SEC.___. AMENDMENTS TO CONTRACTOR EMPLOYEE PROTECTIONS FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION.

Section 4701(c) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (5), (6), (7), and (8), respectively; and

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

"(2) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of either the actions ordered or the decision to deny relief. After such notification, if the head of the agency concerned changes the actions ordered or the decision to deny relief, the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of the change not later than 30 days after the change occurs.".

[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 modify section 4701 of title 10, United States Code, "Contractor employees: protection from reprisal for disclosure of certain information.".

The proposed language would enhance protections for whistleblowers by ensuring they are fully informed of the final disposition of their reprisal allegation and what actions, if any, have been ordered to make them whole.

The statute currently includes no requirement for the head of the agency concerned to notify the Complainant or the Inspector General of the agency's decision to order actions to abate the reprisal or deny the Complainant relief. The absence of any requirement to notify the Complainant of the agency's decision is at odds with the statute's requirement that "[a]ny person adversely affected or aggrieved by an order" wishing to obtain judicial review of the order in the appropriate U.S. Court of Appeals must do so within "60 days after issuance of the order." Clearly, it is unfair to limit a Complainant's appellate filing period to 60 days with no corresponding requirement to receive notification of the order in the first place. Additionally, the absence of any requirement to notify the Inspector General of the agency's decision impedes the

Inspector General's ability to track and report consequences imposed as a result of substantiated instances of whistleblower retaliation, as required under chapter 4 of title 5, United States Code (formerly the Inspector General Act of 1978).

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 4701 of title 10, United States Code, as follows:

SEC. 4701. CONTRACTOR EMPLOYEES: PROTECTION FROM REPRISAL FOR DISCLOSURE OF CERTAIN INFORMATION

(a) PROHIBITION OF REPRISALS.-

(1) An employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of the following:

(A) Gross mismanagement of a Department of Defense contract or grant, a gross waste of Department funds, an abuse of authority relating to a Department contract or grant, or a violation of law, rule, or regulation related to a Department contract (including the competition for or negotiation of a contract) or grant.

(B) Gross mismanagement of a National Aeronautics and Space Administration contract or grant, a gross waste of Administration funds, an abuse of authority relating to an Administration contract or grant, or a violation of law, rule, or regulation related to an Administration contract (including the competition for or negotiation of a contract) or grant.

(C) A substantial and specific danger to public health or safety.

(2) The persons and bodies described in this paragraph are the persons and bodies as follows:

(A) A Member of Congress or a representative of a committee of Congress.

(B) An Inspector General.

(C) The Government Accountability Office.

(D) An employee of the Department of Defense or the National Aeronautics and Space Administration, as applicable, responsible for contract oversight or management.

(E) An authorized official of the Department of Justice or other law enforcement agency.

(F) A court or grand jury.

(G) A management official or other employee of the contractor, subcontractor, grantee, subgrantee, or personal services contractor who has the responsibility to investigate, discover, or address misconduct.

(3) For the purposes of paragraph (1)-

(A) an employee who initiates or provides evidence of contractor, subcontractor, grantee, subgrantee, or personal services contractor misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Department of Defense or National Aeronautics and Space Administration contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

(B) a reprisal described in paragraph (1) is prohibited even if it is undertaken at the

request of a Department or Administration official, unless the request takes the form of a nondiscretionary directive and is within the authority of the Department or Administration official making the request.

(b) INVESTIGATION OF COMPLAINTS.-

(1) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the Department of Defense, or the Inspector General of the National Aeronautics and Space Administration in the case of a complaint regarding the National Aeronautics and Space Administration. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned, and the head of the agency.

(2)(A) Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

(B) If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

(3)The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is-

(A) made with the consent of the person alleging the reprisal;

(B) made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

(C) necessary to conduct an investigation of the alleged reprisal.

(4) A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

(c) REMEDY AND ENFORCEMENT AUTHORITY.-

(1) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether there is sufficient basis to conclude that the contractor, subcontractor, grantee, subgrantee, or personal services contractor concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

(A) Order the contractor, subcontractor, grantee, subgrantee, or personal services contractor to take affirmative action to abate the reprisal.

(B) Order the contractor, subcontractor, grantee, subgrantee, or personal services

contractor to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

(C) Order the contractor, subcontractor, grantee, subgrantee, or personal services contractor to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the agency.

(D) Consider disciplinary or corrective action against any official of the Department of Defense.

(2) Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of either the actions ordered or the decision to deny relief. After such notification, if the head of the agency concerned changes the actions ordered or the decision to deny relief, the head of the agency concerned shall notify the complainant and the Inspector General, in writing, of the change not later than 30 days after the change occurs.

~~(2)~~ (3) If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor, subcontractor, grantee, subgrantee, or personal services contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

~~(3)~~ (4) An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

~~(4)~~ (5) Whenever a person fails to comply with an order issued under paragraph (1), the head of the agency shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and reasonable attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the agency.

~~(5)~~ (6) Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the agency. Review shall conform

to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an agency, unless a stay is specifically entered by the court.

~~(6)~~ (7) The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

~~(7)~~ (8) The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment.

(d) NOTIFICATION OF EMPLOYEES.-

The Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall ensure that contractors, subcontractors, grantees, subgrantees, or personal services contractors of the Department of Defense and the National Aeronautics and Space Administration, as applicable, inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

(e) EXCEPTIONS.-

(1) This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, grantee, subgrantee, or personal services contractor of an element of the intelligence community if such disclosure-

(A) relates to an activity of an element of the intelligence community; or

(B) was discovered during contract, subcontract, grantee, or subgrantee services provided to an element of the intelligence community.

(C)

(f) CONSTRUCTION.-Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

(g)

(h) DEFINITIONS.-In this section:

(1) The term "agency" means an agency named in section 3063 of this title.

(2) Repealed. Pub. L. 116–283, div. A, title XVIII, §1863(c)(2), Jan. 1, 2021, 134 Stat. 4278 .]

(3) The term "contract" means a contract awarded by the head of an agency.

(4) The term "contractor" means a person awarded a contract with an agency.

(5) The term "Inspector General" means an Inspector General appointed under chapter 4 of title 5 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the Secretary of Defense.

(6) The term "abuse of authority" means the following:

(A) An arbitrary and capricious exercise of authority that is inconsistent with the mission of the Department of Defense or the successful performance of a Department contract or grant.

(B) An arbitrary and capricious exercise of authority that is inconsistent with the

mission of the National Aeronautics and Space Administration or the successful performance of an Administration contract or grant.

(7) The term “grantee” means a person awarded a grant with an agency.

SEC. ___. AUTHORITY TO EXTEND MILITARY TECHNICIANS UNTIL AGE 62.

(a) MILITARY TECHNICIAN.—Section 10216(f) of title 10, United States Code, is amended by striking "60" and inserting "62."

(b) RETENTION ON RESERVE ACTIVE-STATUS LIST.—Section 14702(b) of such title is amended by striking "60" and inserting "62".

[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 will allow members of a reserve component that are employed as Federal technicians to remain employed full time until age 62. Section 14509 of title 10, United States Code, was recently changed to authorize members to remain as Drill Status Guardsmen (DSG) until age 62; however, section 14702 was never amended to adjust to this change. As such, although Federal technicians may remain as DSGs after they retire their full-time position at age 60, current law does not allow for them to continue that full-time employment if the unit has a need for them. Amending this law will allow experienced members to remain employed, full time, in line with their units' needs. The change to section 10216 would similarly allow Federal technicians to maintain employment until age 62.

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 sections 10216 and 14702 of title 10, United States Code, as follows:

§10216. Military technicians (dual status)

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

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

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

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

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

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

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

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

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

(ii) a joint forces unit that includes-

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

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

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

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

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

(iii) Department of Defense contractor personnel; or

(iv) Department of Defense civilian employees.

(b) Priority for Management of Military Technicians (Dual Status).-(1) As a basis for making the annual request to Congress pursuant to section 115(d) of this title for authorization of end strengths for military technicians (dual status) of the Army and Air Force reserve components, the Secretary of Defense shall give priority to supporting authorizations for military technicians (dual status) in the following high-priority units and organizations:

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

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

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

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

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

(c) Information Required To Be Submitted With Annual End Strength Authorization Request.-

(1) The Secretary of Defense shall include as part of the budget justification documents submitted to Congress with the budget of the Department of Defense for any fiscal year the

following information with respect to the end strengths for military technicians (dual status) requested in that budget pursuant to section 115(d) of this title, shown separately for each of the Army and Air Force reserve components:

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

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

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

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

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

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

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

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

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

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

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

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

(2) Except as otherwise provided by law, the Secretary concerned may pay compensation described in paragraph (1) to an individual described in that paragraph who is no longer a member of the Selected Reserve for a period up to 12 months following the individual's loss of membership in the Selected Reserve if the Secretary determines that such loss of membership was not due to the failure of that individual to meet military standards.

(f) Authority for Deferral of Mandatory Separation.-The Secretary of the Army and the Secretary of the Air Force may each implement personnel policies so as to allow, at the discretion of the Secretary concerned, a military technician (dual status) who continues to meet the requirements of this section for dual status to continue to serve beyond a mandatory removal date, and any applicable maximum years of service limitation, until the military technician (dual status) reaches age ~~60~~ 62 and attains eligibility for an unreduced annuity (as defined in section 10218(c) of this title).

(g) Retention of Military Technicians Who Lose Dual Status Due to Combat-Related Disability.-

(1) Notwithstanding subsection (d) of this section or subsections (a)(3) and (b) of section 10218 of this title, if a military technician (dual status) loses such dual status as the result of a combat-related disability (as defined in section 1413a of this title), the person may be retained as a non-dual status technician so long as-

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

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

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

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

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§14702. Retention on reserve active-status list of certain officers in the grade of major, lieutenant colonel, colonel, or brigadier general

(a) Retention.-Notwithstanding the provisions of section 14506, 14507, or 14508 of this title, the Secretary of the military department concerned may, with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, colonel, or brigadier general who is-

(1) an officer of the Army National Guard of the United States and assigned to a headquarters or headquarters detachment of a State; or

(2) a reserve officer of the Army or Air Force who, as a condition of continued employment as a National Guard or Reserve technician is required by the Secretary concerned to maintain membership in a Selected Reserve unit or organization.

(b) Separation for Age.-An officer may be retained under this section only so long as the officer continues to meet the conditions of paragraph (1) or (2) of subsection (a). An officer described in paragraph (1) of such subsection may not be retained under this section after the last day of the month in which the officer becomes 62 years of age. An officer described in paragraph (2) of such subsection may not be retained under this section after the last day of the month in which the officer becomes ~~60~~ 62 years of age.

SEC. ____. CODIFICATION AND PERMANENT EXTENSION OF AUTHORITY FOR REIMBURSEMENT OF EXPENSES FOR CERTAIN NAVY MESS OPERATIONS AFLOAT.

(a) CODIFICATION.—Chapter 19 of title 37, United States Code, is amended by adding at the end a new section 1016 consisting of—

(1) a heading as follows:

"**§ 1016. Reimbursement of expenses for certain Navy mess operations afloat**"; and

(2) a text consisting of subsections (a) and (c) of section 1014 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4585).

(b) TECHNICAL AMENDMENTS.—Section 1016 of title 37, United States Code, as added by subsection (a) of this section, is amended—

(1) in subsection (a) in the matter preceding paragraph (1), by striking "of title 37, United States Code," and inserting "of this title"; and

(2) by redesignating subsection (c) as subsection (b).

(c) CONFORMING REPEAL.—Section 1014 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4585) is repealed.

[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 codify and make permanent the authority under section 1014 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009, which allows the Navy to purchase meals on behalf of embarked members of non-governmental organizations (NGOs), host and partner nations, joint services, and U.S. government agencies and foreign national patients treated on Navy ships and their escorts during Navy's execution of humanitarian and civic assistance missions, such as Pacific Partnership.

Section 1011 of title 37, United States Code, requires the Secretary of Defense to establish rates for meals sold at messes to officers, civilians, and enlisted members. Prior to the enactment of section 1014 of the Duncan Hunter NDAA for FY 2009, there was no specific statutory authority to waive payment or to use general operation and maintenance appropriated funds to pay for meals of official visitors and guests onboard.

The Navy exercises this critical authority globally to support humanitarian and civic assistance missions. As a specific example, U.S. Pacific Fleet relies on this authority to integrate NGOs, host and partner nations, joint services, and U.S. government agencies into Pacific Partnership missions – which directly support the national security interests of the United States while safeguarding a Free and Open Indo-Pacific. This authority enables efficient execution of these missions, fosters trust and confidence, creates goodwill, and upholds a positive image of the United States.

In 2006, 2008, 2010, 2012, 2015, 2016, 2018, and most recently in 2022, the U.S. Pacific Fleet deployed the USNS MERCY to participate in Pacific Partnership, the largest annual multinational humanitarian assistance and disaster relief preparedness mission conducted throughout the Indo-Pacific region. For the 2022 Pacific Partnership, host nations included Vietnam, Palau, the Philippines, and Solomon Islands; and partner nations included Australia, Chile, Japan, the Republic of Korea, and the United Kingdom. During the 5-month mission, Pacific Partnership saw more than 15,000 patients. NGOs, host and partner nations, joint services, and other government agencies participated in the missions by integrating into the Navy team and providing primarily medical services, including the treatment of foreign national patients on board and ashore. Members of these nations, organizations, agencies, and patients who are embarked or treated on Navy vessels are official visitors and guests required to purchase meals at the messing facility. This authority allows the U.S. Government to waive such meal payment or to use appropriated funds to pay for official visitor/guest messing. Leveraging this authority strengthens critical regional and global partnerships, incentivizes broad-based participation on these critical missions, highlights U.S. commitment to humanitarian and civic assistance missions, and reaffirms the U.S. is the international partner of choice.

There is a continuing need for this authority, which has been extended temporarily multiple times since enactment. This proposal would remove the expiration date entirely to help enable efficient and effective execution of these vital humanitarian missions that directly further U.S. national interests.

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 add a new section 1016 to chapter 19 of title 37, United States Code, consisting of section 1014 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 with changes as follows:

~~SEC. 1014. REIMBURSEMENT OF EXPENSES FOR CERTAIN NAVY MESS OPERATIONS.~~

§ 1016. Reimbursement of expenses for certain Navy mess operations

(a) AUTHORITY FOR PAYMENT.—Of the amounts appropriated for operation and maintenance for the Navy, not more than $1,000,000 may be used in any fiscal year to pay the charge established under section 1011 of this title ~~title 37, United States Code,~~ for meals sold by messes for United States Navy and Naval Auxiliary vessels to the following:

(1) Members of nongovernmental organizations and officers or employees of host and foreign nations when participating in or providing support to United States civil-military operations.

(2) Foreign national patients treated on such vessels during the conduct of United States civil-military operations, and their escorts.

~~(b) EXPIRATION OF AUTHORITY.—The authority to pay for meals under subsection (a) shall expire on September 30, 2025.~~

~~(c)~~(b) REPORT.—Not later than March 31 of each year during which the authority to pay for meals under subsection (a) is in effect, the Secretary of Defense shall submit to Congress a report on the use of such authority.

SEC. ___. AUTOMATIC COLLECTION OF SURVIVOR BENEFIT PLAN PREMIUMS FROM VA DISABILITY COMPENSATION UNDER CERTAIN CIRCUMSTANCES.

(a) AMENDMENTS TO TITLE 10.—

(1) DEDUCTIONS.—Section 1452(d) of title 10, United States Code, is amended—

(A) by amending paragraph (1) to read as follows:

"(1) AUTHORIZED DEDUCTIONS. —If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, the amount that would otherwise have been deducted from his pay for that period under this section shall be deducted pursuant to subparagraph (A) or (B) of paragraph (2).";

(B) in paragraph (2)—

(i) by inserting the following after "(2)": "DEDUCTIONS DESCRIBED.—

"(A)"; and

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

"(B) DEDUCTION FROM COMPENSATION.—In the case of a person who has elected to participate in the Plan who is entitled to compensation under title 38, and deductions required under this section exceed the person's retired pay or combat-related special compensation, if applicable, then the Secretary of Veterans Affairs, pursuant to section 5301 of title 38, shall deduct from the person's compensation the amount that would otherwise have been deducted from the person's retired pay or combat-related special compensation for that period.";

(C) by redesignating paragraph (3) as paragraph (5);

(D) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) COLLECTION OF PAYMENTS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for that period and if the full deductions required by this section are not made under paragraph 2, the person shall remit payment to the Secretary concerned in the amount that would otherwise have been deducted from retired pay or combat-related special compensation for that period. If payment is not remitted, the Secretary shall collect payment pursuant to title 31 section 3711.

"(4) DEPOSIT INTO MILITARY RETIREMENT FUND.—All amounts deducted under paragraph (2) or collected under paragraph (3) shall be deposited into the Department of Defense Military Retirement Fund."; and

(E) in paragraph (5), as redesignated by subparagraph (C) of this subsection, by striking "Paragraphs (1) and (2) do not apply" and inserting "This section does not apply".

(2) CONFORMING AMENDMENTS.— Section 1452(g)(4) of title 10, United States Code, is amended—

(1) in the heading, by striking "FROM RETIRED PAY OR CRSC" and inserting "FROM RETIRED PAY, CRSC, OR COMPENSATION"; and

(2) by striking "from the retired pay or combat-related special compensation" and inserting "from the retired pay, combat-related special compensation, or compensation under title 38".

(b) AMENDMENTS TO TITLE 38.—Section 5301 of title 38, United States Code, is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection (d):

"(d) Notwithstanding any other provision of this section, in the case of a veteran who has waived retired or retirement pay in order to receive compensation pursuant to section 5305 of this title who has elected to participate in an annuity plan prescribed in chapter 73 of title 10—

"(1) if the deductions required by section 1452 of title 10 cannot be made in the full amount, the amount required by such chapter 73 shall be deducted from the veteran's compensation; and

"(2) the deducted funds shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10.".

[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 Survivor Benefit Plan (SBP) is an income protection plan (similar to life insurance) that, in exchange for premium costs paid while a military retiree is living, pays the surviving spouses of military retirees, and their families, a monthly payment (annuity) to help make up for the loss of income following the death of a military retiree. This proposal would deduct SBP premiums from Veterans' Affairs (VA) Disability Compensation when the veteran's retired pay or combat-related special compensation is not sufficient to pay the full amount of such premiums.

Automating this currently voluntary payment pathway would simplify premium payments for 65,000 service members who are required to pay SBP premiums through mailed paper checks, and nearly eliminate the growth of the SBP premium backlog of more than $224,000,000. This immense backlog prevents surviving spouses and their families from receiving annuity payments in cases where their annuity premium has not been fully paid.

SBP protects survivors against the risks of a retiree's early death and inflation. If enrolled in the plan upon retirement, a service member will have his or her retired pay reduced by 6.5% if the member elected full coverage and has an eligible beneficiary. (Members may also elect a lesser coverage amount, which would result in lower premiums.) In return for this

reduction in retired pay, a survivor annuity is payable at 55% of the elected coverage amount. Premium deductions are governed by 10 U.S.C. 1452.

SBP premiums have long been payable via VA Disability Compensation by submitting a DD Form 2891 (Authorization For Retired Serviceman's Family Protection Plan (RSFPP) And/Or Survivor Benefit Plan (SBP) Costs Deduction) or sending payment through DoD. However, even though these options were available, many retirees did not elect to have their premiums deducted from their VA Compensation, nor did they make the required deposit to the Treasury, perhaps due to the relative difficulty in these transactions. Accumulated balances of outstanding premiums accrue interest and are passed on as a debt to their surviving beneficiaries before the SBP annuity can be paid to the member's survivor(s). This amounts to $7,500,000 in debts impacting 7,000 annuitants annually.

The FY 2016 National Defense Authorization Act (NDAA) (Public Law 114–328) amended section 1452(d) of title 10, United States Code, to expand the authority to allow deductions of SBP premiums to be made from any combat-related special compensation (CRSC) that was awarded to the member under 10 U.S.C. 1413a. While this allowed DFAS to ensure the collection of premiums on a significant number of accounts, those who were not awarded CRSC were still required to either voluntarily elect to have those premiums deducted from their VA Disability Compensation or make a deposit themselves into the Treasury.

This amendment to section 1452 of title 10 is being proposed to help ensure that retired members who elect to participate in SBP actually pay the SBP premium costs while they are still alive. This is required to ensure that the surviving beneficiaries are protected and entitled to an annuity commencing immediately after the retired member's death, fulfilling the purpose of the SBP program to be an on-going income stream for survivors. The proposal will require the collection of these required SBP premiums from the member's VA Disability Compensation in cases where there is insufficient retired pay and/or combat-related special compensation to ensure that the costs of the SBP premium deductions are paid.

This proposal will have three key benefits if enacted into law:

- Immediate annuity available for military survivors and their families
- Smooth pathway for new SBP applicants
- Further protect the soundness of the Military Retirement Fund

First, and most important, upon the death of a member who participated in the SBP, the designated survivor will always be entitled to receive an annuity immediately. Currently, the survivors of members who have accumulated unpaid SBP premium debt must wait for the debt to be repaid (through monthly recoupment of the amount of the annuity that otherwise would have been paid). This often results in survivors having to wait several months or even years to receive their annuities. Moreover, as a result of recent legislation, there will be a substantial increase in "new" survivors who are entitled to SBP. And therefore, there will be a substantial increase in the number of survivors who will have to wait several months or even years to receive their annuities. This proposal would relieve current annuitants of the burden they

presently have to postpone their receipt of their annuities until the member's SBP premium debt is fully recouped.

In the Fiscal Year 2020 NDAA, Congress' expanded VA Dependent Indemnity Compensation (DIC) and Department of Defense SBP authorities, which now allows surviving spouses to receive both benefits. This change will likely result in a substantial increase in "new" survivors who are entitled to SBP who were not previously entitled to receive SBP because of the DIC offset. In those cases where there is unpaid SBP premium debt, survivors will have to wait until the debt is fully recouped to receive their annuities. This proposal would relieve those "new" SBP annuitants of the burden to postpone their receipt of their annuities until such time as the member's SBP premium debt is fully recouped.

Next, this proposal will enhance the protection of the Military Retirement Fund. Of the (approximately) 35,000 members who have accumulated unpaid SBP premium debt, a large percentage of them (perhaps 30-50%) will survive their designated SBP beneficiary. In those cases, when the member subsequently dies (with unpaid SBP premium debt), there is no surviving annuitant, and there is no annuity from which the unpaid premiums may be recouped. While that debt can be charged to the member's estate, the collection rate is very low. This proposal will help ensure that members who elect to participate in SBP actually do pay the SBP premium costs while they are still alive to ensure surviving family members begin receiving SBP income immediately rather than waiting for years.

Finally, this proposal updates section 1452 of title 10 to bring it into alignment with Chapter 74 (Department of Defense Military Retirement Fund) by requiring that SBP premium deductions be deposited in the Military Retirement Fund rather than into Treasury (Miscellaneous Receipts). SBP annuities are paid from the Military Retirement Fund.

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 reductions of administrative and material costs to DFAS are estimated to be $1.4 million over the Future Years Defense Plan by eliminating manual processing of paper checks to pay SBP premiums, auditing accounts' imbalances, and maintaining the lockboxes.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/ SAG**	**Program Element**
Survivor Benefit Plan	--	--	($0.45)	($0.46)	($0.47)	DFAS Working Capital Fund	04	N/A	N/A
Total	--	--	($0.45)	($0.46)	($0.47)	--	--	--	--

Changes to Existing Law: This proposal would make the following changes to section 1452 of title 10, United States Code, and section 5301 of title 38, United States Code:

§1452. Reduction in retired pay

(a) Spouse and Former Spouse Annuities.-

(1) Required reduction in retired pay.-Except as provided in subsection (b), the retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a participant in the Plan who is providing spouse coverage (as described in paragraph (5)) shall be reduced as follows:

(A) Standard annuity.-If the annuity coverage being provided is a standard annuity, the reduction shall be as follows:

(i) Disability and nonregular service retirees.-In the case of a person who is entitled to retired pay under chapter 61 or chapter 1223 of this title, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(ii) Members as of enactment of flat-rate reduction.-In the case of a person who first became a member of a uniformed service before March 1, 1990, the reduction shall be in whichever of the alternative reduction amounts is more favorable to that person.

(iii) New entrants after enactment of flat-rate reduction.-In the case of a person who first becomes a member of a uniformed service on or after March 1, 1990, and who is entitled to retired pay under a provision of law other than chapter 61 or chapter 1223 of this title, the reduction shall be in an amount equal to 6½ percent of the base amount.

(iv) Alternative reduction amounts.-For purposes of clauses (i) and (ii), the alternative reduction amounts are the following:

(I) Flat-rate reduction.-An amount equal to 6½ percent of the base amount.

(II) Amount under pre-flat-rate reduction.-An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount.

(B) Reserve-component annuity.-If the annuity coverage being provided is a reserve-component annuity, the reduction shall be in whichever of the following amounts is more favorable to that person:

(i) Flat-rate reduction.-An amount equal to 6½ percent of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(ii) Amount under pre-flat-rate reduction.-An amount equal to 2½ percent of the first $337 (as adjusted after November 1, 1989, under paragraph (4)) of the base amount plus 10 percent of the remainder of the base amount plus an amount determined in accordance with regulations prescribed by the Secretary of Defense as a premium for the additional coverage provided through reserve-component annuity coverage under the Plan.

(2) Additional reduction for child coverage.-If there is a dependent child as well as a spouse or former spouse, the amount prescribed under paragraph (1) shall be increased by an amount prescribed under regulations of the Secretary of Defense.

(3) No reduction when no beneficiary.-The reduction in retired pay prescribed by paragraph (1) shall not be applicable during any month in which there is no eligible spouse or former spouse beneficiary.

(4) Periodic adjustments.-

(A) Adjustments for increases in rates of basic pay.-Whenever there is an increase in the rates of basic pay of members of the uniformed services effective on or after October 1, 1985, the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be increased by the overall percentage of such increase in the rates of basic pay. The increase under the preceding sentence shall apply only with respect to persons whose retired pay is computed based on the rates of basic pay in effect on or after the date of such increase in rates of basic pay.

(B) Adjustments for retired pay colas.-In addition to the increase under subparagraph (A), the amounts under paragraph (1) with respect to which the percentage factor of 2½ is applied shall be further increased at the same time and by the same percentage as an increase in retired pay under section 1401a of this title effective on or after October 1, 1985. Such increase under the preceding sentence shall apply only with respect to a person who initially participates in the Plan on a date which is after both the effective date of such increase under section 1401a and the effective date of the rates of basic pay upon which that person's retired pay is computed.

(5) Spouse coverage described.-For the purposes of paragraph (1), a participant in the Plan who is providing spouse coverage is a participant who-

(A) has (i) a spouse or former spouse, or (ii) a spouse or former spouse and a dependent child; and

(B) has not elected to provide an annuity to a person designated by him under section 1448(b)(1) of this title or, having made such an election, has changed his election in favor of his spouse under section 1450(f) of this title.

(b) Child-Only Annuities.-

(1) Required reduction in retired pay.-The retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a participant in the Plan who is providing child-only coverage (as described in paragraph (4)) shall be reduced by an amount prescribed under regulations by the Secretary of Defense.

(2) No reduction when no child.-There shall be no reduction in retired pay under paragraph (1) for any month during which the participant has no eligible dependent child.

(3) Special rule for certain rcsbp participants.-In the case of a participant in the Plan who is participating in the Plan under an election under section 1448(a)(2)(B) of this title and who provided child-only coverage during a period before the participant becomes entitled to receive retired pay, the retired pay of the participant shall be reduced by an amount prescribed under regulations by the Secretary of Defense to reflect the coverage provided under the Plan during the period before the participant became entitled to receive retired pay. A reduction under this paragraph is in addition to any reduction under paragraph (1) and is made without regard to whether there is an eligible dependent child during a month for which the reduction is made.

(4) Child-only coverage defined.-For the purposes of this subsection, a participant in the Plan who is providing child-only coverage is a participant who has a dependent child and who-

(A) does not have an eligible spouse or former spouse; or

(B) has a spouse or former spouse but has elected to provide an annuity for dependent children only.

(c) Reduction for Insurable Interest Coverage.-

(1) Required reduction in retired pay.-The retired pay, other than retired pay received as a lump sum under section 1415(b)(1)(A) of this title, of a person who has elected to provide an annuity to a person designated by him under section 1450(a)(5) of this title shall be reduced as follows:

(A) Standard annuity.-In the case of a person providing a standard annuity, the reduction shall be by 10 percent plus 5 percent for each full five years the individual designated is younger than that person.

(B) Reserve component annuity.-In the case of a person providing a reserve-component annuity, the reduction shall be by an amount prescribed under regulations of the Secretary of Defense.

(2) Limitation on total reduction.-The total reduction under paragraph (1) may not exceed 40 percent.

(3) Duration of reduction.-The reduction in retired pay prescribed by this subsection shall continue during the lifetime of the person designated under section 1450(a)(5) of this title or until the person receiving retired pay changes his election under section 1450(f) of this title.

(4) Rule for computation.-Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) or 1415(b)(1)(B) of this title.

(5) Rule for designation of new insurable interest beneficiary following death of original beneficiary.-The Secretary of Defense shall prescribe in regulations premiums which a participant making an election under section 1448(b)(1)(G) of this title shall be required to pay for participating in the Plan pursuant to that election. The total amount of the premiums to be paid by a participant under the regulations shall be equal to the sum of the following:

(A) The total additional amount by which the retired pay of the participant would have been reduced before the effective date of the election if the original beneficiary (i) had not died and had been covered under the Plan through the date of the election, and (ii) had been the same number of years younger than the participant (if any) as the new beneficiary designated under the election.

(B) Interest on the amounts by which the retired pay of the participant would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable.

(C) Any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(d) Deposits To Cover Periods When Retired Pay Not Paid or Not Sufficient.-

(1) ~~Required deposits.~~ Authorized deductions.-If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for any period, ~~that person must deposit in the Treasury~~ the amount that would otherwise have been deducted from his pay for that period~~, except to the extent that the required deduction is made pursuant to paragraph (2)~~ under this section shall be deducted pursuant to subparagraph (A) or (B) of paragraph (2).

(2) Deductions described.—

(A) Deduction from combat-related special compensation when retired pay not adequate.-In the case of a person who has elected to participate in the Plan and who has been awarded both retired pay and combat-related special compensation under section 1413a of this title, if a deduction from the person's retired pay for any period cannot be made in the full amount required, there shall be deducted from the person's combat-related special compensation in lieu of deduction from the person's retired pay the amount that would otherwise have been deducted from the person's retired pay for that period.

(B) Deduction from compensation.-In the case of a person who has elected to participate in the Plan who is entitled to compensation under title 38, and deductions required under this section exceed the person's retired pay or combat-related special compensation, if applicable, then the Secretary of Veterans Affairs, pursuant to section 5301 of title 38, shall deduct from the person's compensation the amount that would otherwise have been deducted from the person's retired pay or combat-related special compensation for that period.

(3) COLLECTION OF PAYMENTS.—If a person who has elected to participate in the Plan has been awarded retired pay and is not entitled to that pay for that period and if the full deductions required by this section are not made under paragraph 2, the person shall remit payment to the Secretary concerned in the amount that would otherwise have been deducted from retired pay or combat-related special compensation for that period. If payment is not remitted, the Secretary shall collect payment pursuant to title 31 section 3711.

(4) DEPOSIT INTO MILITARY RETIREMENT FUND.—All amounts deducted under paragraph (2) or collected under paragraph (3) shall be deposited into the Department of Defense Military Retirement Fund.

~~(3)~~(5) Deposits not required when participant on active duty.~~-Paragraphs (1) and (2)~~ This section does not apply to a person with respect to any period when that person is on active duty under a call or order to active duty for a period of more than 30 days.

(e) Deposits Not Required for Certain Participants in CSRS and FERS.-When a person who has elected to participate in the Plan waives that person's retired pay for the purposes of subchapter III of chapter 83 of title 5 or chapter 84 of such title, that person shall not be required to make the deposit otherwise required by subsection (d) as long as that waiver is in effect unless, in accordance with section 8339(j) or 8416(a) of title 5, that person has notified the Office of Personnel Management that he does not desire a spouse surviving him to receive an annuity under section 8341(b) or 8442(a) of title 5.

(f) Refunds of Deductions Not Allowed.-

(1) General rule.-A person is not entitled to refund of any amount deducted from retired pay or combat-related special compensation under this section.

(2) Exceptions.-Paragraph (1) does not apply-

(A) in the case of a refund authorized by section 1450(e) of this title; or

(B) in case of a deduction made through administrative error.

