courtesies or as services customarily made available without charge~~.~~ ; and

(3) financial services in the form of an irrevocable letter of credit that is—

(A) established and controlled by the host nation for making payments on behalf of the Department of Defense when executing contracts entered into under the authority of part V of subtitle A of this title; and

(B) issued by a financial institution acceptable to the Treasurer of the United States.

(b) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.-Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

(c) PERIODIC AUDITS BY GAO.-The Comptroller General of the United States shall make periodic audits of money and property accepted under this section, at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.

SEC. ___. BUILDING CAPABILITY AND CAPACITY FOR FOREIGN MEDICAL RESILIENCE FOR CRISIS AND CONFLICT.

Subchapter IV of chapter 16 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 336. Building capability and capacity for foreign medical resilience for crisis and conflict**

"(a) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, may provide medical education, training, equipment, and supplies to, and conduct exercises with, foreign civilian medical support entities of ally and partner nations for the purpose of enhancing the comprehensive medical resiliency of such nations as that resiliency relates to preparation for crisis or conflict.

"(b) LIMITATION TO NON-LETHAL TRAINING.—The authority under this section shall be limited to non-lethal training related to the treatment, evacuation, and safeguarding of casualties during crisis or conflict.

"(c) USE OF FUNDS.—Funds authorized to be appropriated to the Department of Defense may be used for payment of—

"(1) costs incurred by the Department of Defense to conduct activities under this section; and

"(2) incremental expenses of a foreign country to participate in activities under this section.".

Section-by-Section Analysis

This proposal would authorize the Department of Defense (DoD) to provide non-lethal assistance in the form of medical training and equipment to allied and partner nation civilians to build that nation's medical support capability and capacity in preparation for crisis or conflict, when other United States departments and agencies are not able to provide this assistance. Building ally and partner nations' medical capability and capacity bolsters a host nation's resilience, improves interoperability between national military and civilian medical systems, and

provides treatment options for U.S. forces if unilateral medical support options are unattainable. Most foreign countries have small military medical systems relative to the DoD's military health system and rely on their civilian medical systems, facilities, and personnel for support beyond initial field treatment. Without the authority to train civilians in this capacity, some nations may be limited to a small subset of casualty care response systems.

An authority for building comprehensive medical resilience would empower U.S. allies and partner nations to sustain operational forces in the event of hostile actions by malign foreign actors or their proxies. As illustrated during the illegitimate invasion of Ukraine, a "whole-of-society" approach that empowers average citizens to provide first aid can be a force-multiplier in times of crisis. Although U.S. special operations forces (SOF) worked closely with Ukrainian SOF prior to the conflict, the Ukrainian civilian medical personnel were unprepared for the battlefield injuries, constrained resources, targeting of hospitals, working in facilities without water or electricity, and managing continuous mass casualty events. Civilian clinicians and specialists worked alongside clinicians from non-governmental organizations during the conflict to learn critical combat casualty management skills. These skills could have been taught by DoD personnel prior to the outbreak of conflict had this authority existed.

Existing authorities do not allow the military to build the medical resilience of foreign civilian medical support entities in preparation for crisis or conflict as they are limited to defense or security forces, apply only to humanitarian aid and disaster relief, or otherwise limited in capacity, subject matter, or personnel. No existing authority currently covers the mission envisioned by this proposal.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal. Programs and activities authorized under this authority are intended to be funded through already budgeted International Security Cooperation Program (ISCP) funds. If the authority proposed were enacted, the intent would be for these activities to be developed and submitted by Geographic Combatant Commands as a significant security cooperations initiative and prioritized with other security cooperation activities based on strategic alignment, program feasibility, and DoD component prioritization. We anticipate that funding for this authority would initially not exceed approximately $10 million per year. Programs and activities leveraging this authority would be eligible to compete for already-budgeted ISCP funding.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Sec 333 funds used for foreign medical resilience	$10	$10	$10	$10	$10	Operation and Maintenance, Defense-Wide	04	4GTD	1002200T DSCA DoD Managed Programs

Total	$10	$10	$10	$10	$10				

Changes to Existing Law: This proposal adds a new section to subchapter IV of chapter 16 of title 10, United States Code, as set forth in the legislative text above.

SEC. ___. EXPANSION OF SUPPORT FOR COUNTERDRUG ACTIVITIES AND ACTIVITIES TO COUNTER TRANSNATIONAL ORGANIZED CRIME.

Section 284 of title 10, United States Code, is amended—

(1) in subsection (b)(6)(A), by striking "within 25 miles of and"; and

(2) in subsection (c), by amending paragraph (2) to read as follows:

"(2) CONCURRENCE OF SECRETARY OF STATE.—The Secretary may provide support under subsection (a) for foreign law enforcement agencies only with the concurrence of the Secretary of State.".

[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 enable the Department of Defense (DOD) to conduct detection and monitoring activities more effectively. Section 284(b)(6)(A) of title 10, United States Code (U.S.C.), currently imposes a 25-mile geographic limit that restrains the support DOD is authorized to provide to U.S. law enforcement agencies (LEAs) responsible for counterdrug operations. Removing this 25-mile limitation allows DOD to be responsive to requests of LEAs for support.

The goal of DOD detection and monitoring is to facilitate interdiction and apprehension in support of law enforcement efforts to degrade and dismantle Western Hemisphere-based transnational organized crime (TOC) networks, which will ultimately lead to fewer U.S. drug-related deaths. Western Hemisphere-based TOC networks have global reach that threatens U.S. national security in two ways:

1) Western Hemisphere-based TOC networks generate significant revenue through drug trafficking–this money is their lifeblood. With regard to revenue, the type of contraband or final marketplace is irrelevant so long as the money returns to the Western Hemisphere-based TOC networks. Western Hemisphere-based TOC networks exploit jurisdictional seams to generate massive profits. These profits allow TOC networks to exacerbate hemispheric insecurity and instability, lead to corruption, disrupt the rule of law, and depress legitimate economic opportunity. This further fuels death of United States citizens, leads to mass migration toward the United States, and allows malign state actors to advance their security and economic agendas that are in competition to those of the United States.

2) Illegal drugs reach the United States and global consumer markets through an agile

> omni-directional illegal drug trafficking network. Western Hemisphere-based TOC networks do not move drugs in a direct path from producer to U.S. consumer. Cocaine that leaves Colombia for Costa Rica (toward the United States) may be sent to Europe (away from the United States) via containerized cargo before ultimately being destined for New York. Just as easily, cocaine leaving Ecuador for Chile (away from the United States) may later end up on the streets of Los Angeles. The ultimate destination of a drug shipment is rarely known as it moves in multiple stages to the final consumer market.

Consequently, DOD needs the authority to detect and monitor the omni-directional movement of illegal drugs to support their removal from trafficking pipelines.

The main authority under which DOD conducts detection and monitoring of illegal drugs is 10 U.S.C. § 124. Subsection (a)(1) of that section states: "The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs *into* the United States" (emphasis added). Thus, DOD is limited under section 124 to detecting and monitoring illegal drugs destined only for the United States. However, TOC networks are innovative and no longer transport illegal drugs in a direct path from source to consumer. Therefore, to counter the illegal drug activities of these TOC networks more effectively, DOD requires an expansion of its authority to enable the detection and monitoring of illegal drugs in an omni-directional fashion. The proposed amendment to 10 U.S.C. § 284(b)(6)(A) represents the simplest legislative change to achieve this omni-directional outcome.

The current language of 10 U.S.C. § 284(b)(6)(A) authorizes an omni-directional approach to the detection and monitoring of illegal drugs, but, with regard to air and sea traffic, limits that authorization to "within 25 miles of and outside the geographic boundaries of the United States." Thus, DOD is not responsive to requests for support from its U.S. LEA partners in detecting and monitoring the transit of illegal drugs beyond the U.S. 25-mile boundary, if the drugs are *not* destined for the U.S., because the department lacks the legal authority to do so.

Removing the 25-mile geographic limit in 10 U.S.C. § 284(b)(6)(A) enables DOD to respond to requests from U.S. LEA partners to provide omni-directional detection and monitoring of illegal drug transits by air and sea traffic. This enhances the Department's effectiveness in targeting TOC networks and in building international partnerships with countries that can share the burden in the global counterdrug effort. Moreover, this proposal will enable DOD to use existing resources more effectively to aid U.S. LEA efforts to disrupt TOC operations and reduce their ability to fuel instability in the Western Hemisphere and promote improved economic, political, and security conditions that will further inhibit the flow of illegal drugs into the United States.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would amend 10 U.S.C. § 284 as follows:

§ 284. Support for counterdrug activities and activities to counter transnational organized crime

(a) SUPPORT TO OTHER AGENCIES.—The Secretary of Defense may provide support for the counterdrug activities or activities to counter transnational organized crime of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency for any of the purposes set forth in subsection (b) or (c), as applicable, if—

(1) in the case of support described in subsection (b), such support is requested—

(A) by the official who has responsibility for the counterdrug activities or activities to counter transnational organized crime of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government; or

(B) by the appropriate official of a State, local, or tribal government, in the case of support for State, local, or tribal law enforcement agencies; or

(2) in the case of support described in subsection (c), such support is requested by an appropriate official of a department or agency of the Federal Government, in coordination with the Secretary of State, that has counterdrug responsibilities or responsibilities for countering transnational organized crime.

(b) TYPES OF SUPPORT FOR AGENCIES OF UNITED STATES.—The purposes for which the Secretary may provide support under subsection (a) for other departments or agencies of the Federal Government or a State, local, or tribal law enforcement agencies, are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State, local, or tribal government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of the Department of Defense or any Federal, State, local, or tribal law enforcement agency within or outside the United States.

(5) Counterdrug or counter-transnational organized crime related training of law enforcement personnel of the Federal Government, of State, local, and tribal governments, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic ~~within 25 miles of and~~ outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) TYPES OF SUPPORT FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

(1) PURPOSES.—The purposes for which the Secretary may provide support under subsection (a) for foreign law enforcement agencies are the following:

(A) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(B) The establishment (including small scale construction) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of a foreign law enforcement agency outside the United States.

(C) The detection, monitoring, and communication of the movement of—

(i) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(ii) surface traffic outside the geographic boundaries of the United States.

(D) Establishment of command, control, communications, and computer networks for improved integration of United States Federal and foreign law enforcement entities and United States Armed Forces.

(E) The provision of linguist and intelligence analysis services.

(F) Aerial and ground reconnaissance.

(2) ~~COORDINATION WITH~~ CONCURRENCE OF SECRETARY OF STATE.— ~~In providing support for a purpose described in this subsection, the Secretary shall coordinate with the Secretary of State.~~ The Secretary may provide support under subsection (a) for foreign law enforcement agencies only with the concurrence of the Secretary of State.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 276 of this title, the Secretary may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER SUPPORT AUTHORITIES.—

(1) ADDITIONAL AUTHORITY.—The authority provided in this section for the support of counterdrug activities or activities to counter transnational organized crime by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the other requirements of this chapter.

(2) EXCEPTION.—Support under this section shall be subject to the provisions of section 275 and, except as provided in subsection (e), section 276 of this title.

(h) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not less than 15 days before providing support for an activity under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(A) In the case of support for a purpose described in subsection (c)—

(i) the country the capacity of which will be built or enabled through the provision of such support;

(ii) the budget, implementation timeline with milestones, anticipated delivery schedule for support, and completion date for the purpose or project for which support is provided;

(iii) the source and planned expenditure of funds provided for the project or purpose;

(iv) a description of the arrangements, if any, for the sustainment of the project or purpose and the source of funds to support sustainment of the capabilities and performance outcomes achieved using such support, if applicable;

(v) a description of the objectives for the project or purpose and evaluation framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient;

(vi)information, including the amount, type, and purpose, about the support provided the country during the three fiscal years preceding the fiscal year for which the support covered by the notice is provided under this section under—

(I) this section;

(II) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(III) peacekeeping operations;

(IV) the International Narcotics Control and Law Enforcement program under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291);

(V) Nonproliferation, Anti-Terrorism, Demining, and Related Programs;

(VI) counterdrug activities authorized by section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85); or

(VII) any other significant program, account, or activity for the provision of security assistance that the Secretary of Defense and the Secretary of State consider appropriate;

(vii) an evaluation of the capacity of the recipient country to absorb the support provided; and

(viii) an evaluation of the manner in which the project or purpose for which the support is provided fits into the theater security cooperation strategy of the applicable geographic combatant command.

(B) In the case of support for a purpose described in subsection (b) or (c), a description of any small scale construction project for which support is provided.

(2) COORDINATION WITH SECRETARY OF STATE.—In providing notice under this subsection for a purpose described in subsection (c), the Secretary of Defense shall coordinate with the Secretary of State.

(3) QUARTERLY REPORTS.—

(A) IN GENERAL.—Not less frequently than once each quarter, the Secretary shall submit to the appropriate committees of Congress a report on Department of Defense support provided under subsection (b) during the quarter preceding the quarter during which the report is submitted. Each such report shall be submitted in written and electronic form and shall include—

(i) an identification of each recipient of such support;

(ii) a description of the support provided and anticipated duration of such support; and

(iii) a description of the sources and amounts of funds used to provide such support;

(B) APPROPRIATE COMMITTEES OF CONGRESS.—Notwithstanding subsection (i)(1), for purposes of a report under this paragraph, the appropriate committees of Congress are—

(i) the Committees on Armed Services of the Senate and House of Representatives; and

(ii) any committee with jurisdiction over the department or agency that receives support covered by the report.

(i) DEFINITIONS.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate.

(2) The term "Indian tribe" means a Federally recognized Indian tribe.

(3) The term "small scale construction" means construction at a cost not to exceed $750,000 for any project.

(4) The term "tribal government" means the governing body of an Indian tribe, the status of whose land is "Indian country" as defined in section 1151 of title 18 or held in trust by the United States for the benefit of the Indian tribe.

(5) The term "tribal law enforcement agency" means the law enforcement agency of a tribal government.

(6) The term "transnational organized crime" means self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary, or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption or violence or through a transnational organization structure and the exploitation of transnational commerce or communication mechanisms.

SEC. ___. ENHANCED AUTHORITIES FOR UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) ADMINISTRATION OF UNIVERSITY.—Section 2113 of title 10, United States Code, is amended—

(1) in subsection (d), in the third sentence, by inserting before the period at the end the following: ", governmental entities, and covered entities";

(2) in subsection (g)—

(A) in paragraph (1)—

(i) by striking "nonprofit entity" each place it appears and inserting "covered entity";

(ii) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (F), (G), and (H), respectively;

(iii) by inserting after subparagraph (D) the following new subparagraph:

"(E)(i) to establish privately funded endowments from gifts, devises, and bequests made for such endowments under paragraph (1)(D) or other authorities;

"(ii) to use, without further specific authorization in law, such endowments to support or carry out medical research, medical consultation, and medical education programs of the University; and

"(iii) to establish such accounts as may be necessary for such purposes;";

(iv) in subparagraph (G) (as redesignated by subparagraph (A)(ii) of this paragraph), by striking "and" at the end; and

(v) in subparagraph (H) (as so redesignated), by striking "nonprofit entities" and inserting "covered entities";

(B) in paragraph (3), by striking "clause (E)" and inserting "subparagraph (F)"; and

(C) in paragraph (4), by striking "clause (F)" and inserting "subparagraph (G)"; and

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

"(h) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means a nonprofit entity or a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific or educational purposes related to healthcare, health professions education, or a related field.".

(b) STUDENTS: SELECTION; STATUS; OBLIGATION.—

(1) SCHOOL OF MEDICINE MEDICAL DOCTOR PROGRAM.—Section 2114 of title 10, United States Code, is amended—

(A) in subsection (a), in the second sentence, by striking "Board" and inserting "Board of Regents";

(B) in subsection (b)(1), in the first sentence, by inserting "and the Secretary of Homeland Security" before the period at the end; and

(C) in subsection (c), by striking "or the Secretary of Health and Human Services," and inserting ", the Secretary of Health and Human Services, or the Secretary of Homeland Security,".

(2) RECIPROCAL INSTRUCTIONAL TRAINING PROGRAMS AND EXERCISES WITH FOREIGN MILITARY MEDICAL SCHOOLS AND COMMANDS.—Section 2114(f) of title 10, United States Code, is amended to read as follows:

"(f) EXCHANGE TRAINING PROGRAMS WITH FOREIGN MILITARY MEDICAL SCHOOLS AND COMMANDS.—(1) The Secretary of Defense may enter into agreements with foreign military medical schools and foreign military medical commands for reciprocal instructional training programs and exercises under which—

"(A) students of the University receive specialized military medical instructional training at the foreign military medical school or foreign military medical command; and

"(B) military medical personnel of the country of such medical school or medical command receive specialized military medical instructional training at the University.

"(2)(A) The Secretary shall determine the countries from which persons may be selected to attend instructional training under this subsection and the number of persons that may be selected from each country.

"(B) The Secretary may establish qualifications for those persons who will be permitted to attend instructional training at the University under this subsection. Any such qualifications established shall be comparable to those required of United States citizens.

"(3)(A) A foreign country from which a student is permitted to attend instructional training at the University under this subsection shall reimburse the United States for the cost of providing such training unless such reimbursement is waived by the Secretary.

"(B) The Secretary shall prescribe any rates for reimbursement under this paragraph.

"(C) Reimbursements received under this paragraph shall be credited to appropriations available for the maintenance and operation of the University and its programs and activities, and shall be available until expended.

"(4) Except as the Secretary determines, a person receiving instructional training at the University under this subsection shall be subject to the same regulations and policies governing attendance, discharge, and dismissal from training as a member of the uniformed services enrolled in the University.

"(5) The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection that differ from the regulations that apply to a member of the uniformed services enrolled in the University.".

(3) GRADUATE PROGRAMS.—Section 2114(h) of title 10, United States Code, is amended—

(A) by striking "(h)(1)" and inserting "(h)(1)(A)";

(B) in paragraph (1)—

(i) in subparagraph (A) (as designated by subparagraph (A) of this paragraph), by striking ", in coordination with the Secretary of Health and Human Services and the Secretary of Veterans Affairs,"; and

(ii) by adding at the end the following new subparagraph:

"(B)(i) The Secretary may permit a covered employee from another Federal department or agency to enroll and receive instruction in a postdoctoral or postgraduate certificate or degree program at the University.

"(ii) The Secretary shall coordinate, as the Secretary considers appropriate, with the heads of Federal agencies regarding selection procedures, service obligations, and other

requirements for graduate students (other than medical students) in a postdoctoral, postgraduate, or technological institute established pursuant to section 2113(e) of this title."; and

(C) in paragraph (2)—

(i) in subparagraph (A), by striking "the Department of Veterans Affairs, Public Health Service, or Coast Guard (as applicable)" and inserting "a Federal department or agency"; and

(ii) in subparagraph (C), by striking "Notwithstanding subsections (b) through (e) and subsection (i), the" and inserting "The".

(c) MILITARY MEMBERS FROM FOREIGN COUNTRIES.—Chapter 104 of title 10, United States Code, is amended by inserting after section 2114 the following new section:

"§ 2114a. Eligibility of military members from foreign countries to receive instruction at the University

"(a) ATTENDANCE AUTHORIZED.—(1) The Secretary of Defense may permit military members from foreign countries—

"(A) to enroll as full-time degree candidates and receive instruction in the medical doctor program of the University (in this section referred to as the 'Medical Doctor Program'); and

"(B) to enroll and receive instruction in postdoctoral and postgraduate certificate and degree programs of the University.

"(2) Attendance of such students at the University—

"(A) shall be subject to institutional capacity and pursuant to agreements with foreign military universities and commands; and

"(B) may not result in a decrease in the number of students in the uniformed services enrolled in the University.

"(3) The requirements of section 2114 of this title shall not apply to students receiving instruction under this section.

"(4) The number of students permitted to receive instruction in the Medical Doctor Program under this section may not be more than 10 at any one time. Such students shall be in addition to the authorized strength of the Medical Doctor Program.

"(b) QUALIFICATIONS AND SELECTION.—The Secretary of Defense—

"(1) may establish entrance qualifications for the enrollment of students at the University under this section that are comparable to the entrance qualifications required of United States citizens;

"(2) may prescribe procedures for the selection among individual applicants seeking enrollment at the University under this section; and

"(3) shall select students for enrollment at the University under this section from nominations submitted by foreign military medical commands.

"(c) REIMBURSEMENT OF COSTS.—(1) A foreign country from which a student is permitted to receive instruction at the University under this section shall reimburse the United States for the cost of providing such instruction.

"(2) The Secretary of Defense shall prescribe the rates for reimbursement under this subsection, except that such rates may not be less than the cost to the United States of providing such instruction to members of the uniformed services.

"(3) Amounts received by the University for instruction of students enrolled under this section shall be retained by the University to defray the costs of instruction, shall be credited to

appropriations available for the maintenance and operation of the University and its programs and activities, and shall be available until expended. The source and the disposition of such funds shall be specifically identified in records of the University.

"(4) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a military member of a foreign country under this subsection. In the case of a partial waiver, the Secretary shall establish the amount waived.

"(d) APPLICABILITY OF UNIVERSITY REGULATIONS AND POLICIES; CLASSIFIED INFORMATION; INELIGIBILITY FOR APPOINTMENT IN UNIFORMED SERVICES.—(1) Except as otherwise determined by the Secretary of Defense, a student receiving instruction under this section shall be subject to the same regulations and policies governing admission, attendance, resignation, discharge, dismissal, and graduation as a member of the uniformed services receiving instruction at the University.

"(2) The Secretary may prescribe regulations with respect to access to classified information by a student receiving instruction under this section that differ from the regulations that apply to a member of the uniformed services receiving instruction at the University.

"(3) A student receiving instruction at the University under this section shall not be entitled to an appointment in the uniformed services by reason of completion of a program of the University.".

(d) NONPROFIT EMPLOYEES.—Chapter 104 of title 10, United States Code, is further amended by inserting after section 2114a (as inserted by subsection (c) of this section) the following new section:

"§ 2114b. Eligibility of nonprofit employees who work in organizations relevant to military medicine to receive instruction at the University

"(a) ATTENDANCE AUTHORIZED.—(1) The Secretary of Defense may permit eligible nonprofit employees who work in organizations relevant to military medicine to receive instruction at the University.

"(2) The Secretary may enter into such agreements as the Secretary considers appropriate to provide for the enrollment of such students in the University.

"(b) AWARD OF CERTIFICATES, DIPLOMAS, AND DEGREES.—Upon successful completion of the course of instruction in which enrolled, any student enrolled in the University under this section may be awarded an appropriate certificate, diploma, or degree.

"(c) ELIGIBLE NONPROFIT EMPLOYEE DEFINED.—(1) In this section, the term 'eligible nonprofit employee' means an individual employed by—

"(A) a nonprofit entity that is engaged in a cooperative enterprise for graduate education with the University; or

"(B) a nonprofit entity whose work is relevant to a healthcare-related field, including health professions education, healthcare administration or policy, public health, and healthcare research.

"(d) PERIOD OF ELIGIBILITY.—A nonprofit employee admitted for instruction at the University under this section shall remain eligible for such instruction only so long as that person remains employed by the same or a similar nonprofit entity or attains another qualifying status.

"(e) ANNUAL DETERMINATION.—Eligible nonprofit employees may receive instruction at the University during an academic year only if, before the start of that academic year, the Secretary of Defense determines that providing instruction to eligible nonprofit employees under this section during that year will further the mission of the University and the national security interests of the United States.

"(f) TERMS AND CONDITIONS.—The Secretary of Defense shall ensure that—

"(1) the curriculum for the graduate programs in which eligible nonprofit employees may be enrolled as students at the University under this section concentrates on the fields described in subsection (c)(1)(B);

"(2) the course offerings at the University continue to be determined solely by the needs of the Department of Defense; and

"(3) attendance of such students at the University does not result in a decrease in the number of students in the uniformed services enrolled in the University.

"(g) REIMBURSEMENT OF COSTS.—(1) A nonprofit entity from which a student is permitted to receive instruction at the University under this section shall reimburse the United States for the cost of providing such instruction.

"(2) The Secretary of Defense shall prescribe the rates for reimbursement under this section, except that such rates may not be less than the cost to the United States of providing such instruction to members of the uniformed services.

"(3) Amounts received by the University for instruction of students enrolled under this section shall be retained by the University to defray the costs of instruction, shall be credited to appropriations available for the maintenance and operation of the University and its programs and activities, and shall be available until expended. The source and the disposition of such funds shall be specifically identified in records of the University.

"(4) The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for an eligible nonprofit employee under this subsection. In the case of a partial waiver, the Secretary shall establish the amount waived.

"(h) APPLICABILITY OF UNIVERSITY REGULATIONS AND POLICIES; CLASSIFIED INFORMATION; INELIGIBILITY FOR APPOINTMENT IN UNIFORMED SERVICES.—(1) Except as determined by the Secretary of Defense, a student receiving instruction under this section shall be subject to the same regulations governing admission, attendance, resignation, discharge, dismissal, and graduation as a member of the uniformed services receiving instruction at the University.

"(2) The Secretary may prescribe regulations with respect to access to classified information by a student receiving instruction under this section that differ from the regulations that apply to a member of the uniformed services receiving instruction at the University.

"(3) A student receiving instruction at the University under this section shall not be entitled to an appointment in the uniformed services by reason of completion of a program of the University.".

[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 enhance and modernize the authorities of the Uniformed Services University of the Health Sciences (USUHS), allowing USUHS to better perform its mission and pursue medical research, medical consultation, and medical education. The additional authorities provided to USUHS under the proposal would improve the provision of care throughout the Military Health System.

As discussed below, the proposal contains amendments that would (1) grant USUHS parity with the service academies in terms of its authorities, (2) remove competitive disadvantages existing with non-U.S. governmental institutions of higher learning, and (3) position USUHS to better support the National Defense Strategy.

Further, the proposal would enhance and diversify the medical student populations of USUHS by allowing foreign military members to earn medical degrees from USUHS. In similar (but expanded) fashion, the proposal would allow USUHS to admit, with reimbursement, graduate students from all other Federal agencies, foreign militaries, and medically oriented

nonprofit organizations engaged in a cooperative enterprise with USUHS. After implementation of appropriate controls as to the number of students and access to classified information, this expanded group of students would allow USUHS to better meet the requirements of the National Military Strategy and encourage robust interaction and partnership with Federal agencies, foreign medical departments, and nonprofit partners, which would enhance the ability of the Military Health System and USUHS to accomplish their respective missions. Task 4 (Integrate Joint Force and Combined Efforts) and Task 7 (Strengthen Relationships with Allies and Partners) in the National Military Strategy demonstrate the strategic advantages of developing synchronization, improving interoperability, and fostering trust with our foreign and interagency partners. Given that it is difficult to "surge trust in crisis," achieving these objectives at this time is critical.

Section 2113(d) of title 10, United States Code (title 10), currently permits USUHS to negotiate affiliation agreements solely with accredited universities. This creates a competitive disadvantage for USUHS compared to fully accredited schools of the health professions, which can form affiliation agreements with governmental agencies, nonprofit organizations, and other entities involved with healthcare, health professions education, health security, and related fields. There are many entities, in addition to universities, that specialize in health professions education, healthcare, healthcare administration, bioethics, research, and related fields. For example, many leading allies of the United States lack military medical universities, but have robust education and training commands, departments, and directorates. Additionally, a number of nonprofits and other entities (including corporations, funds, professional societies, think tanks, and centers) provide thought leadership and actively engage in these fields. The National Defense Strategy and the National Military Strategy stress the need to strengthen relationships with allies and partners. Section 2113(d) of title 10, as amended by the proposal, would promote that goal by facilitating additional affiliations. Removing the current statutory constraint and providing USUHS with enhanced affiliation authority that is on par with fully accredited schools of the health professions is necessary. In conjunction with the enhanced authorities of section 2113(g) of title 10, as amended by the proposal, to deal with such entities, this proposal will eliminate the current competitive disadvantage and open new doors.

Subparagraphs (A), (B), (C), (E), and (G) of section 2113(g)(1) of title 10 currently provide USUHS with authority to enter into contracts with, accept grants from, make grants to, and engage in a variety of educational and research-related dealings and transactions with nonprofit entities. Service academies are authorized to accept research grants from a wider group of grantors, including corporations, funds, foundations, educational institutions, and similar entities that are organized and operated primarily for scientific, literary, or educational purposes. The broader reach of this authority beyond nonprofits creates a disparity within Department of Defense (DoD) higher education research. Removing this statutory constraint and providing USUHS with enhanced affiliation authority that is on par with the service academies is necessary. In conjunction with the enhanced authorities of section 2113(d) of title 10 (discussed above) to affiliate with such entities, this proposal will eliminate the current competitive disadvantage of USUHS and open new doors with the potential to catalyze innovative research and education in support of the warfighter.

Section 2113(g)(1)(E) of title 10, as amended by the proposal, would authorize USUHS to establish privately funded endowments and fund those endowments with gifts that can be used until expended. At present, section 2113(g)(1)(D) of title 10 authorizes the Secretary to accept, hold, administer, invest, and spend gifts, devises, and bequests of personal property.

Section 2114a of title 10, as added by the proposal, would expand USUHS's current authority to admit medical students from foreign countries. Our international partners have created a demand signal for this education, in part because of the need for interoperability in overseas operations. DoD medical students will benefit from these students' diverse perspectives and cultural familiarization. The program would establish an essential baseline of communication skills necessary for students to attend courses, which will facilitate the development of valuable professional and personal relationships that provide DoD medical forces with access to, and influence in, a critical sector of military operations. The initiative facilitates military medical relationships that promote specific U.S. security interests, develops allied and partner military capabilities for coalition medical operations, provides U.S. forces with peacetime and contingency access, and may influence the development of foreign military medical institutions and their roles in democratic societies. Consistent with similar authorities granted to the U.S. Military Academy (USMA) in section 347 of title 10, this proposal would ensure appropriate controls on the number of foreign students and their access to classified information. Importantly, the numbers of students from outside DoD will not require significant additional resources and their respective agencies and governments will reimburse USUHS for their education. The proposal would permit the Secretary of Defense to waive the reimbursement requirement for foreign students. This waiver authority addresses the need to cultivate relationships with developing countries in regions of strategic importance to the United States.

Section 2114(h) of title 10, as amended by the proposal, would permit USUHS to provide graduate degrees to appropriate and properly vetted Federal Government employees inside and outside of DoD. Sections 2114a and 2114b of title 10, as added by the proposal, would also allow USUHS to provide graduate instruction and degrees to military members from foreign countries and nonprofit partners. USUHS currently receives requests for graduate education from interagency partners that include the Department of Energy regarding our Chemical, Biological and Radiological programs, and from the Department of Health and Human Services in areas outside of the U.S. Public Health Service. USUHS's authority does not currently extend beyond the Department of Veterans Affairs, U.S. Public Health Service, and U.S. Coast Guard. USUHS has received requests for graduate education from such countries as the United Kingdom, Canada, the Netherlands, Sri Lanka, Israel, the United Arab Emirates, Malaysia, and the Philippines. These countries either are allies or are situated in regions of strategic importance. Consistent with the National Military Strategy, USUHS can improve interoperability, build trust, and improve medical care by providing educational opportunities to Federal and international partners. In addition, providing graduate education on a space-available basis to nonprofit partners such as the American Association of Medical Colleges, the American College of Surgeons, and other medically related nonprofit partners will enhance USUHS's stature in the academic medical community, improve its standing with respect to accreditation, improve collaboration with civilian medical institutions that train our providers in many cases, and expose DoD students to other perspectives and approaches to medical care. As

with the proposed legislation for medical students, USUHS would offer the graduate education on a reimbursable basis, ensure the number of students would not limit opportunities for DoD applicants, and prevent access to classified information. This proposed legislation also includes language that is not included in the current statute to ensure and clarify the Secretary's authority to determine the selection procedures, service obligations, and other requirements for graduate student admissions from non-Federal applicants.

Section 2114(f) of title 10, as amended by the proposal, would provide for agreements with foreign military medical schools and foreign military medical commands to allow reciprocal instruction training programs and exercises. The current statutory construct limits USUHS's authority to enter into those relationships with foreign military medical schools and universities. Even our close allies, such as the United Kingdom, no longer maintain military medical schools; accordingly, this provision would allow relationships with foreign military medical commands, allowing for exercises with a broader set of international partners. This suggested authority also would allow short-term exchanges for training exercises (such as USUHS's combat medical "Bushmaster" exercise) and specialized operational training (such as the ASSET+ course). These exchanges are consistent with USMA's authority for educational exchanges under the provisions of section 347 of title 10. This provision allows the Secretary of Defense to determine, on a case-by-case basis, whether reimbursement is required to encourage DoD students to experience exchange opportunities on a non-reimbursable or in-kind basis.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. There are no budgetary implications with the administration enhancements to section 2113 of title 10 because collaboration, research, and education endeavors already occur, and these amendments add no additional costs. Likewise, in terms of the enhancements to section 2114 of title 10 and the addition of sections 2114a and 2114b to such title, Federal agencies and foreign governments currently sending employees to graduate degree and training programs would instead transfer funds within the Federal Government or, in the case of foreign governments or nonprofits, would provide direct reimbursement to DoD. The number of students in the medical and graduate degree programs is intentionally limited to ensure that the current faculty and other resources are sufficient to provide the suggested education.

Changes to Existing Law: This proposal would (1) add sections 2114a and 2114b of title 10, United States Code, as set forth in the legislative text above, and (2) amend sections 2113 and 2114 of such title as follows:

§ 2113. Administration of University

(a) The business of the University shall be conducted by the Secretary of Defense with funds appropriated for and provided by the Department of Defense.

(b) The Secretary shall appoint a President of the University (hereinafter in this chapter referred to as the "President").

(c)(1) The Secretary, after considering the recommendations of the President, shall obtain the services of such military and civilian professors, instructors, and administrative and other employees as may be necessary to operate the University. Civilian members of the faculty and staff shall be employed under salary schedules and granted retirement and other related benefits prescribed by the Secretary (after due consideration by the Secretary) so as to place the employees of the University on a comparable basis with the employees of fully accredited schools of the health professions identified by the Secretary for purposes of this paragraph.

(2) The Secretary may confer academic titles, as appropriate, upon military and civilian members of the faculty.

(3) The military members of the faculty shall include a professor of military, naval, or air science as the Secretary may determine.

(4) The limitations in sections 5307 and 5373 of title 5 do not apply to the authority of the Secretary under paragraph (1) to prescribe salary schedules and other related benefits. In no event may the total amount of compensation paid to an employee under paragraph (1) in any year (including salary, allowances, differentials, bonuses, awards, and other similar cash payments) exceed the total amount of annual compensation (excluding expenses) specified in section 102 of title 3.

(d) The Secretary may negotiate agreements with agencies of the Federal Government to utilize on a reimbursable basis appropriate existing Federal medical resources. Under such agreements the facilities concerned will retain their identities and basic missions. The Secretary may negotiate affiliation agreements with an accredited university or universities, governmental entities, and covered entities. Such agreements may include provisions for payments for educational services provided students participating in Department of Defense educational programs.

(e) The Secretary of Defense may establish the following educational programs at the University:

(1) Postdoctoral, postgraduate, and technological institutes.

(2) A graduate school of nursing.

(3) Other schools or programs, including certificate, certification, and undergraduate degree programs, that the Secretary determines necessary in order to operate the University in a cost-effective manner.

(f) The Secretary shall also establish programs in continuing medical education for military members of the health professions to the end that high standards of health care may be maintained within the military medical services.

(g)(1) The Secretary also is authorized—

(A) to enter into contracts with, accept grants from, and make grants to the Henry M. Jackson Foundation for the Advancement of Military Medicine established under section 178 of this title, or any other ~~nonprofit entity~~ covered entity, for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education;

(B) to make available to the Henry M. Jackson Foundation for the Advancement of Military Medicine, or any other ~~nonprofit entity~~ covered entity, on such terms and

conditions as the Secretary determines appropriate, such space, facilities, equipment, and support services within the University as the Secretary considers necessary to accomplish cooperative enterprises undertaken by such Foundation, or ~~nonprofit entity~~ covered entity, and the University;

(C) to enter into contracts with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or any other ~~nonprofit entity~~ covered entity, under which the Secretary may furnish the services of such professional, technical, or clerical personnel as may be necessary to fulfill cooperative enterprises undertaken by such foundation, or ~~nonprofit entity~~ covered entity, and the University;

(D) to accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property made to the University, including any gift, devise, or bequest for the support of an academic chair, teaching, research, or demonstration project;

(E)(i) to establish privately funded endowments from gifts, devises, and bequests made for such endowments under paragraph (1)(D) or other authorities;

(ii) to use, without further specific authorization in law, such endowments to support or carry out medical research, medical consultation, and medical education programs of the University; and

(iii) to establish such accounts as may be necessary for such purposes;

~~(E)~~ (F) to enter into agreements with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or with any other ~~nonprofit entity~~ covered entity, under which scientists or other personnel of the Foundation or other entity may be utilized by the University for the purpose of enhancing the activities of the University in education, research, and technological applications of knowledge;

~~(F)~~ (G) to accept the voluntary services of guest scholars and other persons; ~~and~~

~~(G)~~ (H) notwithstanding sections 2304, 4141, and 4024 of this title, to enter into contracts and cooperative agreements with, accept grants from, and make grants to, ~~nonprofit entities~~ covered entities (on a sole-source basis) for the purpose specified in subparagraph (A) or for any other purpose the Secretary determines to be consistent with the mission of the University.

(2) The Secretary may not enter into any contract with the Henry M. Jackson Foundation for the Advancement of Military Medicine, or with any other entity, if the contract would obligate the University to make outlays in advance of the enactment of budget authority for such outlays.

(3) Scientists or other medical personnel utilized by the University under an agreement described in ~~clause (E)~~ subparagraph (F) of paragraph (1) may be appointed to any position within the University and may be permitted to perform such duties within the University as the Secretary may approve.

(4) A person who provides voluntary services under the authority ~~of clause (F)~~ subparagraph (G) of paragraph (1) shall be considered to be an employee of the Federal Government for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries, and to be an employee of the Federal Government for the purposes of chapter 171 of title 28, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(h) COVERED ENTITY DEFINED.—In this section, the term "covered entity" means a nonprofit entity or a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific or educational purposes related to healthcare, health professions education, or a related field.

§ 2114. Students: selection; status; obligation

(a) Medical students at the University shall be selected under procedures prescribed by the Secretary of Defense. In so prescribing, the Secretary shall consider the recommendations of the Board of Regents. However, selection procedures prescribed by the Secretary of Defense shall emphasize the basic requirement that students demonstrate sincere motivation and dedication to a career in the uniformed services (as defined in section 1072(1) of this title).

(b)(1) Medical students shall be commissioned officers of a uniformed service as determined under regulations prescribed by the Secretary of Defense after consulting with the Secretary of Health and Human Services and the Secretary of Homeland Security. They shall be appointed as regular officers in the grade of second lieutenant or ensign and shall serve on active duty in that grade.

(2) If a member of the uniformed services selected to be a student has prior active service in a pay grade and with years of service credited for pay that would entitle the member, if the member remained in the former grade, to a rate of basic pay in excess of the rate of basic pay for regular officers in the grade of second lieutenant or ensign, the member shall be paid basic pay based on the former grade and years of service credited for pay. The amount of such basic pay for the member shall be increased on January 1 of each year by the percentage by which basic pay is increased on average on that date for that year, and the member shall continue to receive basic pay based on the former grade and years of service until the date, whether occurring before or after graduation, on which the basic pay for the member in the member's actual grade and years of service credited for pay exceeds the amount of basic pay to which the member is entitled based on the member's former grade and years of service.

(c) Medical students who graduate shall be required to serve on active duty unless they are covered by section 2115 of this title. Medical students who graduate shall be required, except as provided in section 2115 of this title, to serve thereafter on active duty under such regulations as the Secretary of Defense, ~~or~~ the Secretary of Health and Human Services, or the Secretary of Homeland Security, as appropriate, may prescribe for not less than seven years, unless sooner released. Upon completion of, or release from, the active-duty service obligation, a member of the program who served on active-duty for less than 10 years shall serve in the Ready Reserve for the period specified in the following table:

Period of Service on Active Duty	**Ready Reserve Obligation**
Less than 8 years	6 years
8 years or more, but less than 9	4 years

Period of Service on Active Duty	**Ready Reserve Obligation**
9 years or more, but less than 10	2 years

The service credit exclusions specified in section 2126 of this title shall apply to students covered by this section.

(d) A period of time spent in military intern or residency training shall not be creditable in satisfying a commissioned service obligation imposed by this section.

(e) A medical student who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section. In no case shall any such student be required to serve on active duty for any period in excess of a period equal to the period he participated in the program, except that in no case may any such student be required to serve on active duty less than one year.

(f)(1) The Secretary of Defense may enter into agreements with foreign military medical schools and foreign military medical commands for reciprocal ~~education programs~~ instructional training programs and exercises under which—

(A) students ~~at~~ of the University receive specialized military medical ~~instruction~~ instructional training at the foreign military medical school or foreign military medical command; and

(B) military medical personnel of the country of such medical school or medical command receive specialized military medical instruction at the University. ~~Any such agreement may be made on a reimbursable or a nonreimbursable basis.~~

(2)(A) ~~Not more than 40 persons at any one time may receive instruction at the University under this subsection. Attendance of such persons at the University may not result in a decrease in the number of students enrolled in the University. Subsection (b) does not apply to students receiving instruction under this subsection~~.

~~(3)~~ The ~~President of the University, with the approval of the~~ Secretary ~~of Defense,~~ shall determine the countries from which persons may be selected to ~~receive instruction~~ attend instructional training under this subsection and the number of persons that may be selected from each country.

(B) The ~~President~~ Secretary may establish qualifications ~~and methods of selection and shall select~~ for those persons who will be permitted to ~~receive instruction~~ attend instructional training at the University. ~~The~~ Any such qualifications established shall be comparable to those required of United States citizens.

~~(4)~~ (3)(A) ~~Each~~ A foreign country from which a student is permitted to ~~receive instruction~~ attend instructional training at the University under this subsection shall reimburse the United States for the cost of providing such instruction, unless such reimbursement is waived by the Secretary ~~of Defense.~~

(B) The Secretary ~~of Defense~~ shall prescribe the rates for reimbursement under this paragraph.

(C) Reimbursements received under this paragraph shall be credited to appropriations available for the maintenance and operation of the University and its programs and activities during the fiscal year in which the reimbursement is received.

~~(5)~~ (4) Except as the ~~President~~ Secretary determines, a person receiving ~~instruction~~ instructional training at the University under this subsection ~~is~~ shall be subject to the same regulations and policies governing attendance, ~~discipline,~~ discharge, and dismissal from training as a ~~student~~ member of the uniformed services enrolled in the University.

(5) The Secretary may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection that differ from the regulations that apply to a ~~student~~ member of the uniform services enrolled in the University.

(g) In this section, the term "commissioned service obligation" means, with respect to an officer who is a graduate of the University, the period beginning on the date of the appointment of the officer in a regular component after graduation and ending on the tenth anniversary of that appointment.

(h)(1)(A) The Secretary of Defense~~, in coordination with the Secretary of Health and Human Services and the Secretary of Veterans Affairs,~~ shall establish such selection procedures, service obligations, and other requirements as the Secretary considers appropriate for graduate students (other than medical students) in a postdoctoral, postgraduate, or technological institute established pursuant to section 2113(e) of this title.

(B)(i) The Secretary may permit a covered employee from another Federal department or agency to enroll and receive instruction in a postdoctoral or postgraduate certificate or degree program at the University.

(ii) The Secretary shall coordinate, as the Secretary considers appropriate, with the heads of Federal agencies regarding selection procedures, service obligations, and other requirements for graduate students (other than medical students) in a postdoctoral, postgraduate, or technological institute established pursuant to section 2113(e) of this title.

(2)(A) A covered employee whose employment or service with ~~the Department of Veterans Affairs, Public Health Service, or Coast Guard (as applicable)~~ a Federal department or agency is in a position relevant to national security or health sciences may receive instruction at the University within the scope of such employment or service.

(B) If a covered employee receives instruction at the University pursuant to subparagraph (A), the head of the Federal agency concerned shall reimburse the University for the cost of providing such instruction to the covered employee. Amounts received by the University under this subparagraph shall be retained by the University to defray the costs of such instruction.

(C) ~~Notwithstanding subsections (b) through (e) and subsection (i), the~~ The head of the Federal agency concerned shall determine the service obligations of the covered employee receiving instruction at the University pursuant to subparagraph (A) in accordance with applicable law.

(D) In this paragraph-

(i) the term "covered employee" means an employee of the Department of Veterans Affairs, a civilian employee of the Public Health Service, a member of the commissioned corps

of the Public Health Service, a member of the Coast Guard, or a civilian employee of the Coast Guard; and

(ii) the term "head of the Federal agency concerned" means the head of the Federal agency that employs, or has jurisdiction over the uniformed service of, a covered employee permitted to receive instruction at the University under subparagraph (A) in the relevant position described in such subparagraph.

(i) A graduate of the University who is relieved of the graduate's active-duty service obligation under subsection (c)(a)(4) before the completion of that active-duty service obligation may be given, with or without the consent of the graduate, an alternative obligation in the same manner as provided in subparagraphs (A) and (B) of paragraph (1) of section 2123(e) of this title or paragraph (2) of such section for members of the Armed Forces Health Professions Scholarship and Financial Assistance program.

SEC. ___. EXPANDED AUTHORITY TO CONTINUE RESERVE COMPONENT OFFICERS IN CERTAIN MILITARY SPECIALTIES ON THE RESERVE ACTIVE-STATUS LIST.

(a) AUTHORITY FOR CONTINUATION ON THE RESERVE ACTIVE STATUS LIST.—Chapter 1409 of title 10, United States Code, is amended by inserting after section 14701 the following new section:

"§ 14701a. Continuation on reserve active-status list: officers in certain military specialties and career tracks

"(a) IN GENERAL.—The Secretary of the military department concerned may authorize a reserve commissioned officer in a grade above O-2 to remain on the reserve active-status list after the date otherwise provided for the separation or retirement of the officer under section 14505, 14506, or 14507 of this title, as applicable, if the officer has a military occupational specialty, rating, or specialty code in a military specialty designated pursuant to subsection (b).

"(b) MILITARY SPECIALTIES.—The Secretary of a military department shall designate the military specialties in which a military occupational specialty, rating, or specialty code, as applicable, assigned to members of the armed forces under the jurisdiction of such Secretary authorizes the members to be eligible for continuation on the reserve active-status list as provided in subsection (a).

"(c) DURATION OF CONTINUATION.—An officer continued on the reserve active-status list pursuant to this section shall, if not earlier retired, transferred to the Retired Reserve, or discharged, be separated in accordance with section 14513 or 14514 of this title, as applicable, on the first day of the month after the month in which the officer completes 40 years of commissioned service.

"(d) REGULATIONS.—The Secretaries of the military departments shall carry out this section in accordance with regulations prescribed by the Secretary of Defense. The regulations shall specify the criteria to be used by the Secretaries of the military departments in designating military specialties for purposes of subsection (b).".

(b) CONFORMING AMENDMENTS.—Title 10, United States Code, is further amended, —

(1) in section 1558(b)(2)(A), by inserting "14701a," after "14701,";

(2) in section 14505, by inserting "or 14701a" after "14701";

(3) in section 14506, by inserting "14701a," after "14701,"; and

(4) in section 14507, in subsections (a) and (b), by inserting ", 14701a," after "14701".

[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 new authority for the Secretaries of the Military Departments (MilDeps) to selectively continue, on the Reserve Active Status List (RASL), Reserve Component officers (above the grade of O-2) in designated military specialties for up to 40 years of commissioned service. Such military specialties would be determined and designated by the Secretary concerned.

The Department of Defense is proactively pursuing alternative career models in which officers, who possess specialized skills in specific technical positions, could be retained on the RASL, allowing them to continue beyond the date on which they would otherwise face removal. The MilDeps already have this authority for active-duty members pursuant to 10 U.S.C. 637a. That statute allows the Secretary of a MilDep to authorize a Regular officer in a grade above O-2, who has a military occupational specialty designated by the Secretary, to remain on active duty beyond the date otherwise provided for statutory retirement, until the officer completes 40 years commissioned service. However, there is no corresponding statute for Reserve Component officers who possess critical skills required by the Services. As a result, they are compelled to separate earlier despite having potential for continued significant benefit and contribution to the Services.