(g) Discontinuation of Participation by Participants Whose Surviving Spouses Will Be Entitled to DIC.-

(1) Discontinuation.-

(A) Conditions.-Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), a person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Secretary of Veterans Affairs as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan.

(B) Effective date.-Participation in the Plan of a person who submits a request under subparagraph (A) shall be discontinued effective on the first day of the first month following the month in which the request under subparagraph (A) is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date.

(C) Form for request for discontinuation.-Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

(2) Consent of beneficiaries required.-A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

(3) Information on plan to be provided by secretary concerned.-

(A) Information to be provided promptly to participant.-The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation.

(B) Right to withdraw discontinuation request.-A person may withdraw a request made under paragraph (1) if it is withdrawn within 30 days after having been submitted to the Secretary concerned.

(4) Refund of deductions from retired pay, ~~or~~ CRSC, or compensation.-Upon the death of a person described in paragraph (1) who discontinued participation in the Plan in accordance with this subsection, any amount deducted from the retired pay, ~~or~~ combat-

related special compensation, or compensation under title 38 of that person under this section shall be refunded to the person's surviving spouse.

(5) Resumption of participation in plan.-

(A) Conditions for resumption.-A person described in paragraph (1) who discontinued participation in the Plan may elect to participate again in the Plan if-

(i) after having discontinued participation in the Plan the Secretary of Veterans Affairs reduces that person's service-connected disability rating to a rating of less than total; and

(ii) that person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require.

(B) Effective date of resumed coverage.-Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan.

(C) Resumption of contributions.-When a person elects to participate in the Plan under this paragraph, the Secretary concerned shall begin making reductions in that person's retired pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on the effective date of such participation under subparagraph (B).

(h) Increases in Reduction With Increases in Retired Pay.-

(1) General rule.-Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount of the reduction to be made under subsection (a) or (b) in the retired pay of any person shall be increased at the same time and by the same percentage as such retired pay is so increased.

(2) Coordination when payment of increase in retired pay is delayed by law.-

(A) In general.-Notwithstanding paragraph (1), when the initial payment of an increase in retired pay under section 1401a of this title (or any other provision of law) to a person is for a month that begins later than the effective date of that increase by reason of the application of subsection (b)(2)(B) of such section (or section 631(b) of Public Law 104–106 (110 Stat. 364)), then the amount of the reduction in the person's retired pay shall be effective on the date of that initial payment of the increase in retired pay rather than the effective date of the increase in retired pay.

(B) Delay not to affect computation of annuity.-Subparagraph (A) may not be construed as delaying, for purposes of determining the amount of a monthly annuity under section 1451 of this title, the effective date of an increase in a base amount under subsection (h) of such section from the effective date of an increase in retired pay under section 1401a of this title to the date on which the initial payment of that increase in retired pay is made in accordance with subsection (b)(2)(B) of such section.

(i) Recomputation of Reduction Upon Recomputation of Retired Pay.-Whenever the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is

recomputed under section 1410 of this title upon the person's becoming 62 years of age, the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).

(j) Coverage Paid Up at 30 Years and Age 70.-Effective October 1, 2008, no reduction may be made under this section in the retired pay of a participant in the Plan for any month after the later of-

(1) the 360th month for which the participant's retired pay is reduced under this section; and

(2) the month during which the participant attains 70 years of age.

§5301. Nonassignability and exempt status of benefits

(a)(1) Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity.

(2) For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving a benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, except as provided in subparagraph (B), and including deposit into a joint account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

(B) Notwithstanding subparagraph (A), nothing in this paragraph is intended to prohibit a loan involving a beneficiary under the terms of which the beneficiary may use the benefit to repay such other person as long as each of the periodic payments made to repay such other person is separately and voluntarily executed by the beneficiary or is made by preauthorized electronic funds transfer pursuant to the Electronic Funds Transfers Act (15 U.S.C. 1693 et seq.).

(C) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited and is void from its inception.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Secretary and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or the beneficiary's estate; or (2) any beneficiary or the beneficiary's estate except amounts due the United States by such beneficiary or the beneficiary's estate by reason of overpayments or illegal payments made under such laws to such beneficiary or the beneficiary's estate or to the beneficiary's dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(c)(1) Notwithstanding any other provision of this section, the Secretary may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Secretary the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in chapter 73 of title 10.

(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has determined that the uncollected portion of such amount is not collectible from amounts payable by that Secretary to the veteran or that the veteran is not receiving any payment from that Secretary, that Secretary may request the Secretary to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

(B) For the purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

(i) the term "records of the agency" shall be considered to refer to the records of the department of the Secretary concerned; and

(ii) the term "agency" in clauses (3) and (4) shall be considered to refer to such department.

(4) Funds collected under this subsection shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10 or to the Retired Pay Account of the Coast Guard, as appropriate.

(d) Notwithstanding any other provision of this section, in the case of a veteran who has waived retired or retirement pay in order to receive compensation pursuant to section 5305 of this title who has elected to participate in an annuity plan prescribed in chapter 73 of title 10—

(1) if the deductions required by section 1452 of title 10 cannot be made in the full amount, the amount required by such chapter 73 shall be deducted from the veteran's compensation; and

(2) such funds shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10.

~~(d)~~ (e) Notwithstanding subsection (a) of this section, payments of benefits under laws administered by the Secretary shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1986 (26 U.S.C. 6331 et seq.).

~~(e)~~ (f) In the case of a person who—

(1) has been determined to be eligible to receive pension or compensation under laws administered by the Secretary but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

(2) files a waiver of such pay in accordance with section 5305 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Secretary of such person's eligibility for such pension or compensation, the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.

SEC. ___. CONTRIBUTION TO NATO INNOVATION FUND.

Subchapter II of chapter 138 of title 10, United States Code, is amended by adding at the end the following new section:

"§2350s. Authority to contribute to NATO Innovation Fund

"(a) AUTHORITY TO CONTRIBUTE TO NATO INNOVATION FUND.— Within amounts authorized by law for such purpose during the 10-year period following the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025, the Secretary of Defense may contribute to the NATO Innovation Fund a total amount of no more than $200,000,000.

"(b) DEFINITIONS.—In this section:

"(1) The term 'NATO' means the North Atlantic Treaty Organization.

"(2) The term 'NATO Innovation Fund' means the multi-sovereign, investment venture capital fund of NATO that provides secure investment in dual-use, high-impact technology.".

Section-by-Section Analysis

The North Atlantic Treaty Organization (NATO) Innovation Fund (the Fund or the NIF) is a multi-sovereign, investment venture capital (VC) fund securing the national and economic security future for NATO's citizens and maintaining NATO's technological edge by providing secure investment in dual-use, high-impact technology.

At the 2021 NATO Summit in Brussels, Allied Heads of State and Government agreed to create the NIF as part of the NATO 2030 agenda – a pillar of NATO's efforts to maintain its technological edge in an era of strategic competition. The Fund is open to all NATO Allies for participation. To date, 23 Allies are participating and Sweden is in the process of participating in the Fund. All participating Allies in the NIF have agreed to the Fund's legal framework and governance model and are contributing to the Fund. The Fund has been legally formed and established. The NIF formally launched operations on August 1, 2023, and began investing shortly thereafter in participating countries.

At present, the NIF lacks a transatlantic component. Neither Canada nor the United States are part of the participating Allies in the NIF and, consequently, they are unable to steer or have U.S. companies participate in any NIF investment strategy or decisions. U.S. contribution to the NIF would signal commitment to maintaining the Alliance's technological edge, assist trusted private capital with investments in critical technologies, allow U.S. companies and VC funds to receive funding from the NIF, signal the need to drive out adversarial capital, and enable the United States to maintain visibility on strategic investments made through the NIF.

The NIF is complementary to the NATO Defence Innovation Accelerator for the North Atlantic (DIANA), which launched alongside the NIF under the same NATO 2030 pillar for maintaining NATO's technological edge by accelerating dual-use solutions into NATO's industrial base. The NIF and DIANA are separate entities, but both are aimed at helping the Alliance leverage dual-use, emerging, and disruptive technologies to address defense and security challenges. The NIF will prioritize investments into start-ups participating in DIANA, which will have passed an approved vetting process and been deemed trusted actors.

The U.S. Government contribution to the NIF will not exceed $200 million over the 10-year period following authorization.

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2025 President's Budget request.

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)**
North Atlantic Treaty Organization Innovation Fund	$0.00	$0.00	$25.00	$25.00	$25.00	Operation and Maintenance, Army	04	441: International Military Headquarters	
Total	**$0.00**	**$0.00**	**$25.00**	**$25.00**	**$25.00**				

Changes to Existing Law: This proposal adds new section 2350s to chapter 138 of title 10, United States Code, as set forth in the legislative text above.

SEC. ___. COVER ENHANCEMENT AUTHORITIES.

(a) IN GENERAL.—Part II of title 10, United States Code, is amended by inserting after chapter 88 the following new chapter:

"CHAPTER 89—COVER ENHANCEMENT AUTHORITIES

"§ 1801. Definitions

"In this chapter:

"(1) The term 'designated employee or member' means an employee of the Department of Defense or a member of the armed forces designated by the Secretary of Defense under subsection (b).

"(2) The term 'Federal retirement system' includes the Federal Employees' Retirement System (including the Thrift Savings Plan).

"(3) The term 'military retirement system' includes military retired pay programs under chapters 61, 63, 65, and 67 of this title and the Survivor Benefit Plan established by chapter 73 of this title.

"§ 1802. Cover enhancement authority

"(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Defense may exercise the authorities under this chapter to protect from unauthorized disclosure—

"(1) intelligence operations or other authorized sensitive activities of the Department of Defense;

"(2) the identities of undercover officers;

"(3) intelligence sources and methods; or

"(4) cover mechanisms.

"(b) DESIGNATION OF EMPLOYEES AND MEMBERS.—(1) Subject to paragraph (2), the Secretary of Defense may designate any employee of the Department of Defense or member of the armed forces who is under cover to be an employee or a member to whom this chapter applies.

"(2) The Secretary of Defense may not designate more than 15 persons under paragraph (1) in a fiscal year unless the Secretary provides notice of the intent to designate more than 15 persons in such fiscal year to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives.

"(3) A designation may be made under this subsection with respect to any or all authorities exercised under this chapter.

"(c) INTERAGENCY COORDINATION AND SUPPORT.—Establishment of any such cover enhancement authority for intelligence operations or other authorized sensitive activities of the Department of Defense shall be pre-coordinated with the Director of the Central Intelligence Agency using procedures mutually agreed upon by the Secretary of Defense and the Director.

"**§ 1803. Compensation**

"The Secretary of Defense may pay a designated employee or member salary, allowances, and other benefits in an amount and in a manner consistent with the cover of that employee or member, without regard to any limitation that is otherwise applicable to a Federal employee or member of the armed forces. A designated employee or member may accept,

utilize, and, to the extent authorized by regulations prescribed under this chapter retain any salary, allowances, and other benefits provided under this chapter.

"**§ 1804. Retirement benefits**

"(a) ESTABLISHMENT OF RETIREMENT SYSTEM.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency a cover retirement system for designated employees and members (and the spouse, former spouses, and survivors of such designated employees and members). A designated employee may not receive credit for service under the retirement system established under this paragraph and another Federal retirement system for the same time period.

"(b) CONVERSION TO OTHER FEDERAL RETIREMENT SYSTEM.—A designated employee or member participating in the retirement system established under subsection (a) may convert to coverage under the Federal retirement system or military retirement system that would otherwise apply to such employee or member at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the retirement system established under this subsection is no longer necessary to protect from unauthorized disclosure—

"(A) intelligence operations or other authorized sensitive activities necessary for the national defense that require special security measures;

"(B) the identities of undercover officers;

"(C) intelligence sources and methods; or

"(D) cover mechanisms.

"(c) CONVERSION TREATMENT.—Upon a conversion under subsection (b)—

"(1) all periods of service under the retirement system established under this section shall be deemed periods of creditable service under the applicable Federal retirement system or military retirement system;

"(2) the Secretary of Defense shall transmit an amount for deposit in any applicable fund of that Federal retirement system or military retirement system that—

"(A) is necessary to cover all employee or member and agency contributions including—

"(i) interest as determined by the head of the agency administering the Federal retirement system or military retirement system into which the employee or member is converting;

"(ii) in the case of an employee or member converting into the Federal Employee's Retirement System interest as determined under section 8334(e) of title 5; or

"(iii) in the case of an employee or member converting to a military retirement system, interest as determined under chapter 74 of this title; and

"(B) ensures that such conversion does not result in any unfunded liability to that fund; and

"(3) in the case of a designated employee or member who participated in an employee or member investment retirement system established under subsection (a) and is converted to coverage under the Federal retirement system or military retirement system, the Secretary of Defense may transmit any or all amounts of that designated

employee or member in that employee or military investment retirement system (or similar part of that retirement system) to the Thrift Savings Fund.

"(d) TRANSMITTED AMOUNTS.—(1) Amounts described under subsection (c)(2) shall be paid from any fund the Secretary of Defense deems appropriate.

"(2) The Secretary of Defense may use amounts contributed by the designated employee or member to a retirement system established under subsection (a) to offset amounts paid under paragraph (1).

"(e) RECORDS.—The Secretary of Defense shall transmit all necessary records relating to a designated employee or member who converts to a Federal retirement system or military retirement system under subsection (b) (including records relating to periods of service which are deemed to be periods of creditable service under subsection (c)(1)) to the head of the agency administering that Federal retirement system or military retirement system.

"**§ 1805. Health insurance benefits**

"(a) IN GENERAL.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover health insurance program for designated employees and members and eligible family members. A designated employee or member may not participate in the health insurance program established under this section and the program under chapter 89 of title 5 or chapter 55 of this title at the same time.

"(b) CONVERSION TO FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—A designated employee participating in the health insurance program established under subsection (a) may convert to coverage under the program under chapter 89 of title 5, and a designated member participating in the program established under subsection (a) may convert to coverage under the program under chapter 55 of this title or chapter 17 of title 38, at any appropriate time

determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the health insurance program established under this subsection is no longer necessary to protect from unauthorized disclosure—

"(1) intelligence operations or other authorized sensitive activities necessary for the national defense which requires special security measures;

"(2) the identities of undercover officers;

"(3) intelligence sources and methods; or

"(4) cover mechanisms.

"(c) CONVERSION TREATMENT.—Upon a conversion of a designated employee under subsection (b)—

"(1) the employee (and family, if applicable) shall be entitled to immediate enrollment and coverage under chapter 89 of title 5;

"(2) any requirement of prior enrollment in a health benefits plan under chapter 89 of title 5 for continuation of coverage purposes shall not apply;

"(3) the employee shall be deemed to have had coverage under chapter 89 of title 5 from the first opportunity to enroll for purposes of continuing coverage; and

"(4) the Secretary of Defense shall transmit an amount for deposit in the Employees' Health Benefits Fund that is necessary to cover any costs of such conversion.

"(d) TRANSMITTED AMOUNTS.—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.

"(e) ELIGIBLE FAMILY MEMBER DEFINED.—In this section, the term 'eligible family member' means—

"(1) with respect to an employee, a member of a family as defined in section 8901 of title 5; and

"(2) with respect to a member of the armed forces, a dependent as defined in section 1072 of this title.

"**§ 1806. Life insurance benefits**

"(a) IN GENERAL.—The Secretary of Defense may establish, administer, contract for, or implement through another Federal agency, a cover life insurance program for designated employees and members (and the family of such designated employees or members). A designated employee or member may not participate in the life insurance program established under this section and the program under chapter 87 of title 5 for the same time period.

"(b) CONVERSION TO FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM.—A designated employee participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 87 of title 5, and a designated member participating in the life insurance program established under subsection (a) may convert to coverage under the program under chapter 19 of title 38 , at any appropriate time determined by the Secretary of Defense (including at the time of separation of service by reason of retirement), if the Secretary of Defense determines that the participation of the employee or member in the life insurance program established under this section is no longer necessary to protect from unauthorized disclosure—

"(1) intelligence operations or other authorized sensitive activities necessary for the national defense which requires special security measures;

"(2) the identities of undercover officers;

"(3) intelligence sources and methods; or

"(4) cover mechanisms.

"(c) CONVERSION TREATMENT.—Upon a conversion of a designated employee under subsection (b)—

"(1) the employee (and family, if applicable) shall be entitled to immediate coverage under chapter 87 of title 5;

"(2) any requirement of prior enrollment in a life insurance program under chapter 87 of title 5 for continuation of coverage purposes shall not apply;

"(3) the employee shall be deemed to have had coverage under chapter 87 of title 5 for the full period of service during which the employee would have been entitled to be insured for purposes of continuing coverage; and

"(4) the Secretary of Defense shall transmit an amount for deposit in the Employees' Life Insurance Fund that is necessary to cover any costs of such conversion.

"(d) TRANSMITTED AMOUNTS.—Any amount described under subsection (c)(4) shall be paid from any fund the Secretary of Defense deems appropriate.

"**§ 1807. Exemption from certain requirements**

"The Secretary of Defense may exempt a designated employee or member from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Secretary of Defense determines—

"(1) would be inconsistent with the cover of that employee or member; and

"(2) could expose that employee to detection as a Federal employee or that member as a member of the armed forces.

"**§ 1808. Taxation and social security**

"(a) IN GENERAL.—Notwithstanding any other provision of law, a designated employee or member—

"(1) shall file a Federal or State tax return as if that employee or member is not a Federal employee or member of the armed forces and may claim and receive the benefit of any exclusion, deduction, tax credit, or other tax treatment that would otherwise apply if that designated employee was not a Federal employee or that designated member was not a member of the armed forces, if the Secretary of Defense determines that taking any action under this subsection is necessary to protect from unauthorized disclosure—

"(A) intelligence operations or other authorized sensitive activities necessary for the national defense which requires special security measures;

"(B) the identities of undercover officers;

"(C) intelligence sources and methods; or

"(D) cover mechanisms; and

"(2) shall receive social security benefits based on the social security contributions made.

"(b) PAYMENT OF ADDITIONAL FINANCIAL LIABILITIES.—If a designated employee or member incurs an additional financial liability as a result of filing a Federal or State tax return as if the employee is not a Federal employee or member of the armed forces, the Secretary of Defense may reimburse the designated employee or designated member for such additional financial liability.

"(c) INTERNAL REVENUE SERVICE REVIEW.—The Secretary of Defense shall establish procedures to carry out this section. The procedures shall be subject to periodic review by the Internal Revenue Service.

"**§ 1809. Regulations**

"The Secretary of Defense shall prescribe regulations to carry out this chapter. The regulations shall ensure that the combination of salary, allowances, and benefits that an employee or member designated under this chapter may retain does not significantly exceed, except to the extent determined by the Secretary of Defense to be necessary to exercise the authority in this chapter, the combination of salary, allowances, and benefits otherwise received by employees or members not designated under this chapter.

"**§ 1810. Finality of decisions**

"Any determinations authorized by this chapter to be made by the Secretary of Defense or a designee of the Secretary shall be final and conclusive and shall not be subject to review by any court.".

(b) TABLE OF CHAPTERS AMENDMENT.—The table of chapters at the beginning of part II of subtitle A of title 10, United States Code, is amended by adding at the end the following new item:

"89. Cover Enhancement Authorities ……..1801.".

Section-by-Section Analysis

This proposal would add a new chapter to title 10, United States Code, that enhances the cover of certain Department of Defense (DoD) employees and members of the Armed Forces. This new chapter provides the Secretary of Defense with personnel authorities, including pay, allowances, retirement, insurance, and other benefits, similar to those authorities provided to the Director of the Central Intelligence Agency (CIA) in section 23 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3523). Under the proposal, the Secretary would be able to exercise such authorities to protect from unauthorized disclosure (a) intelligence operations or authorized activities necessary for the national defense that require special security measures; (b) the identities of undercover officers; (c) intelligence sources and methods; or (d) cover mechanisms. The Secretary may designate, and exercise such authorities with respect to, any individual who is under cover and an employee of the Department or a member of the armed forces. The proposal would provide the Secretary with authority to exempt such designated individuals from mandatory compliance with any Federal regulation, rule, standardized administrative policy, process, or procedure that the Secretary of Defense determines would be inconsistent with the cover of that employee or member and could expose that employee to

detection as a Federal employee or that member as a member of the Armed Forces. See classified document for additional background and justification.

Resource Information: The best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal will be provided in a separate classified document.

Changes to Existing Law: This proposal adds a new chapter to title 10, United States Code, the full text of which is set forth in the legislative text above.

SEC. ___. EMPLOYMENT AND COMPENSATION OF CIVILIAN FACULTY MEMBERS AT INTER-AMERICAN DEFENSE COLLEGE.

(a) IN GENERAL.—Subsection (c) of section 1595 of title 10 , United States Code, is amended by adding at the end the following new paragraph:

"(9) The United States Element of the Inter-American Defense College.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by striking "institutions" and inserting "organizations"; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "INSTITUTIONS" and inserting "ORGANIZATIONS"; and

(B) in the matter preceding paragraph (1), by striking "institutions" and inserting "organizations".

[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 Department of Defense (DoD) to provide support to the Inter-American Defense College (IADC) through the hiring of professors, instructors, and lecturers so IADC may achieve parity with other senior service colleges. This would allow IADC to deliver a quality program that meets evolving accreditation standards. When laws were enacted providing U.S. war colleges authority to hire professors, instructors, and lecturers, it was determined that IADC did not need to be included because, at the time, IADC was under the administrative support of the Joint Staff, which had sufficient hiring authority. From 1962 to 2016, Joint Staff provided personnel support to IADC. Now that IADC is no longer supported by the Joint Staff and DoD support is provided in accordance with section 351 of title 10, United States Code, IADC needs the same hiring authority granted to the other stand-alone senior service colleges. IADC needs this authority so that the U.S. flag officer responsible for the U.S. Element of IADC and serving as the Director of IADC can rapidly fill projected vacancies in order to accomplish IADC's organizational mission, comply with the international agreement as IADC's host nation, comply with U.S. law, and contribute to the international professional military education objectives of the Secretary of Defense and the National Security Strategy.

The IADC is the Department's most cost-effective security cooperation engagement platform that may be leveraged to strengthen partnerships for great power competition. With over 3,000 graduates from 27 countries, approximately 27 percent of graduates achieve the rank of general officer/flag officer or civilian equivalent. Eight of the current ministers of defense or security in the Western Hemisphere are IADC alumni. IADC represents a low political risk and barrier to entry for countries to engage the United States and IADC is not seen as a direct instrument of U.S. policy, enabling countries to ease into the Inter-American System. IADC offers a unique capability to engage multilaterally, through a truly international institution with tangible commitments from partner nations: 62 percent of staff personnel are provided by partner nations and 90 percent of students are fully funded by the sponsoring nation without U.S. assistance. The District of Columbia Higher Education Learning Commission issued IADC a permanent license in 2019 to operate as an academic institution in recognition of the College's exemplary operating standards. On June 24, 2021, the Middle States Commission on Higher Education granted IADC full accredited status with a retroactive effective accreditation date of March 15, 2018, making it the second accreditor (the Accrediting Council for Independent Colleges and Schools accredited IADC in 2014).

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2025 President's Budget request.

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)**
InterAmerican Defense College	0.63	0.64	0.64	0.66	0.67	Operation & Maintenance, Army	BA01	143	N/A
Total	0.63	0.64	0.64	0.66	0.67				

PERSONNEL IMPACT (END STRENGTH/FTES)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (only for RDT&E programs)**
InterAmerican Defense College	4 FTEs	4 FTEs	4 FTEs	4 FTEs	4 FTEs	Operation & Maintenance, Army	BA01	143	N/A
Total	4	4	4	4	4				

Changes to Existing Law: This proposal amends section 1595 of title 10, United States Code, as follows:

§1595. Civilian faculty members at certain Department of Defense schools: employment and compensation

(a) AUTHORITY OF SECRETARY.—The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers at the ~~institutions~~ organizations specified in subsection (c) as the Secretary considers necessary.

(b) COMPENSATION OF FACULTY MEMBERS.—The compensation of persons employed under this section shall be as prescribed by the Secretary.

(c) COVERED ~~INSTITUTIONS~~ ORGANIZATIONS.—This section applies with respect to the following ~~institutions~~ organizations of the Department of Defense:

(1) The National Defense University.
(2) The Foreign Language Center of the Defense Language Institute.
(3) The English Language Center of the Defense Language Institute.
(4) The Western Hemisphere Institute for Security Cooperation.
(5) The Joint Special Operations University.
(6) The Defense Security Cooperation University.
(7) The Defense Institute for Security Governance.
(8) The Defense Institute of International Legal Studies.
(9) The United States Element of the Inter-American Defense College.

(d) APPLICATION TO FACULTY MEMBERS AT NDU.—In the case of the National Defense University, this section applies with respect to persons selected by the Secretary for employment as professors, instructors, and lecturers at the National Defense University after February 27, 1990.

SEC. ___. EXCEPTION TO RESTRICTIONS ON OVERHAUL, REPAIR, AND MAINTENANCE OF NAVAL VESSELS IN FOREIGN SHIPYARDS FOR CORRECTIVE AND PREVENTATIVE MAINTENANCE EXERCISES.

Section 8680(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) Notwithstanding paragraph (1), during each fiscal year not more than six naval vessels described in paragraph (1) may conduct scheduled maintenance or repairs outside the United States or Guam if—

"(A) the period for the maintenance or repairs is less than 90 consecutive days in duration; and

"(B) the maintenance or repairs is conducted as part of an exercise to develop and improve the ability to conduct maintenance or repairs during wartime or periods of increased international tension.".

[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 ships homeported in the United States or Guam to execute a maintenance availability in a foreign port as part of the U.S. Navy's Surface Wartime Repair and Maintenance (SWaRM) program. The SWaRM program is part of the Department of Defense's response to the report to congressional committees published by the Government Accountability Office in June 2021 entitled "Timely Actions Needed to Improve Planning and Develop Capabilities for Battle Damage Repair" (GAO 21-246).

SWaRM supports the generation and sustainment of forces conducting distributed maritime operations within highly contested environments. SWaRM actions are intended to extend military operations within an adversary's weapons engagement zone. The SWaRM continuum begins with first actions by the crew in response to damage, then moves to afloat salvage, battle damage assessment, tow or heavy lift, and finally semi-permanent repair as well as maintenance.

Executing maintenance that falls under the category of "voyage repairs" is currently restricted by this section. A voyage repair availability is assigned solely for the accomplishment of corrective maintenance of mission or safety essential items necessary for a ship to deploy or continue on its deployment. Scheduled maintenance will still be required during contested operations that extend over several weeks. In order to be able to effectively execute maintenance in a contested or potential hostile environment, those unique skillsets must be exercised on a regular basis. SWaRM maintenance refers to executing scheduled maintenance in foreign ports. Under the current wording of this section, scheduled maintenance in foreign ports is prohibited on ships homeported in the United States or Guam, with some exemptions for naval vessels classified as Littoral Combat Ships and voyage repairs. Consequently, only naval vessels homeported outside of the United States and Guam (also known as forward deployed naval forces (FDNF)) can undergo scheduled maintenance.

The exclusive use of FDNF ships for the purpose of conducting SWaRM exercises would increase the time FDNF sailors are out of homeport (also known as personnel tempo); negatively impact high-tempo FDNF operations; and fail to realistically exercise the required capability. The proposed amendment to this section would allow ships homeported in the United States or Guam to execute maintenance in a foreign port as part of the SWaRM program, reducing the operational tempo of already stressed FDNF ships. Furthermore, scheduled maintenance on non-FDNF ships would have no impact on personnel tempo because the stop can be integrated into the ship's overall deployment schedule.

This proposal would also support improved coordination with our international partners in the U.S. Indo-Pacific Command and U.S. European Command areas: Australia, Japan, South Korea, Republic of the Philippines, Oman, Kingdom of Saudi Arabia, Egypt, Israel, Jordan, Greece, Croatia, Norway, United Kingdom, and others.

By limiting the number of scheduled maintenance availabilities that can be executed under this proposal to no more than six vessels per year, the impact to the United States and Guam industrial base will be minimized.

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 section 8680 of title 10, United States Code, as follows:

§ 8680. Overhaul, repair, etc. of vessels in foreign shipyards: restrictions

(a) VESSELS UNDER JURISDICTION OF THE SECRETARY OF THE NAVY WITH HOMEPORT IN UNITED STATES OR GUAM.—(1) A naval vessel the homeport of which is in the United States or Guam may not be overhauled, repaired, or maintained in a shipyard outside the United States or Guam.

(2)(A) Notwithstanding paragraph (1) and subject to subparagraph (B), in the case of a naval vessel classified as a Littoral Combat Ship and operating on deployment, corrective and

preventive maintenance or repair (whether intermediate or depot level) and facilities maintenance may be performed on the vessel—

(i) in a foreign shipyard;

(ii) at a facility outside of a foreign shipyard; or

(iii) at any other facility convenient to the vessel.

(B)(i)(I) Corrective and preventive maintenance or repair may be performed on a vessel as described in subparagraph (A) if the work is performed by United States Government personnel or United States contractor personnel.

(II) Notwithstanding subclause (I), foreign workers may be used to perform corrective and preventive maintenance or repair on a vessel as described in subparagraph (A) only if the Secretary of the Navy determines that travel by United States Government personnel or United States contractor personnel to perform the corrective or preventive maintenance or repair is not advisable for health or safety reasons. The Secretary of the Navy may not delegate the authority to make a determination under this subclause.

(III) Not later than 30 days after making a determination under subclause (II), the Secretary of the Navy shall submit to the congressional defense committees written notification of the determination. The notification shall include the reasons why travel by United States personnel is not advisable for health or safety reasons, the location where the corrective and preventive maintenance or repair will be performed, and the approximate duration of the corrective and preventive maintenance or repair.

(ii) Facilities maintenance may be performed by a foreign contractor on a vessel as described in subparagraph (A) only as approved by the Secretary of the Navy.

(C) In this paragraph:

(i) The term "corrective and preventive maintenance or repair" means—

(I) maintenance or repair actions performed as a result of a failure in order to return or restore equipment to acceptable performance levels; and

(II) scheduled maintenance or repair actions to prevent or discover functional failures.

(ii) The term "facilities maintenance" means—

(I) the effort required to provide housekeeping services throughout the ship;

(II) the effort required to perform coating maintenance and repair to exterior and interior surfaces due to normal environmental conditions; and

(III) the effort required to clean mechanical spaces, mission zones, and topside spaces.

(3) Notwithstanding paragraph (1), a naval vessel described in paragraph (1) may be repaired in a shipyard outside the United States or Guam if the repairs are—

(A) voyage repairs; or

(B) necessary to correct damage sustained due to hostile actions or interventions.

(4) Notwithstanding paragraph (1), during each fiscal year not more than six naval vessels described in paragraph (1) may conduct scheduled maintenance or repairs outside the United States or Guam if—

(A) the period for the maintenance or repairs is less than 90 consecutive days in duration; and

(B) the maintenance or repairs is conducted as part of an exercise to develop and improve the ability to conduct maintenance or repairs during wartime or periods of increased international tension.

* * * * *

SEC. ___. EXPANDED LICENSE RECIPROCITY FOR DEPARTMENT OF DEFENSE VETERINARIANS.

Section 1060c of title 10, United States Code, is amended—

(1) in the section heading, by striking "**in emergencies**";

(2) in subsection (a), by striking "for the purposes described in subsection (c)";

and

(3) by striking subsection (c).

[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 remove the statutory restrictions concerning declared emergencies and disasters currently placed on the reciprocal practice of Department of Defense (DoD) veterinarians when performing authorized duties. Removal of the restrictions will eliminate any uncertainty about the lawful scope of practice for DoD veterinarians and allow for more efficiency within the DoD veterinary practice area.

Pursuant to current law, veterinary services may only be provided outside of a military installation (or other Federal property), without regard to jurisdictional licensing requirements, during certain declared emergencies or disasters. Absent these explicit conditions, DoD veterinarians are generally prohibited from providing veterinary services in support of a DoD operation or activity unless they are located on a military installation or individually licensed in the specific jurisdiction where they are performing duties.[1] Many States have reciprocity agreements in place, but reliance on such agreements can still result in delays and does not provide a comprehensive solution.

These restrictions are unique to DoD veterinarians within the military healthcare community and unnecessarily limit the scope of practice to the detriment of the military.[2] For example, if an Army veterinarian assigned to Fort Campbell, Kentucky is tasked to provide care for working dogs during a Federal mission for security at an event located in another State, he or she may be required to apply for and personally bear the costs of a new license (such costs may be up to $500, including application fees) in order to practice in compliance with local

[1] Each State or territory has its own system for processing an applicant's professional and academic history and its own timeline for approval. The criteria for approval also vary and can include, for example, an in-person appearance before the licensing board with an oral examination (https://www.avma.org/news/veterinary-leaders-see-potential-knock-down-licensing-barriers).