Under current law, a commissioned officer on the Reserve active-status list is subject to separation due to the following potential conditions: age, two-time non-selection for promotion, or exceeding a certain number of years of commissioned service. Although authority for

selective continuation for the Reserve Component does exist (10 U.S.C. 14701) it limits the length of potential continuation (O-3 to 20 years, O-4 to 24 years, O-5 to 33 years, and O-6 to 35 years of commissioned service) and does not provide for blanket authority with respect to certain critical specialties. Reserve Components are losing talented officers because of these statutory constraints.

If adopted, this new authority will allow the MilDeps to more effectively identify and retain officers in critical fields, thereby providing enhanced support to the total force in a joint, multi-domain operational environment.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Army	0.72	0.80	0.79	1.35	1.13	Reserve Personnel, Army	01	1A,1B,1H	N/A
Navy	0.20	0.21	0.21	0.22	0.23	Reserve Personnel, Navy	01	16400, 17600, 18100	N/A
Total	0.92	1.01	1.00	1.57	1.36				

Air Force, Marine Corps, and Space Force do not intend to use this authority.

PERSONNEL					
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**
Army	3	5	4	5	4
Navy	4	4	4	4	4
Total	7	9	8	9	8

Air Force, Marine Corps, and Space Force do not intend to use this authority.

Changes to Existing Law: This proposal would amend sections 1558, 14505, 14506, and 14507 of title 10, United States Code, as follows:

§ 1558. Review of actions of selection boards: correction of military records by special boards; judicial review

(a) CORRECTION OF MILITARY RECORDS.—The Secretary of a military department may correct a person's military records in accordance with a recommendation made by a special board. Any such correction may be made effective as of the effective date of the action taken on

a report of a previous selection board that resulted in the action corrected in the person's military records.

(b) DEFINITIONS.—In this section:

(1) SPECIAL BOARD.—(A) The term "special board" means a board that the Secretary of a military department convenes under any authority to consider whether to recommend a person for appointment, enlistment, reenlistment, assignment, promotion, retention, separation, retirement, or transfer to inactive status in a reserve component instead of referring the records of that person for consideration by a previously convened selection board which considered or should have considered that person.

(B) Such term includes a board for the correction of military records convened under section 1552 of this title, if designated as a special board by the Secretary concerned.

(C) Such term does not include a promotion special selection board convened under section 628 or 14502 of this title.

(2) SELECTION BOARD.—(A) The term "selection board" means a selection board convened under section 573(c), 580, 580a, 581, 611(b), 637, 638, 638a, 14101(b), 14701, 14701a, 14704, or 14705 of this title, and any other board convened by the Secretary of a military department under any authority to recommend persons for appointment, enlistment, reenlistment, assignment, promotion, or retention in the armed forces or for separation, retirement, or transfer to inactive status in a reserve component for the purpose of reducing the number of persons serving in the armed forces.

(B) Such term does not include any of the following:

(i) A promotion board convened under section 573(a), 611(a), or 14101(a) of this title.

(ii) A special board.

(iii) A special selection board convened under section 628 of this title.

(iv) A board for the correction of military records convened under section 1552 of this title.

(3) INVOLUNTARILY BOARD-SEPARATED.—The term “involuntarily board-separated” means separated or retired from an armed force, or transferred to the Retired Reserve or to inactive status in a reserve component, as a result of a recommendation of a selection board.

(c) RELIEF ASSOCIATED WITH CORRECTION OF CERTAIN ACTIONS.—(1) The Secretary of the military department concerned shall ensure that an involuntarily board-separated person receives relief under paragraph (2) or under paragraph (3) if the person, as a result of a correction of the person's military records under subsection (a), becomes entitled to retention on or restoration to active duty or to active status in a reserve component.

(2)(A) A person referred to in paragraph (1) shall, with that person's consent, be restored to the same status, rights, and entitlements (less appropriate offsets against back pay and allowances) in that person's armed force as the person would have had if the person had not been selected to be involuntarily board-separated as a result of an action the record of which is corrected under subsection (a). An action under this subparagraph is subject to subparagraph (B).

(B) Nothing in subparagraph (A) may be construed to permit a person to be on active duty or in an active status in a reserve component after the date on which the person would have

been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component if the person had not been selected to be involuntarily board-separated in an action of a selection board the record of which is corrected under subsection (a).

(3) If an involuntarily board-separated person referred to in paragraph (1) does not consent to a restoration of status, rights, and entitlements under paragraph (2), the Secretary concerned shall pay that person back pay and allowances (less appropriate offsets), and shall provide that person service credit, for the period—

(A) beginning on the date of the person's separation, retirement, or transfer to the Retired Reserve or to inactive status in a reserve component, as the case may be; and

(B) ending on the earlier of—

(i) the date on which the person would have been so restored under paragraph (2), as determined by the Secretary concerned; or

(ii) the date on which the person would otherwise have been separated, retired, or transferred to the Retired Reserve or to inactive status in a reserve component, as the case may be.

(d) FINALITY OF UNFAVORABLE ACTION.—If a special board makes a recommendation not to correct the military records of a person regarding action taken in the case of that person on the basis of a previous report of a selection board, the action previously taken on that report shall be considered as final as of the date of the action taken on that report.

(e) REGULATIONS.—(1) The Secretary of each military department shall prescribe regulations to carry out this section. Regulations under this subsection may not apply to subsection (f), other than to paragraph (4)(C) of that subsection.

(2) The Secretary may prescribe in the regulations under paragraph (1) the circumstances under which consideration by a special board may be provided for under this section, including the following:

(A) The circumstances under which consideration of a person's case by a special board is contingent upon application by or for that person.

(B) Any time limits applicable to the filing of an application for such consideration.

(3) Regulations prescribed by the Secretary of a military department under this subsection may not take effect until approved by the Secretary of Defense.

(f) JUDICIAL REVIEW.—(1) A person seeking to challenge an action or recommendation of a selection board, or an action taken by the Secretary of the military department concerned on the report of a selection board, is not entitled to relief in any judicial proceeding unless the action or recommendation has first been considered by a special board under this section or the Secretary concerned has denied the convening of such a board for such consideration.

(2)(A) A court of the United States may review a determination by the Secretary of a military department not to convene a special board in the case of any person. In any such case, the court may set aside the Secretary's determination only if the court finds the determination to be—

(i) arbitrary or capricious;

(ii) not based on substantial evidence;

(iii) a result of material error of fact or material administrative error; or

(iv) otherwise contrary to law.

(B) If a court sets aside a determination by the Secretary of a military department not to convene a special board, it shall remand the case to the Secretary concerned, who shall provide for consideration by a special board.

(3) A court of the United States may review a recommendation of a special board or an action of the Secretary of the military department concerned on the report of a special board. In any such case, a court may set aside the action only if the court finds that the recommendation or action was—

(A) arbitrary or capricious;

(B) not based on substantial evidence;

(C) a result of material error of fact or material administrative error; or

(D) otherwise contrary to law.

(4)(A) If, six months after receiving a complete application for consideration by a special board in any case, the Secretary concerned has not convened a special board and has not denied consideration by a special board in that case, the Secretary shall be deemed for the purposes of this subsection to have denied consideration of the case by a special board.

(B) If, six months after the convening of a special board in any case, the Secretary concerned has not taken final action on the report of the special board, the Secretary shall be deemed for the purposes of this subsection to have denied relief in such case.

(C) Under regulations prescribed under subsection (e), the Secretary of a military department may waive the applicability of subparagraph (A) or (B) in a case if the Secretary determines that a longer period for consideration of the case is warranted. Such a waiver may be for an additional period of not more than six months. The Secretary concerned may not delegate authority to make a determination under this subparagraph.

(g) EXISTING JURISDICTION.—Nothing in this section limits—

(1) the jurisdiction of any court of the United States under any provision of law to determine the validity of any law, regulation, or policy relating to selection boards; or

(2) the authority of the Secretary of a military department to correct a military record under section 1552 of this title.

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§ 14505. Effect of failure of selection for promotion: reserve captains of the Army, Air Force, and Marine Corps and reserve lieutenants of the Navy

Unless retained as provided in section 12646 or 12686 of this title, a captain on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant on the reserve active-status list of the Navy who has failed of selection for promotion to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade and who has not been selected for continuation on the reserve active-status list under section 14701 or 14701a of this title, shall be separated in accordance with section 14513 of this title not later than the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

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§ 14506. Effect of failure of selection for promotion: reserve majors of the Army, Air Force, and Marine Corps and reserve lieutenant commanders of the Navy

Unless retained as provided in section 12646, 12686, 14701, 14701a, or 14702 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of major or lieutenant commander who has failed of selection to the next higher grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher grade shall, if not earlier removed from the reserve active-status list, be removed from that list in accordance with section 14513 of this title on the later of (1) the first day of the month after the month in which the officer completes 20 years of commissioned service, or (2) the first day of the seventh month after the month in which the President approves the report of the board which considered the officer for the second time.

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§ 14507. Removal from the reserve active-status list for years of service: reserve lieutenant colonels and colonels of the Army, Air Force, and Marine Corps and reserve commanders and captains of the Navy

(a) LIEUTENANT COLONELS AND COMMANDERS.—Unless continued on the reserve active-status list under section 14701, 14701a, or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Navy, Air Force, or Marine Corps who holds the grade of lieutenant colonel or commander and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 28 years of commissioned service.

(b) COLONELS AND NAVY CAPTAINS.—Unless continued on the reserve active-status list under section 14701, 14701a, or 14702 of this title or retained as provided in section 12646 or 12686 of this title, each reserve officer of the Army, Air Force, or Marine Corps who holds the grade of colonel, and each reserve officer of the Navy who holds the grade of captain, and who is not on a list of officers recommended for promotion to the next higher grade shall (if not earlier removed from the reserve active-status list) be removed from that list under section 14514 of this title on the first day of the month after the month in which the officer completes 30 years of commissioned service. This subsection does not apply to the adjutant general or assistant adjutants general of a State.

(c) TEMPORARY AUTHORITY TO RETAIN CERTAIN OFFICERS DESIGNATED AS JUDGE ADVOCATES.—(1) Notwithstanding the provisions of subsections (a) and (b), the Secretary of the Air Force may retain on the reserve active-status list any reserve officer of the Air Force who is designated as a judge advocate and who obtained the first professional degree in law while on an educational delay program subsequent to being commissioned through the Reserve Officers' Training Corps.

(2) No more than 50 officers may be retained on the reserve active-status list under the authority of paragraph (1) at any time.

(3) No officer may be retained on the reserve active-status list under the authority of paragraph (1) for a period exceeding three years from the date on which, but for that authority, that officer would have been removed from the reserve active-status list under subsection (a) or (b).

(4) The authority of the Secretary of the Air Force under paragraph (1) expires on September 30, 2003.

SEC. ___. EXPANSION OF CLINICAL TRIALS COVERAGE UNDER THE TRICARE PROGRAM.

Section 1079(a)(12) of title 10, United States Code, is amended—

(1) by striking "(12)" and inserting "(12)(A)";

(2) in the second sentence of subparagraph (A), as so designated—

(A) by striking "the Secretary of Health and Human Services" and inserting "the head of an entity listed in subparagraph (B)";

(B) by inserting "(which may include funding through in-kind contributions)" after "sponsored or approved"; and

(C) by striking "the National Institutes of Health" and inserting "such entity"; and

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

"(B) The entities listed in this subparagraph are as follows:

"(i) The National Institutes of Health.

"(ii) The Centers for Disease Control and Prevention.

"(iii) The Agency for Healthcare Research and Quality.

"(iv) The Centers for Medicare & Medicaid Services.

"(v) A cooperative group or center of—

"(I) any of the entities described in clauses (i) through (iv);

"(II) the Department of Defense; or

"(III) the Department of Veterans Affairs.

"(vi) The Department of Veterans Affairs, the Department of Defense, or the Department of Energy, each only in the case of a clinical trial that has been

reviewed and approved through a system of peer review that the Secretary of the Department concerned determines—

"(I) is comparable to the system of peer review of clinical trials used by the National Institutes of Health; and

"(II) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.".

[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 modernize the TRICARE benefit by authorizing TRICARE coverage of additional clinical trials costs beyond clinical trials sponsored or approved by the National Institutes of Health (NIH). Under current law, the Secretary of Defense may only waive the statutory requirement that care covered under the TRICARE program be medically or psychologically necessary to prevent, diagnose, or treat a mental health or physical condition for NIH-sponsored or approved clinical trials if such a waiver would promote TRICARE beneficiary access to promising new treatments and contribute to the development of such treatments to benefit the general public. In order for a clinical trial to be eligible for TRICARE coverage, the Secretary of Defense must first enter into an inter-agency agreement with the Secretary of Health and Human Services describing the coverage requirements for clinical trials and delineating the responsibilities of each agency. Once this inter-agency agreement is established, the Department of Defense (DoD) conducts a rulemaking to cover the specific types of clinical trials and establish eligibility requirements, such as requiring that providers rendering care under the clinical trial are TRICARE-authorized providers or requiring prior authorization.

In addition to expanding TRICARE's clinical trials benefit, this proposal establishes parity with public and private health plans. Section 2709 of the Public Health Service Act (PHSA) (42 U.S.C. 300gg–8), enacted by the Patient Protection and Affordable Care Act (PPACA), requires private health plans subject to the requirements of title XXVII of the PHSA to cover routine costs associated with clinical trials studying the prevention, detection, or treatment of cancer or other life-threatening conditions when the clinical trial is approved or funded by certain Federal agencies or when the DoD, Department of Veterans Affairs, or Department of Energy determines that the trial may be eligible for coverage based on the sponsoring organization's review process. This proposal would authorize TRICARE to cover eligible clinical trials sponsored or approved by the same entities listed in the PPACA, following inter-agency agreements and DoD rulemaking. Additionally, effective September 19, 2000, Medicare covers routine costs associated with qualifying clinical trials. Effective January 1, 2022, state Medicaid plans are also required to cover routine patient costs under similar requirements to the PPACA's clinical trial coverage provisions. Parity with both public and

private health plans ensures that the TRICARE benefit is modernized to reflect current medical practices, remains competitive with other health insurance, and provides its beneficiaries with access to the best care possible.

Specifically, this legislative proposal would authorize the Secretary of Defense to enter into inter-agency agreements to cover routine costs for services and supplies provided in connection with clinical trials approved or sponsored by the NIH, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Centers for Medicare & Medicaid Services, or a cooperative group or center of any of the four above agencies or of the Department of Defense or Department of Veterans Affairs. Additionally, for trials that are not federally funded or approved, the proposal would authorize the Secretary of Defense to cover a clinical trial when the DoD, Department for Veterans Affairs, or Department of Energy concludes that the study has been reviewed and approved through a system of peer review that the respective Secretary determines is comparable to the system of peer review of studies and investigations used by the NIH and assures unbiased review of the highest scientific standards by qualified individuals with no conflicting interests in the study's outcome. These agencies and organizations match clinical trial coverage requirements for certain private health plans under the PPACA.

Routine costs associated with a clinical trial refer to services and supplies provided to the patient during the clinical trial that are necessary to prevent, diagnose, or treat complications associated with the investigational treatment; that would be provided to treat the beneficiary's condition regardless of the clinical trial participation; or that are otherwise necessary for the patient's medical management for the duration of the clinical trial. Examples of routine costs include office visits, inpatient hospitalization, imaging services, laboratory testing, and supportive care drugs. Routine costs do not include the investigational treatment, services, or supplies solely required for data collection or analysis, or services and supplies customarily provided by the clinical trial sponsor to participants free of charge.

There are multiple benefits associated with this change. Firstly, the DoD would have authority to financially support a greater number of clinical trials for the development of novel treatments for conditions such as life-threatening, chronic, and rare diseases, which would contribute to the health and well-being of the general public. This support also broadens the pool of potential clinical trial applicants, which may improve generalizability of results, clinical trial diversity, and overall reliability of the study. Secondly, this change greatly reduces financial barriers for TRICARE beneficiaries who wish to pursue emerging treatments for their specific health condition, thereby expanding access to such treatments. This is especially critical for individuals with serious conditions where no treatment exists or where existing treatments have failed. Thirdly, this change protects patient safety by restricting coverage to clinical trials sponsored or approved by certain Federal agencies or that are determined to have a sufficient peer-review process. This approach ensures that each covered clinical trial will be subject to Investigational Review Board approval, informed consent practices, clinical trial protocol requirements, and other ethical and good clinical practice standards. This benefit therefore improves access to emerging treatments in the safest manner possible for TRICARE beneficiaries.

Under this proposal, inter-agency agreements and rulemaking will both be required to authorize coverage of specific types of clinical trials. This change only authorizes the Secretary of Defense to enter into inter-agency agreements and pursue regulatory changes. Cost disclosure is required in the rulemaking, and the programming and approval process for any specific trial would not begin until costs are known and disclosed.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. This proposal would drive unprogrammed increases to the Defense Health Program private sector care program only if clinical trials are approved without requiring advance funding through the program/budget process. This proposal would only grant authority for the Defense Health Agency/TRICARE to cover additional clinical trials costs beyond clinical trials sponsored or approved by the NIH. Cost disclosure is required in the rulemaking process, and the programming and approval process for any specific trial would not begin until costs are known and disclosed.

Changes to Existing Law: This proposal would amend section 1079 of title 10, United States Code, as follows:

§ 1079. Contracts for medical care for spouses and children: plans

(a) To assure that medical care is available for dependents, as described in subparagraphs (A), (D), and (I) of section 1072(2) of this title, of members of the uniformed services who are on active duty for a period of more than 30 days, the Secretary of Defense, after consulting with the other administering Secretaries, shall contract, under the authority of this section, for medical care for those persons under such insurance, medical service, or health plans as he considers appropriate. The types of health care authorized under this section shall be the same as those provided under section 1076 of this title, except as follows:

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(12)(A) Any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, certified marriage and family therapist, optometrist, podiatrist, certified nurse-midwife, certified nurse practitioner, certified clinical social worker, or other class of provider as designated by the Secretary of Defense, as appropriate, may not be provided, except as authorized in paragraph (4). Pursuant to an agreement with ~~the Secretary of Health and Human Services~~ the head of an entity listed in subparagraph (B) and under such regulations as the Secretary of Defense may prescribe, the Secretary of Defense may waive the operation of this paragraph in connection with clinical trials sponsored or approved (which may include funding through in-kind contributions) by ~~the National Institutes of Health~~ such entity if the Secretary of Defense determines that such a waiver will promote access by covered beneficiaries to promising new treatments and contribute to the development of such treatments.

(B) The entities listed in this subparagraph are as follows:

(i) The National Institutes of Health.

(ii) The Centers for Disease Control and Prevention.

(iii) The Agency for Health Care Research and Quality.

(iv) The Centers for Medicare and Medicaid Services.

(v) A cooperative group or center of—

(I) any of the entities described in clauses (i) through (iv);

(II) the Department of Defense; or

(III) the Department of Veterans Affairs.

(vi) The Department of Veterans Affairs, the Department of Defense, or the Department of Energy, each only in the case of a clinical trial that has been reviewed and approved through a system of peer review that the Secretary of the Department concerned determines—

(I) is comparable to the system of peer review of clinical trials used by the National Institutes of Health; and

(II) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

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SEC. ___. EXTENSION AND MODIFICATION OF DIRECT-HIRE AUTHORITY FOR DEPARTMENT OF DEFENSE POST-SECONDARY STUDENTS AND RECENT GRADUATES.

Section 1106 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1580 note prec.) is amended—

(1) in subsection (b), by inserting "and merit promotion" after "competitive examining";

(2) in subsection (d) by striking "September 30, 2030" and inserting "September 30, 2035"; and

(3) by amending subsection (e)(3) to read as follows:

"(3) The term 'recent graduate', with respect to appointment of a person under this section, means a person whose application for such appointment is received by the applicable hiring organization within the Department of Defense—

"(A) on or before the last day of the two-year period beginning on the date on which the person is awarded a degree by an institution of higher education; or

"(B) in the case of a person of who has completed a period of obligated service in a uniformed service of more than four years, on or before the last day of the four-year period beginning on the date on which the person is awarded a degree by an institution of higher education.".

[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 1106 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Public Law 114–328; 10 U.S.C. 1580 note prec.) (section 1106) for the following purposes: (1) to modify the method for calculating the 25 percent

limitation on the number of post-secondary students and recent graduates who may be hired under the direct hiring authority (DHA), (2) to extend the sunset date of the section from September 30, 2030 to September 30, 2035; and (3) to modify the definition of the term "recent graduate" to account for possible administrative delays in the appointment process that are beyond the applicant's control.

Amending the 25 percent limitation

The direct hire authority provided under section 1106 is currently subject to a provision limiting usage of the authority to 25 percent of the number of hires made into professional and administrative occupations at the General Schedule (GS)-11 or below under competitive examining procedures (covered hires) during the previous fiscal year. This limitation results in a significant decrease of available allocations pursuant to this student and recent graduate hiring authority due to the increased use of direct hiring in the Department. This proposal would modify the method for calculating the 25 percent limitation by including merit promotion actions when calculating the number of covered hires during the previous fiscal year. This approach would expand the calculation of the 25 percent cap to include actions like promotions, noncompetitive appointments, transfers, and reinstatements.

Since the enactment of section 1106, the Department of Defense (DoD) has increased allocation usage of the authority each year. In FY 2017, the statute imposed a 15 percent limitation that provided the Department with an allocation of 2,665 positions; the Department executed 121 hires under the authority, which resulted in a usage of 5 percent. Low execution during FY 2017 was due to late publication of the authority and the training required for human resources personnel to administer the new hiring flexibility. In FY 2018, the usage of the authority quickly rose to 59 percent, with an allocation of 2,304, of which 1,352 were used. In the NDAA for FY 2019, Congress increased the cap from 15 percent to the current limit of 25 percent of covered hires during the previous fiscal year. As a result, the number of available allocations and usage increased in FY 2019 to 66 percent (allocation of 3,024 and 2,015 used) and again in FY 2020 to 72 percent (allocation of 3,245 and 2,345 used). The Department's execution of available allocations decreased in FY 2021 to 62 percent (3,264 allocation and 2,033 used), which is most likely attributable to organizations' shift to focus primary efforts on responding to COVID-19 impacts on the DoD workforce and regular civilian hiring. The number of available allocations in FY 2022 significantly dropped to 2,131 (approximately 1,000 less compared to each of the three previous FYs) but execution escalated to 90% (1,926 used) and reached an all-time high since inception of the hiring authority. The FY 2023 number of allocations dropped again to 1,905 and is expected to come close to full execution. It is also anticipated that the total number of available allocations will continue to decline, reducing the overall effectiveness of this hiring authority.

FYs 2022 and 2023 also saw an interesting trend where the number of hiring projections under this authority slightly exceeded the total number of available allocations. This is most likely in response to the Administration's initiatives for federal agencies to expand paid internship opportunities and provide opportunities for all U.S. citizens to serve their country. This proposal would effectively accomplish both objectives.

Extending the authority sunset

Extending the sunset date by 5 years (to September 30, 2035) would allow for the development of a more enduring strategy to adequately address workforce renewal needs. This authority serves as an expedited hiring authority for college graduates and post-secondary students for the Department's many intern and other pipeline development programs. The authority ensures that the Department is able to support the goals in the President's Management Agenda for "Strengthening and Empowering the Federal Workforce" by hiring a sufficient number of students and recent graduates to infuse new and diverse talent and ideas into the Department.

Unlike non-competitive appointments pursuant to the Pathways Program (a student hiring authority under title 5, United States Code), the DHA provided by section 1106 is not subject to veterans' preference, which can be a barrier to obtaining a more diverse pool of qualified candidates. The section 1106 DHA consistently results in greater representation of women and racial minorities in the qualified candidate pool. Furthermore, the section 1106 DHA allows the Department to on-board candidates in critical degree programs in a timely manner while the Department continues to be in fierce competition for talent with the private sector.

Redefining "recent graduate"

Section 1106 currently defines the term "recent graduate" based on the timing of an individual's appointment to a position rather than the timing of when their application is received by the hiring applicable organization. This definition may unintentionally disqualify a selectee from appointment if their appointment is delayed due to circumstances beyond their control. For example, many DoD positions require a security clearance that can take an extended amount of time to adjudicate. In most cases, the clearance process must be completed prior to appointment. As a result, an applicant may submit a timely application for a position, but still lose eligibility under this direct hire authority because of delays associated with the security clearance process. As an example, the Army Fellows Program has lost several high-quality selections for mission-critical occupations (e.g., Financial Administration and Program Series (0501), Accounting (0510), and Quality Assurance (1910)), and difficult-to-fill occupational series such as the Instructional Systems (1750) series, as well as hard-to-fill STEM occupations (e.g. Computer Science (1550)), because the selectee was disqualified due to the current definition of "recent graduate."