[2] 10 U.S.C. 1094. Licensure requirement for health-care professional - provides for reciprocity of other health care providers within the context of practicing medicine as part of their official duties, but does not include veterinarians.

jurisdictional licensing requirements. If a veterinarian fails to observe the local jurisdictional licensing requirements, some jurisdictions may subject the individual to a penalty of $300-$1,000, or in extreme cases, imprisonment. As with the licensing costs, these penalties are paid by the individual, not the Department. These penalties may apply even if the services provided are directly in support of a DoD mission. Similar issues arise when attempting to inspect animals as part of a procurement process for DoD or to facilitate the retirement of military animals.

By amending 10 U.S.C. 1060c to remove the restrictions on reciprocal practice, the military will be able to conduct veterinary operations and activities more efficiently, with less cost, and without personal legal and financial risk for the DoD veterinarians involved. Note that this would only apply to services within the scope of the authorized duties of veterinary professionals for the DoD. It would not authorize practice outside of authorized duties without meeting the licensing requirements of the local jurisdiction.

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 1060c of title 10, United States Codes, as follows:

§ 1060c. Provision of veterinary services ~~in emergencies~~

(a) IN GENERAL.—A veterinary professional described in subsection (b) may provide veterinary services ~~for the purposes described in subsection (c)~~ in any State, the District of Columbia, or a territory or possession of the United States, without regard to where such veterinary professional or the patient animal are located, if the provision of such services is within the scope of the authorized duties of such veterinary professional for the Department of Defense.

(b) VETERINARY PROFESSIONAL DESCRIBED.—A veterinary professional described in this subsection is an individual who is—

(1)(A) a member of the armed forces, a civilian employee of the Department of Defense, or otherwise credentialed and privileged at a Federal veterinary institution or location designated by the Secretary of Defense for purposes of this section; or

(B) a member of the National Guard performing training or duty under section 502(f) of title 32;

(2) certified as a veterinary professional by a certification recognized by the Secretary of Defense; and

(3) currently licensed by a State, the District of Columbia, or a territory or possession of the United States to provide veterinary services.

~~(c) PURPOSES DESCRIBED.—The purposes described in this subsection are veterinary services in response to any of the following:~~

~~(1) A national emergency declared by the President pursuant to the National Emergencies Act (50 U.S.C. 1601 et seq.).~~

~~(2) A major disaster or an emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).~~

~~(3) A public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d).~~

~~(4) An extraordinary emergency, as determined by the Secretary of Agriculture under section 10407(b) of the Animal Health Protection Act (7 U.S.C. 8306(b)).~~

SEC. __. EXTENSION AND MODIFICATION OF AUTHORITY TO PROVIDE ASSISTANCE TO COUNTER THE ISLAMIC STATE OF IRAQ AND SYRIA.

(a) EXTENSION.—Subsection (a) of section 1236 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3559), as most recently amended by section 1263 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31), is further amended in the matter preceding paragraph (1) by striking "December 31, 2024" and inserting "December 31, 2025".

(b) FUNDING.—Subsection (g) of such section 1236 is amended by striking "fiscal year 2024, there are authorized to be appropriated $241,950,000" and inserting "fiscal year 2025, there are authorized to be appropriated $380,000,000.".

(c) FOREIGN CONTRIBUTIONS.—Subsection (h) of such section 1236 is amended—

(1) by striking "CONTRIBUTIONS.—The Secretary" and inserting the following: "CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary"; and

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

"(2) USE OF CONTRIBUTIONS.—The dollar amount limitations in subsection (a) and subsection (m) shall not apply with respect to the expenditure of foreign contributions in excess of the limitations described in those subsections.".

(d) WAIVER AUTHORITY.—Subsection (o) of such section 1236 is amended—

(1) in paragraph (1) in the matter preceding subparagraph (A), by striking "limitation in subsection (a)" and inserting "limitations in subsection (a) or subsection (m)"; and

(2) in paragraph (6), by striking "December 31, 2024" and inserting "December 31, 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 would extend and modify existing authority under section 1236 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Public Law 113-291) to continue providing support to partner forces in Iraq to defeat the Islamic State of Iraq and Syria (ISIS) and help ensure ISIS cannot resurge.

This authority continues to serve as the principal means for supporting operations "by, with, and through" vetted Government of Iraq (GoI) forces, including the Peshmerga, to achieve the enduring defeat of the ISIS in Iraq and prevent its resurgence. The extension and modification reflect DoD requirements in the current operational environment and the continuing need to enable vetted Iraqi Security Forces (ISF) and Peshmerga forces to ensure the defeat of ISIS and prevent its re-emergence. The need to increase efforts to ensure the safety and securing of U.S. and partner forces in Iraq against ISIS (and others) persistent drone and missile attacks in Northern Iraq will be addressed in the funding increase requested.

U.S. support for ISF and Peshmerga defeat-ISIS efforts strengthens Iraq's ability to counter ISIS effectively and liberate their nation from the ISIS threat. Continuing this support will enhance the enduring strategic relationship between the United States and Iraq and help build the security relationship into the future. Section 1236 continues to provide credibility to our commitment to Iraq. The training, equipment, and operational support provided through this authority allowed the GoI to consolidate the gains achieved against ISIS and liberate all the territory ISIS once held. Extension of the program will facilitate the security development necessary for stability in Iraq.

The Administration continues to work with the Government of Iraq to enable their ability to securely and humanely hold the estimated 10,000 Iraqi ISIS fighters in Iraqi detention facilities. More than 1,600 Iraqi ISIS fighters remain in partner-run detention facilities in Syria; those facilities often lack appropriate security and remain vulnerable to ISIS efforts to break out. Continuing and expanding the authority to waive limitations on the cost of construction projects, including not only the per project limitation but also the aggregate cost limitation per fiscal year would allow for the expedited implementation of projects to support our Iraqi partners' efforts to expand detention capacity effectively, and would facilitate the secure and humane repatriation of Iraqi ISIS detainees currently in Syria.

Moreover, the Administration is seeking additional foreign contributions in support of these efforts. Modifying the provision to authorize the use of contributions received from foreign partners in support of such imperative construction and repair activities without being subject to the per project or aggregate cost limitations in the statute would provide necessary flexibility to ensure effective implementation of partner contributions. It would also bring this section in line with its counterpart authority (section 1209 of the NDAA for FY 2015) with respect to foreign contributions received for activities in Syria.

Section 1236 is the only authority that provides the flexibility to support the evolving nature of the fight to defeat ISIS and its resurgence in Iraq, ensure the defeat of ISIS, and achieve U.S. counterterrorism and USG objectives in the region.

Resource Information: Resources impacted by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2025 President's Budget.

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)**
CTEF – Iraq	$380					CTEF	04	4GTD0000	1002200T
Total	$380					CTEF	04	4GTD0000	1002200T

Changes to Existing Law: This proposal would make the following changes to section 1236 of the National Defense Authorization Act for Fiscal Year 2015:

SEC. 1236. AUTHORITY TO PROVIDE ASSISTANCE TO COUNTER THE ISLAMIC STATE OF IRAQ AND SYRIA.

(a) IN GENERAL.—The Secretary of Defense is authorized, in coordination with the Secretary of State, to provide assistance, including training, equipment, logistics support, supplies, and services, stipends, infrastructure repair and renovation, small-scale construction of temporary facilities necessary to meet urgent operational or force protection requirements with a cost less than $6,000,000, and sustainment, to military and other security forces of or associated with the Government of Iraq, including Kurdish and tribal security forces or other local security forces, with a national security mission, and facilitate Coalition efforts to build capacity in our partner forces to counter and defeat any re-emergence of ISIS, through ~~December 31, 2024~~ December 31, 2025, for the following purposes:

(1) Defending Iraq, its people, allies, and partner nations from the threat posed by the Islamic State of Iraq and Syria (ISIS) and groups supporting ISIS.

(2) Securing the territory of Iraq.

* * * * *

(g) FUNDING.—Of the amounts authorized to be appropriated for the Department of Defense for fiscal year 2024 there are authorized to be appropriated ~~$241,950,000~~ $380,000,000 to carry out this section.

(h) AUTHORITY TO ACCEPT CONTRIBUTIONS.—

(1) IN GENERAL.—The Secretary of Defense may accept and retain contributions, including assistance in-kind, from foreign governments, including the Government of

Iraq, to provide assistance authorized under subsection (a). Any funds accepted by the Secretary may be credited to the account from which funds are made available for the provision of assistance authorized under subsection (a) and may be used for such purpose until expended.

(2) USE OF CONTRIBUTIONS.—The dollar amount limitations in subsection (a) and subsection (m) shall not apply with respect to the expenditure of foreign contributions in excess of the limitations described in those subsections.

* * * * *

(m) LIMITATION ON AGGREGATE COST OF CONSTRUCTION, REPAIR, AND RENOVATION PROJECTS.—The aggregate amount of construction, repair, and renovation projects carried out under this section in any fiscal year may not exceed $30,000,000.

* * * * *

(o) WAIVER AUTHORITY.—

(1) AUTHORITY OF PRESIDENT.—The President may waive the dollar amount ~~limitation~~ limitations in subsection (a) or subsection (m) with respect to a construction, repair, or renovation project for the purposes of providing the support described in paragraph (3) if the President—

(A) determines that the waiver is in the national security interest of the United States; and

(B) submits to the appropriate congressional committees a notification of the exercise of the waiver.

(2) AUTHORITY OF SECRETARY OF DEFENSE.—

(A) IN GENERAL.—The Secretary of Defense may further adjust the total cost of a project subsequent to a waiver by the President of the dollar amount limitation in subsection (a) if—

(i) such total cost does not exceed the sum of—

(I) the cost estimate for the project as required by paragraph (4)(B)(i) that is included in the notification submitted by the President pursuant to such waiver; and

(II) the amount that is 50 percent of such cost estimate; and

(ii) the Secretary submits to the appropriate congressional committees a notification of the exercise of the adjustment.

(B) SCOPE.—The Secretary may modify the scope of a project subsequent to a waiver by the President of the dollar amount limitation in subsection (a) if the Secretary submits to the appropriate congressional committees a notification of the exercise of the modification.

(3) SUPPORT DESCRIBED.—The support described in this paragraph is support relating to temporary humane detention of Islamic State of Iraq and Syria foreign terrorist fighters in accordance with all laws and obligations relating to the provision of such support, including, as applicable—

(A) the law of armed conflict;

(B) internationally recognized human rights;

(C) the principle of non-refoulement;

(D) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984); and

(E) the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST6223)).

(4) NOTICE AND WAIT.—

(A) IN GENERAL.—A project with respect to which the exercise of a waiver under paragraph (1) applies may only be carried out after the end of a 15-day period beginning at the date on which the appropriate congressional committees receive the notification required by paragraph (1)(B). A project with respect to which the exercise of a further adjustment to the total cost of the project under paragraph (2)(A) applies or with respect to which the exercise of a modification to the scope of the project under paragraph (2)(B) applies may only be carried out after the end of a 15-day period beginning on the date on which the appropriate congressional committees receive the notification required by paragraph (2)(A) or (2)(B), as the case may be.

(B) MATTERS TO BE INCLUDED.—The notification required by paragraph (1)(B), (2)(A), or (2)(B) shall include the following:

(i) A detailed plan and cost estimate for the project.

(ii) A certification by the President that facilities and activities relating to the project comply with the laws and obligations described in paragraph (2).

(iii) An explanation of the national security interest addressed by the project.

(C) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this paragraph, the term "appropriate congressional committees" means—

(i) the congressional defense committees; and

(ii) the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(5) UPDATE TO PLAN AND COST ESTIMATE.—Upon obligation of any funds to carry out a project with respect to which the exercise of a waiver under paragraph (1) applies, the Secretary of Defense shall submit to the congressional defense committees an update to the plan and cost estimate for the project as required by paragraph (3)(B)(i).

(6) SUNSET.—The waiver and other authorities under this subsection shall expire on ~~December 31, 2024~~ December 31, 2025.

SEC **.___. EXTENSION AND MODIFICATION OF AUTHORITY TO PROVIDE ASSISTANCE TO VETTED SYRIAN GROUPS AND INDIVIDUALS.**

(a) EXTENSION.—Subsection (a) of section 1209 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3559), as most recently amended by section 1264 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31), is further amended in the matter preceding paragraph (1) by striking "December 31, 2024" and inserting "December 31, 2025".

(b) REPORT.—Such section 1209 is further amended—

(1) by striking subsections (b) and (c); and

(2) by redesignating subsections (d) through (m) as subsections (b) through (k), respectively.

(C) LIMITATION ON COST OF CONSTRUCTION AND REPAIR PROJECTS.—Subsection (j) of such section 1209, as redesignated by subsection (b)(2) of this section, is amended—

(1) in paragraph (1)(B), by striking "$20,000,000" and inserting "$30,000,000"; and

(2) in paragraph (3)(E), by striking "December 31, 2024" and inserting "December 31, 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 would extend and modify existing authority to conduct programs authorized under section 1209 of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Public Law 113-291), informed by lessons learned to date from countering the Islamic State of Iraq and Syria (ISIS) in Syria and Iraq. Moreover, the extension and modification of this authority will provide continued assistance to maintain continuity in the campaign to defeat ISIS, maintain cohesion with partners and allies in the Global Coalition to Defeat ISIS, and respond effectively to any ISIS resurgence.

Extension and modification of this authority would afford the necessary resources required to counter ISIS in Syria. This authority provides the means to train and equip vetted Syrian groups and individuals (VSGI) to accomplish U.S. counterterrorism goals. This authority continues to serve as the principal means for continuing counterterrorism and related operations "by, with, and through" VSGI to achieve the enduring defeat of ISIS. The extension and modification reflects Department of Defense (DoD) requirements in the current operational environment and the continuing need to enable VSGI to ensure the defeat of ISIS and prevent its re-emergence.

The ISIS "caliphate" in Syria still exist with the intent to regroup, rebuild, and to continue the battle in the future. Countering ISIS now, and in the years ahead, requires assistance that creates an environment in which local partner forces can respond effectively to ISIS, as it shifts its operations to insurgent warfare. ISIS remains focused on maintaining a clandestine, long-term insurgency to undermine local and regional governments, and support its global ambitions. This authority supports building the capacity and improving operational capabilities of our vetted partners to defeat ISIS, and deliver security to liberated areas in Syria. Additionally, this assistance provides our vetted local forces with essential security components that otherwise would not be available under any existing U.S. program.

Subsections (b) and (c) of section 1209 were modified by the NDAA for FY 2020 to require the Secretary of Defense to notify the congressional defense committees of select information prior to expenditure of funds for VSGI assistance. This reporting requirement is mostly redundant since the Secretary already reports the same level of information in the financial and activity plans (FAPs) required by appropriations acts. Information required in this report that is not already reported in FAPs can be added to the quarterly reports that are required in subsection (d) of section 1209. Rescinding this reporting requirement would reduce reporting, and expedite funding for VSGI support, all without withholding information from the congressional defense committees.

More than 10,000 ISIS fighters remain in partner-run detention facilities in Syria. As the January 2022 attack in Hasakah demonstrates, these facilities remain vulnerable to ISIS efforts to break out of those facilities. Guard training and enhanced security measures provided to the vetted partner forces pursuant to section 1209 remain imperative to maintaining the security of these facilities and keeping those ISIS fighters off the battlefield. Continuing the authority to waive limitations on the cost of construction projects and increasing the aggregate limits would enable the expedited implementation of projects to construct purpose-built detention facilities and improve security conditions at these facilities.

These capabilities can only be built by strengthening the security capabilities of our vetted partners in securing territory liberated from ISIS and countering any future ISIS threats. The authority to provide training, equipment, and operational support, allows these partners to consolidate the gains achieved against ISIS and help prevent its reemergence. This authority is instrumental and cost-effective in improving the stability and security of areas liberated from ISIS, as well as the detention of ISIS fighters. Doing so helps reduce malign influence by other actors in liberated areas. The extension and modifications proposed here are intended to increase the effectiveness of our partners in continuing this campaign, in particular, their efforts to detain ISIS fighters in a safe, secure, and humane manner and to eliminate redundant reporting requirements.

Since the inception of our efforts to train and equip the vetted partner forces in Syria, together with our partners, ISIS has lost all the territory it once held in its so-called caliphate, but

we must remain vigilant of any possible resurgence of ISIS and similar organizations. Without these authorities and support to local partners' counter-ISIS operations, our partners will be challenged to address evolving ISIS threats, maintain sufficient border security, and protect their population, which would result in an environment that fuels instability, exacerbates sectarian divisions, contributes to extremism, and allows outside actors to destabilize the region and places our Homeland (and those of our partners and allies) at future risk.

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the Fiscal Year (FY) 2025 President's Budget request.

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)**
CTEF – Syria	$148					CTEF	04	4GTD0000	1002200T
Total	$148								

Changes to Existing Law: This proposal would make the following changes to section 1209 of the National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291):

SEC. 1209. AUTHORITY TO PROVIDE ASSISTANCE TO VETTED SYRIAN GROUPS AND INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Defense is authorized, in coordination with the Secretary of State, to provide assistance, including training, equipment, supplies, stipends, construction and repair of training and associated facilities or other facilities necessary to meet urgent military operational requirements of a temporary nature and sustainment to appropriately vetted Syrian groups and individuals through ~~December 31, 2024~~ December 31, 2025, for the following purposes:

(1) Defending the Syrian people from attacks by the Islamic State of Iraq and Syria.

(2) Securing territory formerly controlled by the Islamic State of Iraq and Syria.

(3) Protecting the United States and its partners and allies from the threats posed by the Islamic State of Iraq and Syria, al Qaeda, and associated forces in Syria.

(4) Providing appropriate support to vetted Syrian groups and individuals to conduct temporary and humane detention and repatriation of Islamic State of Iraq and Syria foreign terrorist fighters in accordance with all laws and obligations related to the conduct of such operations, including, as applicable—

(A) the law of armed conflict;

(B) internationally recognized human rights;

(C) the principle of non-refoulement;

(D) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984); and

(E) the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).

~~(b) NOTICE BEFORE PROVISION OF ASSISTANCE.—~~

~~(1) IN GENERAL.—In accordance with the requirements under paragraph (2), the Secretary of Defense shall notify the congressional defense committees in writing of the use of the relevant authority to provide assistance and include the following:~~

~~(A) The requirements and process used to determine appropriately vetted recipients.~~

~~(B) The mechanisms and procedures that will be used to monitor and report to the appropriate congressional committees and leadership of the House of Representatives and Senate on unauthorized end-use of provided training and equipment or other violations of relevant law by appropriately vetted recipients.~~

~~(C) The amount, type, and purpose of assistance to be funded and the recipient of the assistance.~~

~~(D) The goals and objectives of the assistance.~~

~~(E) The number and role of United States Armed Forces personnel involved.~~

~~(F) Any other relevant details.~~

~~(2) TIMING OF REQUIRED NOTICE.—A notice described in paragraph (1) shall be required—~~

~~(A) not later than 15 days before the expenditure of each 25 percent of the total amount authorized to be appropriated in any fiscal year under this section; or~~

~~(B) not later than 48 hours after such an expenditure, if the Secretary determines that extraordinary circumstances that affect the national security of the United States exist.~~

~~(c) FORM.—The notifications required under subsection (b) shall be submitted in unclassified form but may include a classified annex.~~

~~(d)~~(b) QUARTERLY PROGRESS REPORTS.—

(1) IN GENERAL.—Beginning on January 15, 2020, and every 90 days thereafter, the Secretary of Defense, in coordination with the Secretary of State, shall submit to the appropriate congressional committees and leadership of the House of Representatives and the Senate a progress report.

(2) MATTERS TO BE INCLUDED.—Each progress report under paragraph (1) shall include, based on the most recent quarterly information, the following:

(A) A description of the appropriately vetted recipients receiving assistance under subsection (a), including a description of their geographical locations, demographic profiles, political affiliations, and current capabilities.

(B) A description of training, equipment, supplies, stipends, and other support provided to appropriately vetted recipients under subsection (a) and a

statement of the amount of funds expended for such purposes during the period covered by the report.

(C) Any misuse or loss of provided training and equipment and how such misuse or loss is being mitigated.

(D) An assessment of the recruitment, throughput, and retention rates of appropriately vetted recipients.

(E) An assessment of the operational effectiveness of appropriately vetted recipients in meeting the purposes specified in subsection (a).

(F) A description of the current and planned posture of United States forces and the planned level of engagement by such forces with appropriately vetted recipients, including the oversight of equipment provided under this section and the activities conducted by such appropriately vetted recipients.

(G) A detailed explanation of the relationship between appropriately vetted recipients and civilian governance authorities, including a description of efforts to ensure appropriately vetted recipients are subject to the control of competent civilian authorities.

(H) A description of United States Government stabilization objectives and activities carried out in areas formerly controlled by the Islamic State of Iraq and Syria, including significant projects and funding associated with such projects.

(I) A description of coalition contributions to the purposes specified in subsection (a) and other related stabilization activities.

(J) With respect to Islamic State of Iraq and Syria foreign terrorist fighters—

(i) an estimate of the number of such individuals being detained by appropriately vetted Syrian groups and individuals;

(ii) an estimate of the number of such individuals that have been repatriated and the countries to which such individuals have been repatriated; and

(iii) a description of United States Government support provided to facilitate the repatriation of such individuals.

(I) An assessment of the extent to which appropriately vetted Syrian groups and individuals have enabled progress toward establishing inclusive, representative, accountable, and civilian-led governance and security structures in territories liberated from the Islamic State of Iraq and Syria.

~~(e)~~(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "appropriately vetted" means, with respect to elements of the Syrian opposition and other Syrian groups and individuals, at a minimum—

(A) assessments of such elements, groups, and individuals for associations with terrorist groups, Shia militias aligned with or supporting the Government of Syria, and groups associated with the Government of Iran. Such groups include the Islamic State of Iraq and Syria, Jabhat al Nusrah, Ahrar al Sham, other al-Qaeda related groups, and Hezbollah; and

(B) a commitment from such elements, groups, and individuals to promoting the respect for human rights and the rule of law.

(2) The term "appropriate congressional committees" means—

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

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

~~(f)~~(d) RESTRICTION ON SCOPE OF ASSISTANCE IN THE FORM OF WEAPONS.—

(1) IN GENERAL.—The Secretary may only provide assistance in the form of weapons pursuant to the authority under subsection (a) if such weapons are small arms or light weapons.

(2) WAIVER.—The Secretary may waive the restriction under paragraph (1) upon certification to the appropriate congressional committees that such provision of law would (but for the waiver) impede national security objectives of the United States by prohibiting, restricting, delaying, or otherwise limiting the provision of assistance.

~~(g)~~(e) AUTHORITY TO ACCEPT CONTRIBUTIONS.—The Secretary of Defense may accept and retain contributions, including assistance in-kind, from foreign governments to provide assistance as authorized by this section, at the end of the 15-day period beginning on the date the Secretary notifies the congressional defense committees of the amount, source, and intended purpose of such contributions. Any funds so accepted by the Secretary shall be credited to appropriations for the appropriate accounts.

~~(h)~~(f) CONSTRUCTION OF AUTHORIZATION.—Nothing in this section shall be construed to constitute a specific statutory authorization for the introduction of United States Armed Forces into hostilities or into situations wherein hostilities are clearly indicated by the circumstances.

~~(i)~~(g) WAR POWERS RESOLUTION MATTERS.—Nothing in this section supersedes or alters the continuing obligations of the President to report to Congress pursuant to section 4 of the War Powers Resolution (50 U.S.C. 1543) regarding the use of United States Armed Forces abroad.

~~(j)~~(h) WAIVER AUTHORITY.—For purposes of the provision of assistance pursuant to subsection (a), the President may waive any provision of law if the President determines that such provision of law would (but for the waiver) impede national security objectives of the United States by prohibiting, restricting, delaying, or otherwise limiting the provision of such assistance. Such waiver shall not take effect until 30 days after the date on which the President notifies the appropriate congressional committees of such determination and the provision of law to be waived.

~~(k)~~(i) ASSISTANCE TO THIRD COUNTRIES IN PROVISION OF ASSISTANCE.—The Secretary may provide assistance to third countries for purposes of the provision of assistance authorized under this section.

~~(l)~~(j) LIMITATION ON COST OF CONSTRUCTION AND REPAIR PROJECTS.—

(1) IN GENERAL.—The cost of construction and repair projects carried out under this section may not exceed, in any fiscal year—

(A) $6,000,000 per project; or

(B) ~~$20,000,000~~ $30,000,000 in the aggregate.

(2) FOREIGN CONTRIBUTIONS.—The limitation under paragraph (1) shall not apply to the expenditure of foreign contributions in excess of the per-project or aggregate limitation set forth in that paragraph.

amended by adding at the end the following:

(3) WAIVER AUTHORITY.—

(A) AUTHORITY OF PRESIDENT.—The President may waive the limitation under paragraph (1)(A) on a per project basis for the purposes of providing support authorized under subsection (a)(4) if the President—

(i) determines that the waiver is in the national security interest of the United States; and

(ii) submits to the appropriate congressional committees a notification of the exercise of the waiver.

(B) AUTHORITY OF SECRETARY OF DEFENSE.—

(i) IN GENERAL.—The Secretary of Defense may further adjust the total cost of a project subsequent to a waiver by the President of the limitation under paragraph (1)(A) if—

(I) such total cost does not exceed the sum of—

(aa) the cost estimate for the project as required by subparagraph (C)(ii)(I) that is included in the notification submitted by the President pursuant to such waiver; and

(bb) the amount that is 50 percent of such cost estimate; and

(II) the Secretary submits to the appropriate congressional committees a notification of the exercise of the adjustment.

(ii) SCOPE.—The Secretary may modify the scope of a project subsequent to a waiver by the President of the limitation under paragraph (1)(A) if the Secretary submits to the appropriate congressional committees a notification of the exercise of the modification.'

(C) NOTICE AND WAIT.—

(i) IN GENERAL.—A project with respect to which the exercise of a waiver under subparagraph (A) applies may only be carried out after the end of a 15-day period beginning at the date on which the appropriate congressional committees receive the notification required by subparagraph (A)(ii). A project with respect to which the exercise of a further adjustment to the total cost of the project under subparagraph (B)(i) applies or with respect to which the exercise of a modification to the scope of the project under subparagraph (B)(ii) applies may only be carried out after the end of a 15-day period beginning on the date on which the appropriate congressional committees receive the notification required by subparagraph (B)(i) or (B)(ii), as the case may be.

(ii) MATTERS TO BE INCLUDED.—The notification required by subparagraph (A)(ii), (B)(i), or (B)(ii) shall include the following:

(I) A detailed plan and cost estimate for the project.

(II) A certification by the President that facilities and activities relating to the project comply with—

(aa) the law of armed conflict;

(bb) internationally recognized human rights;

(cc) the principle of non-refoulement;

(dd) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984); and

(ee) the United Nations Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST6223)).

(III) An explanation of the national security interest addressed by the project.

(iii) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subparagraph, the term "appropriate congressional committees" means—

(I) the congressional defense committees; and

(II) the Committee on Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(D) UPDATE TO PLAN AND COST ESTIMATE.—Upon obligation of any funds to carry out a project with respect to which the exercise of a waiver under subparagraph (A) applies, the Secretary of Defense shall submit to the congressional defense committees an update to the plan and cost estimate for the project as required by subparagraph (B)(ii)(I).

(E) SUNSET.—The waiver and other authorities under this paragraph shall expire on ~~December 31, 2024~~ December 31, 2025.

~~(m)~~(k) APPROVAL AND NOTICE BEFORE CERTAIN CONSTRUCTION AND REPAIR PROJECTS.—

(1) APPROVAL.—A construction or repair project costing more than $1,000,000 may not be carried out under this section unless approved in advance by the Commander of the United States Central Command.

(2) NOTICE.—When a decision is made to carry out a construction or repair project to which paragraph (1) applies, the Commander of the United States Central Command shall notify in writing the appropriate committees of Congress of that decision, including the justification for the project and the estimated cost of the project. The project may be carried out only after the end of the 21-day period beginning on the date the notification is received by the committees or, if earlier, the end of the 14-day period beginning on the date on which a copy of the notification is provided in an electronic medium pursuant to section 480 of title 10, United States Code.

SEC. ___. EXTENSION AND MODIFICATION OF DEFENSE INTELLIGENCE AND COUNTERINTELLIGENCE EXPENSE AUTHORITY.

(a) CODIFICATION.—Subchapter I of chapter 21 of title 10, United States Code, is amended by adding at the end a new section 430c consisting of—

(1) a heading as follows:

"**§ 430c. Expenditure of funds for Department of Defense intelligence and counterintelligence activities**"; and

(2) a text consisting of subsections (a) through (f) of section 1057 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92; 133 Stat. 1593).

(b) PERMANENT EXTENSION.—Subsection (a) of such section 430c is amended by striking "for any of fiscal years 2020 through 2025".

(c) LIMITATION ON DELEGATIONS.—Subsection (e) of such section 430c is amended by striking "$100,000" and inserting "$500,000".

(d) CONFORMING REPEAL.—Section 1057 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92; 133 Stat. 1593) is 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

This proposal would permanently extend the Department of Defense intelligence and counterintelligence expense authority under section 1057 of the National Defense Authorization Act for Fiscal Year (FY) 2020, codify the authority in title 10, United States Code, and increase the maximum amount of the expenditures under the authority for which the Secretary of Defense may delegate approval from $100,000 to $500,000.

Section 1057 of the National Defense Authorization Act for Fiscal Year 2020 addressed a significant concern related to the tracking of Military Intelligence Program (MIP) expenditures that are intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature by providing a separate authority from that of the emergency and extraordinary expenses authorized under section 127 of title 10, Untied States Code.

Section 1057 is set to expire at the end of FY 2025. Extending section 1057 permanently and codifying it in title 10 would allow the Department to continue to tie these confidential, extraordinary, or emergency intelligence and counterintelligence activity expenses to the MIP with a specific authority for intelligence and counterintelligence purposes. Additionally, increasing the amount of expenditures the Secretary may delegate would increase responsiveness to exigent circumstances that arise during intelligence and counterintelligence activities.

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 add a new section 430c of title 10, United States Code, consisting of section 1057 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92; 133 Stat. 1593) with the following amendments:

~~SEC. 1057. EXPENDITURE OF FUNDS FOR DEPARTMENT OF DEFENSE INTELLIGENCE AND COUNTERINTELLIGENCE ACTIVITIES.~~

§ 430c. Expenditure of funds for Department of Defense intelligence and counterintelligence activities

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of Defense may expend amounts made available for the Military Intelligence Program ~~for any of fiscal years 2020 through 2025~~ for intelligence and counterintelligence activities for any purpose the Secretary determines to be proper with regard to intelligence and counterintelligence objects of a confidential, extraordinary, or emergency nature. Such a determination is final and conclusive upon the accounting officers of the United States.

(b) LIMITATION ON AMOUNT.—The Secretary of Defense may not expend more than five percent of the amounts described in subsection (a) for any fiscal year for objects described in that subsection unless—

(1) the Secretary notifies the congressional defense committees and the congressional intelligence committees of the intent to expend the amounts and purpose of the expenditure; and

(2) 30 days have elapsed from the date on which the Secretary provides the notice described in paragraph (1).

(c) CERTIFICATION.—For each expenditure of funds under this section, the Secretary shall certify that such expenditure was made for an object of a confidential, extraordinary, or emergency nature.

(d) REPORT.—Not later than December 31 of each of 2020 through 2025, the Secretary of Defense shall submit to the congressional defense committees and the congressional intelligence committees a report on expenditures made under this section during the fiscal year preceding the year in which the report is submitted. Each such report shall include, for each expenditure under this section during the fiscal year covered by the report, a description, the purpose, the program element, and the certification required under section (c).

(e) LIMITATION ON DELEGATIONS.—The Secretary of Defense may not delegate the authority under this section with respect to any expenditure in excess of ~~$100,000~~ $500,000.

(f) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term "congressional intelligence committees" means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC___. MODIFICATION OF UKRAINE SECURITY ASSISTANCE INITIATIVE.

Subsection (c) of section 1250 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1068) is amended—

(1) by redesignating paragraph (6) as paragraph (5); and

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

"(6) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—Amounts available in a fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in such fiscal year and end not later than the end of the second fiscal year thereafter.

"(7) AUTHORITY FOR INTERCHANGE OF SUPPLIES AND SERVICES.—The limitation in subsection (b)(2) of section 2571 of title 10, United States Code, shall not apply with respect to reimbursable support for the purpose of providing assistance under this section.".

[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 modify the Ukraine Security Assistance Initiative (USAI) under section 1250 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) to provide an additional two years for the period of performance across fiscal years under USAI, and authorize the use of reimbursable support under section 2571 of title 10, United States Code, to support USAI. This proposal would provide USAI with two-year cross fiscal year authority similar to Section 333 of title 10, United States Code. USAI is a critical authority that the Department has used extensively to support Ukraine, primarily through the procurement of defense articles for Ukraine as it responds to the unprovoked and unjustified attack by Russia. These revisions are vital to the Department's efforts to continue that support.

This proposal would provide DoD with cross-fiscal year (CFY) authority for USAI, allowing the period of performance of contractor-provided services to continue for up to two additional years beyond the period of availability of the funds. This proposal would not change the period of availability of USAI funds from two years. Specifically, CFY authority would maximize DoD's ability to effectively utilize the USAI period of performance for severable,

contractor-provided services across fiscal years related to sustaining, maintaining, and training for the defense articles procured for Ukraine via USAI. To provide an illustrative-only example:

> ***Hypothetical Scenario****: Congress appropriates $300 million in two-year (2025/2026) USAI funding for DoD for FY 2025. DoD would like to use $280 million of that funding to procure a weapons system for Ukraine, and $20 million of it to sustain, maintain, and train the Ukrainians on that weapons system, once it is delivered by the contractor. However, the weapons system, obligated in FY 2026, will not be delivered by the contractor until FY 2027, which is after the period of availability and period of performance for these two-year USAI funds (10/1/25 – 9/30/26). Without CFY authority, DOD would not be able to use the $20 million in 2025/2026 USAI funds for the sustainment, maintenance, and training the weapons system requires because it would be delivered by the contractor after the period of availability and the period of performance of the funds. Instead, DOD would need to use future USAI funding (i.e., FY 2026 or FY 2027 USAI funding) to fund the $20 million for sustainment, maintenance and training. With CFY authority, DOD could use the $20 million in 2025/2026 funding in FY 2027 or FY 2028, to support the sustainment, maintenance, and training for the weapons system due to be delivered by the contractor in FY 2027, thereby maximizing DOD's ability to use its USAI 2025/2026 USAI funding.*

CFY authority would enable DoD to conduct severable, contractor-provided services across multiple fiscal years and provide services associated with some equipment deliveries, such as operations and maintenance training, under the same program that DoD is providing the equipment. Without CFY authority, the provision of equipment and associated defense services and training must be planned and notified across multiple fiscal years, which introduces programmatic risk, as future funding in not guaranteed. The proposed language mirrors that which DoD already has for its global train and equip program (10 U.S.C. 333(g)(2)(A)).

This proposal also authorizes the various components of the Department to perform work on behalf of another component on a reimbursable basis to support USAI under the authority of section 2571 of title 10, United States Code. Section 2571 currently limits the use of reimbursable support under that section to support for sections 333 and 345 of title 10. The proposal would allow a similar use for USAI, again much like the Department's global train and equip program.

<u>Additional Background</u>

Currently, DoD organizations providing USAI-funded reimbursable support use the Economy Act (EA) (31 U.S.C. 1535) to acquire goods and services from other DoD components on a reimbursable basis to support the USAI authority. The EA requires the servicing component to de-obligate and return funds to the extent that the servicing component has not incurred obligations, before the end of the period of availability of the appropriation, in providing goods or services; or in making an authorized contract with another person to provide the requested goods or services. Even though many security cooperation authorities provide an exception to the bona fide needs rule so as to allow the obligation of funds during their period of availability for future expenses that would otherwise be properly chargeable to amounts available in future fiscal years, the use of the EA to acquire in-house DoD personnel support effectively limits such support to the period of availability of the funds obligated. As a result, an EA order

for DoD personnel training or other in-house defense services cannot legally extend beyond the period of availability of the amounts obligated.

This legislative proposal expands the USAI authority to allow DoD organizations to support USAI activities without using the Economy Act. DoD personnel will be able to provide training and other defense services throughout the duration of the CFY authority period to support USAI efforts.

Absent this legislative relief, DoD will have to plan and execute USAI assistance that are narrower in scope and more segmented to ensure completion with an appropriation's period of availability. Training by DoD personnel that is needed to make USAI-funded assistance successful would have to be accomplished by a subsequent USAI appropriation. Planning and execution will be significantly more efficient with the enactment of this proposal by allowing DoD to rely upon a single appropriation to accomplish planned USAI assistance.

Since USAI efforts are executed with funds with a two-year period of availability, an inability to use CFY authority for DoD personnel support will likely require DoD to pursue less complex programs that can be fully executed within an appropriation's period of availability. Given the time needed to notify and place an order with the supporting DoD organization, only a limited portion of each year would be available for execution.

Legislative relief to allow use of CFY authority for DoD personnel support is essential to DoD efforts to deepen interoperability, and develop a capable alliance to achieve U.S. defense objectives. Removing this limitation on the use of DoD personnel promotes the efficient execution of USAI to build Ukraine's capacity to defend its sovereignty and territorial integrity, support institutional transformation initiatives, and advance U.S. political and military objectives.

Through USAI, DoD has provided Ukraine with high technology systems previously unavailable to the Armed Forces of Ukraine (AFU) as well as other assistance. DoD continues to consider other complex capabilities for future provision to AFU, including air defense, armaments for naval vessels, coastal defense, and counter-unmanned aerial systems. Although these more advanced systems will likely require additional multi-year funding, CFY authority, and increased authority to seek reimbursable support within the Department, will enhance DoD's ability to meet Ukraine's capability needs, while also reducing programmatic risk.

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 REQUIREMENTS ($ MILLIONS)									
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation From**	**Budget Activity**	**Dash-1 Line Item**	**Program Element**
Ukraine Security Assistance Initiative	$ 300					Operation and Maintenance, Defense Wide	04	4GTD	1002200T
Total	$ 300					N/A	N/A	N/A	N/A

Changes to Existing Law: This proposal would amend section 1250 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1068) as follows:

SEC. 1250. UKRAINE SECURITY ASSISTANCE INITIATIVE.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) IN GENERAL.—Amounts available for a fiscal year under subsection (f) shall be available to the Secretary of Defense, with the concurrence of the Secretary of State, to provide, for the purposes described in paragraph (2), appropriate security assistance and intelligence support, including training, equipment, and logistics support, supplies and services, salaries and stipends, and sustainment, to—

(A) the military and national security forces of Ukraine; and

(B) other forces or groups recognized by, and under the authority of, the Government of Ukraine, including governmental entities within Ukraine that are engaged in resisting Russian aggression.

(2) PURPOSES DESCRIBED.—The purposes described in this paragraph are as follows:

(A) To enhance the capabilities of the military and other security forces of the Government of Ukraine to defend against further aggression.

(B) To assist Ukraine in developing the combat capability to defend its sovereignty and territorial integrity.

(C) To support the Government of Ukraine in defending itself against actions by Russia and Russian-backed separatists.

(b) APPROPRIATE SECURITY ASSISTANCE AND INTELLIGENCE SUPPORT.—For purposes of subsection (a), appropriate security assistance and intelligence support includes the following:

(1) Real time or near real time actionable intelligence, including by lease of such capabilities from United States commercial entities.

(2) Lethal assistance such as anti-armor weapon systems, mortars, crew-served weapons and ammunition, grenade launchers and ammunition, and small arms and ammunition.

(3) Counter-artillery radars, including medium-range and long-range counter-artillery radars that can detect and locate long-range artillery.

(4) Manned and unmanned aerial capabilities, including tactical surveillance systems and fixed and rotary-wing aircraft, such as attack, strike, airlift, and surveillance aircraft.

(5) Cyber capabilities.

(6) Counter-electronic warfare capabilities such as secure communications equipment and other electronic protection systems.

(7) Other electronic warfare capabilities.

(8) Training for critical combat operations such as planning,

command and control, small unit tactics, counter-artillery tactics, logistics, countering improvised explosive devices, battle-field first aid, post-combat treatment, and medical evacuation.

(9) Equipment and technical assistance to the State Border Guard Service of Ukraine for the purpose of developing a comprehensive border surveillance network for Ukraine.

(10) Training for staff officers and senior leadership of the military.

(11) Air defense and coastal defense radars, and systems to support effective command and control and integration of air defense and coastal defense capabilities.

(12) Naval mine and counter-mine capabilities.

(13) Littoral-zone and coastal defense vessels.

(14) Coastal defense and anti-ship missile systems.

(15) Training required to maintain and employ systems and capabilities described in paragraphs (1) through (14).

(16) Treatment of wounded Ukrainian soldiers in the United States in medical treatment facilities through the Secretarial Designee Program, including transportation, lodging, meals, and other appropriate non-medical support in connection with such treatment, and education and training for Ukrainian healthcare specialists such that they can provide continuing care and rehabilitation services for wounded Ukrainian soldiers.

(c) AVAILABILITY OF FUNDS.—

(1) ASSISTANCE FOR UKRAINE.—Not more than 50 percent of the funds available for fiscal year 2023 pursuant to subsection (f)(8) may be used for purposes of subsection (a) until the certification described in paragraph (2) is made.

(2) CERTIFICATION.—

(A) IN GENERAL.—The certification described in this paragraph is a certification by the Secretary of Defense, in coordination with the Secretary of State, that the Government of Ukraine has taken substantial actions to make defense institutional reforms, in such areas as described in subparagraph (B), for purposes of decreasing corruption, increasing accountability, and sustaining improvements of combat capability enabled by assistance under subsection (a).

(B) AREAS DESCRIBED.—The areas described in this subparagraph are—

(i) strengthening civilian control of the military;

(ii) enhanced cooperation and coordination with Verkhovna Rada efforts to exercise oversight of the Ministry of Defense and military forces;

(iii) increased transparency and accountability in defense procurement;

(iv) improvement in transparency, accountability, sustainment, and inventory management in the defense industrial sector;

(v) protection of proprietary or sensitive technologies as such technologies relate to foreign military sales or transfers;

(vi) transformation of command and control structures and roles in line with North Atlantic Treaty Organization principles; and

(vii) improvement of human resources management, including to support career management reforms, enhanced social support to military personnel and their families, and professional military education systems.

(C) ASSESSMENT.—The certification shall include an assessment of the substantial actions taken to make such defense institutional reforms and the areas in which additional action is needed and a description of the methodology used to evaluate whether Ukraine has made progress in defense institutional reforms relative to previously established goals and objectives.

(3) OTHER PURPOSES.—If in fiscal year 2023 funds are not available for purposes of subsection (a) by reason of the lack of a certification described in paragraph (2), such funds may be used in that fiscal year for the purposes as follows:

(A) Assistance or support to national-level security forces of other Partnership for Peace nations that the Secretary of Defense determines to be appropriate to assist in preserving their sovereignty and territorial integrity against Russian aggression.

(B) Exercises and training support of national-level security forces of Partnership for Peace nations or the Government of Ukraine that the Secretary of Defense determines to be appropriate to assist in preserving their sovereignty and territorial integrity against Russian aggression.

(4) NOTICE TO CONGRESS.—Not later than 15 days before providing assistance or support under paragraph (3), the Secretary of Defense shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a notification containing the following:

(A) The recipient foreign country.

(B) A detailed description of the assistance or support to be provided, including—

(i) the objectives of such assistance or support;

(ii) the budget for such assistance or support; and

(iii) the expected or estimated timeline for delivery of such assistance or support.

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

~~(6)~~ (5) WAIVER OF CERTIFICATION REQUIREMENT.—The Secretary of Defense, with the concurrence of the Secretary of the State, may waive the certification requirement in paragraph (2) if the Secretary submits to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a written certification, not later than 5 days after exercising the waiver, that doing so is in the national interest of the United States due to exigent circumstances caused by the Russian invasion of Ukraine.

(6) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—Amounts available in a fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in such fiscal year and end not later than the end of the second fiscal year thereafter.

(7) AUTHORITY FOR INTERCHANGE OF SUPPLIES AND SERVICES.—The limitation in subsection (b)(2) of section 2571 of title 10, United States Code, shall not apply with respect to reimbursable support for the purpose of providing assistance under this section.

(d) UNITED STATES INVENTORY AND OTHER SOURCES.—

(1) IN GENERAL.—In addition to any assistance provided pursuant to subsection (a), the Secretary of Defense is authorized, with the concurrence of the Secretary of State, to make available to the Government of Ukraine weapons and other defense articles, from the United States inventory and other sources, and defense services, and to recover or dispose of such weapons or other defense articles, or to make available such weapons or articles to ally and partner governments to replenish comparable stocks which ally or

partner governments have provided to the Government of Ukraine, in such quantity as the Secretary of Defense determines to be appropriate to achieve the purposes specified in subsection (a).

(2) REPLACEMENT.—Amounts for the replacement of any items provided to the Government of Ukraine pursuant to paragraph (1) shall be derived from the amount available pursuant to subsection (a) or amounts authorized to be appropriated for the Department of Defense for overseas contingency operations or weapons procurement.

(3) CONGRESSIONAL NOTIFICATION.—Not later than 10 days before providing replenishment to an ally or partner government pursuant to paragraph (1), the Secretary of Defense shall transmit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a notification containing the following:

(A) An identification of the recipient foreign country.

(B) A detailed description of the articles to be provided, including the dollar value, origin, and capabilities associated with the articles.

(C) A detailed description of the articles provided to Ukraine to be replenished, including the dollar value, origin, and capabilities associated with the articles.

(D) The impact on United States stocks and readiness of transferring the articles.

(E) An assessment of any security, intellectual property, or end use monitoring issues associated with transferring the articles.

(e) CONSTRUCTION OF AUTHORIZATION.—Nothing in this section shall be construed to constitute a specific statutory authorization for the introduction of United States Armed Forces into hostilities or into situations wherein hostilities are clearly indicated by the circumstances.

(f) FUNDING.—From amounts authorized to be appropriated for the fiscal year concerned for the Department of Defense, up to the following shall be available for purposes of subsection (a):

(1) For fiscal year 2016, $300,000,000.
(2) For fiscal year 2017, $350,000,000.
(3) For fiscal year 2018, $350,000,000.
(4) For fiscal year 2019, $250,000,000.
(5) For fiscal year 2020, $300,000,000.
(6) For fiscal year 2021, $250,000,000.
(7) For fiscal year 2022, $300,000,000.
(8) For fiscal year 2023, $800,000,000.
(9) For fiscal year 2024, $300,000,000.
(10) For fiscal year 2025, $300,000,000.

(g) CONSTRUCTION WITH OTHER AUTHORITY.—The authority to provide assistance and support pursuant to subsection (a), and the authority to provide assistance and support under subsection (c), is in addition to authority to provide assistance and support under title 10, United States Code, the Foreign Assistance Act of 1961, the Arms Export Control Act, or any other provision of law.

(h) TERMINATION OF AUTHORITY.—Assistance may not be provided under the authority in this section after December 31, 2026.

(i) EXTENSION OF REPORTS ON MILITARY ASSISTANCE TO UKRAINE.—Section 1275(e) of the Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113-291; 128 Stat. 3592) is amended by striking "January 31, 2017" and inserting "December 31, 2017".

(j) EXPEDITED NOTIFICATION REQUIREMENT.—Not later than 15 days before providing assistance or support under subsection (a), or as far in advance as is practicable if the Secretary of Defense determines, on a case-by-case basis, that extraordinary circumstances exist that impact the national security of the United States, the Secretary shall transmit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a notification containing a detailed description of the assistance or support to be provided, including—

(1) the objectives of such assistance or support;

(2) the budget for such assistance or support; and

(3) the expected or estimated timeline for delivery of such assistance or support.

SEC. ___. EXTENSION OF LAND EXCHANGE AUTHORITY.

Section 2869(a)(3) of title 10, United States Code, is amended—

(1) in subparagraph (A)(i), by striking "2679(e)" and inserting "section 2679(f)"; and

(2) in subparagraph (C), by striking "five-year period" and inserting "eight-year period.".

[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 extend the land exchange pilot authority enacted as part of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 and codified in section 2869(a)(3) of title 10, United States Code, for 3 additional years. The NDAA for FY 2021 amended section 2869(a)(3) to authorize the Department of Defense to establish a pilot program to allow the Secretaries of the military departments to receive installation-support services, or a new facility or improvements to an existing facility, in exchange for real property. The pilot program provides much-needed flexibility and expanded opportunities for installation commanders to leverage valuable land to obtain new facilities without a requirement for congressional appropriations. Without this extension, the pilot authority will expire in June 2026. This proposal extends the conveyance authority so that the Secretaries of the military departments continue to have a useful tool for optimizing real property management.

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 section 2869 of title 10, United States Code, as follows:

§ 2869. Exchange of property at military installations

(a) EXCHANGE AUTHORIZED.—(1) The Secretary concerned may enter into an agreement to convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to transfer to the United States all right, title, and interest of the person in and to a parcel of real property, including any improvements thereon under the person's control, or to carry out a land acquisition, including the acquisition of all right, title, and interest or a lesser interest in real property under an agreement entered into under section 2684a of this title to limit encroachments and other constraints on military training, testing, and operations.

(2) Paragraph (1) applies with respect to real property under the jurisdiction of the Secretary concerned—

(A) that is located on a military installation that is closed or realigned under a base closure law; or

(B) that is located on a military installation not covered by subparagraph (A) and for which the Secretary concerned makes a determination that the conveyance under paragraph (1) is advantageous to the United States.

(3)(A) The Secretary of Defense shall establish a pilot program under which the Secretary concerned, during the term of the pilot program, may use the authority provided by paragraph (1) to also convey real property, including any improvements thereon, described in paragraph (2) to any person who agrees, in exchange for the real property, to provide—

(i) installation-support services (as defined in ~~2679(e)~~ section 2679(f) of this title); or

(ii) a new facility or improvements to an existing facility.

(B) The acquisition of a facility or improvements to an existing facility using the authority provided by subparagraph (A) shall not be treated as a military construction project for which an authorization is required by section 2802 of this title.

(C) The expanded conveyance authority provided by subparagraph (A) applies only during the ~~five-year period~~ eight-year period beginning on the date on which the Secretary of Defense issues guidance regarding the use by the Secretaries concerned of such authority.

* * * * *

SEC. ___. FIVE-YEAR EXTENSION OF AUTHORITY TO PROVIDE TRANSPORTATION SERVICES TO CERTAIN AGENCIES AND ENTITIES USING THE DEPARTMENT OF DEFENSE REIMBURSEMENT RATE.

Section 2642(b) of title 10, United States Code, is amended by striking "October 1, 2024" and inserting "October 1, 2029".

[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 extend the authority granted in section 2642 of title 10, United States Code (U.S.C.), allowing the Secretary of Defense to use the Department of Defense (DoD) reimbursement rate for transportation services provided to certain non-DoD entities. That authority allows DoD to provide transportation services covered by that section at the same rate DoD charges DoD units for similar services. The extension would change the sunset date from October 1, 2024, to October 1, 2029.

If the termination clause is not extended, DoD would retain the authority to provide transportation services to the Central Intelligence Agency and to the Department of State for the transportation of armored motor vehicles. The termination clause applies to transportation services provided in support of any non-DoD Federal Government entity during certain circumstances, foreign military sales, State, local, or tribal agencies, and DoD contractors.

DoD uses the authority under 10 U.S.C. § 2642 to increase peacetime air cargo business by providing airlift support to non-DoD entities. The authority allows DoD to fill excess capacity with paying cargo. DoD does not incur any additional incremental costs because of its use of the authority. Except during periods of high operational tempo, aircraft utilization to meet training and readiness requirements (i.e., combat readiness) typically is greater than actual DoD cargo transportation requirements. Therefore, DoD can transport extra cargo at little or no increase in operating costs, making it prudent and cost-effective for other Federal agencies to use the excess capacity, as well as complement DoD's air cargo transportation training needs. Transportation of other Federal entity cargo is done under the Economy Act (31 U.S.C. § 1535), and that law already provides an analysis process to determine if DoD should agree to the transportation of such cargo. Increases in the amount of cargo transported by DoD supports the training of military aircrews to maintain combat readiness and any excess requirements are provided to United States air carriers as an incentive for them to participate in the Civil Reserve Air Fleet program to support DoD's wartime requirements. This has been a well-used authority and an extension for five more years is in the best interests of the United States and the DoD.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. The DoD has explored ways to reduce training costs by providing aircrews seasoning and training on operational missions. Such missions create opportunities for cargo transportation on military owned or controlled vessels and aircraft. If enacted, the proposal could result in improved operational efficiency for the Transportation Working Capital Fund and decreased operation and maintenance funds needed for training. The proposal should be budget scored as zero or a net savings for the Transportation Working Capital Fund; any savings would be passed on to the Military Departments through reduced rates for transportation in subsequent years.

Changes to Existing Law: This proposal would amend section 2642 of title 10, United States Code, as follows:

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

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

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

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

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

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

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

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

(b) TERMINATION OF AUTHORITY FOR CERTAIN CATEGORIES OF TRANSPORTATION.—The provisions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, ~~2024~~2029.

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

SEC.___. HARMONIZATION OF DISPUTE RESOLUTION PROCEDURES FOR GENERAL SERVICES ADMINISTRATION PRE- AND POST-AUDIT APPEALS.

(a) IN GENERAL.—Section 3726 of title 31, United States Code, is amended—

(1) in subsection (b)—

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

(B) by adding at the end the following new paragraphs:

"(2) Chapter 71 of title 41 shall not apply to an appeal of a pre- or post-payment audit decision under paragraph (1), or a deduction under subsection (d), with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation. Such an appeal shall be adjudicated under the authority of this section using administrative procedures of the General Services Administration.

"(3) In conducting a pre- or post-payment audit under paragraph (1) with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation and any appeal of such an audit, the Administrator shall consider the contracting officer's opinion and interpretation of contract terms and facts involved."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking "or" at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; or"; and

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

"(4) a contract for transportation services awarded pursuant to the Federal Acquisition Regulation.".

(b) CONFORMING AMENDMENT.—Section 7102 of title 41, United States Code, is amended by adding at the end the following new subsection:

"(e) TRANSPORTATION SERVICES CONTRACTS.—This chapter does not apply to an appeal of a pre- or post-payment audit decision or deduction made by the Administrator of General Services under section 3726 of title 31 with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation.".

[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 3726 of title 31, United States Code (U.S.C.), and section 7102 of title 41, U.S.C., to deconflict the authority of the General Services Administration (GSA) from the Contract Disputes Act (CDA) and provide greater clarity on the process by which a contractor may appeal a GSA offset under its audit authority.

The GSA has authority under section 3726 of title 31, U.S.C., which was enacted as part of the Transportation Act of 1940 (the Transportation Act (TA)), to conduct pre- and post-payment audits of invoices submitted by transportation service providers (TSPs) for transportation services provided to Federal entities. While the TA was written when almost all Government transportation was obtained under "tenders of service" (as opposed to Federal Acquisition Regulation (FAR)-based contracts), it does not limit GSA audit authority to tenders of service but applies to FAR-based contracts as well. 31 U.S.C. § 3726(b) Under this authority, GSA can offset or take monies from TSPs resulting from overcharges identified by GSA in pre- and post-payment audits. GSA is essentially the only government agency auditing transportation contracts whether the contract is issued pursuant to a tender of service or the FAR.

The GSA's authority and implementing regulations provide a dispute process for a TSP to contest the GSA's offsets or monies taken because of pre- and post-payment audits. This includes a protest to the GSA Audits Division and a subsequent appeal to the Civilian Board of Contract Appeals (CBCA) or the Court of Federal Claims (COFC). The GSA's TA authority conflicts with a contracting officer's authority under the CDA to resolve disputes relating to transportation services obtained using contracts awarded through the authority of the FAR. Under the CDA, disputes are resolved in accordance with FAR clause 52.233-1, Disputes. Additionally, the Transportation Act conflicts with FAR requirements for a "demand for payment" and contract "debts" as delineated in FAR clauses 52.212-4 and FAR 52.233-1, Disputes. Under FAR-based contracts and the CDA, a TSP can protest any offsets or disputes to the contracting officer and subsequently appeal an unfavorable contracting officer final decision

to the CBCA (if the contract is with a non-DoD Agency), Armed Services Board of Contract Appeals (ASBCA) (if the contract is with a DoD Agency), or COFC.

Although both the CDA and TA both provide appeal mechanisms, the lack of harmony between the current statutes cause confusion for TSPs as to which appeal mechanism to follow should they disagree with a GSA audit. The conflict further creates unnecessary work for the Government as personnel from GSA and the contracting entity continually work through who has final authority and what processes govern. It also creates fiscal law issues when GSA collects funds, and the TSP submits a claim to the contracting officer (with subsequent appeal to ASBCA) since the contracting officer is prohibited from paying a duplicate payment which the Agency has already paid; and under the TA, the GSA funds repayments of moneys from the moneys it has withheld. Additionally, neither the contracting office nor ASBCA can require GSA to reimburse the TSP.

The conflict between the statutes has resulted in litigation and increased costs for both the government and the contractor community, with millions of dollars held up pending resolution, and a perceived lack of trust created by the differing authorities. In *Dalton v. Sherwood Van Lines, Inc*., 50 F.3d 1014 (Fed. Cir. 1995) and *Inter-Coastal Xpress, Inc. v. United States*, 296 F.3d 1357 (Fed. Cir. 2002), the courts found that the more specific dispute resolution provisions of 31 U.S.C. § 3726(c) trump the application of the CDA where the Agency and contractor disagree. In *Maersk Line Ltd., Inc*., ASBCA No. 58779, 14-1 BCA ¶ 35,589, the ASBCA found it had jurisdiction over GSA notices of overcharge, citing the CDA. However, ASBCA jurisdiction is predicated upon a Contracting Officer's Final Decision. Under FAR § 33.210, which implements 41 U.S.C. § 7103, a contracting officer does not have the authority to settle "penalties or forfeitures prescribed by statute or regulation that another Federal agency is specifically authorized to administer, settle, or determine." The GSA has clear statutory authority over any claim arising out of the Transportation Act. This ruling effectively states that an Agency can contract around the GSA's statutory authority over a claim, which has no basis under the FAR, common contract law, or basic statutory construction.

More recently, in the case of *Crowley Government Services, Inc., v. GSA, et al.*, Civil Action No 21-2298, 2023 U.S. Dist. LEXIS 131449, Crowley brought an action seeking declaratory and injunctive relief to halt the GSA's audit of a transportation contract with the DOD on the basis that the GSA lacks authority to audit FAR-based contracts under the TA. On July 28, 2023, the District Court issued an order affirming the GSA's authority to audit FAR-based contracts under the Transportation Act but finding that the GSA had no authority to deviate from the contracting officer's final decision on any alleged overpayment. The Court opined that GSA is relegated to an advisory capacity under its interpretation of the relevant guidance. However, if the Agency agrees with the GSA related to the audit findings, but the contractor disagrees, then according to the Court, the Agency would refer that dispute to the GSA under 31 U.S.C. § 3726(c), a process inconsistent with the *Maersk* decision above. While the District Court's ruling reinforces the goal of this legislative proposal, in the District Court's own words, the "bureaucratic nightmare" and "cautionary tale" of this litigation highlights the need for clear statutory guidance in this arena.

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 3726 of title 31, United States Code, and section 7102 of title 41, United States Code, as follows:

TITLE 31, UNITED STATES CODE

§3726. Payment for transportation

(a)(1) Each agency that receives a bill from a carrier or freight forwarder for transporting an individual or property for the United States Government shall verify its correctness (to include transportation rates, freight classifications, or proper combinations thereof), using prepayment audit, prior to payment in accordance with the requirements of this section and regulations prescribed by the Administrator of General Services.

(2) The Administrator of General Services may exempt bills, a particular mode or modes of transportation, or an agency or subagency from a prepayment audit and verification and in lieu thereof require a postpayment audit, based on cost effectiveness, public interest, or other factors the Administrator considers appropriate.

(3) Expenses for prepayment audits shall be funded by the agency's appropriations used for the transportation services.

(4) The audit authority provided to agencies by this section is subject to oversight by the Administrator.

(b)(1) The Administrator may conduct pre- or post-payment audits of transportation bills of any Federal agency. The number and types of bills audited shall be based on the Administrator's judgment.

(2) Chapter 71 of title 41 shall not apply to an appeal of a pre- or post-payment audit decision under paragraph (1), or a deduction under subsection (d), with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation. Such an appeal shall be adjudicated under the authority of this section using administrative procedures of the General Services Administration.

(3) In conducting a pre- or post-payment audit under paragraph (1) with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation and any appeal of such an audit, the Administrator shall consider the contracting officer's opinion and interpretation of contract terms and facts involved.

(c)(1) The Administrator shall adjudicate transportation claims which cannot be resolved by the agency procuring the transportation services, or the carrier or freight-forwarder presenting the bill.

(2) A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(A) The date of accrual of the claim.

(B) The date payment for the transportation is made.

(C) The date a refund for an overpayment for the transportation is made.

(D) The date a deduction under subsection (d) of this section is made.

(d) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under-

(1) a lawful tariff under title 49 or on file with the Secretary of Transportation with respect to foreign air transportation (as defined in section 40102(a) of title 49), the Federal Maritime Commission, or a State transportation authority;

(2) a lawfully quoted rate subject to the jurisdiction of the Surface Transportation Board; ~~and~~

(3) sections 10721, 13712, and 15504 of title 49 or an equivalent arrangement or an exemption~~.~~ ; or

(4) a contract for transportation services awarded pursuant to the Federal Acquisition Regulation.

*** * * * ***

TITLE 41, UNITED STATES CODE

§7102. Applicability of chapter

(a) EXECUTIVE AGENCY CONTRACTS.-Unless otherwise specifically provided in this chapter, this chapter applies to any express or implied contract (including those of the nonappropriated fund activities described in sections 1346 and 1491 of title 28) made by an executive agency for-

(1) the procurement of property, other than real property in being;

(2) the procurement of services;

(3) the procurement of construction, alteration, repair, or maintenance of real property; or

(4) the disposal of personal property

.

(b) TENNESSEE VALLEY AUTHORITY CONTRACTS.-

(1) In general.-With respect to contracts of the Tennessee Valley Authority, this chapter applies only to contracts containing a clause that requires contract disputes to be resolved through an agency administrative process.

(2) Exclusion.-Notwithstanding any other provision of this chapter, this chapter does not apply to a contract of the Tennessee Valley Authority for the sale of fertilizer or electric power or related to the conduct or operation of the electric power system.

(c) FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION CONTRACTS.-If an agency head determines that applying this chapter would not be in the public interest, this chapter does not apply to a contract with a foreign government, an agency of a foreign government, an international organization, or a subsidiary body of an international organization.

(d) MARITIME CONTRACTS.-Appeals under section 7107(a) of this title and actions brought under sections 7104(b) and 7107(b) to (f) of this title, arising out of maritime contracts,

are governed by chapter 309 or 311 of title 46, as applicable, to the extent that those chapters are not inconsistent with this chapter.

(e) TRANSPORTATION SERVICES CONTRACTS.—This chapter does not apply to an appeal of a pre- or post-payment audit decision or deduction made by the Administrator of General Services under section 3726 of title 31 with respect to a contract for transportation services awarded pursuant to the Federal Acquisition Regulation.

SEC. ___. LETHAL MEANS SAFETY RESEARCH AND EVALUATION.

Section 1062(c) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 10 U.S.C. 1030 note prec.) is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

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

"(4) collect information that has been provided on a voluntary basis relating to firearm ownership and safety practices of a member of the Armed Forces (regardless of whether the member resides on a military installation or property owned or operated by the Department of Defense, and subject to the condition that any member asked to participate in the collection of such information must receive sufficient notice to ensure that the member understands that the information may only be collected on a voluntary basis) for the purposes of—

"(A) conducting research related to suicide and violence prevention efforts of the Department of Defense; and

"(B) determining the need for and use of safe storage containers and other safety devices intended to prevent the misuse of, unintended access to, or theft of personally owned firearms.".

Section-by-Section Analysis

This proposal would amend section 1062 of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2011 to permit the Secretary of Defense to collect voluntary information relating to firearm ownership and safety practices of members of the Armed Forces for the purposes of (1) conducting research related to Department of Defense (DoD) suicide and violence prevention efforts, and (2) determining the need for and use of safe storage containers and other safety devices. The proposed language specifies that any information collected will be provided on a voluntary basis.

Improving lethal means safety is a central component of the suicide prevention strategies implemented by the White House, the Department of Defense, the Military Services, and the Combatant Commands. According to the DoD's Annual Suicide Report for Calendar Year 2020, 64 percent of suicides among Active Component Service members were attributable to firearms, compared to 45 percent of suicide deaths within the U.S. population. The numbers for Reserve and National Guard Service members are even starker, where 75 percent and 80 percent, respectively, involved firearms. The vast majority of these suicides (87 percent to 95 percent) involved personally owned firearms.