In summary

Section 1106, along with other DHAs, is integral to the Department's ability to efficiently recruit critical talent to meet current and emerging mission needs while also supporting the Administration's goals in providing opportunities for U.S. citizens to serve their country and advancing diversity and inclusion. This proposal, if enacted, would enhance the ability of the Department to use this authority more effectively, thereby improving access to talented students and recent graduates.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget request.

Changes to Existing Law: This proposal would amend section 1106 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 10 U.S.C. 1580 note prec.) as follows:

SEC. 1106. DIRECT-HIRE AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR POST-SECONDARY STUDENTS AND RECENT GRADUATES.

(a) HIRING AUTHORITY.—Without regard to sections 3309 through 3318, 3327, and 3330 of title 5, United States Code, the Secretary of Defense may recruit and appoint qualified recent graduates and current post-secondary students to competitive service positions in professional and administrative occupations within the Department of Defense.

(b) LIMITATION ON APPOINTMENTS.—Subject to subsection (c)(2), the total number of employees appointed by the Secretary under subsection (a) during a fiscal year may not exceed the number equal to 25 percent of the number of hires made into professional and administrative occupations of the Department at the GS–11 level and below (or equivalent) under competitive examining and merit promotion procedures during the previous fiscal year.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall administer this section in accordance with regulations prescribed by the Secretary for purposes of this section.

(2) LOWER LIMIT ON APPOINTMENTS.—The regulations may establish a lower limit on the number of individuals appointable under subsection (a) during a fiscal year than is otherwise provided for under subsection (b), based on such factors as the Secretary considers appropriate.

(3) PUBLIC NOTICE AND ADVERTISING.—To the extent practical, as determined by the Secretary, the Secretary shall publicly advertise positions available under this section. In carrying out the preceding sentence, the Secretary shall—

(A) take into account merit system principles, mission requirements, costs, and organizational benefits of any advertising of positions; and

(B) advertise such positions in the manner the Secretary determines is most likely to provide diverse and qualified candidates and ensure potential applicants have appropriate information relevant to the positions available.

(d) SUNSET.—The authority provided under this section shall terminate on September 30, ~~2030~~2035.

(e) DEFINITIONS.—In this section:

(1) The term 'current post-secondary student' means a person who—

(A) is currently enrolled in, and in good academic standing at, a full-time program at an institution of higher education;

(B) is making satisfactory progress toward receipt of a baccalaureate or graduate degree; and

(C) has completed at least one year of the program.

(2) The term ‘institution of higher education’ has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(3) The term ‘recent graduate’, with respect to appointment of a person under this section, means a person whose application for such appointment is received by the applicable hiring organization within the Department of Defense—

(A) on or before the last day of the two-year period beginning on the date on which the person is awarded a degree by an institution of higher education; or

(B) in the case of a person of who has completed a period of obligated service in a uniformed service of more than four years, on or before the last day of the four-year period beginning on the date on which the person is awarded a degree by an institution of higher education.

~~who was awarded a degree by an institution of higher education not more than two years before the date of the appointment of such person, except that in the case of a person who has completed a period of obligated service in a uniformed service of more than four years, such term means a person who was awarded a degree by an institution of higher education not more than four years before the date of the appointment of such person."~~

SEC. ___. AUTHORITY TO PROVIDE INCREASED VOLUNTARY SEPARATION INCENTIVE PAY FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

Section 9902(f)(5)(A)(ii) of title 5, United States Code, is amended by striking "$25,000" and inserting "an amount determined by the Secretary, not to exceed $40,000".

[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 9902(f)(5)(A)(ii) of title 5, United States Code, to increase from $25,000 to $40,000, the maximum amount of voluntary separation incentive pay (VSIP) that the Department of Defense (DoD) is authorized to provide to an individual. The temporary authority for the Department to provide this increased maximum amount for VSIP expired on September 30, 2021. When considering the effects of inflation, the increased maximum amount for VSIP that would be authorized by this proposal is less than the $25,000 amount that was originally authorized for VSIP in 1993.

The Department has traditionally offered incentives, such as VSIP, to encourage voluntary separations as a way to minimize the impact of workforce restructuring and avoid involuntary reductions in force (RIFs). RIFs are costly and disruptive to DoD's missions and create negative morale in the workforce. VSIP authority is also an important workforce shaping and restructuring tool that assists the Department in recalibrating the workforce to ensure the Department has the right skills for emerging missions and mission growth. Indeed, VSIP authority can be exercised independent of RIF planning and in the past has been effective in enabling DoD components to shape their workforce. Any future reduction to or reorganization of the DoD workforce will require management tools to efficiently shape the workforce without adversely affecting DoD's missions or its commitment to the Nation's warfighters. Incentive authorities such as VSIP provide a less expensive, more accommodating, and more manageable way to efficiently reduce as well as restructure the DoD workforce.

In general, VSIP has been used sparingly since DoD completed the actions related to Fiscal Year (FY) 2005 base realignment and closure (BRAC). Over the past four years, the Department averaged approximately 1,500 VSIP payments per year. In the future, DoD anticipates similar VSIP usage to support organizational restructuring, position restructuring, and other measures to reskill the workforce.

The Department strongly supports renewal and permanent increase of the authority based on the following:

When intangible costs are considered, effective use of VSIP to accomplish workforce shaping is more efficient than conducting a RIF. According to a report published by the RAND Corporation in late 2016, entitled "Workforce Downsizing and Restructuring in the Department of Defense – The Voluntary Separation Incentive Payment Program Versus Involuntary Separation," increasing the VSIP cap from $25,000 to $41,000 (the real value of a $25,000 VSIP established in 1993 converted into 2015 dollars based on increases in the consumer price index) would likely generate about 45 percent more voluntary separations. VSIP, when coupled with Voluntary Early Retirement Authority, produces budgetary net savings to DoD both after the first year and cumulatively after five years when total personnel costs are considered. VSIP would also produce net savings to the U.S. Treasury over five years. Furthermore, the net savings to DoD and the Treasury are larger over a five-year horizon when the VSIP cap is larger than $25,000. Although this budgetary costs savings is less than the use of involuntary separations, it does not fully capture the intangible costs identified in the report, such as "disruption and turbulence because the bumping and retreating rules result in multiple employees changing positions to generate a single separation," which "can generate uncertainty, delays in workflow, and skills/competency gaps for organizations." The report states that "evidence from past studies indicates that such downsizing can hurt morale and may create imbalances in the experience mix of the workforce…which may have prolonged effects on the capability of the workforce over time." It also cites the costs of "equal employment opportunity (EEO) complaints, Merit Systems Protection Board (MSPB) appeals, and labor union grievances, as well as workload costs of RIF, particularly when multiple RIFs are conducted to reach end-state…" as additional costs of involuntary separations. Such costs are avoided or are mitigated when voluntary separations occur.

In practice, increased VSIP has proven to be an effective means of administering workforce shaping. DoD recently reported to Congress on its assessment of the impact of the temporary increase in authority to $40,000, noting that between FY 2018 and FY 2021, VSIP, coupled with the effective use of other workforce reshaping tools, resulted in significant savings in separation costs. VSIP helped to negate 98 percent of projected separations, averting an estimated cost of $309,400,000 in severance costs (excludes unemployment insurance costs). There were 5,860 VSIP payments (downsizing and restructuring) totaling approximately $227,800,000. A statutory increase to $40,000 will enable the Department to continue to limit the use of involuntary separations to shape the workforce and foster a cost-effective and efficient means of administering future workforce reductions or reorganizations to ensure a more effective Federal workforce.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal. Mandatory resources required are minimal and also reflected in the table. Adoption of the proposal would make permanent the temporary increase in the maximum VSIP amount for the DoD from $25,000 to $40,000 that expired on September 30, 2021. VSIP is authorized at levels not to exceed DoD's appropriated budget authority in any given fiscal year. DoD's intent is to offer VSIP at a steady rate to continue to reshape our workforce, as needed, and avoid costly reductions-in-force. The increased incentive may influence the number of civilians offered the opportunity to participate in VSIP and/or the timeframe in which participants must accept VSIP in order to maximize the use of funds in the given fiscal year. The authority will not change the

severance pay formulas used to calculate the actual VSIP amount. We anticipate a continued steady use of VSIP.

NOTIONAL ONLY RESOURCE DISCRETIONARY IMPACT ($MILLIONS) ***NOTIONAL ONLY***															
Program	**Projected VSIPs**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**	**FY 2034**	**Total**	**Appropriation**	**Budget Activity**	**BLI/SAG**
Army	842	$12.47	$12.47	$12.47	$12.47	$12.47	$12.47	$12.47	$12.47	$12.47	$12.47	$124.70	O&M, Army	Multiple	Multiple
Navy	31	$0.46	$0.46	$0.46	$0.46	$0.46	$0.46	$0.46	$0.46	$0.46	$0.46	$4.60	O&M, Navy	Multiple	Multiple
Navy	196	$2.93	$2.93	$2.93	$2.93	$2.93	$2.93	$2.93	$2.93	$2.93	$2.93	$29.30	Navy WCF	Multiple	Multiple
Navy	10	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$1.50	RDT&E, Navy	Multiple	Multiple
Air Force	56	$0.84	$0.84	$0.84	$0.84	$0.84	$0.84	$0.84	$0.84	$0.84	$0.84	$8.40	O&M, Air Force	Multiple	Multiple
USMC	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, MC	Multiple	Multiple
DLA	51	$0.77	$0.77	$0.77	$0.77	$0.77	$0.77	$0.77	$0.77	$0.77	$0.77	$7.70	O&M, DLA	Multiple	Multiple
DCMA	128	1.91	1.91	1.91	1.91	1.91	1.91	1.91	1.91	1.91	1.91	19.1	O&M, DCMA	Multiple	Multiple
DISA	51	0.77	0.77	0.77	0.77	0.77	0.77	0.77	0.77	0.77	0.77	7.7	O&M, DISA	Multiple	Multiple
DCAA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DCAA	Multiple	Multiple
OSD	40	$0.60	$0.60	$0.60	$0.60	$0.60	$0.60	$0.60	$0.60	$0.60	$0.60	$6.00	O&M, OSD	Multiple	Multiple
DFAS	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DFAS	Multiple	Multiple
WHS	16	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$2.40	O&M, WHS	Multiple	Multiple
Joint Staff	6	$0.09	$0.09	$0.09	$0.09	$0.09	$0.09	$0.09	$0.09	$0.09	$0.09	$0.90	O&M, Joint Staff	Multiple	Multiple
National Guard	16	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$0.24	$2.40	O&M, National Guard	Multiple	Multiple
DoDEA	53	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80	$0.80	$8.00	O&M, DoDEA	Multiple	Multiple
DECA	45	$0.68	$0.68	$0.68	$0.68	$0.68	$0.68	$0.68	$0.68	$0.68	$0.68	$6.80	O&M, DECA	Multiple	Multiple
DHA	23	$0.35	$0.35	$0.35	$0.35	$0.35	$0.35	$0.35	$0.35	$0.35	$0.35	$3.50	O&M, DHA	Multiple	Multiple
MDA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, MDA	Multiple	Multiple
DHRA	13	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$2.00	O&M, DHRA	Multiple	Multiple
DoDIG	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DoDIG	Multiple	Multiple
PFPA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, PFPA	Multiple	Multiple
DTRA	10	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$0.15	$1.50	O&M, DTRA	Multiple	Multiple
DSS	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DSS	Multiple	Multiple
USUHS	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, USUHS	Multiple	Multiple
DAU	3	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.50	O&M, DAU	Multiple	Multiple
DSCA	1	$0.02	$0.02	$0.02	$0.02	$0.02	$0.02	$0.02	$0.02	$0.02	$0.02	$0.20	O&M, DSCA	Multiple	Multiple
DMA	14	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$0.20	$2.00	O&M, DMA	Multiple	Multiple
NDU	2	$0.03	$0.03	$0.03	$0.03	$0.03	$0.03	$0.03	$0.03	$0.03	$0.03	$0.30	O&M, NDU	Multiple	Multiple
NRO	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, NRO	Multiple	Multiple
POW/MIA Ofc	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, POW/MIA Ofc	Multiple	Multiple
Def Legal Svcs	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, Def Legal Svcs	Multiple	Multiple
DTIC	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DTIC	Multiple	Multiple
DMeA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DMeA	Multiple	Multiple
DARPA	3	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.05	$0.50	O&M, DARPA	Multiple	Multiple
DTSA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, DTSA	Multiple	Multiple
Crt Appls Armd Frcs	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, Crt Appls Armd Frcs	Multiple	Multiple
OEA	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, OEA	Multiple	Multiple
Test Resource Mgmt Ctr	0	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00	O&M, Test Resource Mgmt Ctr	Multiple	Multiple
Total	1600	$24.00	$24.00	$24.00	$24.00	$24.00	$24.00	$24.00	$24.00	$24.00	$24.00	$240.00			

10-YEAR COST PROJECTION ($MILLIONS)											
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**	**FY 2034**	**10-Year Total**
Discretionary*	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000	$0.000
Mandatory	$1.164	$2.293	$3.365	$4.417	$5.363	$6.149	$6.759	$7.264	$7.701	$8.061	$52.536
Total	$1.164	$2.293	$3.365	$4.417	$5.363	$6.149	$6.759	$7.264	$7.701	$8.061	$52.536

*Discretionary costs do not increase. As an offset each fiscal year, the Department of Defense (DOD) uses funding from within the civilian pay accounts for authorized Voluntary Separation Incentive Pays (VSIPs). The VSIP resource use of civilian pay offsets, by each DOD Component is detailed in the additional tables.

Cost Methodology: DoD anticipates continued use of VSIP in the foreseeable future as the need for reshaping the workforce continues. VSIP is used to encourage voluntary separations that mitigate adverse effects on the civilian workforce and are less costly to the Department than involuntary reductions via RIF. The resource requirements listed reflect the total cost of VSIPs over the ten-year timeframe, taking into account the number of employees who have historically participated in VSIP. It assumes a straight-line of $15,000 more per incentive, since historically 99 percent of the incentives approved were at the maximum amount of $25,000. This extra expenditure will be absorbed by reducing the costs associated with RIFs, including severance pay, unemployment compensation, continuation of benefits, transition assistance, permanent change of station costs, and various administrative costs.

Changes to Existing Law: This proposal would amend section 9902(f)(5)(A)(ii) of title 5, United States Code, as follows:

§ 9902. Department of Defense personnel authorities

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(f) PROVISIONS RELATED TO SEPARATION AND RETIREMENT INCENTIVES.—(1) The Secretary may establish a program within the Department of Defense under which employees may be eligible for early retirement, offered separation incentive pay to separate from service voluntarily, or both. This authority may be used to reduce the number of personnel employed by the Department of Defense or to restructure the workforce to meet mission objectives without reducing the overall number of personnel. This authority is in addition to, and notwithstanding, any other authorities established by law or regulation for such programs.

(2)(A) The Secretary may not authorize the payment of voluntary separation incentive pay under paragraph (1) to more than 25,000 employees in any fiscal year, except that employees who receive voluntary separation incentive pay as a result of a closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) shall not be included in that number.

(B) The Secretary shall prepare a report each fiscal year setting forth the number of employees who received such pay as a result of a closure or realignment of a military base as described under subparagraph (A).

(C) The Secretary shall submit the report under subparagraph (B) to the Committee on Armed Services and the Committee on Governmental Affairs of the Senate, and the Committee on Armed Services and the Committee on Government Reform of the House of Representatives.

(3) For purposes of this section, the term "employee" means an employee of the Department of Defense, serving under an appointment without time limitation, except that such term does not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84, or another retirement system for employees of the Federal Government;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A); or

(C) for purposes of eligibility for separation incentives under this section, an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance.

(4) An employee who is at least 50 years of age and has completed 20 years of service, or has at least 25 years of service, may, pursuant to regulations promulgated under this section, apply and be retired from the Department of Defense and receive benefits in accordance with chapter 83 or 84 if the employee has been employed continuously within the Department of Defense for more than 30 days before the date on which the determination to conduct a reduction or restructuring within 1 or more Department of Defense components is approved.

(5)(A) Separation pay shall be paid in a lump sum or in installments and shall be equal to the lesser of—

(i) an amount equal to the amount the employee would be entitled to receive under section 5595(c), if the employee were entitled to payment under such section; or

(ii) ~~25,000~~ an amount determined by the Secretary, not to exceed $40,000.

(B) Separation pay shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit. Separation pay shall not be taken into account for the purpose of determining the amount of any severance pay to which an individual may be entitled under section 5595, based on any other separation.

(C) Separation pay, if paid in installments, shall cease to be paid upon the recipient's acceptance of employment by the Federal Government, or commencement of work under a personal services contract as described in paragraph (6).

(6)(A) An employee who receives separation pay under such program may not be reemployed by the Department of Defense for a 12-month period beginning on the effective date of the employee's separation, unless this prohibition is waived by the Secretary on a case-by-case basis.

(B) An employee who receives separation pay under this section on the basis of a separation occurring on or after the date of the enactment of the Federal Workforce Restructuring Act of 1994 (Public Law 103–226; 108 Stat. 111) and accepts employment with the Government of the United States, or who commences work through a personal services contract with the United States within 5 years after the date of the separation on which payment of the separation pay is based, shall be required to repay the entire amount of the separation pay to the Department of Defense. If the employment is with an Executive agency (as defined by section 105) other than the Department of Defense, the Director may, at the request of the head of that agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is within the Department of Defense, the Secretary may waive the repayment if the individual involved is the only qualified applicant available for the position. If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position. If the employment is with the judicial branch, the Director of the Administrative Office of the

United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(7) Under this program, early retirement and separation pay may be offered only pursuant to regulations established by the Secretary, subject to such limitations or conditions as the Secretary may require.

SEC. ___. MODIFICATION AND EXTENSION OF PILOT PROGRAM ON DYNAMIC SHAPING OF THE WORKFORCE TO IMPROVE THE TECHNICAL SKILLS AND EXPERTISE AT CERTAIN DEPARTMENT OF DEFENSE LABORATORIES.

(a) IN GENERAL.—Section 1109 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C 4091 note prec.) is amended—

(1) in subsection (b)—

(A) in paragraph (3)—

(i) by inserting "or 8414" before "of title 5"; and

(ii) by striking "or 3522" and inserting "or 8414(b)(1)(B)"; and

(B) in paragraph (4), in the matter preceding subparagraph (A), by striking "section 8414(b)(1)(B) of title 5, United States Code, without regard to clause (iv) or (v) of such section or section 3522 of such title" and inserting "section 3522 of title 5, United States Code"; and

(2) in subsection (c), by striking "section 4121(b)" and inserting "subsections (a) and (b) of section 4121".

(b) EXTENSION OF AUTHORITY.—Section 1109(d)(1) of such Act is amended by striking "December 31, 2027" and inserting "December 31, 2030".

Section-by-Section Analysis

This proposal would amend section 1109 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C 4091 note prec.) to clarify that the early retirement incentives authorized for the dynamic workforce reshaping pilot program at Department of Defense science and technology reinvention laboratories (STRL) are available for employees covered by the Federal Employees' Retirement System (FERS), and not just those covered by the Civil Service Retirement System (CSRS). To provide for this clarification, the proposal amends section 1109 by moving the relevant statutory references to FERS from subsection (b)(4)

(relating to separation pay) to subsection (b)(3) (relating to early retirement). This technical change is necessary because the vast majority of STRL employees are covered by FERS.

In addition, this proposal would amend section 1109(c) to extend the authority to all STRLs, to include those designated as STRL by the Secretary of Defense pursuant to section 4121(a) of title 10, United States Code. This change is necessary to extend these valuable pilot program flexibilities to all STRLs, not the more limited list provided in section 4121(b).

Finally, this proposal would amend section 1109(d) to extend the pilot program by an additional three years. This change is necessary to enable the STRL directors to further evaluate the effectiveness of the personnel authorities authorized in this pilot program.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would amend section 1109 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114–92; 10 U.S.C 4091 note prec.) as follows:

SEC. 1109. PILOT PROGRAM ON DYNAMIC SHAPING OF THE WORKFORCE TO IMPROVE THE TECHNICAL SKILLS AND EXPERTISE AT CERTAIN DEPARTMENT OF DEFENSE LABORATORIES.

(a) PILOT PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to utilize the authorities specified in subsection (b) at the Department of Defense laboratories specified in subsection (c) to provide the directors of such laboratories the authority to dynamically shape the mix of technical skills and expertise in the workforces of such laboratories in order to achieve one or more of the following:

(1) To meet organizational and Department-designated missions in the most cost-effective and efficient manner.

(2) To upgrade and enhance the scientific quality of the workforces of such laboratories.

(3) To shape such workforces to better respond to such missions.

(4) To reduce the average unit cost of such workforces.

(b) WORKFORCE SHAPING AUTHORITIES.—The authorities that shall be available for use by the director of a Department of Defense laboratory under the pilot program are the following:

(1) FLEXIBLE LENGTH AND RENEWABLE TERM TECHNICAL APPOINTMENTS.—

(A) IN GENERAL.—Subject to the provisions of this paragraph, authority otherwise available to the director by law (and within the available budgetary resources of the laboratory) to make appointments as follows:

(i) Appointment of qualified scientific and technical personnel who are not current Department of Defense civilian employees into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

(ii) Appointment of qualified scientific and technical personnel who are Department civilian employees in term appointments into any scientific or technical position in the laboratory for a period of more than one year but not more than six years.

(B) BENEFITS.—Personnel appointed under this paragraph shall be provided with benefits comparable to those provided to similar employees at the laboratory concerned, including professional development opportunities, eligibility for all laboratory awards programs, and designation as "status applicants" for the purposes of eligibility for positions in the Federal service.

(C) EXTENSION OF APPOINTMENTS.—The appointment of any individual under this paragraph may be extended without limit in up to six year increments at any time during any term of service under such conditions as the director concerned shall establish for purposes of this paragraph.

(2) REEMPLOYMENT OF ANNUITANTS.—Authorities to authorize the director of any science and technology reinvention laboratory (in this section referred to as ''STRL'') to reemploy annuitants in accordance with section 9902(g) of title 5, United States Code, except that as a condition for reemployment the director may authorize the deduction from the pay of any annuitant so reemployed of an amount up to the amount of the annuity otherwise payable to such annuitant allocable to the period of actual employment of such annuitant, which amount shall be determined in a manner specified by the director for purposes of this paragraph to ensure the most cost effective execution of designated missions by the laboratory while retaining critical technical skills.

(3) EARLY RETIREMENT INCENTIVES.—Authorities to authorize the director of any STRL to authorize voluntary early retirement of employees in accordance with section 8336 or 8414 of title 5, United States Code, without regard to section 8336(d)(2)(D) or ~~3522~~ 8414(b)(1)(B) of such title, and with employees so separated voluntarily from service.

(4) SEPARATION INCENTIVE PAY.—Authorities to authorize the director of any STRL to pay voluntary separation pay to employees in accordance with ~~section 8414(b)(1)(B) of title 5, United States Code, without regard to clause (iv) or (v) of such section or~~ section 3522 of ~~such~~ title 5, United States Code, and with—

(A) employees so separated voluntarily from service under regulations prescribed by the Secretary of Defense for purposes of the pilot program; and

(B) payments to employees so separated authorized under section 3523 of such title without regard to—

(i) the plan otherwise required by section 3522 of such title; and

(ii) paragraph (1) or (3) of section 3523(b) of such title.

(c) LABORATORIES.—The Department of Defense laboratories specified in this subsection are the laboratories designated under ~~section~~ subsections (a) and (b) of section 4121~~(b)~~ of title 10, United States Code.

(d) EXPIRATION.—

(1) IN GENERAL.—The authority in this section shall expire on December 31, ~~2027~~ 2030.

(2) CONTINUATION OF AUTHORITIES EXERCISED BEFORE TERMINATION.—The expiration in paragraph (1) shall not be construed to effect the continuation after the date specified in paragraph (1) of any term of employment or other benefit authorized under this section before that date in accordance with the terms of such authorization.

SEC. ___. MODERNIZING MARINE CORPS PLATOON LEADERS CLASS COLLEGE TUITION ASSISTANCE PROGRAM TO ACCOUNT FOR INFLATION.

Section 16401 of title 10, United States Code, is amended—

(1) in subsection (d), by striking "$5,200" and inserting "$13,800"; and

(2) in subsection (e)(2), by striking "1,200" and inserting "450".