Section 1062 currently restricts the ability of the Department to collect information related to firearm ownership and practices for the vast majority of Service members who do not live on a DoD installation or on other property owned or operated by the Department of Defense. Research shows that safe storage of firearms saves lives. Successful implementation of programs promoting lethal means safety requires understanding storage practices and perceptions among Service members so efforts can be tailored to populations and issues of greatest concern and impact.

Section 1062 includes rules of construction that provide limited exemptions to the overarching restriction. This proposal would add an additional rule of construction to address a gap in DoD's suicide and violence prevention strategies.

Because the proposed changes rely on the voluntary disclosure of information for very specific purposes, the changes do not otherwise alter the protections established in section 1062 of the NDAA for FY 2011. These changes will enable the DoD to pursue evidence-based strategies to promote lethal means safety as a component of its suicide prevention.

Resource Information: This proposal has no significant impact on the use of resources requested within the FY 2024 President's Budget.

Changes to Existing Law: This proposal would amend section 1062 of the National Defense Authorization Act for Fiscal Year 2011 (10 U.S.C. prec. 1030 note) as follows:

SEC. 1062. PROHIBITION ON INFRINGING ON THE INDIVIDUAL RIGHT TO LAWFULLY ACQUIRE, POSSESS, OWN, CARRY, AND OTHERWISE USE PRIVATELY OWNED FIREARMS, AMMUNITION, AND OTHER WEAPONS.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall not prohibit, issue any requirement relating to, or collect or record any information relating to the otherwise lawful acquisition, possession, ownership, carrying, or other use of a privately owned firearm, privately owned ammunition, or another privately owned weapon by a member of the Armed Forces or civilian employee of the Department of Defense on property that is not—

(1) a military installation; or

(2) any other property that is owned or operated by the Department of Defense.

(b) EXISTING REGULATIONS AND RECORDS.—

(1) REGULATIONS.—Any regulation promulgated before the date of enactment of this Act shall have no force or effect to the extent that it requires conduct prohibited by this section.

(2) RECORDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall destroy any record containing information described in subsection (a) that was collected before the date of enactment of this Act.

(c) RULE OF CONSTRUCTION.—Subsection (a) shall not be construed to limit the authority of the Secretary of Defense to—

(1) create or maintain records relating to, or regulate the possession, carrying, or other use of a firearm, ammunition, or other weapon by a member of the Armed Forces or civilian employee of the Department of Defense while—

(A) engaged in official duties on behalf of the Department of Defense; or

(B) wearing the uniform of an Armed Force;

(2) create or maintain records relating to an investigation, prosecution, or adjudication of an alleged violation of law (including regulations not prohibited under subsection (a)), including matters related to whether a member of the Armed Forces constitutes a threat to the member or others; ~~or~~

(3) authorize a health professional that is a member of the Armed Forces or a civilian employee of the Department of Defense or a commanding officer to inquire if a member of the Armed Forces plans to acquire, or already possesses or owns, a privately-owned firearm, ammunition, or other weapon, if such health professional or such commanding officer has reasonable grounds to believe such member is at risk for suicide or causing harm to others~~.~~; or

(4) collect information that has been provided on a voluntary basis relating to firearm ownership and safety practices of a member of the Armed Forces (regardless of whether the member resides on a military installation or on property owned or operated by the Department of Defense, and subject to the condition that any member asked to participate in the collection of such information must receive sufficient notice to ensure that the member understands that the information may only be collected on a voluntary basis) for the purposes of—

(A) conducting research related to suicide and violence prevention efforts of the Department of Defense; and

(B) determining the need for and use of safe storage containers and other safety devices intended to prevent the misuse of, unintended access to, or theft of personally owned firearms.

(d) REVIEW.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall—

(1) conduct a comprehensive review of the privately owned weapons policy of the Department of Defense, including legal and policy issues regarding the regulation of privately owned firearms off of a military installation, as recommended by the Department of Defense Independent Review Related to Fort Hood; and

(2) submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report regarding the findings of and

recommendations relating to the review conducted under paragraph (1), including any recommendations for adjustments to the requirements under this section.

(e) MILITARY INSTALLATION DEFINED.—In this section, the term ‘‘military installation’’ has the meaning given that term under section 2687 (g)(1) of title 10, United States Code.

SEC. ___. LICENSING OF INTELLECTUAL PROPERTY: RETENTION OF FEES.

Section 2260 of title 10, United States Code, is amended—

(1) by striking subsection (c); and

(2) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

Section-by-Section Analysis

This proposal would make a clarifying change to section 2260 of title 10, United States Code (section 2260), relating to the licensing of intellectual property, by removing subsection (c), which is an exception to the general licensing provisions in subsection (a). Subsection (c) has never been implemented, but does create confusion in the public.

Typically, the Military Services license their trademarks pursuant to subsection (a) of section 2260. Subsection (a) puts no limitation on which trademarks may be licensed. Accordingly, it is possible to license, for example, service names (Army, Marine Corps, Navy), acronyms (SEALs, USMC), insignia (SEALs Trident), and unit names (Blue Angels). Subsection (a) also puts no limitation on the nature of the licensee or the underlying products, and therefore a broad range of licensees (from hobbyists to large manufacturers) are eligible to sell a wide range of goods (e.g., clothing, key chains, video games, and posters, just to name a few). Lastly, subsection (a) places no limitation or "cap" on the amount of trademark royalties charged. It simply states that the Secretary of Defense "may retain and expend fees received from such licensing…."

It is important to note that section 2260 was enacted in 2004 without the current subsection (c) (Public Law 108–375; Sec. 1004). The current subsection (c) was added in 2008 (Public Law 110–181; Sec. 882) presumably because it was determined that the amendment would be beneficial to one or more "toy or hobby manufacturers." It also added the Department of Homeland Security, so that the Coast Guard and other components could also operate trademark licensing programs.

Subsection (c) of section 2260 is an exception to the general licensing rule that is triggered only when a very specific set of circumstances is met. In addition to other limitations, the licensee under subsection (c) must be a "toy or hobby manufacturer" and the mark relates to "military designations" or "likenesses of military weapons systems." A fee for a license under subsection (c) may not exceed, by more than a nominal amount, "the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license."

To date, the Military Services have not executed a license pursuant to subsection (c) of section 2260. As such, there appears to be little justification for retaining subsection (c), which creates much confusion in the public.

Specifically, members of the public have mistakenly believed that (1) the general licensing authority in section 2260 is limited to military designations or likenesses of military weapons systems, and (2) that the branches may only collect a nominal amount. The licensing programs regularly have to explain to prospective licensees that they are not eligible for subsection (c). Furthermore, at times the licensing programs must defend their ability to collect more than a nominal amount or license marks other than the military designations and weapons systems. Note that section 2260 provides that royalty payments go to morale, welfare, and recreation activities.

Removal of subsection (c) of section 2260 would eliminate public confusion by clarifying the ability of the Department of Defense to license a range of goods, and not be limited to charging a nominal amount.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. The Military Services already accept and will continue to accept royalties derived from the licensing of their respective trademarks in accordance with the other subsections. Trademark royalties are used to pay the costs of operating the trademark licensing programs, which necessarily includes protection and enforcement of trademarks.

Changes to Existing Law: This proposal would amend section 2260 of title 10, United States Code, as follows:

§ 2260. Licensing of intellectual property: retention of fees

(a) AUTHORITY.—Under regulations prescribed by the Secretary of Defense or the Secretary of Homeland Security, the Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary concerned and may retain and expend fees received from such licensing in accordance with this section.

(b) DESIGNATED MARKS.—The Secretary concerned shall designate the trademarks, service marks, certification marks, and collective marks regarding which the Secretary will exercise the authority to retain licensing fees under this section.

~~(c) LICENSES FOR QUALIFYING COMPANIES.—~~

~~(1) The Secretary concerned may license trademarks, service marks, certification marks, and collective marks owned or controlled by the Secretary relating to military designations and likenesses of military weapons systems to any qualifying company upon receipt of a request from the company.~~

~~(2) For purposes of paragraph (1), a qualifying company is any United States company that—~~

~~(A) is a toy or hobby manufacturer; and~~

~~(B) is determined by the Secretary concerned to be qualified in accordance with such criteria as determined appropriate by the Secretary of Defense.~~

~~(3) The fee for a license under this subsection shall not exceed by more than a nominal amount the amount needed to recover all costs of the Department of Defense in processing the request for the license and supplying the license.~~

~~(4) A license to a qualifying company under this subsection shall provide that the license may not be transferred, sold, or relicensed by the qualifying company.~~

~~(5) A license under this subsection shall not be an exclusive license.~~

(c~~d~~) USE OF FEES.—The Secretary concerned shall use fees retained under this section for the following purposes:

(1) For payment of the following costs incurred by the Secretary:

(A) Costs of securing trademark registrations.

(B) Costs of operating the licensing program under this section.

(2) For morale, welfare, and recreation activities under the jurisdiction of the Secretary, to the extent (if any) that the total amount of the licensing fees available under this section for a fiscal year exceed the total amount needed for such fiscal year under paragraph (1).

(d~~e~~) AVAILABILITY.—Fees received in a fiscal year and retained under this section shall be available for obligation in such fiscal year and the following two fiscal years.

(e~~f~~) DEFINITIONS.—In this section:

(1) The terms "trademark", "service mark", "certification mark", and "collective mark" have the meanings given such terms in section 45 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946; 15 U.S.C. 1127).

(2) The term "Secretary concerned" has the meaning provided in section 101(a)(9) of this title and also includes—

(A) the Secretary of Defense, with respect to matters concerning the Defense Agencies and Department of Defense Field Activities; and

(B) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

SEC. ___. MILITARY TECHNICIAN MODERNIZATION

(a) IN GENERAL.—Section 709 of title 32, United States Code, is amended to read as follows:

"§709. Military Technicians (dual status): employment, use, status

"(a) Under regulations prescribed in accordance with section 10503(9) of title 10, persons may be appointed, employed, administered, detailed, assigned, and disciplined by the adjutants general as military technicians (dual status) in—

"(1) the organizing, administering, instructing, or training of Army National Guard or Air National Guard units or personnel to meet Federal readiness standards set by the Secretary of the Army or the Secretary of the Air Force;

"(2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and

"(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):

"(A) Support of any operation or mission undertaken by the technician's unit at the request of the President or the Secretary of Defense.

"(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.

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

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

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

"(iii) Department of Defense contractor personnel; or

"(iv) Department of Defense civilian employees.

"(b) A person employed under this section must meet each of the following requirements:

"(1) Be a military technician (dual status) as defined in section 10216(a) of title 10.

"(2) Be a member of the Service component of the National Guard of the State, Commonwealth, Territory, or District in which the person is serving as a military technician (dual status).

"(3) Hold the military grade specified by the Chief of the National Guard Bureau for the military technician (dual status) position.

"(4) While performing duties as a military technician (dual status) wear the military uniform appropriate for the member's grade and component of the armed forces, conform to military grooming standards, display proper military customs and courtesies, and refrain from conduct that is prejudicial to the efficiency of the service or military good order and discipline.

"(c) A military technician (dual status) employed under this subsection is an employee of the National Guard and an employee of the United States. Notwithstanding paragraphs (2) and (4) of section 101(c) of title 10, any act or omission by a military technician (dual-status) performing duty under this subsection or any member performing duties under sections 502 and 503 of this title, including the use of force in defense of Federal property taken pursuant to

regulations prescribed by the Chief, National Guard Bureau, shall be considered an act by an employee of the United States Government under section 2671 of title 28.

"(d)(1) The military aspects of military technician (dual status) employment and service are paramount over all other aspects of employment.

"(2) Notwithstanding any other provision of law, a military technician (dual status) who is involuntarily separated from the National Guard or ceases to hold the military grade specified for that position shall be promptly removed from technician employment by the adjutant general of the jurisdiction concerned. A technician who is involuntarily separated from technician employment under this paragraph, not as a result of misconduct or personal failure to maintain military fitness for duty standards and is certified in writing by the adjutant general as not pending investigation nor awaiting action for misconduct, shall, at the election of the technician concerned, be granted highest priority consideration then available for priority placement under Federal law.

"(3) Notwithstanding any other provision of law, a military technician (dual status) who fails to meet the military security standards established for a member of a reserve component may be removed from employment as a technician and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned.

"(4) A military technician (dual status) may, at any time, be separated from technician employment for cause by the adjutant general of the jurisdiction concerned. For cause includes conduct, committed at any time, that is prejudicial to the efficiency of the service or military good order and discipline.

"(5)(A) all personnel actions, discipline, or conditions of employment, including adverse actions pertaining to a military technician (dual status) shall be accomplished by the adjutant

general of the jurisdiction concerned in accordance with the authorities and conditions set forth in section 10508(b)(3) of title 10.

"(B) A right of appeal by a military technician (dual-status), which may exist with respect to actions, including separations, based upon laws or regulations relating to military membership as a member of the National Guard of the jurisdiction concerned or relating to service as a member of the reserve component of the Army or Air Force, shall not extend beyond the adjutant general concerned.

"(C) Notwithstanding any other provision of law, no appeal, complaint, grievance, claim, or action arising under the provisions of sections 2302, 7511, 7512, and 7513 of title 5; section 717 of the Civil Rights Act of 1991 (42 U.S.C. 2000e–16); or sections 7116 or 7121 of title 5; or under any other provision of law, shall extend to activity occurring while the member is in a military pay status or to actions, including separations, based upon laws or regulations relating to military membership as a member of the National Guard of the jurisdiction concerned or relating to service as a reserve of the Army or Air Force, or pertaining to actions undertaken under paragraphs (2) or (3).

"(6) A technician shall be notified in writing of the termination of the technician's employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.

"(7) Any administratively imposed civilian hiring controls or restrictions, including personnel ceilings, hiring freezes, administrative furloughs, grade restrictions, or reductions shall not apply to military technicians (dual status) unless such hiring controls are determined by the

Chief of the National Guard Bureau to be a direct result of a reduction in military force structure. For the purposes of a furlough due to a lapse in appropriations, technicians shall be treated as uniformed members of the armed forces.

"(e) Except as provided in subsection (d), sections 3502, 7511, and 7512 of title 5 do not apply to a person employed under this section. Sections 2108, 4303, and 5102, of title 5; the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634); the Rehabilitation Act of 1973 (29 U.S.C. 701-796l); and section 1076d(a)(2) of title 10 do not apply to a person employed under this section. A person employed under this section who is performing Active Guard and Reserve duty (as that term is defined in section 101(d)(6) of title 10) may not use civilian employee leave under sections 6307 or 6323(a)(1) of title 5 during such duty.

"(f) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Chief of the National Guard Bureau shall establish the hours of duties for military technicians (dual status). Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

"(g) The Chief of the National Guard Bureau may not prescribe for purposes of eligibility for Federal recognition under section 301 of this title a qualification applicable to technicians employed under subsection (a) that is not applicable pursuant to that section to the other members of the National Guard in the same grade, branch, position, and type of unit or organization involved.

"(h) Notwithstanding the provisions of section 14506, 14507, or 14508 of title 10, the Chief of the National Guard Bureau may, at the request of the adjutant general of the jurisdiction

concerned, and with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, colonel, or brigadier general who is a reserve officer of the Army or Air Force and who, as a condition of continued employment as a National Guard military technician (dual status) is required to maintain membership in a Selected Reserve unit or organization.

"(i) In this section:

"(1) The term 'military pay status' means a period of military service under titles 10, 32, or State Active Duty, with respect to which the amount of pay payable to a technician for that service is based on rates of military pay provided for under title 37 or state law.

"(2) The term 'fitness for duty in the reserve components' refers only to military-unique requirements that attend to requirements for military service as a member of the Army National Guard or Air National Guard or as a reserve of the Army or Air Force or service on active duty, that are established by the Secretary of the Army or the Secretary of the Air Force and that pertain to requirements of law or policy relating to military membership as a member of the National Guard of the jurisdiction concerned.

"(j) For purposes of any administrative complaint, grievance, claim, or action arising from, or relating to, such a personnel action or condition of employment:

"(1) The adjutant general of the jurisdiction concerned shall be considered the head of the agency and the National Guard of the jurisdiction concerned shall be considered the employing agency of the individual and the sole defendant or respondent in any administrative action.

"(2) The National Guard of the jurisdiction concerned shall defend any administrative appeal, complaint, grievance, claim, or action, and shall promptly implement all aspects of any final administrative or judicial order, judgment, or decision that does not involve or concern any military aspect of the performance of technician duties under this section.

"(3) In any civil action or proceeding brought in any court arising from an action under this section, the United States shall be the sole defendant or respondent.

"(4) The Attorney General of the United States shall defend the United States in actions arising under this section.

"(5) Any settlement, judgment, or costs arising from an action described in paragraph (1), (2), or (3) shall be paid from appropriated funds allocated to the National Guard of the jurisdiction concerned.

"(k) Nothing in this section shall reduce, limit, or eliminate, in any manner, any right or benefit, including any procedural right, provided by chapter 43 of title 38.".

(b) CLERICAL AMENDMENT.—The item relating to section 709 in the table of sections for chapter 7 of title 32, United States Code, is amended to read as follows:

"709. Military Technicians (dual status): employment, use, status.".

[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 extend and enhance authority to conduct the Military Technician program under 32 U.S.C. § 709 informed by lessons learned from National Guard Bureau's (NGB) and Adjutants General's implementation of the Dual Status Technician (DST) program. Extension and enhancement of this authority would afford the Chief of the National Guard Bureau (CNGB) and the Adjutants General of the 54 National Guards from States, territories, the Commonwealth of Puerto Rico, and the District of Columbia clarity and authorization in implementing the DST program.

The amendment and modification of 32 U.S.C. § 709 would further define that a function of NGB is to establish policies and programs for the employment and use of National Guard technicians under section 32 U.S.C. § 709 as specified in 10 U.S.C. § 10503 and 10508 and the NGB Charter. While Adjutants General currently have the full spectrum of employment authorities regarding DST personnel, including appointing, employing, administering, detailing, assigning, and disciplining, the updated version of the Technician Act would clarify and harmonize CNGB's role and authorities consistent with later in time statutes like 10 U.S.C. § 10503 and 10508 and the NGB Charter. Further, the proposal would provide authority for DST personnel to support any DoD or Presidential requested operation undertaken by the DST's unit or Federal training and operations undertaken by a DST's unit.

Additionally, the amendment further defines that any act or mission by a DST, including use of force in defense of Federal property, shall be considered an act by an employee of the United States to ensure Federal Tort or other claims applications apply to these matters.

Historically, there has been confusion in the courts and in administrative actions, appeals, or claims regarding the jurisdiction over the military aspect of DST employment. This amendment clarifies the jurisdiction of the courts and administrative agencies is limited to the nonmilitary aspects of DST employment. The amendment further establishes the military aspects of DST employment shall be paramount over all other aspects of DST employment. The amendment updates the statute to remove outdated references to Non-Dual Status Technicians, thus allowing the statute to focus on DSTs and the requirements of their military mission. The civilian aspects of technician employment focus solely on pay, benefits, and Federal Tort Claims Act coverage.

The proposal also establishes a difference in involuntary separation, not because of misconduct, wherein DSTs shall be granted highest priority consideration for available priority placement. This resolves the issue of the availability of priority placement for involuntary, non-disciplinary separation actions.

The amendment defines the discipline authority reserved to the Adjutant General or those actions which may be brought as an administrative action or claim. It expands the definition of "military pay status" to include State Active Duty, which clarifies that there is no right of appeal to the Merit Systems Protection Board (MSPB) under chapter 75 of title 5, United States Code, for conduct committed in a State Active Duty status.

The statute establishes the Adjutant General as the "head of Agency" for purposes of administrative actions, appeals, or claims. The amendment also limits or deconflicts civilian personnel statutes with military membership statutes. Further, the amendment disallows DSTs who are performing Active Guard and Reserve (AGR) duty (as that term is defined in 10 U.S.C. § 101(d)(6)) from using Federal civilian annual military, and sick leave while in AGR duty status. This amendment clarifies ambiguity in the current military technician statute that causes confusion on the ability to use civilian sick leave, and other approved civilian leave statuses while on AGR duty. The prohibition on the use of sick leave for DSTs performing AGR duty is based upon the AGRs military, not civilian, duty status. DSTs are entitled to use military time off procedures when sick or injured while employed as an AGR based on their military status.

Using DST civilian sick leave while in AGR status is not appropriate, as the DST is not in a civilian employment status, and is receiving military benefits under their military status as a National Guard military member. Additionally, there has been a propensity for abuse of civilian sick leave, including using before or after holidays to receive full holiday pay.

The amendment provides CNGB authority to establish the duty hours.

Lastly, the proposed amendment would ensure Federal recognition requirements of DST personnel are the same as other National Guard members in the same grade, branch, position and type of unit or organization.

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)**
ARNG - CIVILIAN PAY & MILITARY TECHNICIAN PAY (LEAVE)	-16	-16	-16	-16	-16	Operation & Maintenance, Army National Guard	01 & 04	Various	Various
ANG - CIVILIAN PAY & MILITARY TECHNICIAN PAY (LEAVE)	-12	-12	-12	-12	-12	Operation & Maintenance, Air National Guard	01 & 04	Various	Various

Changes to Existing Law: This proposal would amend section 709 of title 32, United States Code, as follows:

~~**§709. Technicians: employment, use, status**~~

~~(a) Under regulations prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case may be, and subject to subsections (b) and (c), persons may be employed as technicians in~~

~~(1) the organizing, administering, instructing, or training of the National Guard;~~

~~(2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and~~

~~(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):~~

~~(A) Support of operations or missions undertaken by the technician's unit at the request of the President or the Secretary of Defense.~~

~~(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.~~

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

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

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

(iii) Department of Defense contractor personnel; or

(iv) Department of Defense civilian employees.

(b) Except as authorized in subsection (c), a person employed under subsection (a) must meet each of the following requirements:

(1) Be a military technician (dual status) as defined in section 10216(a) of title 10.

(2) Be a member of the National Guard.

(3) Hold the military grade specified by the Secretary concerned for that position.

(4) While performing duties as a military technician (dual status), wear the uniform appropriate for the member's grade and component of the armed forces.

(c)(1) A person may be employed under subsection (a) as a non-dual status technician (as defined by section 10217 of title 10) if the technician position occupied by the person has been designated by the Secretary concerned to be filled only by a non-dual status technician.

(2) The total number of non-dual status technicians in the National Guard is specified in section 10217(c)(2) of title 10.

(d) The Secretary concerned shall designate the adjutants general referred to in section 314 of this title to employ and administer the technicians authorized by this section.

(e) A technician employed under subsection (a) is an employee of the Department of the Army or the Department of the Air Force, as the case may be, and an employee of the United States. However, a position authorized by this section is outside the competitive service if the technician employed in that position is required under subsection (b) to be a member of the National Guard.

(f) Notwithstanding any other provision of law and under regulations prescribed by the Secretary concerned-

(1) a person employed under subsection (a) who is a military technician (dual status) and otherwise subject to the requirements of subsection (b) who-

(A) is separated from the National Guard or ceases to hold the military grade specified by the Secretary concerned for that position shall be promptly separated from military technician (dual status) employment by the adjutant general of the jurisdiction concerned; and

(B) fails to meet the military security standards established by the Secretary concerned for a member of a reserve component under his jurisdiction may be separated from employment as a military technician (dual status) and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned;

(2) a technician may, at any time, be separated from his technician employment for cause by the adjutant general of the jurisdiction concerned;

(3) a reduction in force, removal, or an adverse action involving discharge from technician employment, suspension, furlough without pay, or reduction in rank or compensation shall be accomplished by the adjutant general of the jurisdiction concerned;

~~(4) a right of appeal which may exist with respect to paragraph (1), (2), or (3) shall not extend beyond the adjutant general of the jurisdiction concerned when the appeal concerns activity occurring while the member is in a military pay status, or concerns fitness for duty in the reserve components;~~

~~(5) with respect to an appeal concerning any activity not covered by paragraph (4), the provisions of sections 7511, 7512, and 7513 of title 5, and section 717 of the Civil Rights Act of 1991 1 (42 U.S.C. 2000e–16) shall apply; and~~

~~(6) a technician shall be notified in writing of the termination of his employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.~~

~~(g)(1) Except as provided in subsection (f), sections 2108, 3502, 7511, and 7512 of title 5 do not apply to a person employed under this section.~~

~~(2) In addition to the sections referred to in paragraph (1), section 6323(a)(1) of title 5 also does not apply to a person employed under this section who is performing active Guard and Reserve duty (as that term is defined in section 101(d)(6) of title 10).~~

~~(h) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Secretary concerned may prescribe the hours of duty for technicians. Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, such technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.~~

~~(i) The Secretary concerned may not prescribe for purposes of eligibility for Federal recognition under section 301 of this title a qualification applicable to technicians employed under subsection (a) that is not applicable pursuant to that section to the other members of the National Guard in the same grade, branch, position, and type of unit or organization involved.~~

~~(j) In this section:~~

~~(1) The term "military pay status" means a period of service where the amount of pay payable to a technician for that service is based on rates of military pay provided for under title 37.~~

~~(2) The term "fitness for duty in the reserve components" refers only to military-unique service requirements that attend to military service generally, including service in the reserve components or service on active duty.~~

§709. Military Technicians (dual status): employment, use, status

(a) Under regulations prescribed in accordance with section 10503(9) of title 10, persons may be appointed, employed, administered, detailed, assigned, and disciplined by the adjutants general as military technicians (dual status) in—

(1) the organizing, administering, instructing, or training of Army National Guard or Air National Guard units or personnel to meet Federal readiness standards set by the Secretary of the Army or the Secretary of the Air Force;
(2) the maintenance and repair of supplies issued to the National Guard or the armed forces; and
(3) the performance of the following additional duties to the extent that the performance of those duties does not interfere with the performance of the duties described by paragraphs (1) and (2):
(A) Support of any operation or mission undertaken by the technician's unit at the request of the President or the Secretary of Defense.
(B) Support of Federal training operations or Federal training missions assigned in whole or in part to the technician's unit.
(C) Instructing or training in the United States or the Commonwealth of Puerto Rico or possessions of the United States of—
(i) active-duty members of the armed forces;
(ii) members of foreign military forces (under the same authorities and restrictions applicable to active-duty members providing such instruction or training);
(iii) Department of Defense contractor personnel; or
(iv) Department of Defense civilian employees.

(b) A person employed under this section must meet each of the following requirements:
(1) Be a military technician (dual status) as defined in section 10216(a) of title 10.
(2) Be a member of the Service component of the National Guard of the State, Commonwealth, Territory, or District in which the person is serving as a military technician (dual status).
(3) Hold the military grade specified by the Chief of the National Guard Bureau for the military technician (dual status) position.
(4) While performing duties as a military technician (dual status) wear the military uniform appropriate for the member's grade and component of the armed forces, conform to military grooming standards, display proper military customs and courtesies, and refrain from conduct that is prejudicial to the efficiency of the service or military good order and discipline.

(c) A military technician (dual status) employed under this subsection is an employee of the National Guard and an employee of the United States. Notwithstanding paragraphs (2) and (4) of section 101(c) of title 10, any act or omission by a military technician (dual-status) performing duty under this subsection or any member performing duties under sections 502 and 503 of this title, including the use of force in defense of Federal property taken pursuant to regulations prescribed by the Chief, National Guard Bureau, shall be considered an act by an employee of the United States Government under section 2671 of title 28.

(d)(1)The military aspects of military technician (dual status) employment and service are paramount over all other aspects of employment.
(2) Notwithstanding any other provision of law, a military technician (dual status) who is involuntarily separated from the National Guard or ceases to hold the military grade specified for

that position shall be promptly removed from technician employment by the adjutant general of the jurisdiction concerned. A technician who is involuntarily separated from technician employment under this paragraph, not as a result of misconduct or personal failure to maintain military fitness for duty standards and is certified in writing by the adjutant general as not pending investigation nor awaiting action for misconduct, shall, at the election of the technician concerned, be granted highest priority consideration then available for priority placement under Federal law.

(3) Notwithstanding any other provision of law, a military technician (dual status) who fails to meet the military security standards established for a member of a reserve component may be removed from employment as a technician and concurrently discharged from the National Guard by the adjutant general of the jurisdiction concerned.

(4) A military technician (dual status) may, at any time, be separated from technician employment for cause by the adjutant general of the jurisdiction concerned. For cause includes conduct, committed at any time, that is prejudicial to the efficiency of the service or military good order and discipline.

(5)(A) all personnel actions, discipline, or conditions of employment, including adverse actions pertaining to a military technician (dual status) shall be accomplished by the adjutant general of the jurisdiction concerned in accordance with the authorities and conditions set forth in section 10508(b)(3) of title 10.

(B) A right of appeal by a military technician (dual-status), which may exist with respect to actions, including separations, based upon laws or regulations relating to military membership as a member of the National Guard of the jurisdiction concerned or relating to service as a member of the reserve component of the Army or Air Force, shall not extend beyond the adjutant general concerned.

(C) Notwithstanding any other provision of law, no appeal, complaint, grievance, claim, or action arising under the provisions of sections 2302, 7511, 7512, and 7513 of title 5; section 717 of the Civil Rights Act of 1991 (42 U.S.C. 2000e–16); or sections 7116 or 7121 of title 5; or under any other provision of law, shall extend to activity occurring while the member is in a military pay status or to actions, including separations, based upon laws or regulations relating to military membership as a member of the National Guard of the jurisdiction concerned or relating to service as a reserve of the Army or Air Force, or pertaining to actions undertaken under paragraphs (2) or (3).

(6) A technician shall be notified in writing of the termination of the technician's employment as a technician and, unless the technician is serving under a temporary appointment, is serving in a trial or probationary period, or has voluntarily ceased to be a member of the National Guard when such membership is a condition of employment, such notification shall be given at least 30 days before the termination date of such employment.

(7) Any administratively imposed civilian hiring controls or restrictions, including personnel ceilings, hiring freezes, administrative furloughs, grade restrictions, or reductions shall not apply to military technicians (dual status) unless such hiring controls are determined by the Chief of the National Guard Bureau to be a direct result of a reduction in military force structure. For the purposes of a furlough due to a lapse in appropriations, technicians shall be treated as uniformed members of the armed forces.

(e) Except as provided in subsection (d), sections 3502, 7511, and 7512 of title 5 do not apply to a person employed under this section. Sections 2108, 4303, and 5102, of title 5; the Age

Discrimination in Employment Act of 1967 (29 U.S.C. 621-634); the Rehabilitation Act of 1973 (29 U.S.C. 701-796l); and section 1076d(a)(2) of title 10 do not apply to a person employed under this section. A person employed under this section who is performing Active Guard and Reserve duty (as that term is defined in section 101(d)(6) of title 10) may not use civilian employee leave under sections 6307 or 6323(a)(1) of title 5 during such duty.

(f) Notwithstanding sections 5544(a) and 6101(a) of title 5 or any other provision of law, the Chief of the National Guard Bureau shall establish the hours of duties for military technicians (dual status). Notwithstanding sections 5542 and 5543 of title 5 or any other provision of law, technicians shall be granted an amount of compensatory time off from their scheduled tour of duty equal to the amount of any time spent by them in irregular or overtime work, and shall not be entitled to compensation for such work.

(g) The Chief of the National Guard Bureau may not prescribe for purposes of eligibility for Federal recognition under section 301 of this title a qualification applicable to technicians employed under subsection (a) that is not applicable pursuant to that section to the other members of the National Guard in the same grade, branch, position, and type of unit or organization involved.

(h) Notwithstanding the provisions of section 14506, 14507, or 14508 of title 10, the Chief of the National Guard Bureau may, at the request of the adjutant general of the jurisdiction concerned, and with the officer's consent, retain on the reserve active-status list an officer in the grade of major, lieutenant colonel, colonel, or brigadier general who is a reserve officer of the Army or Air Force and who, as a condition of continued employment as a National Guard military technician (dual status) is required to maintain membership in a Selected Reserve unit or organization.

(i) In this section:

(1) The term ‘military pay status’ means a period of military service under titles 10, 32, or State Active Duty, with respect to which the amount of pay payable to a technician for that service is based on rates of military pay provided for under title 37 or state law.

(2) The term ‘fitness for duty in the reserve components’ refers only to military-unique requirements that attend to requirements for military service as a member of the Army National Guard or Air National Guard or as a reserve of the Army or Air Force or service on active duty, that are established by the Secretary of the Army of the Secretary of the Air Force and that pertain to requirements of law or policy relating to military membership as a member of the National Guard of the jurisdiction concerned.

(j) For purposes of any administrative complaint, grievance, claim, or action arising from, or relating to, such a personnel action or condition of employment:

(1) The adjutant general of the jurisdiction concerned shall be considered the head of the agency and the National Guard of the jurisdiction concerned shall be considered the employing agency of the individual and the sole defendant or respondent in any administrative action.

(2) The National Guard of the jurisdiction concerned shall defend any administrative appeal, complaint, grievance, claim, or action, and shall promptly implement all aspects

of any final administrative or judicial order, judgment, or decision that does not involve or concern any military aspect of the performance of technician duties under this section.

(3) In any civil action or proceeding brought in any court arising from an action under this section, the United States shall be the sole defendant or respondent.

(4) The Attorney General of the United States shall defend the United States in actions arising under this section.

(5) Any settlement, judgment, or costs arising from an action described in paragraph (1), (2), or (3) shall be paid from appropriated funds allocated to the National Guard of the jurisdiction concerned.

(k) Nothing in this section shall reduce, limit, or eliminate, in any manner, any right or benefit, including any procedural right, provided by chapter 43 of title 38.

SEC. ___. MODIFICATION OF APPROVAL AND NOTIFICATION THRESHOLDS FOR REPAIR PROJECTS.

(a) APPROVAL THRESHOLD.—Subsection (b) of section 2811 of title 10, United States Code, is amended by striking "$7,500,000" and inserting "$15,000,000".

(b) NOTIFICATION THRESHOLD.—Subsection (d) of such section is amended by striking "$7,500,000" and inserting "$15,000,000"**.**

[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

Repair authority provided in 10 U.S.C. 2811 requires the Secretary concerned to approve and notify congressional committees of repair projects costing more than $7,500,000. This approval and notification threshold was established in 2004.

Not only have construction costs doubled since 2004 as described below, but in the FY2022 NDAA (Public Law 117-81), Congress signaled its level of oversight interest in facility sustainment, restoration, and modernization (FSRM) projects through a new requirement in 10 U.S.C. 2851, *Supervision of military construction projects,* requiring the Department to post project award information for FSRM projects with costs exceeding $15,000,000--solicitation date, award date, contract recipient, contract award amount, project milestone schedule, and established completion.

If the notification level had kept pace with the construction cost increases over the 20 years since 2004, more than half of the current projects routed for notification last year would not have required staffing. Packaging, reviewing, staffing, approving, and notifying these additional repair projects results in substantially greater project execution timelines as well as increased workload for personnel already stretched with tackling a Department of the Air Force (DAF) $28B deferred maintenance and repair backlog. The scope and level of work is essentially unchanged in these additional projects from 2004 levels, but the inherent cost increases over time now require the additional approval steps for relatively lower-in-scope projects that would not have required notification in 2004.

Private sector and DoD cost resources indicate construction costs for similar work have more than doubled since 2004. The Turner Building Cost Index measures costs in the non-residential building construction market in the United States. Factors included to determine and track construction prices include: labor rates and productivity, material prices, and the competitive condition of the marketplace. Figure 1 (below) shows a 2004 index value of 655 and a current (2nd quarter 2023) index value of 1365. This shows over double the cost of construction from when the 2004 threshold was established in law. The DoD's pricing guide shows a similar

trend. Unified Facilities Criteria (UFC) 3-2701-01 *DoD Facilities Facility Pricing Guide* is the Department's cost and pricing guide supporting facility planning, investment, and analysis needs. In 2008, the cost to construct a multi-purpose admin facility was $205 per square foot. In 2023, that cost increased to $507 per square foot, representing a 2.47 escalation.

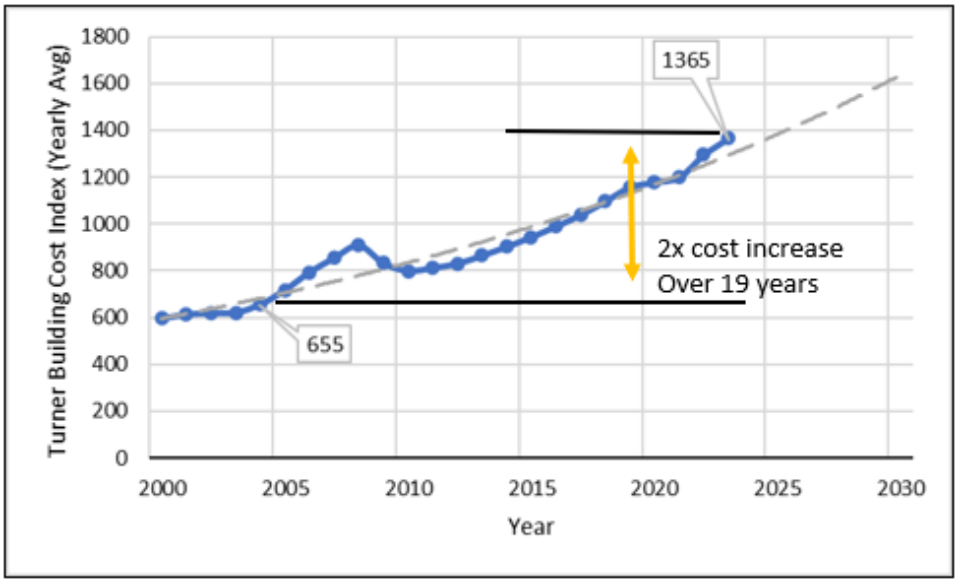

Figure 1 – Turner Building Cost Index 2000 – 2023

Increasing the approval and notification thresholds to $15,000,000 makes the repair project oversight and visibility consistent with FSRM oversight in the recent change to 10 U.S.C. 2851 and also maintains similar visibility by congressional committees into the repair program as was provided in 2004. The raised approval and notification thresholds would reduce the ever-increasing workload by approximately 1,819 DAF manhours annually for all involved (from installation level up to Headquarters Air Force) by bringing the number of approval and notification packages back in line with levels established in 2004. In Fiscal Year (FY) 22 the DAF staffed 58 repair packages for SAF approval above the $7,500,000 threshold. By increasing the threshold to $15,000,000, the number of packages reviewed by SAF/IEE would have been reduced to 27. This package reduction of over 50% correlates well with the construction cost doubling since 2004 without a threshold increase. These additional project reviews delay project execution three to six months thereby reducing the buying power due to rising material and labor costs and inflation and missing timely execution for important missions and quality of life for military members and their families. NOTE: Projects costing below the new thresholds will still require oversight and approval within the DAF, just at lower intermediate headquarters levels than at the Secretariat.

Resource Information: This proposal has no impact on the use of resources requested within the FY 2025 President's Budget request. This proposal only affects which projects require higher level approval and which will be notified to Congressional committees. Although the proposed thresholds increase to $15,000,000, construction costs have also doubled and therefore this proposal still ensures the same level of congressional oversight and notification as the established 2004 law. It does not affect which or how many projects will be executed.

Changes to Existing Law: This proposal would amend section 2811 of title 10, United States Code, as follows:

§2811. Repair of facilities

(a) REPAIRS USING OPERATIONS AND MAINTENANCE FUNDS.—Using funds available to the Secretary concerned for operation and maintenance, the Secretary concerned may carry out repair projects for an entire single-purpose facility or one or more functional areas of a multipurpose facility.

(b) APPROVAL REQUIRED FOR MAJOR REPAIRS.—A repair project costing more than ~~7,500,000~~ $15,000,000 may not be carried out under this section unless approved in advance by the Secretary concerned. In determining the total cost of a repair project, the Secretary shall include all phases of a multi-year repair project to a single facility. In considering a repair project for approval, the Secretary shall ensure that the project is consistent with force structure plans, that repair of the facility is more cost effective than replacement, and that the project is an appropriate use of operation and maintenance funds.

(c) PROHIBITION ON NEW CONSTRUCTION OR ADDITIONS.—Construction of new facilities or additions to existing facilities may not be carried out under the authority of this section.

(d) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a repair project under this section with an estimated cost in excess of ~~7,500,000,~~ $15,000,000, the Secretary concerned shall submit, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress a report containing—

(1) the justification for the repair project and the current estimate of the cost of the project, including, in the case of a multi-year repair project to a single facility, the total cost of all phases of the project;

(2) if the current estimate of the cost of the repair project exceeds 75 percent of the estimated cost of a military construction project to replace the facility, an explanation of the reasons why replacement of the facility is not in the best interest of the Government; and

(3) a description of the elements of military construction, including the elements specified in section 2802(b) of this title, incorporated into the repair project.

(e) REPAIR PROJECT DEFINED.—In this section, the term "repair project" means a project means a project-

(1) to restore a real property facility, system, or component to such a condition that it may effectively be used for its designated functional purpose; or

(2) to convert a real property facility, system, or component to a new functional purpose without increasing its external dimensions.

SEC. ___. MODIFICATION OF INVENTORY REQUIREMENTS FOR AIRCRAFT OF THE COMBAT AIR FORCES.

(a) TOTAL AIRCRAFT INVENTORY REQUIREMENTS.—Subsection (i)(1) of section 9062 of title 10, United States Code, is amended by striking "1,145 fighter aircraft" and inserting "1,038 fighter aircraft".

(b) F-22 AIRCRAFT INVENTORY REQUIREMENTS.—Subsection (k)(1) of such section is amended—

(1) in subparagraph (A), by striking "an F–22 aircraft" and inserting "any F–22 Block 30/35 aircraft"; and

(2) in subparagraph (D), by striking "184 aircraft" and inserting "153 aircraft".

(c) A-10 AIRCRAFT MINIMUM INVENTORY REQUIREMENT.—Section 134(d) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2038) is amended by striking "135 A-10 aircraft" and inserting "96 A-10 aircraft".

[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 Air Force to make necessary force structure changes over the future-years defense program.

The Air Force strategy is to develop a fighter force that transitions from seven to four platforms, focusing on Next Generation Air Dominance (NGAD), F-35, and modernized F-15 and F-16 aircraft. To expedite this transition and free up manpower and resources, we must down-size current fighter aircraft inventories and find the right balance of capability and capacity. The capability we need in the future force is unaffordable at the quantities required to satisfy current NDAA fighter minimums. Accepting capacity as a solution to national security, regardless of capability mix or affordability, puts us on a path of compounding risk from which we may be unable to recover. We must reduce our oldest and least relevant fighter aircraft that cannot be modernized to meet mission requirements. The intent is to focus resources to ensure a more lethal, resilient, sustainable, survivable, agile, and responsive force.

Subsection (a) of this proposal would modify the statutorily required primary mission aircraft inventory (combat-coded) of not less than 1,145 fighter aircraft down to 1,038 fighter aircraft. Minimum inventories of A-10 and F-22 aircraft would be lowered to meet the new fighter floors.

Subsection (b) of this proposal would authorize the Air Force to make necessary force structure changes to the F-22 fighter force. It would amend the existing prohibition against retirement of any F-22 aircraft in section 9062(k)(1)(A) of title 10 – enacted as part of the FY2023 NDAA (section 143 of Public Law 117–263) – to instead limit this prohibition to the retirement of F-22 Block 30/35 aircraft. Further, subsection (b) would reduce the PMAI for F-22 aircraft from 184 aircraft to 153, allowing the Department of the Air Force to divest 32 F-22 Block 20 aircraft in FY2025.

Subsection (c) of this proposal would reduce statutory minimum inventory requirements for A-10 aircraft. The FY2017 and FY2023 NDAAs (in section 134(d)), as amended by section 137(a) of the FY2024 NDAA (Public Law 118–31), states that the "Secretary of the Air Force shall ensure the Air Force maintains a minimum of 135 A-10 aircraft designated as primary mission aircraft inventory." The amendments made by this proposal would reduce that minimum to 96 A-10 aircraft.

The FY2025 President's Budget calls for the decrement of 56 A-10s in FY2024, to right size the fleet to 162 total aircraft inventory. The administration argues that "requiring the Department to maintain a minimum inventory of major platforms limits the Secretary's ability to optimize future force structure, increases the long-term cost of sustaining the force, and further delays necessary efforts to keep pace with the People's Republic of China's challenge in key warfighting areas."

The A-10 is the Air Force's least capable fighter in contested environments and the oldest airframe in the fighter fleet. While it remains a formidable and cost-effective platform to counter violent extremism in the near term, its age, lack of multi-role or homeland defense capability, and lack of survivable characteristics limit usefulness in the coming years. FY2023 divestment, to transition the Fort Wayne Air National Guard from A-10s to F-16s, resulted in a reduction from 171 A-10 primary mission aircraft inventory (PMAI) to 153. The FY2024 PB submission continued the divestment of the A-10, retiring 42 additional aircraft bringing A-10 total aircraft inventory (TAI) down to 218 and PMAI to 135. The FY2025 President's budget request is expected to retire an additional 56 aircraft, lowering A-10 TAI to 162 and PMAI to 96.

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. If this proposal is not supported, funding will need to be restored in the FY2025 Defense Appropriations Bill to maintain the current A-10 and F-22 fleet sizes. Funding requirements by budget line item will be provided upon request to both appropriations and authorization committees in coordination with OSD(C).

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)
A-10	382.1	120.7	182.2	183.1	122.5	Aircraft Procurement, Air Force	05	A01000	Multiple
A-10	184.4	369.9	519.4	513.7	523.9	Operation and Maintenance, Air Force	01	011A, 011M, 011W, 011Y	Multiple
A-10	23.3	40.8	67.0	83.6	85.3	Operation and Maintenance, Air Force Reserve	01	011A, 011M, 011W	Multiple
A-10	0	60.5	132.9	127.0	129.5	Operation and Maintenance, Air National Guard	01	011F, 011M, 011W	Multiple
F-22	50.8	51.8	53.2	54.7	0.0	Military Personnel, Air Force	01	MilPers, AF	Multiple
F-22	7.1	7.5	7.8	8.1	0.0	MERHC, Air Force	01	MilPers, AF	Multiple
F-22	13.2	20.7	22.2	3.7	0.0	Operation and Maintenance, Air Force	01	011M	Multiple
F-22	281.5	333.7	319.7	139.6	0.0	Operation and Maintenance, Air Force	01	011W	Multiple
F-22	65.0	68.7	67.7	38.2	0.0	Operation and Maintenance, Air Force	01	011Y	Multiple
F-22	1.4	1.4	1.4	1.5	0.0	Operation and Maintenance, Air Force	01	011A	Multiple
Total	1,008.8	1,075.7	1,373.5	1,153.2	861.2				

Changes to Existing Law: This proposal would make changes to the text of existing law as follows:

TITLE 10, UNITED STATES CODE

§9062. Policy; composition; aircraft authorization

(a) It is the intent of Congress to provide an Air Force that is capable, in conjunction with the other armed forces, of--

(1) preserving the peace and security, and providing for the defense, of the United States, the Commonwealths and possessions, and any areas occupied by the United States;

(2) supporting the national policies;

(3) implementing the national objectives; and

(4) overcoming any nations responsible for aggressive acts that imperil the peace and security of the United States.

***

(i)(1) During the period beginning on October 1, 2017, and ending on October 1, 2026, the Secretary of the Air Force shall maintain a total aircraft inventory of fighter aircraft of not less than 1,800 aircraft, and a total primary mission aircraft inventory (combat-coded) of not less than ~~1,145~~1,038 fighter aircraft.

(2) In this subsection:

(A) The term "fighter aircraft" means an aircraft that—

(i) is designated by a mission design series prefix of F– or A–;

(ii) is manned by one or two crewmembers; and

(iii) executes single-role or multi-role missions, including air-to-air combat, air-to-ground attack, air interdiction, suppression or destruction of enemy air defenses, close air support, strike control and reconnaissance, combat search and rescue support, or airborne forward air control.

(B) The term "primary mission aircraft inventory" means aircraft assigned to meet the primary aircraft authorization to a unit for the performance of its wartime mission.

(j)(1) Except as provided in paragraph (2), the Secretary of the Air Force shall maintain a total aircraft inventory of air refueling tanker aircraft of not less than 466 aircraft.

(2) The Secretary of the Air Force may reduce the number of air refueling tanker aircraft in the total aircraft inventory of the Air Force below 466 only if-

(A) the Secretary certifies to the congressional defense committees that such reduction is justified by the results of the mobility capability and requirements study conducted under section 144(b) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91); and

(B) a period of 30 days has elapsed following the date on which the certification is made to the congressional defense committees under subparagraph (A).

(3) In this subsection:

(A) The term "air refueling tanker aircraft" means an aircraft that has as its primary mission the refueling of other aircraft.

(B) The term "total aircraft inventory" means aircraft authorized to a flying unit for operations or training.

(k)(1) During the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2023 and ending on September 30, 2027, the Secretary of the Air Force may not—

(A) retire ~~an~~any F–22 Block 30/35 aircraft;

(B) reduce funding for unit personnel or weapon system sustainment activities for F–22 aircraft in a manner that presumes future congressional authority to divest such aircraft;

(C) keep an F–22 aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions (commonly referred to as 'XJ' status); or

(D) decrease the total aircraft inventory of F–22 aircraft below ~~184~~153 aircraft.

(2) The prohibition under paragraph (1) shall not apply to individual F–22 aircraft that the Secretary of the Air Force determines, on a case-by-case basis, to be no longer mission capable and uneconomical to repair because of aircraft accidents, mishaps, or excessive material degradation and non-airworthiness status of certain aircraft.

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Section 134 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328), as amended by section 141(b) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263; 136 Stat. 2452)

SEC. 134. PROHIBITION ON AVAILABILITY OF FUNDS FOR RETIREMENT A-10 AIRCRAFT.

(a) PROHIBITION ON AVAILABILITY OF FUNDS FOR RETIREMENT.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 for the Air Force may be obligated or expended to retire, prepare to retire, or place in storage or on backup aircraft inventory status any A-10 aircraft.

(b) ADDITIONAL LIMITATION ON RETIREMENT.—In addition to the prohibition in subsection (a), the Secretary of the Air Force may not retire, prepare to retire, or place in storage or on backup aircraft inventory status any A-10 aircraft until a period of 90 days has elapsed following the date on which the Secretary submits to the congressional defense committees a report that includes the information described in subsection (e)(2)(C).

(c) PROHIBITION ON SIGNIFICANT REDUCTIONS IN MANNING LEVELS.—None of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2017 for the Air Force may be obligated or expended to make significant reductions to manning levels with respect to any A-10 aircraft squadrons or divisions.

(d) MINIMUM INVENTORY REQUIREMENT.—The Secretary of the Air Force shall ensure the Air Force maintains a minimum of ~~153~~ 96 A-10 aircraft designated as primary mission aircraft inventory until a period of 90 days has elapsed following the date on which the Secretary submits to the congressional defense committees the report under subsection (e)(2).

*****

SEC. ____. MODIFICATION OF REPORT REQUIREMENT FOR TRANSFER OF DEFENSE ARTICLES OR SERVICES TO TAIWAN.

Section 1259A(b)(3) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 22 US.C. 3302 note) is amended by striking "shall be submitted in unclassified form but may contain a classified annex" and inserting "may be submitted in classified form".

[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 Secretary to submit a classified report to Congress.

The DoD has provided unclassified reports pursuant to section 1259A(b)(3) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 22 US.C. 3302 note). The People's Republic of China's (PRC's) more aggressive diplomatic stance, escalatory information space rhetoric, and operational reactions by the People's Liberation Army (PLA) have increased risk to U.S. and partnered military forces operating in the vicinity of Taiwan.

Negative PRC reactions to USINDOPACOM operations will inevitably arise from time to time. However, reactions should be deliberate and foreseeable. The current requirement to report in unclassified form can result in unnecessary provocation and escalation with no discernable benefit. Removing the form requirement does not change the substance of the information provided to Congress while preserving flexibility for the Administration in response to the current geo-political and operational environment at the time of reporting.

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 1259A(b)(3) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law 115–91; 22 U.S.C. 3302 note) as follows:

SEC. 1259A. NORMALIZING THE TRANSFER OF DEFENSE ARTICLES AND DEFENSE SERVICES TO TAIWAN.

(a) ***
(b) REPORT.—

(1) IN GENERAL.—Not later than 120 days after the date on which the Secretary of Defense receives a Letter of Request from Taiwan with respect to the transfer of a defense article or defense

service to Taiwan, the Secretary, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report that includes—

(A) the status of such request;

(B) if the transfer of such article or service would require a certification or report to Congress pursuant to any applicable provision of section 36 of the Arms Export Control Act (22 U.S.C. 2776), the status of any Letter of Offer and Acceptance the Secretary of Defense intends to issue with respect to such request; and

(C) an assessment of whether the transfer of such article or service would be consistent with United States obligations under the Taiwan Relations Act (Public Law 96–8; 22 U.S.C. 3301 et seq.).

(2) ELEMENTS.—Each report required under paragraph (1) shall specify the following:

(A) The date the Secretary of Defense received the Letter of Request.

(B) The value of the sale proposed by such Letter of Request.

(C) A description of the defense article or defense service proposed to be transferred.

(D) The view of the Secretary of Defense with respect to such proposed sale and whether such sale would be consistent with United States defense initiatives with Taiwan.

(3) FORM.—Each report required under paragraph (1) ~~shall be submitted in unclassified form but may contain a classified annex.~~ may be submitted in classified form.

SEC. ___. MODIFICATION TO THE JUNIOR RESERVE OFFICERS' TRAINING CORPS UNIT ESTABLISHMENT CRITERIA REGARDING STUDENT ENROLLMENT ELIGIBILITY REQUIREMENTS.

Section 2031(b)(1)(A) of title 10, United States Code, is amended—

(1) by striking "physically fit"; and

(2) by striking "and are citizens or nationals of the United States, or aliens lawfully admitted to the United States for permanent residence,".

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 2031 of title 10, United States Code, to improve alignment of the Junior Reserve Officers' Training Corps (JROTC) program with the enrollment practices of our host schools, which do not restrict the provision of a public education to children based on citizenship status or nationality. Currently, the JROTC programs of the military departments have no legal authority to enforce the existing requirement for cadets to be citizens, nationals, or aliens lawfully admitted to United States for permanent residence.

JROTC curriculum, consisting of citizenship development, is incorporated in the high school curriculum as an elective subject. Section 2031(b)(1)(A) of title 10, United States Code, states, as one of the requirements of a JROTC unit, that the sponsoring educational institution have a minimum percentage or number of physically fit students who "are citizens or nationals of the United States, or aliens lawfully admitted to the United States for permanent residence." In accordance with guidance issued by both the Department of Education and the Department of Justice, a school district may not ask about a child's citizenship or immigration status to establish residency within the district, effectively making the JROTC programs of the military departments unable to satisfy this requirement and creating a misalignment between the host school and the statutory requirements of this program.

Additionally, JROTC units generally permit all interested students to participate in their programs. Striking "physically fit students" better reflects the purpose of the program, which is to build character and citizenship in its cadets, and better aligns with the practices of the host schools to maximize opportunity for participation in elective programs and activities.

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 2031(b)(1), of title 10, United States Code, as follows:

§ 2031. Junior Reserve Officers' Training Corps

(a)(1) The Secretary of each military department shall establish and maintain a Junior Reserve Officers' Training Corps, organized into units, at public and private secondary educational institutions which apply for a unit and meet the standards and criteria prescribed pursuant to this section. The President shall promulgate regulations prescribing the standards and criteria to be followed by the military departments in selecting the institutions at which units are to be established and maintained and shall provide for the fair and equitable distribution of such units throughout the Nation, except that more than one such unit may be established and maintained at any military institute.

(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational institutions the values of citizenship, service to the United States (including an introduction to service opportunities in military, national, and public service), and personal responsibility and a sense of accomplishment.

(b)(1) No unit may be established or maintained at an institution unless—

(A) the number of ~~physically fit~~ students in such unit who are in a grade above the 7th grade and physically co-located with the 9th grade participating unit ~~and are citizens or nationals of the United States, or aliens lawfully admitted to the United States for permanent residence,~~ is not less than (i) 10 percent of the number of students enrolled in the institution who are in a grade above the 7th grade and physically co-located with the 9th grade participating unit, or (ii) 100, whichever is less;

(B) the institution has adequate facilities for classroom instruction, storage of arms and other equipment which may be furnished in support of the unit, and adequate drill areas at or in the immediate vicinity of the institution, as determined by the Secretary of the military department concerned;

(C) the institution provides a course of military instruction of not less than three academic years' duration and which may include instruction or activities in the fields of science, technology, engineering, and mathematics, as prescribed by the Secretary of the military department concerned;

(D) the institution agrees to limit membership in the unit to students who maintain acceptable standards of academic achievement and conduct, as prescribed by the Secretary of the military department concerned; and

(E) the unit meets such other requirements as the Secretary of the military department concerned prescribes in the memorandum of understanding under paragraph (2).

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SEC. ___. MODIFICATION OF AUTHORITY TO PURCHASE USED VESSELS UNDER THE NATIONAL DEFENSE SEALIFT FUND.

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

(1) in subparagraph (A), by striking "subsection (c)(1)(E)" and inserting "subsection (c)(1)(D)";

(2) by striking subparagraphs (C), (E), and (G); and

(3) by redesignating subparagraphs (D) and (F) as subparagraphs (C) and (D), respectively.

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

Section-by-Section Analysis

This proposal would amend section 2218 of title 10, United States Code, to provide the Secretary of Defense with the discretionary authority to purchase foreign-built, used vessels without limitation on number of vessels at the rate required to recapitalize the Ready Reserve Force. This authority is intended to recapitalize surge sealift capability with used commercial ships. Every ship purchased will require work by U.S. shipyards to prepare it for government service and potentially reclassify or modify for military utility.

The Secretary of Defense delivered the certification of a new construction acquisition plan of more than 10 sealift or auxiliary ships with the first ship delivery by 2028 in November 2022. This delivery completes the requirement for the Secretary to initiate an acquisition strategy for the construction in United States shipyards of not less than 10 new vessels that are sealift vessels, auxiliary vessels, or a combination of such vessels and the requirement should be removed from the language.

Over 70% of the surge sealift vessels are approaching the end of their service life in the next 10 years. By modifying the authority to buy used vessels and removing limits on the number of used vessels authorized for purchase, the Navy can accelerate the path to recapitalize the surge sealift fleet immediately while continuing to support the U.S. shipyard industrial base. The commercial ship industry continuously refreshes or recapitalizes its fleet. As a result, the inventory of used ships available for sale is constantly refreshing and will be scrutinized by the Department of Transportation's (DOT) Maritime Administration (MARAD) Vessel Acquisition Manager to place a priority on buying used U.S. built vessels that best fit the need of surge sealift. Removal of the 30-day wait period following the delivery of the 30-day report to Congress with recommended purchase details would allow MARAD to execute final purchase without delay, as expected by commercial market norms.

MARAD has purchased the first five of the more than 50 used vessels necessary, as outlined in the 30-Year Shipbuilding Plan submitted as part of the President's Budget for fiscal

year (FY) 2024 (PB24). The Department of Defense Appropriations Act, 2023 provided funding that may be used for the purchase of two used vessels and the PB24 requests two additional used vessels, bringing the total of used vessels to nine. Authority to purchase used vessels, beyond the nine currently authorized, is required in FY 2025 to continue the Buy-Used Recapitalization Program and to take full advantage of opportunities in the commercial market. Without additional authority, Navy will be unable to execute appropriated funds.

The proposal also makes a technical correction to subsection (f)(3)(A), which currently refers to "subsection (c)(1)(E)". Subparagraph (E) of subsection (c)(1) was redesignated as subparagraph (D) by section 1021(a) of the National Defense Authorization Act for Fiscal Year 2018 after elimination of the subparagraph (D) that existed at that time. The proposal corrects the reference to "subsection (c)(1)(D)".

Resource Information: Funds to purchase the used vessels pursuant to this proposal would be included as part of the Department of Navy's budget submissions based upon market surveys and business case assessments. The table reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal.

	RESOURCE REQUIREMENTS ($MILLIONS)								
Program	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	Appropriation	Budget Activity	BLI/SAG	Program Element
# of Ships	2	2	2	2	2	Shipbuilding & Conversion, Navy	05	5201	NA
Used Ships Funding	204.94	$206.02	$213.17	$216.35	$220.74	Shipbuilding & Conversion, Navy	05	5201	NA
Total	$204.94	$206.02	$213.17	$216.35	$220.74				

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

§ 2218. National Defense Sealift Fund

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

* * * * *

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

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

(3)(A) Notwithstanding the limitations under subsection (c)(1)~~(E)~~(D) and paragraph (1), the Secretary of Defense may, as part of a program to recapitalize the Ready Reserve Force

component of the national defense reserve fleet and the Military Sealift Command surge fleet, purchase any used vessel, regardless of where such vessel was constructed if such vessel—

(i) participated in the Maritime Security Fleet; and

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

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

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

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

~~(E) The Secretary may not use the authority under this paragraph to procure more than four foreign constructed vessels unless the Secretary submits to Congress, by not later than the second week of February of the fiscal year during which the Secretary plans to use such authority, a certification that—~~

~~(i) the Secretary has initiated an acquisition strategy for the construction in United States shipyards of not less than ten new vessels that are sealift vessels, auxiliary vessels, or a combination of such vessels; and~~

~~(ii) of such new vessels, the lead ship is anticipated to be delivered by not later than 2028.~~

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

(i) The proposed date of the purchase.

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

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

(iv) The proposed military utility of the vessel.

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

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

(vii) Certification that—

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

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

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

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

* * * * *

SEC. __. MODIFICATION TO ISSUANCE REQUIREMENTS RELATING TO LIMITATION ON INTERROGATION TECHNIQUES.

Section 1045(a) of the National Defense Authorization Act for Fiscal Year 2016 (42 U.S.C. 2000dd-2(a)) is amended—

(1) in the heading, by inserting "OR SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE" after "ARMY FIELD MANUAL";

(2) by striking "(1) ARMY FIELD MANUAL 2-22.3 DEFINED.—In this subsection, the term" and inserting the following:

"(1) DEFINITIONS.—In this subsection:

"(A) ARMY FIELD MANUAL 2-22.3 DEFINED.—The term";

(3) in paragraph (1), as amended by paragraph (1) of this section—

(A) in subparagraph (A), by striking "in effect on the date of the enactment of this Act or any similar successor Army Field Manual" and inserting "in effect on the date of the enactment of the National Defense Authorization Act for Fiscal year 2025"; and

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

"(B) SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—The term 'successor Department of Defense issuance' means a Department of Defense instruction or manual that adopts and implements the specific interrogation techniques, procedures, approvals, and limitations established by Army Field Manual 2-22.3 that were in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 or updated in accordance with this subsection.";

(4) in paragraph (2)(A), by inserting "or successor Department of Defense issuance" before the period;

(5) in paragraph (3), by inserting "or successor Department of Defense issuance" after "Army Field Manual 2-22.3" each place it appears;

(6) in paragraph (4), by inserting "or successor Department of Defense issuance" after "Army Field Manual 2-22.3" each place it appears; and

(7) in paragraph (6)—

(A) in subparagraph (A), by inserting "or successor Department of Defense issuance" after "Army Field Manual 2-22.3" each place it appears; and

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

"(C) REQUIREMENT FOR INITIAL SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—If the Secretary of Defense issues a successor Department of Defense issuance, the Secretary shall revoke the provisions of Army Field Manual 2-22.3 containing the specific interrogation techniques, procedures, approvals, and limitations in effect at the time such successor Department of Defense issuance is issued.".

[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

In October 2019, the Secretary of Defense tasked the Under Secretary of Defense for Intelligence and Security (USD(I&S)) to review Army Field Manual (FM) 2-22.3, as directed in section 1045 of the National Defense Authorization Act for Fiscal Year 2016 (42 U.S.C. 2000dd-2)). USD(I&S) convened a working group to review FM 2-22.3. The working group identified a need to update interrogation language to better define interrogation approach categories and consolidate all sections relevant to the conduct of interrogation into a single, authoritative manual issued by a senior Department of Defense (DoD) official in lieu of a Military Department publication. Updating FM 2-22.3 with a DoD issuance, in lieu of an Army Field Manual, would be appropriate to ensure the conduct of interrogations is managed across all services and

organizations of the DoD and would obviate the need for the Army to coordinate across the entire Defense Intelligence Enterprise to update Army guidance on human intelligence (HUMINT) doctrine. FM 2-22.3 is entitled "Human Intelligence Collector Operations" and addresses topics much broader than interrogation techniques, approaches, and treatments of detainees. A DoD manual would also supplement other Department-level guidance pertaining to detainee handling, interrogations, debriefings, and tactical questioning.