[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

Section 16401 of title 10, United States Code (Marine Corps Platoon Leaders Class college tuition assistance program) (MCTAP), authorizes the Secretary of the Navy to provide financial assistance to eligible members of the Marine Corps for expenses while the member pursues a program of education at an institution of higher education. Section 16401 limits the amount of the financial assistance the Secretary may provide to $5,200 per academic year, a limit set when the section was enacted in October 1999. That section also establishes a maximum number of 1,200 members who may receive assistance in each academic year.

The intent of MCTAP is to serve as a recruiting incentive specifically designed to encourage college students to consider the platoon leaders class (PLC) program early in their collegiate career. This program also extends to those members seeking a doctor of jurisprudence degree and who will serve as future Marine judge advocates. In exchange for the $5,200 per academic year, members agree to serve on active duty for at least five years compared to the traditional four.

Since the inception of the program 22 years ago, college tuition has increased significantly while the financial assistance available under MCTAP has remained the same, significantly reducing the incentive for members to participate. The program is now severely underused and the Department has lost a valuable tool to help recruit high-quality Marines, many of whom would be in critical billets, like judge advocates, that are in high demand.

The current cap of $5,200 per academic year was slightly below the average cost of tuition and fees of all degree-granting institutions in years 1999-2000, according to the National Center for Education Statistics. This proposal would increase the maximum amount of incentive to slightly above the average cost of tuition and fees in years 2019-2020 ($13,360).

The current law limits the number of eligible service members to 1,200. However, current usage is far below this maximum. For example, only 52 members of the PLC program received the incentive in 2022. This proposal would reduce the maximum number of eligible applicants from 1,200 to 450. This is to fully offset the cost of the increased amount of the incentive.

This proposal supports the Department's talent management modernization, specifically the tenets of the Commandant of the Marine Corps' Talent Management 2030 (TM 2030), which seeks to modernize how the Department recruits and retain Marines, improve access to education, professionalize the force, and attract a more diverse and talented pool of officer candidates in an increasingly competitive job market. Of notable importance is the positive and tangible effect this will have on the Marine Corps' law recruiting mission and its judge advocate community, which currently sits at 75% overall health (10% lower than the healthy minimum standard and amongst the lowest across all ground officer occupational specialties).

This proposal will assist with manning the new Office of the Special Trial Counsel (OSTC) which will focus on the prosecution of serious, high-visibility crimes. It is noteworthy that law student graduates carry an average of $160,000 in law school debt. Depending on time in the recruiting pool, this proposal would allow members to receive up to $41,400 in tuition assistance over their collegiate or law school careers. This would make the Marine Corps significantly more competitive in a market already saturated with private- and public-sector employers.

Resource Information: This proposal has no impact on resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would amend section 16401 of title 10, United States Code, as follows:

§ 16401. Marine Corps Platoon Leaders Class: college tuition assistance program

(a) AUTHORITY.—The Secretary of the Navy may provide financial assistance to an eligible member of the Marine Corps Reserve for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in less than five academic years; or

(2) a doctor of jurisprudence or bachelor of laws degree in not more than four academic years.

* * * * *

(d) AMOUNT.—The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed ~~$5,200~~ $13,800 for any academic year.

(e) LIMITATIONS.—(1) Financial assistance may be provided to a member under this section only for three consecutive academic years.

(2) Not more than ~~1,200~~ 450 members may participate in the financial assistance program under this section in any academic year.

* * * * *

SEC. ___. PERMANENT EXTENSION OF ADMINISTRATIVE FUNDS PILOT PROGRAM.

Section 9(mm)(1) of the Small Business Act (15 U.S.C. 638) is amended by striking "and until September 30, 2025".

[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 makes the Administrative Funds Pilot Program under the Small Business Act permanent. It allows the Department of Defense (DoD) to permanently use a portion of the funds it has allocated as Small Business Innovation Research Program (SBIR) funds to:

- administer the DoD SBIR and Small Business Technology Transfer Program (STTR) programs,
- allow DoD Components to apply funding to their STTR programs
- implement and continue commercialization and outreach initiatives,
- streamline and simplify contracting and program processes and procedures,
- implement and continue oversight and quality control measures, and activities related to the oversight and congressional reporting including fraud, waste, and abuse prevention activities.

Without permanency of this provision, neither the DoD nor its Components' SBIR and STTR programs will have the ability to conduct significant outreach activities and efficiency improvement efforts.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would amend section 9(mm) of the Small Business Act (15 U.S.C. 638) as follows:

SEC. 9. (a) Research and development are major factors in the growth and progress of industry and the national economy. The expense of carrying on research and development programs is beyond the means of many small-business concerns, and such concerns are handicapped in obtaining the benefits of research and development programs conducted at Government expense. These small-business concerns are thereby placed at a competitive disadvantage. This weakens the competitive free enterprise system and prevents the orderly development of the national economy. It is the policy of the Congress that assistance be given to small-business concerns to enable them to undertake and to obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the national economy.

* * * * *

(mm) ASSISTANCE FOR ADMINISTRATIVE, OVERSIGHT, AND CONTRACT PROCESSING COSTS.—

(1) IN GENERAL.—Subject to paragraph (3) ~~and until September 30, 2025~~, the Administrator shall allow each Federal agency required to conduct a SBIR program to use not more than 3 percent of the funds allocated to the SBIR program of the Federal agency for—

A) the administration of the SBIR program or the STTR program of the Federal agency;

(B) the provision of outreach and technical assistance relating to the SBIR program or STTR program of the Federal agency, including technical assistance site visits, personnel interviews, and national conferences;

(C) the implementation of commercialization and outreach initiatives that were not in effect on the date of enactment of this subsection;

(D) carrying out the program under subsection (y);

(E) activities relating to oversight and congressional reporting, including waste, fraud, and abuse prevention activities;

(F) targeted reviews of recipients of awards under the SBIR program or STTR program of the Federal agency that the head of the Federal agency determines are at high risk for fraud, waste, or abuse to ensure compliance with requirements of the SBIR program or STTR program, respectively;

(G) the implementation of oversight and quality control measures, including verification of reports and invoices and cost reviews;

(H) carrying out subsection (dd);

(I) contract processing costs relating to the SBIR program or STTR program of the Federal agency;

(J) funding for additional personnel and assistance with application reviews; and

(K) funding for improvements that increase commonality across data systems, reduce redundancy, and improve data oversight and accuracy.

(2) OUTREACH AND TECHNICAL ASSISTANCE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a Federal agency participating in the program under this subsection shall use a portion of the funds authorized for uses under paragraph (1) to carry out the policy directive required under subsection (j) (2) (F) and to increase the participation of States with respect to which a low level of SBIR awards have historically been awarded.

(B) WAIVER.—A Federal agency may request the Administrator to waive the requirement contained in subparagraph (A). Such request shall include an explanation of why the waiver is necessary. The Administrator may grant the waiver based on a determination that the agency has demonstrated a sufficient need for the waiver, that the outreach objectives of the agency are being met, and that there is increased participation by States with respect to which a low level of SBIR awards have historically been awarded.

(3) PERFORMANCE CRITERIA.—A Federal agency may not use funds as authorized under paragraph (1) until after the effective date of performance criteria, which the

Administrator shall establish, to measure any benefits of using funds as authorized under paragraph (1) and to assess continuation of the authority under paragraph (1).

(4) RULES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall issue rules to carry out this subsection.

(5) COORDINATION WITH IG.—Each Federal agency shall coordinate the activities funded under subparagraph (E), (F), or (G) of paragraph (1) with their respective Inspectors General, when appropriate, and each Federal agency that allocates more than $50,000,000 to the SBIR program of the Federal agency for a fiscal year may share such funding with its Inspector General when the Inspector General performs such activities.

(6) REPORTING.—The Administrator shall collect data and provide to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report on the use of funds under this subsection, including funds used to achieve the objectives of paragraph (2) (A) and any use of the waiver authority under paragraph (2) (B). * * * *

SEC. ___. POST-9/11 EDUCATIONAL ASSISTANCE FOR DEPENDENT VICTIMS OF DOMESTIC VIOLENCE.

(a) DEFINITION OF TRANSITIONAL COMPENSATION RECIPIENT.—Section 3301 of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(6)(A) The term 'transitional compensation recipient' means an individual for whom at least one payment of transitional compensation is provided under section 1059 of title 10 on or after the date of the enactment of this paragraph.

"(B) Such term includes a dependent child for whom transitional compensation is provided to a spouse or former spouse under section 1059(d)(2) of title 10.

"(C) Such term does not include an individual if the transitional compensation of the individual—

"(i) is terminated under section 1059(g) of title 10; or

"(ii) is provided under section 1059(l) of title 10.".

(b) ENTITLEMENT TO POST-9/11 EDUCATIONAL ASSISTANCE.—Section 3311 of title 38, United States Code, is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(12) Subject to the limitation in subsection (g), an individual who is a transitional compensation recipient."; and

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

"(g) TRANSITIONAL COMPENSATION RECIPIENTS.—

"(1) ONE EDUCATIONAL ASSISTANCE BENEFICIARY PER FAMILY UNIT.—

"(A) IN GENERAL.—Not more than one family member per family unit may receive educational assistance as the result of eligibility under subsection (b)(12).

"(B) DESIGNATION OF BENEFICIARY.—With respect to a family unit, the beneficiary of such educational assistance shall be designated by the family member who is—

"(i) the spouse or former spouse of an individual described in section 1059(b) of title 10; or

"(ii) in the case of a family unit without a family member described in clause (i), or a family unit with a family member described in clause (i) whose compensation has been terminated under section 1059(g) of title 10, the oldest surviving transitional compensation recipient within the family unit.

"(2) PROHIBITION ON TRANSFERS.—Notwithstanding any other provision of this chapter, once a beneficiary designated under paragraph (1)(B) begins receiving educational assistance under this chapter, the benefit cannot be transferred to another individual.

"(3) FAMILY UNIT DEFINED.—In this subsection, the term 'family unit' means the dependents or former dependents of an individual described in section 1059(b) of title 10 who are transitional compensation recipients.

"(4) EFFECTIVE DATE OF ELIGIBILITY.—The effective date of eligibility for a beneficiary designated under paragraph (1)(B) shall be the earliest date the beneficiary

satisfies the definition of the term 'transitional compensation recipient' in section 3301(6) of this title.

"(5) AUTHORITY TO PAY BENEFITS.—Payments under this subsection may commence only after a designation has been made in accordance with paragraph (1)(B).".

(c) AMOUNTS OF EDUCATIONAL ASSISTANCE PAYABLE.—Section 3313(c)(1) of title 38, United States Code, is amended, in the matter preceding subparagraph (A), by striking "or (11)" and inserting "(11), or (12)".

(d) PERIOD OF ENTITLEMENT.—Section 3321(b) of title 38, United States Code, is amended by adding at the end the following new paragraph:

"(6) The period during which an individual is entitled to educational assistance under section 3311(b)(12) of this title shall not expire, even after the period for which the individual is eligible to receive transitional compensation has expired, unless the recipient's compensation is terminated under section 1059(g) of title 10.".

(e) BAR TO DUPLICATION OF ELIGIBILITY.—Section 3322 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(i) BAR TO DUPLICATION OF ELIGIBILITY BASED ON AUTHORITY TO TRANSFER UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS.—An individual entitled to educational assistance under sections 3311(b)(12) and 3319 of this title may not receive assistance under both sections concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which section to receive educational assistance.".

Section-by-Section Analysis

The military has a unique responsibility to provide for victims of dependent abuse who often lose their sole source of financial support when their abuser is separated from military

service. This proposal is aimed at giving spouses, former spouses, and children of abuse the opportunity to break the cycle of violence and eliminate barriers to reporting abuse.

This proposal would provide post-9/11 educational assistance to certain dependents and former dependents of a Service member who are transitional compensation recipients under section 1059 of title 10, United States Code (U.S.C.). Transitional compensation is provided to the dependents of a Service member if the Service member is convicted or administratively separated as a result of committing a dependent-abuse offense. The term "dependent-abuse offense" is defined in section 1059(c) of title 10, U.S.C., and Department of Defense Instruction (DoDI) 1342.24, "Transitional Compensation (TC) for Abused Dependents." DoDI 1342.24, paragraph G.2., defines the term "dependent-abuse offense" as:

> "Conduct by an individual while a Military Service member on active duty for a period of more than 30 days that involves abuse of a then-current spouse or a dependent child of the Service member or an attempt or conspiracy to commit such abuse, and that is a criminal offense, as defined by Sections 801 through 940 of Title 10, U.S.C., or other criminal codes applicable to the jurisdiction where the act of abuse is committed. The term "involves abuse of the then-current spouse or a dependent child" means that the criminal offense is against the person of that spouse or a dependent child. Crimes that may qualify as dependent-abuse offenses include sexual assault, rape, sodomy, maiming, assault, battery, murder, and manslaughter. (This is not an exhaustive or exclusive listing of dependent-abuse offenses, but is provided for illustrative purposes only. The facts and circumstances of a particular case should always be interpreted in the manner most favorable to the spouse or a dependent child of the member.)"

A transitional compensation recipient would be eligible for the post-9/11 educational benefit regardless of the Service member's service characterization, but a criminal conviction or administrative separation of the Service member, as set forth in section 1059(b) of title 10, U.S.C., would be required. Likewise, a transitional compensation recipient would receive the full post-9/11 educational benefit as if the Service member served thirty-six qualifying months on active duty.

Subsection (a) of this proposal would amend section 3301 of title 38, U.S.C., to define the term "transitional compensation recipient." The definition provides for prospective application of the post-9/11 educational benefit by specifying that eligibility is limited to individuals for whom transitional compensation is provided after the date of the enactment. The definition also clarifies that individuals for whom transitional compensation has been terminated under section 1059(g) of title 10, U.S.C., and individuals who receive transitional compensation under the exceptional eligibility provisions of section 1059(l) of such title do not qualify for the benefit.

Subsection (b) of this proposal would amend section 3311 of title 38, U.S.C., to (1) specify that transitional compensation recipients qualify for the post-9/11 educational benefit, and (2) provide the benefit to a maximum of one transitional compensation recipient per family unit. Determination of the educational assistance recipient within the family unit would be at the

discretion of the spouse or former spouse, or the oldest surviving transitional compensation recipient within the family unit in the event of a family unit without such a spouse or former spouse. The effective date of eligibility for a beneficiary would be the earliest date the beneficiary satisfies the definition of term 'transitional compensation recipient'. Payments would commence only after a designation of a beneficiary has been made. Once a beneficiary begins receiving educational assistance under this chapter, the benefit would become non-transferable.

Subsection (c) of this proposal would amend section 3313(c)(1) of title 38, U.S.C., to provide the post-9/11 educational benefit to transitional compensation recipients as if the Service member concerned served the requisite thirty-six qualifying months on active duty.

Subsection (d) of this proposal would amend section 3321(b) of title 38, U.S.C., to define the period of eligibility for post-9/11 education benefits for transitional compensation recipients as not expiring, even after the period for which the individual is eligible to receive transitional compensation has expired, unless the recipient's compensation is terminated under section 1059(g) of title 10, which would enable transitional compensation recipients to use their education benefits, even after transitional compensation payments have ended.

Finally, subsection (e) of this proposal would amend section 3322 of title 38, U.S.C, to bar duplication of eligibility for the post-9/11 educational benefit under both section 3311(b)(12) of title 38, U.S.C., as added by this proposal, and section 3319 of such title, which provides authority to transfer unused education benefits to family members.

Resource Information: This proposal has no impact on Department of Defense (DoD) resources within the Fiscal Year (FY) 2025 President's Budget request. Funding and administration of the post-9/11 education benefit falls under the purview of the Department of Veterans Affairs (VA). The table below reflects the estimated resources requested within the FY 2025 President's Budget that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
RB – 0137	$4.2	$7.2	$7.8	$8.1	$8.4				
Total	$4.2	$7.2	$7.8	$8.1	$8.4				

Budgetary Impact Table – Costs to VA's mandatory Readjustment Benefits account are estimated to be $4.2 million in 2025, $35.8 million over five years, and $85.3 million over ten years.

FY	**Caseload**	**Obligations ($000)**

2025	237	$4,182
2026	491	$7,203
2027	510	$7,823
2028	512	$8,112
2029	512	$8,442
5-Year Total		**$35,762**
2030	512	$8,871
2031	512	$9,397
2032	512	$9,906
2033	512	$10,415
2034	512	$10,954
10-Year Total		**$85,305**

Budget Impact Methodology:

Based on data provided by DoD, from 2016-2019 an average of 256 new annual cases were approved for the Transitional Compensation for Abused Dependents Program. This total represents dependents who were victims of domestic abuse. For purposes of this estimate, VA assumed an average of 256 individuals annually would newly qualify for the Post-9/11 GI Bill following enactment of this proposal. Data on the age distribution of these individuals was not readily available. However, caseload was age distributed based on current transfer of entitlement (TOE) recipients. VA assumed dependents under age 18 would begin using their entitlement once they are 18, and dependents 18 and older would begin using their entitlement the same year they become eligible for education benefits.

Based on historical data, TOE recipients use an average of 14 months of entitlement. This assumption was applied to this caseload, and VA assumes an individual will utilize nine months in the first year, and five months in the following year. Caseload was multiplied by the average payment for the Post-9/11 GI Bill from the 2025 President's Budget.

Changes to Existing Law: This proposal would amend sections 3301, 3311, 3313, 3321, and 3322 of title 38, United States Code, as follows:

§ 3301. Definitions

In this chapter:

(1) The term "active duty" has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12301(h), 12302, 12304, 12304a, or 12304b of title 10 or section 712 [1] of title 14.

(C) In the case of a member of the Army National Guard of the United States or Air National Guard of the United States, in addition to service described in subparagraph (B), full-time service—

(i) in the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard; or

(ii) in the National Guard under section 502(f) of title 32 when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(2) The term "emergency situation" has the meaning given such term in section 3601 of this title.

(3) The term "entry level and skill training" means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training or One Station Unit Training.

(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called "A" School).

(C) In the case of members of the Air Force or the Space Force, Basic Military Training and Technical Training.

(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(E) In the case of members of the Coast Guard, Basic Training and Skill Training (or so-called "A" School).

(4) The term "program of education" has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

(5) The term "Secretary of Defense" means the Secretary of Defense, except that the term means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(6)(A) The term "transitional compensation recipient'' means an individual for whom at least one payment of transitional compensation is provided under section 1059 of title 10 on or after the date of the enactment of this paragraph.

(B) Such term includes a dependent child for whom transitional compensation is provided to a spouse or former spouse under section 1059(d)(2) of title 10.

(C) Such term does not include an individual if the transitional compensation of the individual—

(i) is terminated under section 1059(g) of title 10; or

(ii) is provided under section 1059(l) of title 10.

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§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

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(11) An individual who is awarded the Purple Heart for service in the Armed Forces occurring on or after September 11, 2001, and continues to serve on active duty in the Armed Forces or is discharged or released from active duty as described in subsection (c).

(12) Subject to the limitation in subsection (g), an individual who is a transitional compensation recipient.

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(g) TRANSITIONAL COMPENSATION RECIPIENTS.—

(1) ONE EDUCATIONAL ASSISTANCE BENEFICIARY PER FAMILY UNIT.—

(A) IN GENERAL.—Not more than one family member per family unit may receive educational assistance as the result of eligibility under subsection (b)(12).

(B) DESIGNATION OF BENEFICIARY.—With respect to a family unit, the beneficiary of such educational assistance shall be designated by the family member who is—

(i) the spouse or former spouse of an individual described in section 1059(b) of title 10; or

(ii) in the case of a family unit without a family member described in clause (i), or a family unit with a family member described in clause (i) whose compensation has been terminated under section 1059(g) of title 10, the oldest surviving transitional compensation recipient within the family unit.

(2) PROHIBITION ON TRANSFERS.—Notwithstanding any other provision of this chapter, once a beneficiary designated under paragraph (1)(B) begins receiving educational assistance under this chapter, the benefit cannot be transferred to another individual.

(3) FAMILY UNIT DEFINED.—In this subsection, the term "family unit" means the dependents or former dependents of an individual described in section 1059(b) of title 10 who are transitional compensation recipients.

(4) EFFECTIVE DATE OF ELIGIBILITY.—The effective date of eligibility for a beneficiary designated under paragraph (1)(B) shall be the earliest date the beneficiary satisfies the definition of the term 'transitional compensation recipient' in section 3301(6) of this title.

(5) AUTHORITY TO PAY BENEFITS.—Payments under this subsection may commence only after a designation has been made in accordance with paragraph (1)(B).

§ 3313. Educational assistance: amount; payment.

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(c) PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT INSTITUTIONS OF HIGHER LEARNING ON MORE THAN A HALF-TIME BASIS.–The amounts payable under this subsection for pursuit of an approved program of education leading to a degree at an institution of higher learning (as that term is defined in section 3452(f)) are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of paragraph (1), (2), (8), (9), (10), ~~or (11)~~ (11), or (12) of section 3311(b), amounts as follows:

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§ 3321. Time limitation for use of and eligibility.

(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement—

(1) in the case of an individual whose last discharge or release from active duty is before January 1, 2013, expires at the end of the 15-year period beginning on the date of such discharge or release; or

(2) in the case of an individual whose last discharge or release from active duty is on or after January 1, 2013, shall not expire.

(b) EXCEPTIONS.—

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(5) APPLICABILITY TO SPOUSES OF DECEASED MEMBERS.—The period during which a spouse entitled to educational assistance by reason of section 3311(b)(9) 1 may use such spouse's entitlement-

(A) in the case of a spouse who first becomes entitled to such entitlement before January 1, 2013, expires at the end of the 15-year period beginning on the date on which the spouse first becomes entitled to such entitlement; or

(B) in the case of a spouse who first becomes entitled to such entitlement on or after January 1, 2013, shall not expire.

(6) The period during which an individual is entitled to educational assistance under section 3311(b)(12) of this title shall not expire, even after the period for which the individual is eligible to receive transitional compensation has expired, unless the recipient's compensation is terminated under section 1059(g) of title 10.

§ 3322. Bar to duplication of educational assistance benefits

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 or section 510 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and

chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

(e) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—An individual entitled to educational assistance under both section 3319 and paragraph (8), (9), or (10) of section 3311 of this title may not receive assistance under both provisions concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which provision to receive educational assistance.

(f) BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—The commencement of a program of education under paragraph (8), (9), or (10) of section 3311 of this title shall be a bar to the following:

(1) Subsequent payments of dependency and indemnity compensation or pension based on the death of a parent to an eligible person over the age of 18 years by reason of pursuing a course in an educational institution.

(2) Increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person, whether eligibility is based upon the death of the parent.

(g) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.—A spouse or child who is entitled to educational assistance under this chapter based on a transfer of entitlement from more than one individual under section 3319 may not receive assistance based on transfers from more than one such individual concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which source to utilize such assistance at any one time.

(h) BAR TO DUPLICATION OF ELIGIBILITY BASED ON A SINGLE EVENT OR PERIOD OF SERVICE.—

(1) Active-duty service.-An individual with qualifying service in the Armed Forces that establishes eligibility on the part of such individual for educational assistance under this chapter, chapter 30 or 32 of this title, and chapter 1606 or 1607 of title 10, shall elect (in such form and manner as the Secretary may prescribe) under which authority such service is to be credited.

(2) Eligibility for educational assistance based on parent's service.-A child of a member of the Armed Forces who, on or after September 11, 2001, dies in the line of duty while serving on active duty, who is eligible for educational assistance under either chapter 35 or paragraph (8), (9), or (10) of section 3311 of this title based on the

parent's death may not receive such assistance under both this chapter and chapter 35 of this title, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter to receive such assistance.

(i) BAR TO DUPLICATION OF ELIGIBILITY BASED ON AUTHORITY TO TRANSFER UNUSED EDUCATION BENEFITS TO FAMILY MEMBERS.—An individual entitled to educational assistance under sections 3311(b)(12) and 3319 of this title may not receive assistance under both sections concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which section to receive educational assistance.

SEC. ___. POSTURING THE DEFENSE PRODUCTION ACT TO RESPOND TO INCREASING REQUIREMENTS.

(a) AMENDMENT OF FUND BALANCE LIMITATION.— Section 304(e) of the Defense Production Act of 1950 (50 U.S.C. 4534) is amended by striking "$750,000,000" each place it appears and inserting "$1,000,000,000".

(b) DESIGNATION OF OFFICE OF THE SECRETARY OF THE AIR FORCE AS A DEPARTMENT OF DEFENSE EXECUTION OFFICE FOR TITLE III OF DEFENSE PRODUCTION ACT.—

(1) DESIGNATION.—The Office of the Secretary of the Air Force shall serve as an execution office of the Department of Defense for contract actions carried out under title III of the Defense Production Act of 1950 (50 U.S.C. 4551 et seq.). The Department of Defense Directive 4400.01E, titled "Defense Production Act Programs" and dated October 12, 2001, shall be updated accordingly.

(2) CANCELLATION OF PREVIOUS DESIGNATION.—The Secretary of Defense may implement the decision issued on July 1, 2017, to cancel the designation under the Department of Defense Directive 4400.1E, titled "Defense Production Act Programs" and dated October 12, 2001, of the currently assigned Department of Defense Executive Agent for the program carried out under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.).

(3) DESIGNATION OF OTHER EXECUTION OFFICES.— In addition to the execution office described in paragraph (1), the Secretary of Defense may designate one or more additional execution offices within the Department of Defense to implement Defense Production Act transactions entered into under the authority of sections 4021, 4022, and

4023 of title 10, United States Code for the program carried out under title III of the Defense Production Act of 1950 (50 U.S.C. et seq.).

(4) REPEAL OF SUPERSEDED PROVISIONS.—Section 1792 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 132 Stat. 2238; 50 U.S.C. 4531 note) and section 226 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 50 U.S.C. 4531 note) are hereby repealed.

[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

The Defense Production Act of 1950 (DPA) provides the President with the authority to create, maintain, protect, expand, or restore domestic industrial base capabilities essential for the national defense. In an effort to broaden the impact of the DPA, parts of the U.S. Code must be updated to reflect the current national security priorities and advance an agile program. By removing key barriers to the execution of DPA authorities, the industrial base will be better positioned to provide the DoD with critical technology, resulting in increased industrial base readiness and lethality. In addressing the statutory hurdles that limit the DPA, the program will be able to achieve its full potential and create a greater impact.

Section 304(e) [50 U.S.C. 4534(e)] Raising the DPA Fund annual fund balance from $750,000,000 to $1,000,000,000 ensures that the DPA Title III Program will not be penalized for increased and supplemental appropriations. As the DPA authorities are increasingly leveraged to respond to the needs of other agencies as well as the most critical national defense requirements, the balance of the DPA Fund is anticipated to rise accordingly. While the DPA Title III Program always pursues the most expedient path to effort execution, some acquisition or mitigation strategies cannot be completed in the span of a year. As such, the law should be amended to allow for an increased balance so that funds that are appropriated or transferred into the DPA Fund are not returned to the Treasury and are allowed to be utilized for their intended purposes over a period of time.

Section 301 note [Section 1792 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 50 U.S.C. 4531 note)] The designation of the Secretary of the Air Force as the sole and exclusive Department of Defense executive agent for the DPA Title III program unnecessarily constrains the ability of the program to execute efforts in support of national security requirements. The increased appropriations to the program require DoD to use all available contracting mechanisms to expediently obligate funds. By changing the designation of the Secretary of the Air Force as "the sole and exclusive Department of Defense executive agent" to "an execution office for the Department of Defense" and amending the language to allow for additional execution offices for the DPA Title III program,

the Department will be able to leverage additional contracting resources when necessary without having to undertake laborious and time-consuming delegation activities.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/ SAG**	**Program Element (for all RDT&E programs)**
Defense Production Act	393,377	393,377	393,377	337,517	338,048	Defense Production Act Purchases	01	Title III	0902199D8Z
Total	393,377	393,377	393,377	337,517	338,048				

Changes to Existing Law: This proposal would amend section 304 of the Defense Production Act of 1950 (50 U.S.C. 4534 and 4552), section 1792 of Public Law 115–232 (50 U.S.C. 4531 note), and section 226 of Public Law 115–91 (50 U.S.C. 4531 note) as follows:

Section 304 of the Defense Production Act of 1950:

SEC. 304 (50 U.S.C. 4534). DEFENSE PRODUCTION ACT FUND.

(a) **ESTABLISHMENT OF THE FUND**
There is established in the Treasury of the United States a separate fund to be known as the "Defense Production Act Fund" (in this section referred to as the "Fund").

(b) MONEYS IN THE FUND
There shall be credited to the Fund—
(1) all moneys appropriated for the Fund, as authorized by section 711 [4561]; and
(2) all moneys received by the Fund on transactions entered into pursuant to section 303 [4533].

(c) USE OF FUND
The Fund shall be available to carry out the provision and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

(d) DURATION OF FUND
Moneys in the Fund shall remain available until expended.

(e) FUND BALANCE
The Fund balance at the close of each fiscal year shall not exceed $1,000,000,000~~$750,000,000~~, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds $1,000,000,000~~$750,000,000~~, the amount in excess of $1,000,000,000~~$750,000,000~~ shall be paid into the general fund of the Treasury.

(f) FUND MANAGER

The President shall designate a Fund manager. The duties of the Fund manager shall include—

(1) determining the liability of the Fund in accordance with subsection (g);

(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

(g) LIABILITIES AGAINST FUND

When any agreement entered into pursuant to this title after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.

* * * * *

Section 1792 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 50 U.S.C. 4531 note):

~~**SEC. 1792. (50 U.S.C. 4531 NOTE) LIMITATION ON CANCELLATION OF DESIGNATION OF SECRETARY OF THE AIR FORCE AS DEPARTMENT OF DEFENSE EXECUTIVE AGENT FOR A CERTAIN DEFENSE PRODUCTION ACT PROGRAM.**~~

~~(a) LIMITATION ON CANCELLATION OF DESIGNATION.—The Secretary of Defense may not implement the decision, issued on July 1, 2017, to cancel the designation, under Department of Defense Directive 4400.01E, entitled "Defense Production Act Programs" and dated October 12, 2001, of the Secretary of the Air Force as the Department of Defense Executive Agent for the program carried out under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq) until the date specified in subsection (c).~~

~~(b) DESIGNATION.—The Secretary of the Air Force shall continue to serve as the sole and exclusive Department of Defense Executive Agent for the program described in subsection (a) until the date specified in subsection (c).~~

~~(c) DATE SPECIFIED.—The date specified in this subsection is the date of the enactment of a joint resolution or an Act approving the implementation of the decision described in subsection (a).~~

* * * * *

Section 226 of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 50 U.S.C. 4531 note):

~~**SEC. 226. LIMITATION ON CANCELLATION OF DESIGNATION EXECUTIVE AGENT FOR A CERTAIN DEFENSE PRODUCTION ACT PROGRAM.**~~

(a) LIMITATION ON CANCELLATION OF DESIGNATION.—The Secretary of Defense may not implement the decision, issued on July 1, 2017, to cancel the designation, under Department of Defense Directive 4400.1E, entitled "Defense Production Act Programs" and dated October 12, 2001, of the currently assigned Department of Defense Executive Agent for the program carried out under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.), until the Secretary has—

(1) completed the review and assessment required by subsection (b)(1); and

(2) carried out the briefing required by subsection (c).

(b) REVIEW AND ASSESSMENT REQUIRED.—

(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of the Air Force, shall conduct a review and assessment of the program described in subsection (a).

(2) ELEMENTS.—The review and assessment required by paragraph (1) shall include the following:

(A) Assessment of the current management structure for the program, including analysis of the mechanisms for accountability, as well as cost and management controls currently in place.

(B) Analysis of alternatives for proposals to modify that management structure to increase accountability, cost and management controls. Such analysis of alternatives should consider the relative merits of centralization and decentralization, roles of other military departments in program management and contracting, as well as the different roles the Office of the Secretary of Defense might play in management, oversight and execution.

(C) Recommendations for improving the assessment and selection of projects in order to—

(i) ensure that projects selected are appropriate for use of funds appropriated to carry out title III of the Defense Production Act of 1950;

(ii) ensure that sufficient vetting and management controls are in place to ensure a reasonable degree of confidence that project ideas or the companies being supported will be viable; and

(iii) increase overall successful execution for selected projects.

(D) Such other matters as the Secretary considers appropriate.

(c) BRIEFING REQUIRED.—The Secretary shall brief the appropriate Committees of Congress on the findings of the Secretary with respect to the review and assessment conducted under subsection (b).

(d) NOTIFICATION REQUIRED.—In the event the Secretary of Defense decides to cancel the designation, under Department of Defense Directive 4400.1E, entitled ''Defense Production Act Programs'' and dated October 12, 2001, of the currently assigned Department of Defense Executive Agent for the program described in subsection (a), the Secretary shall submit to the appropriate committees of Congress a written notification of such decision at least 60 days before the decision goes into effect.

(e) DESIGNATION OF OTHER EXECUTIVE AGENTS.—Notwithstanding the requirements of this section or section 1792 of the John S. McCain National Defense Authorization Act for Fiscal

~~Year 2019 (50 U.S.C. 4531 note), the Secretary of Defense may designate one or more Executive Agents within the Department of Defense (other than the Executive Agent described in subsection (a)) to implement Defense Production Act transactions entered into under the authority of sections 4021, 4022, and 4023 of title 10, United States Code.~~

~~(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means the—~~

~~(1) the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs of the Senate; and~~

~~(2) the Committee on Armed Services and the Committee on Financial Services of the House of Representatives.~~

* * * * *

SEC. __. PROTECTION FROM UNMANNED AIRCRAFT THREATS.

Section 130i of title 10, United States Code, is amended—

(1) in subsection (e)(4)—

(A) in subparagraph (B), by striking "; or" and inserting a semicolon;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) would support another department or agency of the Federal Government with authority to mitigate the threat of unmanned aircraft or unmanned aircraft systems in mitigating such threats; or";

(2) by redesignating subsections (g) through (j) as subsections (h) through (k), respectively

(3) by inserting after subsection (f) the following new subsection:

"(g) EXEMPTION FROM DISCLOSURE.—Information pertaining to the technology, procedures, and protocols used to carry out this section, including any regulations or guidance issued to carry out this section, shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code, and exempt from disclosure under any State or local law requiring the disclosure of information.";

(4) in subsection (j), as redesignated by paragraph (2) of this section—

(A) in paragraph (1), by striking "subsection (j)(3)(C)""and inserting "subsection (k)(3)(C)"; and

(B) in paragraph (2), by striking "180 days" and inserting "one year"; and

(5) in paragraph (3) of subsection (k) (as so redesignated)—

(A) in clause (viii), by striking "; or" and inserting a semicolon;

(B) in clause (ix), by striking "sections 4173(i) of this title)." and inserting "section 4173(i) of this title);"; and

(C) by adding at the end the following new clauses:

"(x) protection of the buildings, grounds, and property to which the public are not permitted regular, unrestricted access and that are under the jurisdiction, custody, or control of the Department of Defense and the persons on that property pursuant to section 2672 of this title;

"(xi) assistance to Federal, State, or local officials in responding to incidents involving nuclear, radiological, biological, or chemical weapons, or high-yield explosives, or related materials or technologies, including pursuant to section 282 of this title and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288; 42 U.S.C. 5121 et seq);

"(xii) transportation, storage, treatment, and disposal of explosives by the Department pursuant to section 2692(b) of this title; or

"(xiii) emergency response that is limited to a specified timeframe and location.".

[Please 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 amend section 130i of title 10, United States Code, to close critical gaps in the Secretary of Defense's authority to mitigate the threats posed by an unmanned aircraft system (UAS) or unmanned aircraft (UA) to the safety and security of a Department of Defense (DoD) covered facility or asset.

According to the Federal Aviation Administration (FAA), as of July 2022, there were 865,505 registered drones in the United States, including 314,689 commercial drones and

538,172 recreational drones. The FAA projects that more than 2 million UASs will be in circulation in the United States by 2024. The exponential growth in the number of unmanned aircraft in the airspace over and around DoD installations is a matter of increasing concern to DoD. From April 2020 through April 2021, there were 279 reported UAS incidents in vicinity of DoD installations in the United States, while from April 2021 through April 2022, there were 2,014 recorded incidents – a more than 700 percent increase. Negligently or errantly operated UAS can pose a significant flight hazard to DoD air operations. Maliciously operated UAS or UA equipped with sophisticated cameras and other sensors can gather and exfiltrate vital data on DoD forces and activities to adversaries or, at a time of our adversaries' choosing, attack DoD personnel, assets, and facilities.

Section 130i was initially enacted on December 23, 2016. In the more than seven years that have followed, DoD has used the authority deliberately, prudently, and in close collaboration with the FAA and other partners. As a result, DoD's protection of covered facilities and assets caused no serious incidents that threatened the safety and navigability of the national airspace system, caused no harm to people or communities in vicinity of military installations, and prompted no complaints, allegations, or claims against DoD for allegedly using this authority in a manner that violates the Constitution, statutory or regulatory privacy or due process protections, or the privacy protections provided in subsection (e) of section 130i.

This proposal would amend the duration of the extension that the President may grant, pursuant to subsection (i)(2), from 180 days to one year. This proposed change is intended to avoid a gap in authorities that would result from a 180-day extension. A 180-day extension would expire in June, several months before the National Defense Authorization Act for a fiscal year is typically enacted, resulting in a likely significant gap in authority even if Congress intends to extend the authority that year.

The proposal would also amend subsection (e)(4) to authorize the disclosure of UAS and UA communications intercepted, acquired, or accessed in support of a covered reciprocal agreement with another agency of the Federal Government. Currently, DoD is authorized to disclose intercepted, acquired, or accessed UAS and UA communications to other Federal departments and agencies if such a disclosure would fulfill a DoD function, support a civilian law enforcement agency or regulatory agency criminal or civil investigation, or is otherwise required by law or regulation. DoD and other Federal departments and agencies are not authorized to disclose communications to one another for the specific purpose of mitigating a UAS or UA threat to the safety or security of a covered facility or asset or a facility or asset of another Federal department or agency for which that Federal department or agency has authority to mitigate such a threat. This gap in disclosure authority undermines DoD's ability to coordinate and deconflict its actions to mitigate UAS and UA threats with those of its Federal partners and increases the risks associated with undertaking such actions.

The proposal would exempt from disclosure under section 552(b)(3) of title 5, United States Code, or under any State or local law requiring disclosure, information pertaining to the technology, specific procedures, and protocols used under this section. This would reduce the risk of disclosure to potential adversaries of DoD capabilities or vulnerabilities to mitigate the threat that a UAS or UA poses to the safety or security of a covered DoD facility or asset.

The proposal would also add the following new "covered missions":

- "[T]he protection of the buildings, grounds, and property to which the public are not permitted regular, unrestricted access and that are under the jurisdiction, custody, or control of the Department of Defense and the persons on that property pursuant to section 2672 of title 10, United States Code." Authorizing the Secretary of Defense to protect such buildings, grounds, and property would establish approximate parity with Secretary of Homeland Security or Attorney General authorities under section 210G of the Homeland Security Act of 2002 (6 U.S.C. 124n) to protect: the functions of the U.S. Customs and Border Protection, including facilities, aircraft, and vessels, whether moored or underway (clause (i)(I) of section 210G(k)(3)(C) of the Homeland Security Act of 2002 (6 U.S.C. 124n(k)(3)(C)(i)(I)); the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (clause (i)(III) of such section); and the buildings and grounds leased, owned, or operated by or for the Department of Justice (clause (ii)(III) of such section).

- "[A]ssistance to Federal, State, or local officials in responding to incidents involving nuclear, radiological, biological, or chemical weapons, or high-yield explosives, or related materials or technologies, including pursuant to section 282 of this title and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended; 42 U.S.C. §§ 5121 et seq)." Currently, this critical mission is vulnerable to hostile surveillance and targeting by UAS and UA.

- "[T]ransportation, storage, treatment, and disposal of explosives by the Department pursuant to section 2692(b) of this title." This would enable DoD to mitigate the threat posed by UAS and UA against a facility selected for the temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal, State, or local law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal, State, or local agency concerned. This would enable DoD to mitigate the threat posed by UAS and UA against a facility selected for the temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities.

- "[E]mergency response that is limited to a specified timeframe and location." This would establish approximate parity with Secretary of Homeland Security and Attorney General authorities under section 210G of the Homeland Security Act of 2002 (6 U.S.C. 124n) to protect emergency response that is limited to a specified timeframe and location ((clause (iii)(III) of section 210G(k)(3)(C) of the Homeland Security Act of 2002 (6 U.S.C. 124n(k)(3)(C)(iii)(III)). DoD undertakes emergency response activities to respond to incidents affecting military installations and facilities. Such incidents provide adversaries with opportunities to conduct malicious activities using UAS and UA. By including clause (xv), the Secretary of Defense would be able to authorize appropriate precautions and actions to mitigate such malicious activities. Clause (xv) would also enable the

Secretary of Defense to authorize appropriate precautions and actions to mitigate UAS and UA activities by errant or criminal operators.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Air Force	28.9 14.3 11.5	29.5 14.7 11.7	30.1 14.9 11.9	30.1 14.9 11.9	30.1 14.9 11.9	AF O&M AF RDTE AF PROC	01 04 03	O12C 640410 834140	0207522F
Army	9.3 1.6 4.1	9.3 1.6 18.7	9.3 1.6 9.3	9.3 1.6 9.3	9.3 1.6 9.3	Army O&M Army RDTE Army PROC	01 05 02	1SAG 122 FG5 0219AD05 00	0305208A 0604741A 0605531A
Navy	16.9	17.1	17.2	17.2	17.2	Navy O&M, Procurement, RDTE	01 01 04 04 07 04 04	1C6C 1C6C 4B2N 5509 8128 3241 3177	0604636N 0603654N
USMC	12.6	12.8	13.1	13.1	13.1	USMC O&M, Procurement, RDT&E	01 03 07	1A2A 3006 0605520M	0206626M 0206211M 0605520M
Total	99.2	115. 4	107. 4	107. 4	107. 4				

Changes to Existing Law: This proposal would amend section 130i of title 10, United States Code, as follows:

§ 130i. Protection of certain facilities and assets from unmanned aircraft

(a) AUTHORITY.—Notwithstanding section 46502 of title 49, or any provision of title 18, the Secretary of Defense may take, and may authorize members of the armed forces and officers and civilian employees of the Department of Defense with assigned duties that include safety, security, or protection of personnel, facilities, or assets, to take, such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Defense, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Defense shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Defense is subject to forfeiture to the United States.

(d) REGULATIONS AND GUIDANCE.—(1) The Secretary of Defense and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(2)(A) The Secretary of Defense and the Secretary of Transportation shall coordinate in the development of guidance under paragraph (1).

(B) The Secretary of Defense shall coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance or otherwise implementing this section if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

(e) PRIVACY PROTECTION.—The regulations prescribed or guidance issued under subsection (d) shall ensure that—

(1) the interception or acquisition of, or access to, an unmanned aircraft system or communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the fourth amendment to the Constitution and applicable provisions of Federal law;

(2) communications to or from an unmanned aircraft system are intercepted, acquired, or accessed only to the extent necessary to support a function of the Department of Defense;

(3) records of such communications are not maintained for more than 180 days unless the Secretary of Defense determines that maintenance of such records—

(A) is necessary to support one or more functions of the Department of Defense; or

(B) is required for a longer period to support a civilian law enforcement agency or by any other applicable law or regulation; and

(4) such communications are not disclosed outside the Department of Defense unless the disclosure—

(A) would fulfill a function of the Department of Defense;

(B) would support a civilian law enforcement agency or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory action with regard to, an action described in subsection (b)(1); ~~or~~

(C) would support another department or agency of the Federal Government with authority to mitigate the threat of unmanned aircraft or unmanned aircraft systems in mitigating such threats; or

~~(C)~~(D) is otherwise required by law or regulation.

(f) EXEMPTION FROM DISCLOSURE.—Information pertaining to the technology, procedures, and protocols used to carry out this section, including any regulations or guidance issued to carry out this section, shall be exempt from disclosure under section 552(b)(3) of title 5, United States Code, and exempt from disclosure under any State or local law requiring the disclosure of information.

~~(f)~~(g) BUDGET.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2018, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Defense. The funding display shall be in unclassified form, but may contain a classified annex.

~~(g)~~(h) SEMIANNUAL BRIEFINGS.—(1) On a semiannual basis during the five-year period beginning March 1, 2018, the Secretary of Defense and the Secretary of Transportation, shall jointly provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section. Such briefings shall include—

(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

(B) a description of instances where actions described in subsection (b)(1) have been taken;

(C) how the Secretaries have informed the public as to the possible use of authorities under this section; and

(D) how the Secretaries have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

(2) Each briefing under paragraph (1) shall be in unclassified form, but may be accompanied by an additional classified briefing.

~~(h)~~(i) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49; and

(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under this title.

~~(i)~~(j) PARTIAL TERMINATION.—(1) Except as provided by paragraph (2), the authority to carry out this section with respect to the covered facilities or assets specified in clauses (iv) through (viii) of subsection ~~(j)(3)(C)~~ (k)(3)(C) shall terminate on December 31, 2026.

(2) The President may extend by ~~180 days~~ one year the termination date specified in paragraph (1) if before November 15, 2026, the President certifies to Congress that such extension is in the national security interests of the United States.

~~(j)~~(k) DEFINITIONS.—In this section:

(1) The term "appropriate congressional committees" means—

(A) the congressional defense committees;

(B) the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate; and

(C) the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(3) The term "covered facility or asset" means any facility or asset that—

(A) is identified by the Secretary of Defense, in consultation with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section;

(B) is located in the United States (including the territories and possessions of the United States); and

(C) directly relates to the missions of the Department of Defense pertaining to—

(i) nuclear deterrence, including with respect to nuclear command and control, integrated tactical warning and attack assessment, and continuity of government;

(ii) missile defense;

(iii) national security space;

(iv) assistance in protecting the President or the Vice President (or other officer immediately next in order of succession to the office of the President) pursuant to the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);

(v) air defense of the United States, including air sovereignty, ground-based air defense, and the National Capital Region integrated air defense system;

(vi) combat support agencies (as defined in paragraphs (1) through (4) of section 193(f) of this title);

(vii) special operations activities specified in paragraphs (1) through (9) of section 167(k) of this title;

(viii) production, storage, transportation, or decommissioning of high-yield explosive munitions, by the Department; ~~or~~

(ix) a Major Range and Test Facility Base (as defined in ~~sections~~ section 4173(i) of this title)~~.~~;

(x) protection of the buildings, grounds, and property to which the public are not permitted regular, unrestricted access and that are under the jurisdiction, custody, or control of the Department of Defense and the persons on that property pursuant to section 2672 of this title;

(xi) assistance to Federal, State, or local officials in responding to incidents involving nuclear, radiological, biological, or chemical weapons, or high-yield explosives, or related materials or technologies, including pursuant to section 282 of this title and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288; 42 U.S.C. 5121 et seq);

(xii) transportation, storage, treatment, and disposal of explosives by the Department pursuant to section 2692(b) of this title; or

(xiii) emergency response that is limited to a specified timeframe and location.

(4) The term "defense budget materials", with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(5) The terms "electronic communication", "intercept", "oral communication", and "wire communication" have the meanings given those terms in section 2510 of title 18.

(6) The terms "unmanned aircraft" and "unmanned aircraft system" have the meanings given those terms in section 44801 of title 49.

SEC. ___. AUTHORITY TO REIMBURSE NATIONAL GUARD AND RESERVE SALARIES FOR CERTAIN ACTIVITIES IN SUPPORT OF THE DEPARTMENT OF STATE.

Section 503(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2311(a)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "(a) The" and inserting "(a)(1) The";

(3) in the matter following subparagraph (C) (as redesignated by paragraph (1) of this section), by striking "Sales which" and inserting the following:

"(2) Sales that"; and

(4) in paragraph (2) (as designated by paragraph (3) of this section)—

(A) by striking "paragraph (3)" and inserting "paragraph (1)(C)"; and

(B) by striking "United States" and all that follows through the period at the end and inserting the following: "United States other than members of—

"(A) the Coast Guard; and

"(B) the reserve components of the Army, Navy, Air Force, and Marine Corps who are ordered to active duty pursuant to chapter 1209 of title 10, United States Code, and at the request of the Secretary of State.".