After a review of a proposed DoD manual to replace portions of FM 2-22.3 addressing interrogation techniques, approaches, and treatment of detainees, the Department concluded that section 1045 currently restricts DoD to either revising the existing Army Field Manual or replacing it with a successor Army Field Manual, since section 1045 specifically limits the use of interrogation techniques, approaches, and treatments to those contained in FM 2-22.3 or any "successor Army Field Manual". The statutory language specifying the type of publication that may be used to regulate interrogation techniques, approaches, and treatments limits the ability for revised guidance that may be issued by the Secretary of Defense, who has the responsibility for oversight of the entire Department of Defense. This proposal would allow a DoD-level issuance to replace FM 2-22.3.

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 1045 of the National Defense Authorization Act for Fiscal Year 2016 (42 U.S.C. 2000dd-2):

SEC. 1045. LIMITATION ON INTERROGATION TECHNIQUES.

(a) LIMITATION ON INTERROGATION TECHNIQUES TO THOSE IN THE ARMY FIELD MANUAL OR SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—

(1) DEFINITIONS.—In this subsection:

(~~1~~A) ARMY FIELD MANUAL 2-22.3 ~~DEFINED~~.—~~In this subsection, the~~ The term "Army Field Manual 2-22.3" means the Army Field Manual 2-22.3 entitled "Human Intelligence Collector Operations" in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 ~~this Act or any similar successor Army Field Manual~~.

(B) SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—The term "successor Department of Defense issuance" means a Department of Defense instruction or manual that adopts and implements the specific interrogation techniques, procedures, approvals, and limitations established by Army Field Manual 2-22.3 that were in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2025 or updated in accordance with this subsection.

(2) RESTRICTION.—

(A) IN GENERAL.—An individual described in subparagraph (B) shall not be subjected to any interrogation technique or approach, or any treatment related to interrogation, that is not authorized by and listed in the Army Field Manual 2-22.3 or successor Department of Defense issuance.

(B) INDIVIDUAL DESCRIBED.—An individual described in this subparagraph is an individual who is—

(i) in the custody or under the effective control of an officer, employee, or other agent of the United States Government; or

(ii) detained within a facility owned, operated, or controlled by a department or agency of the United States, in any armed conflict.

(3) IMPLEMENTATION.—Interrogation techniques, approaches, and treatments described in Army Field Manual 2-22.3 or successor Department of Defense issuance shall be implemented strictly in accord with the principles, processes, conditions, and limitations prescribed by Army Field Manual 2-22.3 or successor Department of Defense issuance.

(4) AGENCIES OTHER THAN THE DEPARTMENT OF DEFENSE.—If a process required by Army Field Manual 2-22.3 or successor Department of Defense issuance, such as a requirement of approval by a specified Department of Defense official, is inapposite to a department or an agency other than the Department of Defense, the head of such department or agency shall ensure that a process that is substantially equivalent to the process prescribed by Army Field Manual 2-22.3 or successor Department of Defense issuance for the Department of Defense is utilized by all officers, employees, or other agents of such department or agency.

(5) INTERROGATION BY FEDERAL LAW ENFORCEMENT.—The limitations in this subsection shall not apply to officers, employees, or agents of the Federal Bureau of Investigation, the Department of Homeland Security, or other Federal law enforcement entities.

(6) UPDATE OF THE ARMY FIELD MANUAL OR SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—

(A) REQUIREMENT TO UPDATE.—

(i) IN GENERAL.—Not sooner than three years after the date of the enactment of this Act, and once every three years thereafter, the Secretary of Defense, in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of National Intelligence, shall complete a thorough review of Army Field Manual 2-22.3 or successor Department of Defense issuance and revise Army Field Manual 2-22.3 or successor Department of Defense issuance, as necessary to ensure that Army Field Manual 2-22.3 or successor Department of Defense issuance complies with the legal obligations of the United States and the practices for interrogation described therein do not involve the use or threat of force.

(ii) AVAILABILITY TO THE PUBLIC.—Army Field Manual 2-22.3 or successor Department of Defense issuance shall remain available to the public and any revisions to Army Field Manual 2-22.3 or successor Department of Defense issuance adopted by the Secretary of Defense shall be made available to the public 30 days prior to the date the revisions take effect.

(B) REPORT ON BEST PRACTICES OF INTERROGATIONS.—

(i) REQUIREMENT FOR REPORT.—Not later than 120 days after the date of the enactment of this Act, the interagency body established

pursuant to Executive Order 13491 (commonly known as the High-Value Detainee Interrogation Group) shall submit to the Secretary of Defense, the Director of National Intelligence, the Attorney General, and other appropriate officials a report on best practices for interrogation that do not involve the use of force.

(ii) RECOMMENDATIONS.—The report required by clause (i) may include recommendations for revisions to Army Field Manual 2-22.3 based on the body of research commissioned by the High-Value Detainee Interrogation Group.

(iii) AVAILABILITY TO THE PUBLIC.—Not later than 30 days after the report required by clause (i) is submitted such report shall be made available to the public.

(C) REQUIREMENT FOR INITIAL SUCCESSOR DEPARTMENT OF DEFENSE ISSUANCE.—If the Secretary of Defense issues a successor Department of Defense issuance, the Secretary shall revoke the provisions of Army Field Manual 2-22.3 containing the specific interrogation techniques, procedures, approvals, and limitations in effect at the time such successor Department of Defense issuance is issued.

(b) INTERNATIONAL COMMITTEE OF THE RED CROSS ACCESS TO DETAINEES.—

(1) REQUIREMENT.—The head of any department or agency of the United States Government shall provide the International Committee of the Red Cross with notification of, and prompt access to, any individual detained in any armed conflict in the custody or under the effective control of an officer, employee, contractor, subcontractor, or other agent of the United States Government or detained within a facility owned, operated, or effectively controlled by a department, agency, contractor, or subcontractor of the United States Government, consistent with Department of Defense regulations and policies.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed—

(A) to create or otherwise imply the authority to detain; or

(B) to limit or otherwise affect any other individual rights or state obligations which may arise under United States law or international agreements to which the United States is a party, including the Geneva Conventions, or to state all of the situations under which notification to and access for the International Committee of the Red Cross is required or allowed.

SEC. ___. MODIFICATIONS TO NOTIFCATION ON THE PROVISION OF DEFENSE SENSITIVE SUPPORT.

Section 1055(b)(3) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 10 U.S.C. 113 note) is amended—

(1) in the heading, by inserting "AND EXTRAORDINARY SECURITY PROTECTIONS" after "SUPPORT";

(2) in the matter preceding subparagraph (A), by inserting "or requires extraordinary security protections" after "time-sensitive";

(3) in subparagraph (A), by inserting "or after the activity supported concludes" after "providing the support"; and

(4) in subparagraph (B)—

(A) by inserting "or after the activity supported concludes" after "providing such support"; and

(B) by inserting "or after the activity supported concludes" after "providing the support".

[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 modifies the requirements to notify the provision of defense sensitive support to allow the Secretary of Defense to provide notification after providing the support in the event the Secretary determines the provision of support requires extraordinary security protections to assure the safety and success of the activity supported. See classified document for thorough background and justification.

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 1055 of the National Defense Authorization Act for Fiscal Year 2017 (10 U.S.C. 113 note):

SEC. 1055. NOTIFICATION ON THE PROVISION OF DEFENSE SENSITIVE SUPPORT.

(a) LIMITATION.—The Secretary of Defense may provide defense sensitive support to a non-Department of Defense Federal department or agency only after the Secretary has determined that such support—

(1) is consistent with the mission and functions of the Department of Defense;

(2) does—

(A) not significantly interfere with the mission or functions of the Department; or

(B) interfere with the mission and functions of the Department of Defense but such support is in the national security interest of the United States; and

(3) has been requested by the head of a non-Department of Defense Federal department or agency who has certified to the Secretary that the department or agency has reasonably attempted to use capabilities and resources internal to the department or agency.

(b) NOTICE REQUIRED.—

(1) IN GENERAL.—Except as provided in paragraph (3), before providing defense sensitive support to a non-Department of Defense Federal department or agency, the Secretary of Defense shall notify the congressional defense committees, and, when the part of the Department of Defense providing the sensitive support is a member of the intelligence community, the congressional intelligence committees of the Secretary's intent to provide such support.

(2) CONTENTS.—Notice provided under paragraph (1) shall include the following:

(A) A description of the support to be provided.

(B) A description of how the support is consistent with the mission and functions of the Department.

(C) A description of the required duration of the support.

(D) A description of the initial costs for the support.

(E) A description of how the support—

(i) does not significantly interfere with the mission or functions of the Department; or

(ii) significantly interferes with the mission or functions of the Department but is in the national security interest of the United States.

(3) TIME SENSITIVE SUPPORT AND EXTRAORDINARY SECURITY PROTECTIONS.—In the event that the provision of defense sensitive support is time-sensitive or requires extraordinary security protections, the Secretary—

(A) may provide notification under paragraph (1) after providing the support or after the activity supported concludes; and

(B) shall provide such notice as soon as practicable after providing such support or after the activity supported concludes, but not later than 48 hours after providing the support or after the activity supported concludes.

(4) REVERSE DEFENSE SENSITIVE SUPPORT REQUEST.—The Secretary shall notify the congressional defense committees (and the congressional intelligence committees with respect to matters relating to members of the intelligence community) of requests

made by the Secretary to a non-Department of Defense Federal department or agency for support that requires special protection from disclosure in the same manner and containing the same information as the Secretary notifies such committees of defense sensitive support requests under paragraphs (1) and (3).

(5) SUSTAINMENT COSTS.—If the Secretary determines that sustainment costs will be incurred as a result of the provision of defense sensitive support, the Secretary, not later than 15 days after the initial provision of such support, shall certify to the congressional defense committees (and the congressional intelligence committees with respect to matters relating to members of the intelligence community) that such sustainment costs will not interfere with the ability of the Department to execute operations, accomplish mission objectives, and maintain readiness.

(c) DEFENSE SENSITIVE SUPPORT DEFINED.—In this section, the term "defense sensitive support" means support provided by the Department of Defense to a non-Department of Defense Federal department or agency that requires special protection from disclosure.

SEC. __. NATIONAL GUARD PERSONNEL DISASTER RESPONSE DUTY

(a) IN GENERAL.—Chapter 3 of title 32, United States Code, is amended—

(1) by redesignating section 329 as section 330; and

(2) by inserting after section 328 the following new section 329:

‘‘**§329. Active Guard and Reserve duty: disaster response duty**

‘‘(a) DISASTER RESPONSE AUTHORITY.—When a Governor has declared an emergency due to a disaster, the Secretary of Defense may authorize the Governor to direct National Guard personnel serving under section 328 of this title to perform duties in response to, or in preparation for, such disaster.

‘‘(b) REQUIREMENTS.—The disaster response duty described in subsection (a)—

‘‘(1) shall be conducted on a reimbursable basis, in accordance with subsection (c);

‘‘(2) may be performed to the extent that the performance of the duty does not interfere with the performance of the member’s primary Active Guard and Reserve duties of organizing, administering, recruiting, instructing, and training the reserve components; and

‘‘(3) shall not exceed 14 days per person per calendar year, except that—

‘‘(A) the Secretary of Defense may, at the request of a Governor prior to the expiration of the 14th day, authorize an extension of the duration of duty to up to 21 days if the Secretary determines that such an extension is necessary and appropriate.

‘‘(B) the Secretary of Defense may, at the request of a Governor, authorize an extension of the duration of duty to up to 60 days if the Secretary determines

that the duty is in support of the response to a catastrophic incident, as that term is defined in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311).

''(c) REIMBURSEMENT.—

''(1) CHARGE OF COSTS TO STATE.—The Secretary of the military department concerned shall charge a State for the fully burdened costs of manpower for each day of duty performed pursuant to subsection (a).

''(2) SOURCE OF FUNDS.—Such charges shall be paid from the funds of the State using National Guard personnel to perform duty pursuant to subsection (a) or from any other non-United States Government funds.

''(3) CREDITING OF AMOUNTS RECEIVED.—Any amounts received by the Secretary concerned under subsection (a) shall be credited, at the discretion of the Secretary of Defense, to—

''(A) the appropriation, fund, or account used in incurring the obligation; or

''(B) an appropriate appropriation, fund, or account currently available for the purposes for which the expenditures were made.

''(4) ARREARS.—The duty described in subsection (a) may not be performed if a State is more than 90 days in arrears in reimbursing the Secretary of the military department concerned for any previous disaster response duty conducted pursuant to subsection (a), unless authorized by the Secretary of Defense after the applicable Governor has obligated funds for the amount in arrears.

''(d) LIABILITY.—A member described in subsection (a) is not an instrumentality of the United States with respect to any act or omission in carrying out a disaster response duty

pursuant to this section. The United States shall not be responsible for any claim or judgment arising from the use of National Guard personnel under this section.

''(e) DEFINITIONS.—In this section:

''(1) The term 'disaster response duty' means duty performed by a member of the National Guard at the direction of the Governor of the State and pursuant to an emergency declaration by such Governor in response to a disaster or in preparation for an imminent disaster.

''(2) The term 'State' means each of the several States, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations implementing section 330 of title 32, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 3 of such title is amended by striking the item relating to section 329 and inserting the following:

"329. Active Guard and Reserve duty: disaster response duty.
"330. Prohibition on private funding for interstate deployment.".

[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 enable the Secretary of Defense to provide governors greater flexibility to use National Guard members performing Active Guard and Reserve duties under section 328 of title 32, United States Code, on a temporary, non-interference, and reimbursable basis to respond to State disasters. This authority would allow governors and Adjutants General to tailor the force composition of their disaster responses, and it would provide temporary access to Active Guard and Reserve personnel possessing high-demand, low-density skills that are vital during disaster response operations. Under regulations prescribed by the Secretary of Defense, these National Guard personnel could be used for disaster response duties for up to 14 days per person per calendar year, although the Secretary could approve up to 21 days per person per calendar year when warranted and up to 60 days in the event of a "catastrophic incident," as defined in section 501 of the Homeland Security Act of 2002 (6 U.S.C. 311). This authority

would be available so long as the State is no more than 90 days in arrears in reimbursing the Department of Defense for any previous disaster response duty. State reimbursement for the fully burdened costs of manpower for each day of disaster response duty would be required in all cases, and such reimbursements would be credited, at the discretion of the Secretary of Defense, to the appropriation, fund, or account used in incurring the obligation, or to an appropriation, fund, or account currently available for the purposes for which expenditures were made.

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 add a new section to chapter 3 of title 32, United States Code, the full text of which is shown in the legislative language above.

SEC. ___. MODIFICATIONS TO NATO SPECIAL OPERATIONS HEADQUARTERS.

Section 2350r of title 10, United States Code, is amended—

(1) in the heading, by striking "**Special Operations Headquarters**" and inserting "**Allied Special Operations Forces Command**";

(2) in subsection (a), by striking "$50,000,000" and inserting "$60,000,000"; and

(3) in subsection (b) in the matter preceding paragraph (1), by striking "Special Operations Headquarters" and inserting "Allied Special Operations Forces Command (formerly known as NATO Special Operations Headquarters)".

[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 increase the funding authorization in support of the NATO Special Operations Headquarters (NSHQ) and recognize its name change in support of NATO to NATO Allied Special Operations Forces Command (SOFCOM). The United States will continue to serve as the framework nation for SOFCOM.

The Supreme Allied Commander, Europe (SACEUR) has tasked SOFCOM to support the deterrence and defence of the Euro-Atlantic (DDA) strategic plan as the theatre special operations forces (SOF) component command (TCC) to the Supreme Headquarters, Allied Powers Europe (SHAPE). Over the future years defense program (FYDP), SOFCOM will be required to establish and maintain the ability to provide command, control, communications, and intelligence (C3I) to Joint Force Headquarters (JFC) and Allied SOF Forces through a joint operations center (JOC); transition from the US Battlefield Information Collection and Exploitation System (BICES) to a SOFCOM NATO secret computer and information system (CIS) platform; increase SOFCOM's capability to deploy teams to reinforce JFCs and Allied Special Operations Component Commands (SOCC); increase the exercise program capable of validating apportioned SOF; and adjust the NATO Special Operations University (NSOU) education delivery focus from tactical to operational and strategic level. An increase in the funding authorization is necessary to successfully achieve all of these missions.

Resource Information: The resources impacted are reflected in the table below and are included within the Fiscal Year (FY) 2025 President's Budget.

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element**

NSHQ	$42.73	$43.66	$44.54	$45.54	$45.65	Operation and Maintenance, Army	04	441	1001491A
Total	$42.73	$43.66	$44.54	$45.54	$45.65	Operation and Maintenance, Army	04	441	1001491A

PERSONNEL IMPACT									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element**
NSHQ	42	42	42	42	42	Operation and Maintenance, Army	04	N/A	N/A
Total	42	42	42	42	42	Operation and Maintenance, Army	04	N/A	N/A

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

§ 2350r. North Atlantic Treaty Organization ~~Special Operations Headquarters~~ Allied Special Operations Forces Command

(a) AUTHORIZATION.—Of the amounts authorized to be appropriated for each fiscal year for operation and maintenance for the Army, the Secretary of Defense is authorized to use up to ~~$50,000,000~~ $60,000,000, to be derived from amounts made available for support of North Atlantic Treaty Organization (referred to in this section as "NATO") operations, for each such fiscal year for the purposes set forth in subsection (b).

(b) PURPOSES.—The Secretary shall provide funds for the NATO Allied Special Operations Forces Command (formerly known as NATO Special Operations Headquarters)—

(1) to improve coordination and cooperation between the special operations forces of NATO countries and countries approved by the North Atlantic Council as NATO partners;

(2) to facilitate joint operations by the special operations forces of NATO countries and such NATO partners;

(3) to support special operations forces peculiar command, control, and communications capabilities;

(4) to promote special operations forces intelligence and informational requirements within the NATO structure; and

(5) to promote interoperability through the development of common equipment standards, tactics, techniques, and procedures, and through execution of a multinational education and training program.

SEC. ___. ONE-YEAR EXTENSION OF AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.

Subsection (a) of section 1101 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4615), as most recently amended by section 1102 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263), is further amended by striking "through 2024" and inserting "through 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 has been a recurring provision for the last several years and is an extension for one additional year of the authority under section 1101 of the Duncan Hunter National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009, as amended by subsequent NDAAs, most recently section 1105 of the FY 2024 NDAA. The provision is currently in effect through calendar year 2024. The authority under that section is similar to that previously provided in the NDAAs since FY 2006.

This proposal would provide the head of a Federal executive agency with the authority to waive the limitations on the amount of premium pay that may be paid to a Federal civilian employee while the employee performs work in an overseas location in direct support of, or directly related to, a military operation, including a contingency operation, or an operation in response to a national emergency declared by the President.

Under the law generally applicable to premium pay for Federal civilian employees (section 5547 of title 5, United States Code (U.S.C.)), premium pay may be paid to an employee only to the extent that the payment does not cause the aggregate of basic pay and premium pay for any pay period to exceed the greater of the maximum rate of basic pay payable for General Schedule-15 (GS-15), as adjusted for locality, or the rate payable for Level V of the Executive Schedule. Extending the authority under section 1101(a) of the FY 2009 NDAA would allow a Federal agency head, during calendar year 2025, to waive the limitations in section 5547 and pay premium pay to a Federal civilian employee performing work in an overseas location, as described above, to the extent that the payment does not cause the aggregate of basic pay and

premium pay to exceed the annual rate of salary payable to the Vice President under section 104 of title 3, U.S.C., in a calendar year.

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**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Army	$0.291	Operation and Maintenance, Army	Multiple	Multiple	
Navy	$0.024	Operation and Maintenance, Navy	Multiple	Multiple	
USMC	$0.012	Operation and Maintenance, USMC	Multiple	Multiple	
Air Force	$0.028	Operation and Maintenance, Air Force	Multiple	Multiple	
DLA	$0.021	Defense Working Capital Funds, Defense-wide	Multiple	Multiple	
DCMA	$0.010	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DISA	$0.003	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DCAA	$0.001	Operation and Maintenance, Defense-wide	Multiple	Multiple	
OSD	$0.003	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DFAS	$0.001	Defense Working Capital Funds, Defense-wide	Multiple	Multiple	
Total	$0.394				

Cost Methodology: The cost of this proposal will ultimately be determined by the number of employees affected, the basic pay of each employee (which varies by grade, step, and location), and the number of hours of overtime worked by each employee. Based on available payroll data for eligible employees in 2018, the additional cost for overtime in excess of the annual premium pay limitation was approximately $2.65 million. This number was used to determine the estimated amount for FY 2025 since the actual number is unknown due to the recently changed

mission. The actual numbers of employees, their salaries, and the length of time additional overtime might be required are based on mission needs in FY 2025, but the above scenario illustrates the potential impact, and is a reasonable estimate given the relatively stable rate of assignment of employees over the last several years.

PERSONNEL IMPACT (END STRENGTH)					
Program	**FY 2025**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Army	278	Operation and Maintenance, Army	Multiple	Multiple	
Navy	23	Operation and Maintenance, Navy	Multiple	Multiple	
USMC	11	Operation and Maintenance, USMC OCO	Multiple	Multiple	
Air Force	26	Operation and Maintenance, Air Force	Multiple	Multiple	
DLA	20	Defense Working Capital Funds, Defense-wide	Multiple	Multiple	
DCMA	9	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DISA	3	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DCAA	1	Operation and Maintenance, Defense-wide	Multiple	Multiple	
OSD	3	Operation and Maintenance, Defense-wide	Multiple	Multiple	
DFAS	1	Defense Working Capital Funds, Defense-wide	Multiple	Multiple	
Total	375				

Changes to Existing Law: This proposal would amend section 1101 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4615) as follows:

SEC. 1101. AUTHORITY TO WAIVE ANNUAL LIMITATION ON PREMIUM PAY AND AGGREGATE LIMITATION ON PAY FOR FEDERAL CIVILIAN EMPLOYEES WORKING OVERSEAS.

(a) WAIVER AUTHORITY.—During calendar years 2009 through ~~2024~~ 2025, and notwithstanding section 5547 of title 5, United States Code, the head of an Executive agency may waive the premium pay limitations established in that section up to the annual rate of salary payable to the Vice President under section 104 of title 3, United States Code, for an employee who performs work while in an overseas location in direct support of, or directly related to—

(1) a military operation, including a contingency operation; or

(2) an operation in response to a national emergency declared by the President.

(b) APPLICABILITY OF AGGREGATE LIMITATION ON PAY.—In applying section 5307 of title 5, United States Code, any payment in addition to basic pay for a period of time during which a waiver under subsection (a) is in effect shall not be counted as part of an employee's aggregate compensation for the given calendar year.

(c) ADDITIONAL PAY NOT CONSIDERED BASIC PAY.—To the extent that a waiver under subsection (a) results in payment of additional premium pay of a type that is normally creditable as basic pay for retirement or any other purpose, such additional pay shall not be considered to be basic pay for any purpose, nor shall it be used in computing a lump-sum payment for accumulated and accrued annual leave under section 5551 of title 5, United States Code.

(d) REGULATIONS.—The Director of the Office of Personnel Management may issue regulations to ensure appropriate consistency among heads of executive agencies in the exercise of authority granted by this section.

SEC. ___. ONE-YEAR EXTENSION OF CERTAIN EXPIRING BONUS AND SPECIAL PAY AUTHORITIES.

(a) AUTHORITIES RELATING TO RESERVE FORCES.—Section 910(g) of title 37, United States Code, relating to income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service, is amended by striking "December 31, 2024" and inserting "December 31, 2025".

(b) TITLE 10 AUTHORITIES RELATING TO HEALTH CARE PROFESSIONALS.—The following sections of title 10, United States Code, are amended by striking "December 31, 2024" and inserting "December 31, 2025":

(1) Section 2130a(a)(1), relating to nurse officer candidate accession program.

(2) Section 16302(d), relating to repayment of education loans for certain health professionals who serve in the Selected Reserve.

(c) AUTHORITIES RELATING TO NUCLEAR OFFICERS.—Section 333(i) of title 37, United States Code, is amended by striking "December 31, 2024" and inserting "December 31, 2025".

(d) AUTHORITIES RELATING TO TITLE 37 CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.—The following sections of title 37, United States Code, are amended by striking "December 31, 2024" and inserting "December 31, 2025":

(1) Section 331(h), relating to general bonus authority for enlisted members.

(2) Section 332(g), relating to general bonus authority for officers.

(3) Section 334(i), relating to special aviation incentive pay and bonus authorities for officers.

(4) Section 335(k), relating to special bonus and incentive pay authorities for officers in health professions.

(5) Section 336(g), relating to contracting bonus for cadets and midshipmen enrolled in the Senior Reserve Officers' Training Corps.

(6) Section 351(h), relating to hazardous duty pay.

(7) Section 352(g), relating to assignment pay or special duty pay.

(8) Section 353(i), relating to skill incentive pay or proficiency bonus.

(9) Section 355(h), relating to retention incentives for members qualified in critical military skills or assigned to high priority units.

(e) AUTHORITY TO PROVIDE TEMPORARY INCREASE IN RATES OF BASIC ALLOWANCE FOR HOUSING.—Section 403(b) of title 37, United States Code, is amended—

(1) in paragraph (7)(E), relating to an area covered by a major disaster declaration or containing an installation experiencing an influx of military personnel, by striking "December 31, 2024" and inserting "December 31, 2025"; and

(2) in paragraph (8)(C), relating to an area where actual housing costs differ from current rates by more than 20 percent, by striking "December 31, 2024" and inserting "December 31, 2025".

[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 extend certain expiring bonus and special pay authorities.

Subsection (a) of this proposal would extend income replacement payments for reserve component members experiencing extended and frequent mobilization for active duty service through December 31, 2025. The Department of Defense and Congress recognize the prudence of this incentive, which compensates an involuntarily mobilized Reserve Service member in an amount equal to the monthly income differential between the member's average monthly civilian income and the member's total monthly military compensation.

Subsection (b) of this proposal would extend two critical recruitment and retention incentive programs for Reserve component health care professionals through December 31,

2025. The Reserve components historically have found it challenging to meet the required manning in the health care professions. These incentives, which target nurse and critical health care profession skills, are essential to meet required manning levels. The financial assistance and health professions loan repayment programs have proven to be powerful recruiting tools for attracting young health professionals trained in specialty areas that are critically short in the Selected Reserve. Extending these authorities is critical to the continued success of recruiting young, skilled health professionals into the Selected Reserve.

Subsection (c) of this proposal would extend accession and retention incentives for nuclear-qualified officers through December 31, 2025. These incentives enable the Navy to attract and retain the qualified personnel required to maintain the operational readiness and unparalleled safety record of the nuclear-powered submarines and aircraft carriers, which comprise over 40% of the Navy's major combatants. Due to extremely high training costs and regulatory requirements for experienced supervisors, these incentives provide the surest and most cost-effective means to maintain the required quantity and quality of these officers.

The nuclear officer bonus and nuclear officer incentive pay (NOIP) program is structured to provide career-long retention of officers in whom the Navy has made a considerable training investment and who have continually demonstrated superior technical and management ability. The scope of the program is limited to the number of officers required to fill critical nuclear supervisory billets, and eligibility is strictly limited to those officers who continue to meet competitive career milestones. The technical, leadership, and management expertise developed in the Naval Nuclear Propulsion Program (NNPP) is highly valued in the civilian workforce, which makes the retention of these officers a continuing challenge.

Subsection (d) of this proposal would extend through December 31, 2025, the consolidated special and incentive pay authorities added to subchapter II of chapter 5 of title 37, United States Code, by the National Defense Authorization Act for Fiscal Year 2008. Experience shows that retention of members in critical skills would be unacceptably low without these incentives, which in turn would generate substantially greater costs associated with recruiting and developing replacements. The Department of Defense and the Congress have long recognized the cost-effectiveness of financial incentives in supporting effective staffing in such critical military skills, assignments, and high priority units.

Subsection (e) of this proposal would extend through December 31, 2025, the Secretary of Defense authorities to prescribe a temporary increase in the rates of basic allowance for housing. Subsection (b)(7) of section 403 of title 37, United States Code, may apply if the military housing area or portion thereof is located in an area covered by a declaration by the President that a major disaster exists or contains one or more military installations that are experiencing a sudden increase in the number of members of the armed forces assigned to the installation. Subsection (b)(8) of such section may apply if the costs for rental housing increase more than 20 percent above the current basic allowance for housing rates.

EXTENSION AUTHORITIES FOR RESERVE FORCES:

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. The authority is needed if and when the military departments need to involuntarily mobilize reserve component members when a crisis develops.

EXTENSION OF TITLE 10 AUTHORITIES RELATING TO HEALTH CARE PROFESSIONALS:

Resource Information: The tables below reflect the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal. This section will extend critical accession and retention incentive programs, which the military departments fund annually.

NUMBER OF PERSONNEL AFFECTED									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Army	0	0	0	0	0	Military Personnel, Army	01	40	
Army Res	648	648	648	648	648	Reserve Personnel, Army	01	120	
Army National Guard	294	294	294	294	294	National Guard Personnel, Army	01	90	
Navy	0	0	0	0	0	Military Personnel, Navy;	01	40	
Navy Res	103	103	103	103	103	Reserve Personnel, Navy	01	120	
Air Force	0	0	0	0	0	Military Personnel, Air Force	01	40	
AF Res	117	117	117	117	117	Reserve Personnel, Air Force	01	120	
Air National Guard	0	0	0	0	0	National Guard Personnel, Air Force	01	90	
Total	1,162	1,692	1,692	1,692	1,692				

RESOURCE REQUIREMENTS ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Army	0	0	0	0	0	Military Personnel, Army	01	40	
Army Res	$13.4	$13.4	$13.4	$13.4	$13.4	Reserve Personnel, Army	01	120	
Army National Guard	$10.6	$10.6	$10.6	$10.6	$10.6	National Guard Personnel, Army	01	90	
Navy	0	0	0	0	0	Military Personnel, Navy;	01	40	
Navy Res	$2.3	$2.3	$2.3	$2.3	$2.3	Reserve	01	120	

						Personnel, Navy			
Air Force	0	0	0	0	0	Military Personnel, Air Force	01	40	
AF Res	$2.9	$2.9	$2.9	$2.9	$2.9	Reserve Personnel, Air Force	01	120	
Air National Guard	0	0	0	0	0	National Guard Personnel, Air Force	01	90	
Total	$29.3	$29.3	$29.3	$29.3	$29.3				

Values reflect FY2025 estimate in the Services FY2025 Budget Estimate.

EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS:

Resource Information: The tables below reflect the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal. This section will extend the critical accession and retention incentive programs the Navy funds each year. The Army and Air Force are not authorized in the statute to pay these bonuses.

NUMBER OF PERSONNEL AFFECTED									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Navy	5,080	5,080	5,080	5,080	5,080	Military Personnel, Navy	01, 03	40 (for 01); 90 (for 02); 110 (for 03)	
Navy Res	0	0	0	0	0	Reserve Personnel, Navy	01	90	
Total	5,080	5,080	5,080	5,080	5,080				

RESOURCE REQUIREMENTS ($MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Navy	$131.9	$131.9	$131.9	$131.9	$131.9	Military Personnel, Navy	01, 03	40 (for 01); 90 (for 02); 110 (for 03)	
Navy Res	$0	$0	$0	$0	$0	Reserve Personnel, Navy	01	90	
Total	$131.9	$131.9	$131.9	$131.9	$131.9				

Values reflect FY2025 estimate in the Services FY2025 Budget Estimate.

EXTENSION OF AUTHORITIES RELATING TO CONSOLIDATED SPECIAL PAY, INCENTIVE PAY, AND BONUS AUTHORITIES.

Resource Information: The tables below reflect the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget request that are impacted by this proposal. This section will extend the consolidated special and incentive programs the military departments fund each year. These pays consist of enlisted and officer bonuses, aviation bonuses and incentives, non-physician health professions pays, hazardous duty pays, assignment and special duty pays, skill incentive pays, and critical skill retention bonuses. This section does not include the nuclear officer pays, which are located above.