[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 allow funds to be made available for foreign assistance to reimburse the pay and allowances of reserve component personnel (i.e., National Guard and non-National Guard Reserve personnel) while they are training foreign forces as part of foreign assistance activities at the request of the Secretary of State. Section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311) prohibits security assistance funding from being used to reimburse the

salaries and benefits of the Armed Forces of the United States. This generally prevents the Army from calling reserve component personnel (i.e., National Guard and non-National Guard Reserve personnel) to active duty to support grant-funded international training missions when active component personnel are unavailable, forcing the Army to contract civilian companies to conduct the training missions instead. Consequently, reserve component personnel are not available to conduct such training for Foreign Military Financing (FMF)-funded cases.

Allowing the Department of State to fund the pay and allowances of reserve component personnel would provide more flexible and cost-effective options to the Department of Defense to conduct many funded training programs. Active-duty military personnel are frequently unavailable to conduct training requested by allies and partners; therefore, the only option currently available for FMF-funded training is to have it delivered by private contractors at a significant cost (typically costing at least 50 percent more than active-duty personnel). Moreover, relying on contract support precludes the establishment of a lasting relationship between U.S. and foreign partner forces. Reserve component personnel have considerable experience conducting training as part of security assistance programs, as they provide support regularly under traditional Foreign Military Sales (FMS) cases that are funded by the FMS customer.

If this proposal is enacted, the Department of State and the Department of Defense (DoD) would develop standards to govern its use. Specifically, Department of State and DoD intend to limit its use to only those circumstances where 1) active-duty military are not available to conduct the required training and/or 2) it is otherwise in the interest of foreign policy for reserve component personnel to provide the training. The latter circumstance is likely to arise where a National Guard or Reserve unit has an ongoing relationship with a particular foreign security force.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/ SAG**	**Program Element (for all RDT&E programs)**
Army	-1.5	-1.5	-1.6	-1.6	-1.6	MILPERS, Army	01/02	N/A	N/A
Air Force	-.1	-.1	-.1	-.1	-.1	MILPERS, Air Force	01/02	N/A	N/A
Navy	-.8	-.8	-.8	-.9	-.9	MILPERS, Navy	01/02	N/A	N/A
Defense Security Cooperation Agency	+2.4	+2.4	+2.4	+2.6	+2.6	Foreign Military Financing-(FMF) 1082		N/A	N/A
Total	0	0	0	0	0	---	---	---	---

Changes to Existing Law: This proposal would amend section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311) as follows:

SEC. 503. GENERAL AUTHORITY.—(a)(1) The President is authorized to furnish military assistance, on such terms and conditions as he may determine, to any friendly country or international organization, the assisting of which the President finds will strengthen the security of the United States and promote world peace and which is otherwise eligible to receive such assistance, by—

(~~1~~A) acquiring from any source and providing (by loan or grant) any defense article or defense service;

(~~2~~B) assigning or detailing members of the Armed Forces of the United States and other personnel of the Department of Defense to perform duties of a non-combatant nature; or

(~~3~~C) transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient country, to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act.

(2) Sales ~~which~~ that are wholly paid from funds transferred under ~~paragraph (3)~~ paragraph (1)(C) or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act shall be priced to exclude the costs of salaries of members of the Armed Forces of the ~~United States (other than the Coast Guard).~~ United States other than members of—

(A) the Coast Guard; and

(B) the reserve components of the Army, Navy, Air Force, and Marine Corps who are ordered to active duty pursuant to chapter 1209 of title 10, United States Code, and at the request of the Secretary of State.

SEC. ___. REMOTE APPEARANCE BEFORE A BOARD OF INQUIRY.

(a) REGULAR OFFICERS.—Section 1185 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by striking "shall be" and inserting "subject to subsection (c), shall be"; and

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

"(c) The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via a means other than in person.".

(b) RESERVE OFFICERS.—Section 14904 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by striking "shall be" and inserting "subject to subsection (c), shall be"; and

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

"(c) REMOTE APPEARANCE.—The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via a means other than in person.".

[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 allow the Secretaries of the military departments to permit, in exceptional circumstances, alternative forms of appearance before a board of inquiry, such as video teleconferencing, by removing the statutory right of an officer required to show cause for retention to appear "in person" before the board of inquiry. The COVID-19 pandemic demonstrated that the current statute does not provide sufficient flexibility to conduct boards of inquiry in situations concerning the life, safety, and the health of the Service member. When the current statute was enacted in 1980, video teleconferencing technology was in its infancy. Since then, video teleconference has been widely adopted as an acceptable form of appearance before comparable administrative bodies, such as the Equal Employment Opportunity Commission and the Merit System Protection Board.

With the proliferation of modern and reliable video teleconferencing technology, the military departments are now technologically capable of providing a respondent with a fair and impartial hearing without appearing in person.

This proposal would particularly benefit board of inquiry hearings for reserve component officers, where board members are often non-local. Additionally, officer separation procedures have historically mirrored enlisted separation procedures to the greatest extent practicable. This proposal would enable services to mirror enlisted procedures, where right to appear in person is not codified in statute.

Resource Information: This proposal has no significant impact on resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would amend sections 1185 and 14904 of title 10, United States Code, as follows:

§ 1185. Rights and procedures

(a) Under regulations prescribed by the Secretary of Defense, each officer required under section 1181 of this title to show cause for retention on active duty—

(1) shall be notified in writing, at least 30 days before the hearing of his case by a board of inquiry, of the reasons for which he is being required to show cause for retention on active duty;

(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare his showing of cause for his retention on active duty;

(3) <u>subject to subsection (c),</u> shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to his case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

(b) When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

<u>(c) The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via a means other than in person.</u>

§ 14904. Rights and procedures

(a) PROCEDURAL RIGHTS.—Under regulations prescribed by the Secretary of Defense, an officer required under section 14902 of this title to show cause for retention in an active status—

(1) shall be notified in writing, at least 30 days before the hearing of the officer's case by a board of inquiry, of the reasons for which the officer is being required to show cause for retention in an active status;

(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare for showing of cause for retention in an active status;

(3) subject to subsection (c), shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

(4) shall be allowed full access to, and shall be furnished copies of, records relevant to the case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

(c) REMOTE APPEARANCE.—The Secretary concerned may determine that, in exceptional circumstances, the appearance of an officer before the proceedings of a board of inquiry may be via a means other than in person.

SEC. ___. RETENTION AND CREDITING OF FUNDS RECEIVED AS REIMBURSEMENT FOR USE OF PROPERTY ISSUED TO THE NATIONAL GUARD DURING A STATE-DIRECTED MISSION.

Section 710 of title 32, United States Code, is amended—

(1) in subsection (d), by striking "The proceeds of the following" and all that follows; and

(2) by adding at the end the following new subsections:

"(g) CREDITING OF RECEIPTS FOR SURVEYED PROPERTY.—

"(1) IN GENERAL.—Amounts received under this section from—

"(A) a member of the National Guard shall be deposited into the Treasury as miscellaneous receipts; and

"(B) a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be credited, at the discretion of the Secretary of Defense, to appropriations currently available to maintain, repair, or replace such lost, damaged, or destroyed property.

"(2) CREDITING OF RECEIPTS.—Proceeds from the disposition of unserviceable or unsuitable property surveyed under subsection (d) shall be credited to appropriations currently available to replace such lost, damaged, or destroyed property.

"(h) UNREIMBURSED EXPENSES RESULTING FROM USE OF MILITARY PROPERTY.—

(1) AUTHORITY TO ASSESS CHARGES.—Charges may be assessed to recover expenses incurred or that may be incurred by the United States as a result of use of military property during a mission directed or requested by a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands.

"(2) EXCEPTION TO AUTHORITY TO ASSESS CHARGES—Charges under paragraph (1) may not be assessed if appropriations of the Department of Defense are reimbursed for such expenses by other Federal funds.

"(3) CREDITING AND USE OF RECEIPTS.—Amounts collected under paragraph (1) shall be credited to appropriations of the Department of Defense available for operating, maintaining, equipping, or supplying the Army National Guard or the Air National Guard, and may be used without further specific authorization in law.".

[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 provide a significant, positive impact on Federal training and readiness levels. Retaining reimbursement of costs incurred while Federal equipment and property are utilized for State-directed[1] missions would ensure available funding for maintenance, repair, and replacement costs when needed. Equipment and property will remain ready for the National Guard (NG) Federal mission.

State Adjutants General have the authority to use Federal equipment and property during State-directed missions, and the U.S. Property and Fiscal Officers (USPFOs) have the responsibility to obtain reimbursement for loss, damage, and destruction associated with the use of such equipment and property.

When Governors or State Adjutants General utilize NG equipment and property in State-directed missions responding to disasters such as floods, fires, hurricanes, and/or other State missions, the Federal Government is required to obtain reimbursement from State and territorial governments for loss, damage, and destruction associated with the use of such equipment and property. Reimbursements are received by the USPFO and deposited to the General Fund of the U.S. Treasury in accordance with the Miscellaneous Receipts Statute (31 U.S.C. § 3302). Because the funds are not deposited into Department of Defense accounts, National Guard units are not able promptly to maintain, repair, or replace lost, damaged, or destroyed equipment used for State-directed missions.

This issue was addressed in the report on State-directed missions provided to the House Committee on Armed Services as requested on page 97 of House Report 116-120 accompanying H.R. 2500, the National Defense Authorization Act for Fiscal Year 2020.

[1] Missions directed or requested by a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the U.S. Virgin Islands.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal. The legislative proposal (LP) provides for depositing payments for costs incurred by the Department of Defense associated with the loss or destruction of, or damage to, equipment and property issued to a State or territory during State-directed missions that currently are deposited in the U.S. Treasury. From FY 2017 to FY 2021, approximately $179M in reimbursements was collected by USPFOs from State and territorial governments for loss, damage, and destruction associated with the use of Federal equipment and property.

RESOURCE IMPACT ($MILLIONS)														
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**FY 2032**	**FY 2033**	**FY 2034**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Reimbursement	41.4	42.3	43.2	44.1	45.0	45.9	46.8	47.7	48.7	49.7	Operation and Maintenance, Army National Guard	1	111G / 116G	
Reimbursement	4.6	4.7	4.8	4.9	5.0	5.1	5.2	5.3	5.4	5.6	Operation and Maintenance, Air National Guard	1	011Z	
Total	46.0	47.0	48.0	49.0	50.0	51.0	52.0	53.0	54.1	55.3				

** The calculation of resource impact: The annual impact is the average of actual reimbursements from FY17 to FY21 and applies the standard inflation rate of 2% per year.*

Changes to Existing Law: This proposal would amend section 710 of title 32, United States Code, as follows:

§710. Accountability for property issued to the National Guard

(a) All military property issued by the United States to the National Guard remains the property of the United States.

(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for

property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be paid from its funds or from any other non-Federal funds.

(d) If property surveyed under this section is found to be unserviceable or unsuitable, the Secretary concerned or his designated representative shall direct its disposition by sale or otherwise. ~~The proceeds of the following under this subsection shall be deposited in the Treasury under section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934~~

~~(1) A sale.~~

~~(2) A stoppage against a member of the National Guard.~~

~~(3) A collection from a person, or from a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, to reimburse the United States for the loss or destruction of, or damage to, the property.~~

(e) If a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, neglects or refuses to pay for the loss or destruction of, or damage to, property charged against it under subsection (c), the Secretary concerned may bar it from receiving any part of appropriations for the Army National Guard or the Air National Guard, as the case may be, until the payment is made.

(f)(1) Instead of the procedure prescribed by subsections (b), (c), and (d), property issued to the National Guard that becomes unserviceable through fair wear and tear in service may, under regulations to be prescribed by the Secretary concerned, be sold or otherwise disposed of after an inspection, and a finding of unserviceability because of that wear and tear, by a commissioned officer designated by the Secretary. The State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, is relieved of accountability for that property.

(2) In designating an officer to conduct inspections and make findings for purposes of paragraph (1), the Secretary concerned shall designate-

(A) in the case of the Army National Guard, a commissioned officer of the Regular Army or a commissioned officer of the Army National Guard who is also a commissioned officer of the Army National Guard of the United States; and

(B) in the case of the Air National Guard, a commissioned officer of the Regular Air Force or a commissioned officer of the Air National Guard who is also a commissioned officer of the Air National Guard of the United States.

(g) CREDITING OF RECEIPTS FOR SURVEYED PROPERTY.—

(1) IN GENERAL.—Amounts received under this section from—

(A) a member of the National Guard shall be deposited into the Treasury as miscellaneous receipts; and

(B) a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be credited, at the discretion of the Secretary of Defense, to appropriations currently available to maintain, repair, or replace such lost, damaged, or destroyed property.

(2) CREDITING OF RECEIPTS.—Proceeds from the disposition of unserviceable or unsuitable property surveyed under subsection (d) shall be credited to appropriations currently available to replace such lost, damaged, or destroyed property.

(h) UNREIMBURSED EXPENSES RESULTING FROM USE OF MILITARY PROPERTY.—

(1) AUTHORITY TO ASSESS CHARGES.—Charges may be assessed to recover expenses incurred or that may be incurred by the United States as a result of use of military property during a mission directed or requested by a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands.

(2) EXCEPTION TO AUTHORITY TO ASSESS CHARGES.—Charges under paragraph (1) may not be assessed if appropriations of the Department of Defense are reimbursed for such expenses by other Federal funds.

(3) CREDITING AND USE OF RECEIPTS.—Amounts collected under paragraph (1) shall be credited to appropriations of the Department of Defense available for operating, maintaining, equipping, or supplying the Army National Guard or the Air National Guard, and may be used without further specific authorization in law.

SEC. ___. INCREASE IN LIMITATION ON NUMBER OF RETIRED MEMBERS THAT MAY BE ORDERED TO ACTIVE DUTY.

Section 690(b)(1) of title 10, United States Code, is amended by striking "25 officers" and inserting "50 officers".

[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 690 of title 10, United States Code, to increase the number of officers of any one Armed Force that many be serving on active duty pursuant to orders to active duty issued under section 688 of title 10 from not more than 25 to not more than 50.

The Navy in particular has a continued need to retain highly qualified and experienced officers who are technical, operational, area, or policy experts on active duty. For example, the Navy fluctuates from about 100 to 200 Captains under the authorized limit for Navy Captains each year. A modest increase in the authority to retain retired members will allow the Navy to fill critical gaps with highly qualified technical experts and allow the services flexibility to address gaps during times of lower retention.

Resource Information: This proposal has no impact on resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would make the following changes to section 690 of title 10, United States Code:

§ 690. Retired members ordered to active duty: limitation on number

(a) GENERAL AND FLAG OFFICERS.—Not more than 15 retired general officers of the Army, Air Force, Marine Corps, or Space Force and not more than 15 retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of 60 days or less is not counted.

(b) LIMITATION BY SERVICE.—(1) Not more than ~~25~~ 50 officers of any one armed force may be serving on active duty concurrently pursuant to orders to active duty issued under section 688 of this title.

(2) In the administration of paragraph (1), the following officers shall not be counted:

(A) A chaplain who is assigned to duty as a chaplain for the period of active duty to which ordered.

(B) A health care professional (as characterized by the Secretary concerned) who is assigned to duty as a health care professional for the period of the active duty to which ordered.

(C) Any officer assigned to duty with the American Battle Monuments Commission for the period of active duty to which ordered.

(D) Any member of the Retiree Council of the Army, Navy, or Air Force for the period on active duty to attend the annual meeting of the Retiree Council.

(E) An officer who is assigned to duty as a defense attaché or service attaché for the period of active duty to which ordered.

(c) WAIVER FOR PERIODS OF WAR OR NATIONAL EMERGENCY.—Subsection (a) does not apply in time of war or of national emergency declared by Congress or the President after November 30, 1980. Subsection (b) does not apply in time of war or of national emergency declared by Congress or the President.

SEC. ___. REVISION OF AUTHORIZATION LEVELS FOR RAPID ACQUISITION AUTHORITY CATEGORIES A AND B.

Section 3601(c)(3) of title 10, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking "Subject to subparagraph (C), in" and inserting "In";

(B) by striking "with respect to a capability"; and

(C) by striking "to urgently acquire and deploy such capability or immediately initiate such project, respectively,";

(2) in subparagraph (B)—

(A) by striking "Except as provided under subparagraph (C), the" and inserting "The"; and

(B) in each of clauses (i) and (ii), by striking "$200,000,000" and inserting "$300,000,000"; and

(3) by redesignating subparagraph (C) as subparagraph (D and inserting after subparagraph (B) the following new subsection:

"(C) For each fiscal year, the limits set forth in clauses (i) and (ii) of subparagraph (B) do not apply to the exercise of authority under such clauses if the total amount of capabilities acquired as provided under such subparagraph does not exceed $850,000,000 during such fiscal year.".

[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 3601(c)(3) of title 10, United States Code, to closely align rapid acquisition authority (RAA) authorization for Categories A and B with the Bureau of

Labor Statistics' 28.7% cumulative price index increase over the past seven years[1]. This amendment ensures that authorization levels in the two most critical RAA categories of the Department of Defense (DoD) are in line with price increases and that DoD has the appropriate flexibility to respond to Combatant Commander critical needs into the future.

This legislative proposal would revise section 3601 of title 10, United States Code, as follows:

The amendments to each of subsections (c)(3)(B)(i) and (c)(3)(B)(ii) of such section would revise the funding authority from $200,000,000 to $300,000,000.

The proposal would insert a new subparagraph (C) into subsection (c)(3) of such section that would provide permanent authority to increase the limitations established in clauses (i) and (ii) of subsection (c)(3)(B). This flexibility in authority would enable the Department to quickly address its most urgent operational needs within a highly complex operational environment without exceeding the $850,000,000 ceiling set by Congress.

The proposal would redesignate current subsection (c)(3)(C) of such section as subsection (c)(3)(D.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. It addresses authorities associated with fulfilling the urgent needs of the warfighter and authority to use any existing funds available to the Department in support of such urgent needs.

Changes to Existing Law: This proposal would amend section 3601 of title 10, United States Code, as follows:

§3601. Procedures for urgent acquisition and deployment of capabilities needed in response to urgent operational needs or vital national security interest

(a) ***

(c) RESPONSE TO COMBAT EMERGENCIES AND CERTAIN URGENT OPERATIONAL NEEDS.—

* * * * *

(3) USE OF FUNDS.—(A) ~~Subject to subparagraph (C), i~~In any fiscal year in which the Secretary of Defense makes a determination described in subparagraph (A), (B), or (C) of paragraph (1)~~ with respect to a capability~~, or upon the Secretary making a determination that funds are necessary to immediately initiate a project under a section 804 rapid acquisition pathway based on a compelling national security need, the Secretary may use any funds available to the Department of Defense ~~to urgently acquire and deploy such capability or immediately initiate such project, respectively,~~ if the determination includes a written finding that the use of such funds is necessary to address in a timely manner the deficiency documented or identified

[1] Bureau of Labor Statistics CPI Inflation Calculator, https://www.bls.gov/data/inflation_calculator.htm

under such subparagraph (A), (B), or (C) or the compelling national security need identified for purposes of such section 804 pathway, respectively.

(B) Except as provided under subparagraph (C), t~~T~~he authority provided by this section may only be used to acquire capability—

(i) in the case of determinations by the Secretary under paragraph (1)(A), in an amount aggregating not more than $~~2~~300,000,000 during any fiscal year;

(ii) in the case of determinations by the Secretary under paragraph (1)(B), in an amount aggregating not more than $~~2~~300,000,000 during any fiscal year;

(iii) in the case of determinations by the Secretary under paragraph (1)(C), in an amount aggregating not more than $200,000,000 during any fiscal year; and

(iv) in the case of a determination by the Secretary that funds are necessary to immediately initiate a project under a section 804 rapid acquisition pathway, in an amount aggregating not more than $50,000,000 during any fiscal year.

(C) For each fiscal year, the limits set forth in clauses (i) and (ii) of subparagraph (B) do not apply to the exercise of authority under such clauses if the total amount of capabilities acquired as provided under such subparagraph does not exceed $850,000,000 during such fiscal year.

(D~~C~~) In exercising the authority under this section—

(i) none of the amounts appropriated for Operation and Maintenance may be used to carry out this section except for amounts appropriated for—

(I) Operation and Maintenance, Defense-wide;
(II) Operation and Maintenance, Army;
(III) Operation and Maintenance, Navy;
(IV) Operation and Maintenance, Marine Corps;
(V) Operation and Maintenance, Air Force; or
(VI) Operation and Maintenance, Space Force; and

(ii) when funds are utilized for sustainment purposes, this authority may not be used for more than 2 years.

* * * * *

SEC. ___. REVISIONS TO UNSPECIFIED MINOR MILITARY CONSTRUCTION AUTHORITIES.

(a) UNSPECIFIED MINOR MILITARY CONSTRUCTION COST THRESHOLD.—Subsection (a)(2) of section 2805 of title 10, United States Code, is amended by striking "$9,000,000" and inserting "$12,000,000".

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—Subsection (b)(2) of such section is amended by striking "$4,000,000" and inserting "the amount specified in subsection (c)".

(c) LABORATORY REVITALIZATION COST THRESHOLDS.—Subsection (d) of such section is amended by striking "$9,000,000" each place it appears and inserting "$12,000,000".

(d) AREA CONSTRUCTION COST INDICES.—Paragraph (1) of subsection (f) of such section is amended by striking "$14,000,000" and inserting "200 percent of the amount specified in subsection (a)(2)" .

(e) EXTENSION OF AUTHORITY.—Subsection (u) of section 2208 of title 10, United States Code, is amended by striking paragraph (4).

[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

Section 2805 of title 10, United States Code, provides the Department of Defense (DoD) authority to carry out unspecified minor construction projects below prescribed dollar cost limits without specified project authorization from Congress, which is required for projects with costs exceeding those limits.

This proposal would adjust the current cost limit to address fiscal pressure resulting from rapidly increasing inflation within the global construction market. Because of this reality, unspecified minor military construction (UMMC) and Laboratory Revitalization Demonstration Program (LRDP) projects once falling within the current $9,000,000 cost limit now exceed that limit and are outside use of this authority, resulting in an inability to quickly and satisfactorily meet increasing, dynamic mission demands.

Viable UMMC and LRDP programs provide a responsive construction capability. This capability is critical for bases and LRDP locations to implement modernization projects needed for rapidly evolving requirements. Example requirements include replacement of aged and

degraded facilities, theater-specific infrastructure (INDOPACOM, EUCOM, and AFAFRICA), child development center additions, base entry control points, dining facility additions, and other construction projects supporting vital missions. Example LRDP requirements include activities such as Rapid Phototyping, Integration & Interoperability, Common Systems and Systems of Systems Development, Systems Integration, Cyber, Unmanned Capabilities, and Directed Energy projects. Increasing the UMMC and LRDP statutory cost limit to $12,000,000 will provide the Secretary concerned continued flexibility to fully exercise the intended benefit of the authorities in section 2805 of title 10, United States Code, in support of mission requirements into the future.

Subsection (a) of the proposal would increase the statutory threshold under 10 U.S.C. 2805(a)(2) from $9,000,000 to $12,000,000.

Subsection (b) of the proposal would amend 10 U.S.C. 2805(b)(2) to reference the cost limit for unspecified minor military construction funded with appropriations available for operation and maintenance in 10 USC 2805(c) rather than using a specified notification limit. This makes future changes to the notification automatic when the 10 U.S.C. 2805(c) cost limit increases.

Subsection (c) of the proposal would amend the LRDP authorities under 10 U.S.C. 2805(d) to increase the statutory cost limit from $9,000,000 to $12,000,000.

Subsection (d) of the proposal would amend the authority under 10 U.S.C. 2805(f) relating to area construction cost indices by increasing the cost limit to 200% of the cost limit in subsection (a)(2) of section 2805. Increasing this limit is essential if the Area Cost Factors are to be useful at high-cost locations. If the UMMC limit were increased to $12M and the ACF limit remained at $14M, the maximum ACF adjustment would be 1.16. This would significantly constrain the use of the UMMC authority. Tables 1 and 2 list the ACFs by location. Any location with an ACF more than 1.16 would not receive a full cost adjustment if the threshold is not increased. Increasing the limit to 200% of the amount in subsection (a)(2) of 10 USC 2805 increases the maximum ACF to 2. Many of the highest cost locations are critical to missions directly supporting the National Defense Strategy. Using this wording also sets the Area Cost Factor cost limit to adjust any time the unspecified minor military construction cost limit adjusts.

Table 1: ACFs in the U.S. and specific territories currently required by 10 U.S.C. section 2805(f)

State or Territory	Count	Min ACF	Max ACF	State or Territory	Count	Min ACF	Max ACF
Alabama	362	0.79	0.86	Montana	361.00	1.06	1.12
Alaska	202	2.13	4.17	Nebraska	264.00	0.90	0.96
American Samoa	3	2.62	2.62	Nevada	218.00	1.12	1.25
Arizona	228	0.91	1.07	New Hampshire	89.00	1.08	1.08
Arkansas	201	0.91	0.93	New Jersey	218.00	1.18	1.24
California	1152	1.11	1.92	New Mexico	160.00	0.91	1.01
Colorado	313	1.02	1.46	New York	525.00	1.03	1.36
Connecticut	111	1.09	1.19	North Carolina	492.00	0.86	1.00
Delaware	48	1.1	1.13	North Dakota	269.00	1.08	1.17
District of Columbia	36	1.04	1.04	Northern Mariana Islands	15.00	3.60	3.60
Florida	763	0.79	0.97	Ohio	470.00	0.94	1.00
Georgia	361	0.78	0.99	Oklahoma	316.00	0.90	0.96
Guam	91	2.75	2.75	Oregon	240.00	1.13	1.22
Hawaii	203	2.03	2.63	Pennsylvania	535.00	1.01	1.18
Idaho	176	0.94	1.08	Puerto Rico	99.00	1.21	1.28
Illinois	367	0.99	1.23	Rhode Island	77.00	1.12	1.18
Indiana	299	0.89	1.01	South Carolina	269.00	0.89	1.01
Iowa	217	0.97	1.08	South Dakota	140.00	0.94	1.01
Johnston Atoll	1	4.2	4.2	Tennessee	295.00	0.83	0.91
Kansas	175	0.87	1.05	Texas	986.00	0.87	1.06
Kentucky	196	0.88	1.01	US Virgin Islands	3.00	1.95	1.95
Louisiana	259	0.85	0.94	Utah	247.00	1.07	1.16
Maine	129	1.05	1.23	Vermont	68.00	0.98	1.03
Marshall Islands	11	4.2	4.2	Virginia	514.00	0.87	1.11
Maryland	260	0.94	1.08	Wake Island	1.00	4.20	4.20
Massachusetts	259	1.13	1.25	Washington	372.00	1.06	1.27
Michigan	370	1.01	1.03	West Virginia	163.00	0.94	1.26
Minnesota	319	1.09	1.11	Wisconsin	329.00	1.09	1.13
Mississippi	425	0.77	0.84	Wyoming	157.00	1.01	1.03
Missouri	342	0.93	1.08				

- Table 1 Source: UFC 3-701-01 with Change 3, 26 July 2023

Table 2: ACFs outside the U.S. and specific territories currently excluded from title 10 U.S.C. section 2805(f)

Location	Count	Min ACF	Max ACF	Location	Count	Min ACF	Max ACF
Afghanistan	2	1.45	1.45	Iraq	3	1.15	1.15
Albania	1	0.71	0.71	Israel	2	0.85	0.85
Antigua and Barbuda	1	1.95	1.95	Italy	65	0.86	0.93
Aruba	1	1.95	1.95	Japan	126	1.83	2.07
Australia	11	1.36	1.36	Kenya	1	1.16	1.16
Bahrain	14	0.95	0.95	Kuwait	21	0.96	0.96
Belgium	18	0.72	0.76	Latvia	1	0.78	0.78
Bulgaria	2	0.72	0.72	Lithuania	1	0.74	0.74
Burkina Faso	6	1.95	1.95	Netherlands	9	0.95	0.95
Cambodia	1	0.95	0.95	Netherlands Antilles	1	1.95	1.95
Canada	3	1.06	1.17	Norway	2	1.68	1.68
Colombia	8	0.66	0.66	Oman	4	1.12	1.12
Costa Rica	1	1.01	1.01	Peru	4	0.86	0.86
	1	0.61	0.61	Philippines	1	1.06	1.06
Cuba	1	2.32	2.32	Poland	12	1.00	1.00
Cyprus	1	0.79	0.79	Portugal	21	0.96	0.96
Denmark	2	0.76	0.76	Qatar	5	1.02	1.02
Diego Garcia	1	6.23	6.23	Romania	9	0.69	0.69
Djibouti	1	1.51	1.51	Saint Helena	1	1.95	1.95
Egypt	2	0.87	0.87	Saudi Arabia	1	1.12	1.12
El Salvador	1	1.01	1.01	Singapore	4	1.57	1.57
Estonia	1	0.95	0.95	South Korea	84	0.94	1.05
Georgia Republic	1	0.95	0.95	Spain	4	0.96	0.96
Germany	152	0.74	0.80	Thailand	1	0.77	0.77
Greece	9	0.79	1.97	Turkey	19	0.76	0.81
Greenland	1	5.65	5.65	United Arab Emirates	5	1.01	1.01
Honduras	4	0.76	0.76	United Kingdom	47	1.05	1.06
Hong Kong	1	0.77	0.77	Virgin Islands	10	1.95	1.95
Iceland	2	1.68	1.68				

- Table 2 Source: UFC 3-701-01 with Change 3, 26 July 2023

Subsection (e) extends the authority to use Depot Working Capital Funds (DWCF) for UMMC projects. This authority expires on September 25, 2025. Although Air Force depots receive funding for new weapon system bed-downs (F-35, KC-46, etc.), they have not received any legacy mission MILCON funding since 2011. According to recent GAO audits, numerous DoD Organic Depot facilities are rated as poor or failing. The DOD continues to expend more

funds to repair existing aged facilities versus constructing new facilities using DWCF or other authorities.

MILCON projects are highly competitive, and funding remains scarce, so it is imperative to retain the current ability to use DWCF to fund UMMC projects beyond the current end date for this authority. Making the authority permanent will allow future projects at DoD depots, shipyards, and arsenals to be funded without requiring unspecified minor military construction funds.

Resource Implications: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. There are no general budgetary impacts expected with the proposed changes to section 2805 of title 10, U.S.C. Rather, projects that fall within the new project thresholds will be able to compete for existing UMMC funding. The DWCF proposal impacts the use of resources; the magnitude of the impact can be mitigated with standard financial/budgeting practices. Resources affected by this proposal should be included within the approved Fiscal Year (FY) President's Budget request prior to beginning the specific UMMC project. This would be authority within the existing 6% reinvestment program and thus included within the depot maintenance rate structure as worked in the Air Force budget planning process.

Changes to Existing Law: This proposal would amend sections 2208 and 2805 of title 10, United States Code, as follows:

Title 10, United States Code:

§2208. Working-capital funds

* * * * *

(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 of this title.

(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, 2025.~~

* * * * *

§ 2805. Unspecified minor construction

(a) AUTHORITY TO CARRY OUT UNSPECIFIED MINOR MILITARY CONSTRUCTION PROJECTS.—

(1) Within an amount equal to 125 percent of the amount authorized by law for such purpose, the Secretary concerned may carry out unspecified minor military construction projects not otherwise authorized by law.

(2) An unspecified minor military construction project is a military construction project or a demolition project that has an approved cost equal to or less than ~~$9,000,000~~$12,000,000.

(3) Notwithstanding the requirements of this section, the Secretary concerned may use amounts authorized pursuant to another law or regulation to carry out a demolition project described in paragraph (2).

(b) APPROVAL AND CONGRESSIONAL NOTIFICATION.—

(1) An unspecified minor military construction project is a military construction project costing more than $750,000 may not be carried out under this section unless approved in advance by the Secretary concerned. This paragraph shall apply even though the project is to be carried out using funds made available to enhance the deployment and mobility of military forces and supplies.

(2) When a decision is made to carry out an unspecified minor military construction project to which paragraph (1) is applicable and which costs more than ~~$4,000,000~~ the amount specified in subsection (c), the Secretary concerned shall notify the appropriate committees of Congress of the decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(c) USE OF OPERATION AND MAINTENANCE FUNDS.—The Secretary concerned may spend from appropriations available for operation and maintenance amounts necessary to carry out an unspecified minor military construction project costing not more than $4,000,000.

(d) LABORATORY REVITALIZATION.—

(1) For the revitalization and recapitalization of laboratories owned by the United States and under the jurisdiction of the Secretary concerned, the Secretary concerned may obligate and expend—

(A) from appropriations available to the Secretary concerned for operation and maintenance, amounts necessary to carry out an unspecified minor military construction project costing not more than ~~$9,000,000~~$12,000,000, notwithstanding subsection (c); or

(B) from appropriations available to the Secretary concerned for military construction not otherwise authorized by law or from funds authorized to be made available under section 4123(a) of this title, amounts necessary to carry out an unspecified minor military construction project costing not more than ~~$9,000,000~~$12,000,000.

(2) For purposes of this subsection, an unspecified minor military construction project is a military construction project that (notwithstanding subsection (a)) has an approved cost equal to or less than ~~$9,000,000~~$12,000,000.

(3) If the Secretary concerned makes a decision to carry out an unspecified minor military construction project to which this subsection applies, the Secretary concerned shall notify the appropriate committees of Congress of that decision, of the justification for the project, and of the estimated cost of the project. The project may then be carried out only after the end of the 14-day period beginning on the date the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(4) In this subsection, the term "laboratory" includes—

(A) a research, engineering, and development center; and

(B) a test and evaluation activity.

(e) PROHIBITION ON USE FOR NEW HOUSING UNITS.—Military family housing projects for construction of new housing units may not be carried out under the authority of this section.

(f) ADJUSTMENT OF DOLLAR LIMITATIONS FOR LOCATION.—

(1) ADJUSTMENT OF LIMITATIONS.—Each fiscal year, the Secretary concerned shall adjust the dollar limitations specified in this section applicable to an unspecified minor military construction project to reflect the area construction cost index for military construction projects published by the Department of Defense during the prior fiscal year for the location of the project, except that no limitation specified in this section may exceed ~~$14,000,000~~200 percent of the amount specified in subsection (a)(2) as the result of any adjustment made under this paragraph.

(g) ***

* * * * *

SEC. ___. TRANSFER AND ADOPTION OF MILITARY ANIMALS.

(a) CLARIFICATION OF SERVICE LIFE.—Section 2583 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "useful life" each place it appears and inserting "service life"; and

(2) in subsection (h)(3), by striking "useful working lives" and inserting "service lives".

(b) VETERINARY SCREENING AND CARE.—Subsection (f) of such section 2583 is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "the Veterinary Treatment Facility at Lackland Air Force Base, Texas" and inserting "a Department of Defense veterinary treatment facility or a non-governmental veterinary facility approved by the Secretary of Defense"; and

(B) in subparagraph (B), by striking "and assignment of the dog to the Veterinary Treatment Facility referred to in that subparagraph"; and

(2) in paragraph (2)(A)—

(A) by striking "to the Veterinary Treatment Facility referred to in that paragraph" and inserting "to a veterinary treatment facility described in that paragraph"; and

(B) by striking "(including surgery for any mental, dental, or stress-related illness)," and inserting "for any behavioral, medical, dental, or stress-related illness, at such a facility".

[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 Secretaries of the military departments to use Army Veterinary Services or civilian veterinary facilities approved by the Army Veterinary Service (AVS) for end-of-service medical screening and disposition. In addition, the proposal would end the requirement established by the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 to transfer all retiring military working dogs (MWD) to Joint Base San Antonio-Lackland (JBSA-Lackland) for disposition actions. By amending section 2583 of title 10, United States Code, the MWD enterprise can effectively use local AVS facilities, realize substantial savings compared to the current requirements of section 2583, more efficiently complete MWD retirement and adoption activities, and address inconsistency in how title 10 refers to an MWD's service. Most importantly, the proposal's efficiencies ensure retiring MWDs continue to receive the highest standard of care.

MWDs receive care at 142 AVS locations worldwide. Disposition occurs at the end of an MWD's service life and includes medical screening, treatment, and an adoption suitability determination. The Holland MWD Hospital (HVH) is a referral AVS element supporting the daily veterinary medical needs of MWDs at the 341st Training Squadron (341 TRS). The hospital is not part of the 341 TRS, but an Army asset under U.S. Army Medical Command (USAMEDCOM). The mission of the 341 TRS is to produce professional handlers and MWDs to meet military department and combatant command requirements. The HVH mission is to evaluate and care for the on-average 900 dog population at the 341 TRS, and to provide referral specialty care for all MWDs globally. When required, retiring MWDs can receive care at HVH, but in regular business, the appropriate level of care is already available at one of the 142 local AVS locations.

The existing language in section 2583 requires the Secretaries of the military departments to bypass all available AVS resources by directing retiring MWDs to JBSA-Lackland. However, the 341 TRS and HVH cannot accept an additional 250-350 retiring MWDs annually due to resource constraints. As demonstrated by manpower studies and other reporting, the 341 TRS and HVH require additional human resources and infrastructure to meet even the baseline requirements for the MWD production and care missions. The influx of the oldest and most at-risk MWDs (approximately 320 dogs per year across FYs 2015 through 2021) would exceed 341 TRS and HVH resources and cripple MWD production. Full compliance with the current requirements of section 2583 requires significant resources programmed over many years to increase medical, caretaker, and administration staff. Additionally, DoD is unable to increase organic personnel or shift global AVS and associated staff to JBSA-Lackland without the military construction resources necessary to expand the existing infrastructure and the AVS staff that would need to be transferred to JBSA-Lackland continue to be required to support MWDs at their respective global installations.

An MWD typically serves at one installation throughout their service life. Upon entering the disposition process, an important step is evaluating the MWD's potential for adoption. By

directing the movement of all MWDs to JBSA-Lackland for the disposition and retirement process, the MWD is torn away from their known environment and primary veterinary care provider that is familiar with the MWD's medical and behavior needs. Transport to JBSA-Lackland requires the MWD to enter a commercial mode of air or ground transportation and be placed into a new kennel environment with approximately 900 dogs undergoing training. Complying with section 2583 'forces an MWD into a stressful and unknown environment at its most vulnerable age. As a result, the animal's behavior and health will change, potentially making it no longer eligible for adoption, and may increase the timeline required for retirement. By leveraging locally available AVS resources, the MWD will be able to maintain its known environment and handler, avoid unnecessary stress, and have the best chance for quick adoption and a positive outcome.

The proposal also would correct an inconsistency in how the law characterizes an MWD's service. The law uses the term "useful life" in some areas and "service life" in others. The proposal would harmonize the references to "service life".'

Without legislative relief there exists a significant risk to mission and force. Since the passage of the NDAA for FY 2020, the DoD MWD executive agent has taken extraordinary steps to comply with the requirements of section 2583. Enactment of this proposal will immediately produce a qualitatively-superior outcome for MWD at considerably less expense to the taxpayer.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget.

Changes to Existing Law: This proposal would make the following changes to section 2583 of title 10, United States Code:

§ 2583. Military animals: transfer and adoption

(a) AVAILABILITY FOR TRANSFER OR ADOPTION.—The Secretary of the military department concerned shall make a military animal of such military department available for transfer or adoption by a person or entity referred to in subsection (c), unless the animal has been determined to be unsuitable for transfer or adoption under subsection (b), under circumstances as follows:

(1) At the end of the animal's ~~useful~~ service life.

(2) Before the end of the animal's ~~useful~~ service life, if such Secretary, in such Secretary's discretion, determines that unusual or extraordinary circumstances, including circumstances under which the handler of a military working dog is killed in action, dies of wounds received in action, or is medically retired as a result of injuries received in action, justify making the animal available for transfer or adoption before that time.

(3) When the animal is otherwise excess to the needs of such military department.

* * * * *

(f) VETERINARY SCREENING AND CARE FOR MILITARY WORKING DOGS TO BE RETIRED.—(1)(A) If the Secretary of the military department concerned determines that a military working

dog should be retired, such Secretary shall transport the dog to a Department of Defense veterinary treatment facility or a non-governmental veterinary treatment facility approved by the Secretary of Defense ~~the Veterinary Treatment Facility at Lackland Air Force Base, Texas~~.

(B) In the case of a contract working dog to be retired, transportation required by subparagraph (A) is satisfied by the transfer of the dog to the 341st Training Squadron at the end of the dog's service life as required by section 2387 of this title ~~and assignment of the dog to the Veterinary Treatment Facility referred to in that subparagraph~~.

(2)(A) The Secretary of Defense shall ensure that each dog transported as described in paragraph (1) ~~to the Veterinary Treatment Facility referred to in that paragraph~~ to a veterinary treatment facility described in that paragraph is provided with a full veterinary screening, and necessary veterinary care for any behavioral, medical, dental, or stress-related illness ~~(including surgery for any mental, dental, or stress-related illness)~~, at such a facility before transportation of the dog in accordance with subsection (g).

(B) For purposes of this paragraph, stress-related illness includes illness in connection with post-traumatic stress, anxiety that manifests in a physical ailment, obsessive compulsive behavior, and any other stress-related ailment.

(3) Transportation is not required under paragraph (1), and screening and care is not required under paragraph (2), for a military working dog located outside the United States if the Secretary of the military department concerned determines that transportation of the dog to the United States would not be in the best interests of the dog for medical reasons.

* * * * *

(h) PREFERENCE IN ADOPTION OF RETIRED MILITARY WORKING DOGS FOR FORMER HANDLERS.—(1) In providing for the adoption under this section of a retired military working dog described in paragraph (1) or (3) of subsection (a), the Secretary of the military department concerned shall accord a preference to the former handler of the dog unless the Secretary determines that adoption of the dog by the former handler would not be in the best interests of the dog.

(2) In the case of a dog covered by paragraph (1) with more than one former handler seeking adoption of the dog at the time of adoption, the Secretary shall provide for the adoption of the dog by such former handler whose adoption of the dog will best serve the interests of the dog and such former handlers. The Secretary shall make any determination required by this paragraph with respect to a dog following consultation with the kennel master of the unit at which the dog was last located before adoption under this section.

(3) Nothing in this subsection shall be construed as altering, revising, or overriding any policy of a military department for the transfer of military working dogs to law enforcement agencies before the end of the dogs' ~~useful working lives~~ service lives.

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SEC. ___. UPDATES TO WORKING-CAPITAL FUND CONTRACT AUTHORITY AND CAPITAL ASSET THRESHOLD

(a) INCREASE TO CAPITAL INVESTMENT PROGRAM THRESHOLD.—Section 2208(k)(2) of title 10, United States Code, is amended by striking "$250,000" and by inserting "$350,000".

(b) EXPANSION OF CONTRACT AUTHORITY.—Section 2208(k) of such title is amended by adding at the end the following new paragraph:

"(3) A contract for services or supplies related to transportation modes operated in support of national security financed by a working-capital fund may be awarded in advance of the availability of funds in the working capital fund for the requirement.".

[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 2208 of title 10, United States Code (U.S.C.), to provide contract authority for service or supply requirements for transportation modes operated in support of national security.

Statutory authority does not presently permit a Department of Defense (DoD) working capital fund activity to employ the use of contract authority except to maintain inventory stock levels or to acquire capital assets. 10 U.S.C. § 2210(b) states, "Obligations may, without regard to fiscal year limitations, be incurred against *anticipated reimbursements* to stock funds in such amounts and for such period as the Secretary of Defense, with the approval of the President, may determine to be necessary to maintain stock levels consistently with planned operations for the next fiscal year" (italics added for emphasis). 10 U.S.C. § 2208(k) allows working-capital funds to award contracts in advance of the availability of funds for capital assets, subject to a minimum threshold of $500,000 for a major range and test facility installation or a science and technology reinvention laboratory, and $250,000 for all other working capital-fund activities.

The Military Sealift Command (MSC), a working capital fund activity, provides maritime-related transportation services in support of national security that fall into neither of the foregoing categories allowing the use of contract authority. In managing its Transportation Working Capital Fund (TWCF) and U.S. Navy Working Capital Fund (NWCF) resources, MSC presently cannot award transportation maintenance and overhaul contracts sufficiently in advance to avoid adverse operational impacts to U.S. Navy and U.S. Transportation Command

(USTRANSCOM) customers. Specifically, MSC cannot obtain long-lead time parts and components for ship repair availabilities or for ship operating services contracts, efforts that must be scheduled precisely to allow continuous forward presence and support to critical Fleet operations. The inability to award contracts sufficiently in advance of the availability of funding can impact ship operating schedules adversely and often leaves maintenance efforts inefficient, more expensive, and even incomplete for MSC's low-density, high-demand vessels. MSC requires authority to award contracts in advance of the receipt of customer sales orders (customer funding) consistent with the authority provided for the Supply Management Activity Group and for the acquisition of capital assets.

The Air Mobility Command (AMC), another USTRANSCOM component command, provides air transportation services that also do not fall into the noted statutory categories. AMC requires contract authority to support the annual commercial airlift augmentation fixed buy, which is awarded at the beginning of each fiscal year before knowing specific customer requirements. The fixed buy allows AMC to secure aircraft with USTRANSCOM's commercial partners for specific routes for the year. Without it, AMC would have to compete with the commercial market, leaving many DOD airlift missions unsourced. For the commercial carriers, the fixed buy provides stability of known workload to plan their operations. The current statutory and regulatory guidance requires that sufficient funds be available in the TWCF before contract award of such contacts, which may not possible when customers have not yet placed orders involving the contracted services. The TWCF meets the statutory requirement by using budgetary resources from other transactions. This initial outlay puts unnecessary pressure on overall available resources at the beginning of each fiscal year until budgetary resources are regained through customer sales. Authority to award the contract against anticipated reimbursement would reduce pressure on overall TWCF resources.

The measure would be budget-neutral, with no additional costs. It would only permit award in advance of the availability and receipt of customer funds. The resultant benefits of amending 10 U.S.C. § 2208 to cover national security related air and sea transportation and operation services provided by AMC and MSC, respectively, would be to avoid disruption of services required for USTRANSCOM, the DoD, and Military Department operating forces, vital services that must continue uninterrupted throughout the calendar year, without regard for the fiscal year, e.g., air transportation augmentation contracts, ship charter services, vessel maintenance and repair, and other critical functions.

In addition, the legislative proposal will have readiness benefits and aid in audit compliance for USTRANSCOM. This legislative proposal will assist USTRANSCOM in resolving an audit finding regarding available budgetary resources, and successful passage of this proposal will aid military readiness and audit compliance. As discussed earlier, USTRANSCOM obligates the fixed buy contract at the beginning of the year using available budgetary resources before receiving funded orders for the support that USTRANSCOM will provide using the contract. Essentially, Government funds are obligated without advance assurance of subsequent customer orders or payment, which can contribute to a projected negative budgetary resource position. Addressing a projected negative budgetary resource position necessitates extraordinary measures (e.g., supplemental appropriations; transfers into Working Capital Fund (WCF) corpus, execution year surcharges or rate increases, or suspending operations). Contract authority

alleviates this problem, as it allows the WCF-financed activity to obligate WCF funds, within specified parameters, in advance of availability of budgetary resources derived from funded orders. Currently, such contract authority finances all expenses of WCF inventory and supply management activities. A common example of this is inventory in a supply management WCF; contract authority allows them to purchase an item and stock the shelves before selling it to a customer. This legislative proposal would extend contract authority broadly available to WCF inventory/supply management activities to WCF-financed to commercial-type activities that provide common transportation services financed under 10 U.S.C. § 2208. Last, the legislative proposal will aid military readiness. The fixed buy is essential to readiness and this legislative authority would provide sufficient budgetary resources to manage the TWCF enterprise efficiently during the first quarter of the fiscal year. The assured business associated with a fixed buy is a major motivator for CRAF participation and is vital to the financial viability of small carriers, who may need assured business to secure loans, and make other business decisions.

The DoD Appropriations Act, 2023, included a general provision that provides authority to use operation and maintenance appropriations to purchase items having an investment item unit cost of not more than $350,000. This proposal amends section 2208 of title 10, U.S.C. providing the same thresholds to the Defense Working Capital Funds capital accounts. This change would account for inflationary increases in materials and supplies and allow the operating account to cover more expenses that do not require depreciation allowing for a more efficient accounting of capital assets. This threshold was increased to $500,000 for major range and test facility installation and science and technology reinvention laboratories by the FY 2018 NDAA. The last increase to this threshold was in the FY 2011 NDAA, when the threshold was raised from $100,000.

Resource Information: This proposal has no impact on the use of resources requested within the FY 2025 President's Budget.

Changes to Existing Law: This proposal amends section 2208 of title 10. United States Code, as follows:

§ 2208. Working-capital funds

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(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 $350,000~~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.

(3) A contract for services or supplies related to transportation modes operated in support of national security financed by a working-capital fund may be awarded in advance of the availability of funds in the working capital fund for the requirement.

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