NUMBER OF PERSONNEL AFFECTED									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Army	251,582	251,582	251,582	251,582	251,582	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)	
*ARNG	62,183	62,183	62,183	62,183	62,183	National Guard Personnel, Army	01	90	
*USAR	36,503	36,503	36,503	36,503	36,503	Reserve Personnel, Army	01	90	
Navy	352,271	352,271	352,271	352,271	352,271	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*USNR	11,243	11,243	11,243	11,243	11,243	Reserve Personnel, Navy	01	90	
Marine Corps	47,305	47,305	47,305	47,305	47,305	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*USMCR	3,583	3,583	3,583	3,583	3,583	Reserve Personnel, Marine Corps	01	90	
Air Force	150,945	150,945	150,945	150,945	150,945	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*Air National Guard	19,700	19,700	19,700	19,700	19,700	National Guard Personnel, Air Force	01	120	
*AF Res	12,546	12,546	12,546	12,546	12,546	Reserve Personnel, Air Force	01	90	
Space Force	6,031	6,031	6,031	6,031	6,031	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	

Total	953,892	953,892	953,892	953,892	953,892				

RESOURCE REQUIREMENTS ($ MILLIONS)									
Program	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**	**FY 2029**	**Appropriation To**	**Budget Activity**	**BLI/SAG**	**Program Element**
Army	$1,572.5	$1,572.5	$1,572.5	$1,572.5	$1,572.5	Military Personnel, Army	01, 02	35 & 40 (for 01), 85 & 90 (for 02)	
*ARNG	$335.0	$335.0	$335.0	$335.0	$335.0	National Guard Personnel, Army	01	90	
*USAR	$115.0	$115.0	$115.0	$115.0	$115.0	Reserve Personnel, Army	01	90	
Navy	$2,268.0	$2,268.0	$2,268.0	$2,268.0	$2,268.0	Military Personnel, Navy	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*USNR	$88.9	$88.9	$88.9	$88.9	$88.9	Reserve Personnel, Navy	01	90	
Marine Corps	$307.2	$307.2	$307.2	$307.2	$307.2	Military Personnel, Marine Corps	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*USMCR	$45.0	$45.0	$45.0	$45.0	$45.0	Reserve Personnel, Marine Corps	01	90	
Air Force	$1,376.8	$1,376.8	$1,376.8	$1,376.8	$1,376.8	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
*Air National Guard	$148.0	$148.0	$148.0	$148.0	$148.0	National Guard Personnel, Air Force	01	90	
*AF Res	$123.9	$123.9	$123.9	$123.9	$123.9	Reserve Personnel, Air Force	01	120	
Space Force	$32.0	$32.0	$32.0	$32.0	$32.0	Military Personnel, Air Force	01, 02	35 & 40 (for 01); 85 & 90 (for 02)	
Total	$6,412	$6,412	$6,412	$6,412	$6,412				

Values reflect FY2025 estimate in the Services FY2025 Budget Estimate.
*** These values do not include Reserve Component incentive pays because they are not reported in the Reserve Components FY2025 Budget Estimates.**

EXTENSION OF AUTHORITY TO PROVIDE TEMPORARY INCREASE IN RATES OF BASIC ALLOWANCE FOR HOUSING:

Resource information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. However, the authority is required in cases of disasters or for locations where rental housing costs increase more than 20 percent above the current basic allowance for housing rates. This section will extend the Secretary of Defense authorities to temporarily increase basic allowance for housing rates.

Changes to Existing Laws: This proposal would amend titles 10 and 37, United States Code, as follows:

TITLE 10, UNITED STATES CODE

*****

§ 2130a. Financial assistance: nurse officer candidates

(a) BONUS AUTHORIZED.—(1) A person described in subsection (b) who, during the period beginning on November 29, 1989, and ending on ~~December 31, 2024~~ December 31, 2025, executes a written agreement in accordance with subsection (c) to accept an appointment as a nurse officer may, upon the acceptance of the agreement by the Secretary concerned, be paid an accession bonus of not more than $20,000. The bonus shall be paid in periodic installments, as determined by the Secretary concerned at the time the agreement is accepted, except that the first installment may not exceed $10,000.

(2) In addition to the accession bonus payable under paragraph (1), a person selected under such paragraph shall be entitled to a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for each month the individual is enrolled as a full-time student in an accredited baccalaureate degree program in nursing at a civilian educational institution by the Secretary selecting the person. The continuation bonus may be paid for not more than 24 months.

*****

§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

*****

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer before ~~December 31, 2024~~ December 31, 2025.

*****

_____

TITLE 37, UNITED STATES CODE

*****

§ 331. General bonus authority for enlisted members

*****

(h) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

*****

§ 332. General bonus authority for officers

*****

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

*****

§ 333. Special bonus and incentive pay authorities for nuclear officers

****

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

****

§ 334. Special aviation incentive pay and bonus authorities for officers

****

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

****

§ 335. Special bonus and incentive pay authorities for officers in health professions

****

(k) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

*****

§ 336. Contracting bonus for cadets and midshipmen enrolled in the Senior Reserve Officers' Training Corps

****

(g) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after ~~December 31, 2024~~ December 31, 2025.

*****

§ 351. Hazardous duty pay

****

(h) TERMINATION OF AUTHORITY.—No hazardous duty pay under this section may be paid after ~~December 31, 2024~~ December 31, 2025.

*****

§ 352. Assignment pay or special duty pay

****

(g) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

****

§ 353. Skill incentive pay or proficiency bonus

****

(i) TERMINATION OF AUTHORITY.—No agreement may be entered into under this section after ~~December 31, 2024~~ December 31, 2025.

****

§ 355. Special pay: retention incentives for members qualified in critical military skills or assigned to high priority units

****

(h) TERMINATION OF BONUS AUTHORITY.—No bonus may be paid under this section with respect to any reenlistment, or voluntary extension of an enlistment, in the armed forces entered into after ~~December 31, 2024~~ December 31, 2025, and no agreement under this section may be entered into after that date.

*****

§ 403. Basic allowance for housing

****

(b) BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.—(1) ***

*****

(7)(A) ***

*****

(E) An increase in the rates of basic allowance for housing for an area may not be prescribed under this paragraph or continue after ~~December 31, 2024~~ December 31, 2025.

*****

(8)(A) ***

*****

(C) This paragraph shall cease to be effective on ~~December 31, 2024~~ December 31, 2025.

*****

§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

****

(g) TERMINATION.—No payment shall be made to a member under this section for months beginning after ~~December 31, 2024~~ December 31, 2025, unless the entitlement of the member to payments under this section is commenced on or before that date.

*****

SEC. ___. ONE-YEAR EXTENSION OF TEMPORARY AUTHORITY TO GRANT ALLOWANCES, BENEFITS, AND GRATUITIES TO CIVILIAN PERSONNEL ON OFFICIAL DUTY IN A COMBAT ZONE.

Paragraph (2) of section 1603(a) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 443), as added by section 1102 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417; 122 Stat. 4616) and as most recently amended by section 1109 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31), is further amended by striking "2025" and inserting "2026".

[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 extend through fiscal year 2026 the discretionary authority of the head of an agency to provide to an individual employed by, or assigned or detailed to, such agency, allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3973; 4081 et seq.), if such individual is on official duty in Pakistan or a combat zone (as defined by section 112(c) of the Internal Revenue Code of 1986).

This authority has been granted since 2006 to provide certain allowances, benefits, and gratuities to individuals on official duty in Pakistan or a combat zone. The extension of the authority would ensure that employees receive benefits promptly and for the periods of time when the conditions warrant the designation of a combat zone. This is a provision that applies to all Federal agencies, not just the Department of Defense, and is necessary to incentivize and support all Federal civilian employees taking assignments in Pakistan or a combat zone.

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**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Army	$7.440	Operation and Maintenance, Army	Multiple	Multiple	

Navy	$2.394	Operation and Maintenance, Navy	Multiple	Multiple	
Air Force	$0.396	Operation and Maintenance, Air Force	Multiple	Multiple	
DLA	$0.432	Defense Working Capital Funds, Defense-Wide	Multiple	Multiple	
DCMA	$0.198	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DISA	$0.072	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DCAA	$0.018	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
OSD	$0.054	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DFAS	$0.018	Defense Working Capital Funds, Defense-Wide	Multiple	Multiple	
WHS	$0.000	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
Joint Staff	$0.000	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
Total	$11.022				

PERSONNEL IMPACT (END STRENGTH)					
Program	**FY 2025**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element (for all RDT&E programs)**
Army	201	Operation and Maintenance, Army	Multiple	Multiple	
Navy	133	Operation and Maintenance, Navy	Multiple	Multiple	
Air Force	22	Operation and Maintenance, Air Force	Multiple	Multiple	
DLA	24	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DCMA	11	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DISA	4	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DCAA	1	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
OSD	3	Operation and Maintenance, Defense-Wide	Multiple	Multiple	
DFAS	1	Defense Working Capital Funds, Defense-Wide	Multiple	Multiple	
Total	400				

Cost Methodology: Only Defense Agencies that anticipate having employees assigned to areas covered by this authority are identified in the budget table above. The costing methodology for this legislative proposal is based on the number of DoD civilian employees currently deployed to Pakistan or a combat zone, times the cost associated with each allowance, benefit, and gratuity under section 413 and chapter 9 of title I of the Foreign Service Act of 1980 (i.e., death gratuity equal to EX-II ($212,100 in CY 2023)); and payment of commercial roundtrip travel for Rest and Recuperation (R&R) breaks (up to three per year for employees deployed for 12 consecutive months and home leave). Specifically, the total cost for the death gratuity is calculated based on the assumption that there is one civilian death per Component during the two-year period. Payment of commercial roundtrip travel for R&R is based on the estimated number of currently deployed civilians who will remain deployed for 12 consecutive months, and thus are entitled to up to three R&R breaks and home leave. Estimates of the number of employees are: Army – 201; Navy – 133; Air Force – 22; Defense Agencies – 44. The average cost for each roundtrip travel for R&R is $18,000. Note that deployments dropped significantly since previous submissions of this proposal. However, for those that remain in Pakistan or a combat zone, the authority is still necessary.

Changes to Existing Law: This proposal would amend section 1603 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109-234; 120 Stat. 443) as follows:

SEC. 1603. (a) IN GENERAL.—(1) During fiscal years 2006 (including the period beginning on October 1, 2005, and ending on June 15, 2006), 2007, and 2008 the head of an agency may, in the agency head's discretion, provide to an individual employed by, or assigned or detailed to, such agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 3973; 4081 et seq.), if such individual is on official duty in Iraq or Afghanistan.

(2) During fiscal years 2009 through ~~2025~~ 2026**,** the head of an agency may, in the agency head's discretion, provide to an individual employed by, or assigned or detailed to, such agency allowances, benefits, and gratuities comparable to those provided by the Secretary of State to members of the Foreign Service under section 413 and chapter 9 of title I of the Foreign Service Act of 1980, if such individual is on official duty in Pakistan or a combat zone (as defined by section 112(c) of the Internal Revenue Code of 1986).

(b) CONSTRUCTION.—Nothing in this section shall be construed to impair or otherwise affect the authority of the head of an agency under any other provision of law.

(c) APPLICABILITY OF CERTAIN AUTHORITIES.—Section 912(a) of the Internal Revenue Code of 1986 shall apply with respect to amounts received as allowances or otherwise under this section in the same manner as section 912 of the Internal Revenue Code of 1986 applies with respect to amounts received by members of the Foreign Service as allowances or otherwise under chapter 9 of title I of the Foreign Service Act of 1980.

SEC. ___. PERMANENT AUTHORITY FOR NONCOMPETITIVE APPOINTMENTS OF MILITARY SPOUSES BY FEDERAL AGENCIES.

(a) IN GENERAL.—Section 573(e) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232; 5 U.S.C. 3330d note) is repealed.

(b) TECHNICAL AMENDMENTS.—Section 1119(a) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) is amended—

(1) in paragraph (2)—

(A) by striking "(2)" and all that follows through "the following:" and inserting the following:

"(2) in subsection (a)—

"(A) by redesignating paragraph (5), as added by section 1112(a)(1)(C) of this Act, as paragraph (6); and

"(B) by inserting after paragraph (4), as redesignated by section 1112(a)(1)(A) of this Act, the following:"; and

(B) in the quoted material, by striking "(4) The term" and inserting "(5) The term"; and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by inserting ", as amended by section 1112(a)(2) of this Act" after "in subsection (b)";

(B) in subparagraph (A), by striking "paragraph (1)" and inserting "paragraph (2)";

(C) in subparagraph (B), by striking "paragraph (2)" and inserting "paragraph (3)"; and

(D) in subparagraph C), in the quoted material, by striking "(3) a spouse" and inserting "(4) a spouse".

(c) EFFECTIVE DATE.—The amendments made by subsection (b) of this section shall take effect as if included in the enactment of section 1119 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31).

[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 remove the sunset date in section 573 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019, which temporarily amended section 3330d of title 5, United States Code (U.S.C.), to authorize Federal agencies to noncompetitively appoint spouses of active-duty Service members regardless of whether the spouse is geographically relocating due to the Service member receiving military reassignment orders. When this temporary amendment expires on December 31, 2028, the prior provisions of section 3330d of title 5, U.S.C., which limited such appointments to relocating spouses and imposed geographic and other restrictions on use of the authority, will be restored or revived as if section 573 had not been enacted. Removing the sunset date would make the authority provided by section 573 permanent.

A permanent authority to noncompetitively appoint spouses of active-duty Service members supports military retention efforts. This authority not only increases the number of military spouses who are eligible for such appointments, but also allows relocating spouses to apply for vacancies in advance of the Service member receiving orders for an anticipated move and assists spouses of active-duty Service members who are deployed or serving on an unaccompanied tour overseas to seek Federal employment during the separation. Importantly, the authority assists military spouses to pursue not just a job, but a career with the Federal government, while supporting the career of the Service member. Additionally, the authority streamlines the evaluation criteria used by human resources officials to establish eligibility to use this noncompetitive appointing authority, making it more easily used by Federal agencies to support military spouse employment consistent with Executive Order 13832, "Enhancing Noncompetitive Civil Service Appointments of Military Spouses," May 9, 2018. Finally, the authority supports Executive Order 14100, "Advancing Economic Security for Military and Veteran Spouses, Military Caregivers, and Survivors," June 9, 2023, which recognizes military spouse employment as important to the economic well-being of the all-volunteer force. Although the Department of Defense is unaware of the extent of its use by other agencies, the hiring authority is frequently used in the Department to quickly bring talented military spouses into vacant positions. In FY 2022, the Department used this authority to hire 2,242 military spouses.

In addition, this proposal contains technical amendments to address conflicts in the amendments to section 3330d of title 5, U.S.C., made by sections 1112 and 1119 of the FY 2024 NDAA (Public Law 118–31).

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 make the following changes to existing laws:

John S. McCain National Defense Authorization Act for Fiscal Year 2019
(Public Law 115–232; 5 U.S.C. 3330d note)

*****

SEC. 573. TEMPORARY EXPANSION OF AUTHORITY FOR NONCOMPETITIVE APPOINTMENTS OF MILITARY SPOUSES BY FEDERAL AGENCIES.

(a) EXPANSION TO INCLUDE ALL SPOUSES OF MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY.—Section 3330d of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (3), (4), and (5); and

(B) by redesignating paragraph (6) as paragraph (3);

(2) by striking subsections (b) and (c) and inserting the following new subsection (b):

"(b) APPOINTMENT AUTHORITY.—The head of an agency may appoint noncompetitively—

"(1) a spouse of a member of the Armed Forces on active duty; or

"(2) a spouse of a disabled or deceased member of the Armed Forces.";

(3) by redesignating subsection (d) as subsection (c); and

(4) in subsection (c), as so redesignated, by striking "subsection (a)(6)" in paragraph (1) and inserting "subsection (a)(3)".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of such title is amended by striking the item relating to section 3330d and inserting the following new item:

"3330d. Appointment of military spouses.".

(c) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

"§ 3330d. Appointment of military spouses".

(d) [Repealed]

~~(e) SUNSET.—Effective on December 31, 2028—~~

~~(1) the authority provided by this section, and the amendments made by this section, shall expire; and~~

~~(2) the provisions of section 3330d of title 5, United States Code, amended or repealed by such section are restored or revived as if such section had not been enacted.~~

*****

National Defense Authorization Act for Fiscal Year 2024
Public Law 118–31)***

SEC. 1119. EXPANSION OF NONCOMPETITIVE APPOINTMENT ELIGIBILITY TO SPOUSES OF DEPARTMENT OF DEFENSE CIVILIANS.

(a) IN GENERAL.—Section 3330d of title 5, United States Code, is amended—

(1) in the section heading, by inserting ''**and Department of Defense civilian**'' after ''**military**'';

~~(2) in subsection (a), by adding at the end the following:~~

(2) in subsection (a)—

(A) by redesignating paragraph (5), as added by section 1112(a)(1)(C) of this Act, as paragraph (6); and

(B) by inserting after paragraph (4), as redesignated by section 1112(a)(1)(A) of this Act, the following:

''~~(4)~~(5) The term 'spouse of an employee of the Department of Defense' means an individual who is married to an employee of the Department of Defense who is transferred in the interest of the Government from one official station within the Department to another within the Department (that is outside of normal commuting distance) for permanent duty.''; and

(3) in subsection (b), as amended by section 1112(a)(2) of this Act—

(A) in paragraph ~~(1)~~(2), by striking ''or'' at the end;

(B) in paragraph ~~(2)~~(3), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''~~(3)~~(4) a spouse of an employee of the Department of Defense.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3330d and inserting the following:

''3330d. Appointment of military and Department of Defense civilian spouses.''.

*****

(d) SUNSET.—Effective on December 31, 2028—

(1) the authority provided by this section, and the amendments made by this section, shall expire; and

(2) the provisions of section 3330d of title 5, United States Code, amended or repealed by this section are restored or revived as if this section had not been enacted.

SEC. ___. PERMANENT MODIFICATION TO THE ARMY NATIONAL GUARD AND AIR NATIONAL GUARD INACTIVE NATIONAL GUARD STATUTE

Section 303 of title 32, United States Code, is amended by inserting after subsection (c) the following new subsections:

"(d) ARMY NATIONAL GUARD.—Under regulations prescribed by the Secretary of the Army—

"(1) an officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard;

"(2) an officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit;

"(3) a warrant officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard; and

"(4) a warrant officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

"(e) AIR NATIONAL GUARD.—Under regulations prescribed by the Secretary of the Air Force—

"(1) an officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard; and

"(2) an officer of the Air National Guard transferred to the inactive Air National Guard pursuant to paragraph (1) may be transferred from the inactive Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit.".

[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 proposed legislative provision will provide a mechanism to retain quality commissioned officers and warrant officers to maintain increased levels of personnel readiness in the National Guard (NG) and provide for more effective and efficient use of force structure in an era of constrained resources. Currently, section 303 of title 32, United States Code, authorizes only enlisted personnel to transfer from the Selected Reserve to the Inactive National Guard (ING). Commissioned and warrant officers are not authorized to be transferred from active status in the Selected Reserve to the ING, part of the Ready Reserves. A change in statute is required to implement policy changes to the current law governing the ING.

The ING currently provides options for enlisted Service members to take a career intermission based on personal life events without separating from the service. However, this statute does not currently allow commissioned or warrant officers to enter the ING.

Under current statutes, States have no options outside of losing valuable mobilization assets to the Individual Ready Reserves if an officer requires a mid-career break for personal or professional reasons.

This authority could also be used to transfer officers who are pending "Withdraw of Federal Recognition" (WOFR) for misconduct or other administrative reasons into the ING. Under the current WOFR process, these officers can still attend monthly drills with their unit, resulting in disruption to training and affecting morale.

This authorization to transfer officers to the ING will provide enhanced career options for commissioned officers who require or desire to take a career intermission. This allows officers to take a mid-career break in service to pursue activities inconsistent with the demands of drilling status and remain productively affiliated with the NG. This enhances the long-term retention of officers in the Selected Reserve. Additionally, retaining these trained and qualified officers reduces the expense of training replacement officers if those officers opt to separate from service instead.

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 303 of title 32, United States Code, as follows:

§ 303 - Active and inactive enlistments and transfers

(a) Under regulations to be prescribed by the Secretary of the Army, a person qualified for enlistment in the active Army National Guard may be enlisted in the inactive Army National Guard for a single term of one or three years. Under regulations prescribed by the Secretary of the Air Force, a person qualified for enlistment in the active Air National Guard may be enlisted in the inactive Air National Guard for a single term of one or three years.

(b) Under such regulations as the Secretary of the Army may prescribe, an enlisted member of the active Army National Guard, not formerly enlisted in the inactive Army National Guard, may be transferred to the inactive Army National Guard. Under such regulations as the Secretary of the Air Force may prescribe, an enlisted member of the active Air National Guard, not formerly enlisted in the inactive Air National Guard, may be transferred to the inactive Air National Guard. Under such regulations as the Secretary concerned may prescribe, a person enlisted in or transferred to the inactive Army National Guard or the inactive Air National Guard may be transferred to the active Army National Guard or the active Air National Guard, as the case may be.

(c) In time of peace, no enlisted member may be required to serve for a period longer than that for which he enlisted in the active or inactive National Guard.

(d) ARMY NATIONAL GUARD.—Under regulations prescribed by the Secretary of the Army—

(1) an officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard;

(2) an officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit;

(3) a warrant officer of the Army National Guard who fills a vacancy in a federally recognized unit of the Army National Guard may be transferred from the active Army National Guard to the inactive Army National Guard; and

(4) a warrant officer of the Army National Guard transferred to the inactive Army National Guard pursuant to paragraph (1) may be transferred from the inactive Army National Guard to the active Army National Guard to fill a vacancy in a federally recognized unit.

(e) AIR NATIONAL GUARD.—Under regulations prescribed by the Secretary of the Air Force—

(1) an officer of the Air National Guard who fills a vacancy in a federally recognized unit of the Air National Guard may be transferred from the active Air National Guard to the inactive Air National Guard; and

(2) an officer of the Air National Guard transferred to the inactive Air National Guard pursuant to paragraph (1) may be transferred from the inactive Air National Guard to the active Air National Guard to fill a vacancy in a federally recognized unit.

SEC. ___. PROJECTS EXECUTED BY HOST NATIONS OTHER THAN THE UNITED STATES UNDER THE NATO SECURITY INVESTMENT PROGRAM.

Section 2350q of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) CONJUNCTIVE CONTRIBUTIONS WHEN THE UNITED STATES IS NOT DESIGNATED AS THE HOST NATION FOR A PROJECT.—When the United States is not designated as the Host Nation for purposes of executing a project under the Program, and such project meets the minimum military requirements of the North Atlantic Treaty Organization but does not fully meet the requirements of the Department of Defense, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may, notwithstanding any other provision of law, provide conjunctive contributions to the designated Host Nation using any unobligated funds appropriated for military construction, including appropriations available for operation and maintenance when the aggregate cost of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending from appropriations available for operation and maintenance for unspecified minor military construction.".

[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 2350q of title 10, United States Code (U.S.C.), to authorize the Secretary of Defense to transfer funds for conjunctive requirements directly to the Host Nation executing projects under the North Atlantic Treaty Organization (NATO) Security Investment Program (NSIP) following a determination that completion of the project is in the national interest of the United States. The amendment would also establish an exception to the

full and open competition requirement for procurement contracts under section 3301 of title 41, U.S.C.

The NSIP is a NATO common fund that provides for the development, construction, and implementation of facilities and equipment that are required by the NATO Strategic Commanders to complete their missions. The NATO Infrastructure Committee approves NSIP funding for the portion of a project that meets but does not exceed the NATO minimum military requirement (MMR). A member state may then contribute a proportionate amount of conjunctive funding to develop the project to meet national standards that exceed the NATO MMR. For example, the NATO MMR may only require the construction of an airfield to accommodate medium-lift transport aircraft, but the Department of Defense (DoD) may require the airfield to accommodate heavy-lift strategic transport aircraft. Alternatively, a non-NATO cost share may apply to a project due to shared use by the host nation. Contributing conjunctive funds, therefore, allows the Host Nation to execute the NSIP project using a combination of NSIP funding and DoD funding to satisfy more rigorous DoD requirements.

Conjunctive funding is unavoidable when it is not possible to isolate and contract separately the U.S.-funded portion of the project, either due to operational impact (e.g., projects that require runway closure), technical features (e.g., projects for which pipe or pump sizing for the NATO portion must be increased to connect to the U.S. portion), or a NATO cost-share formula applied to dual-use (NATO and non-NATO) infrastructure. The current lack of ability to transfer funds to a Host Nation has stalled or even forced cancellation of NATO projects.

Under section 2350q(e) of title 10, U.S.C., the Secretary of Defense is authorized to obligate funds for the portion of the project that exceeds the MMR following a determination that completion of the project is in the national interest of the United States. This authority, however, only extends to projects for which the United States is designated as the Host Nation for purposes of executing a project under the NSIP. When a country other than the United States is designated as the Host Nation responsible for designing, contracting, and executing the NSIP project, the Secretary lacks the statutory authority to provide conjunctive funding to the host nation for U.S. requirements that exceed the MMR. Under section 1301(a) of title 31, U.S.C., commonly known as the "Purpose Statute", the Department is prohibited from providing appropriated funds for a purpose other than for which the appropriations were made without specific statutory authority. This proposal would authorize the Secretary to provide funds for U.S. conjunctive requirements to the Host Nation executing projects under the NSIP, thereby satisfying the Purpose Statute.

Moreover, section 3301 of title 41, U.S.C. (originally enacted as part of the Competition in Contracting Act of 1984), requires the Department to obtain full and open competition for procurement contracts through the use of competitive procedures, unless otherwise expressly authorized by statute. This legislative proposal would create an exception to the full and open competition requirement of section 3301, allowing the Secretary to provide funds for U.S. conjunctive requirements without following the prescribed competition procedures for the award of contracts pursuant to the Competition in Contracting Act.

Amending section 2350q of title 10, U.S.C., to authorize the Secretary of Defense to provide conjunctive contributions to the designated Host Nation executing an NSIP project avoids the construction of similar projects within the same region, ultimately reducing costs to DoD by allowing for the contribution of funds to meet DoD's mission requirements that exceed the MMR. This proposal is also consistent with DoD policy, which specifies that facilities required to support U.S. NATO-assigned forces and NATO operational plans shall be funded, to the maximum extent possible, through NSIP (DoD Directive 2010.05 *The North Atlantic Treaty Organization (NATO) Security Investment Program*, December 13, 2004).

Resource Information: The FY25 NSIP funding request is listed in the table below and reflects the best estimate of resources requested within the Fiscal Year (FY) 2025 President's Budget that are impacted by this proposal. We are not able to isolate the precise impact of the authority to provide conjunctive contributions due to several factors outside of DoD control.

Program	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
NSIP	433.9	538.1	670.3	838.7	1,056.1	NATO Security Investment Program (0804D)	01	D96D0005	
Total	433.9	538.1	670.3	838.7	1,056.1				

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

§ 2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program

(a) AUTHORITY TO EXECUTE PROJECTS.—When the United States is designated as the Host Nation for purposes of executing a project under the North Atlantic Treaty Organization Security Investment Program (in this section referred to as the 'Program'), the Secretary of Defense may accept such designation and carry out such project consistent with the requirements of this section.

(b) PROJECT FUNDING.—The Secretary of Defense may fund authorized expenditures of projects accepted under subsection (a) with—

(1) contributions under subsection (c);

(2) appropriations of the Department of Defense for the Program when directed by the North Atlantic Treaty Organization to apply amounts of such appropriations as part of the share of contributions of the United States for the Program; or

(3) any combination of amounts described in paragraphs (1) and (2).

(c) AUTHORITY TO ACCEPT CONTRIBUTIONS.—(1) The Secretary of Defense may accept contributions from the North Atlantic Treaty Organization and member nations of the North Atlantic Treaty Organization for the purpose of carrying out a project under subsection (a).

(2) Contributions accepted under paragraph (1) shall be placed in an account established for the purpose of carrying out the project for which the funds were provided and shall remain available until expended.

(3)(A) If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to—

(i) the appropriations used for the project or portion thereof, if such appropriations have not yet expired; or

(ii) the appropriations for the Program, if the appropriations described in clause (i) have expired.

(B) Funding credited under subparagraph (A) shall merge with and remain available for the same purposes and duration as the appropriations to which credited.

(d) OBLIGATION AUTHORITY.—The construction agent of the Department of Defense designated by the Secretary of Defense to execute a project under subsection (a) may recognize the North Atlantic Treaty Organization project authorization amounts as budgetary resources to incur obligations against for the purposes of executing the project.

(e) INSUFFICIENT CONTRIBUTIONS.—(1) In the event that the North Atlantic Treaty Organization does not agree to contribute funding for all costs necessary for the Department of Defense to carry out a project under subsection (a), including necessary personnel costs of the construction agent designated by the Department of Defense, contract claims, and any conjunctive funding requirements that exceed the project authorization or standards of the North Atlantic Treaty Organization, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may fund such costs, and undertake such conjunctively funded requirements not otherwise authorized by law, using any unobligated funds available among funds appropriated for the Program for military construction.

(2) The use of funds under paragraph (1) from appropriations for the Program may be in addition to or in place of any other funding sources otherwise available for the purposes for which those funds are used.

(f) CONJUNCTIVE CONTRIBUTIONS WHEN THE UNITED STATES IS NOT DESIGNATED AS THE HOST NATION FOR A PROJECT.—When the United States is not designated as the Host Nation for purposes of executing a project under the Program, and such project meets the minimum military requirements of the North Atlantic Treaty Organization but does not fully meet the requirements of the Department of Defense, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may, notwithstanding any other provision of law, provide conjunctive contributions to the designated Host Nation using any unobligated funds appropriated for military construction, including appropriations available for operation and maintenance when the aggregate cost of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending from appropriations available for operation and maintenance for unspecified minor military construction.

~~(f)~~ (g) AUTHORIZED EXPENDITURES DEFINED.—In this section, the term "authorized expenditures" means project expenses for which the North Atlantic Treaty Organization has agreed to contribute funding.

SEC. ___. PROJECTS EXECUTED BY THE UNITED STATES UNDER THE NATO SECURITY INVESTMENT PROGRAM.

Section 2350q of title 10, United States Code, is amended—

(1) in subsection (c), by amending paragraph (3) to read as follows:

"(3) If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to appropriations for the Program, and shall merge with and remain available for the same purposes and duration as such appropriations."; and

(2) in subsection (e)—

(A) by striking paragraph (2);

(B) by striking "(1) In the event" and inserting "In the event"; and

(C) by striking "using any unobligated funds" and all that follows through the period at the end and inserting "using any unobligated funds appropriated for military construction, including appropriations available for operation and maintenance when the aggregate amount of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending from appropriations available for operation and maintenance for unspecified minor military construction.".

[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 2350q of title 10, United States Code, by (1) mandating that the Department of Defense (DoD) credit all financial recoupments from the North Atlantic Treaty Organization (NATO) for NATO Security Investment Program (NSIP) projects pre-financed by the United States into appropriations solely available for the NSIP; and (2) authorizing the Secretary of Defense to use funds appropriated for military construction and operation and maintenance to pay the costs of funding shortfalls for U.S. executed NSIP projects when the completion of such projects is in the national interest of the United States.

Section 2350q(c) currently requires the Department of Defense to credit amounts recouped from NATO for NSIP projects pre-financed by the United States into the military construction appropriation(s) used to finance the project, if such appropriation(s) have not yet expired. If the appropriation(s) have expired, the current language requires the Department to credit recouped funds into NSIP appropriations. This proposal would amend section 2350q(c) so that all recoupments would only be credited to the NSIP appropriations. Crediting recoupments solely to the NSIP appropriation: 1) ensures these funds will be used to support future NSIP projects, 2) helps guard against project cancelation where the United States is not able to meet its program cost share obligations, and 3) contributes to the United States fulfilling its overall funding obligation to the NSIP.

Section 2350q(e) currently permits the Secretary of Defense to fund all costs necessary for the Department of Defense to carry out a NSIP project that are not covered by NATO using "funds appropriated for the [NSIP] for military construction." There currently is no such appropriation, making the provision not implementable without changes to existing budgeting and appropriation processes. This proposal would amend section 2350q(e) to permit the funding of costs not covered by NATO through the use of unobligated funds appropriated for military construction, to include appropriations available for operation and maintenance when the aggregate cost of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of title 10, United States Code, on spending from appropriations available for operation and maintenance for unspecified minor military construction. This authority is needed so that the United States can execute NSIP projects that have elements not funded by the NATO common funded program, such as project scope that is above the minimum military requirement established by NATO but required by the United States user.

Resource Information: The Fiscal Year (FY) 2025 NSIP funding request is listed in the table below and reflects the best estimate of resources requested within the FY 2025 President's Budget that are impacted by this proposal. The Department is currently not able to estimate the timing and amount of recoupments (reimbursements) because of the following factors outside of DoD control: the time needed by NATO to determine whether it will reimburse costs for a given project; if a decision is made to do reimbursement, the time required for NATO to work the project into an approved program; uncertainty over when a detailed cost breakout for a completed project can be submitted to NATO for reimbursement; the time needed for NATO staff to screen project submissions; the availability of NATO funds to provide reimbursement, which varies each year; and, if the United States is not executing a project, the time required for the United States to coordinate with the country executing the project, where that country subsequently coordinates reimbursement with NATO.

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)**
NSIP	433.9	538.1	670.3	838.7	1,056.1	NATO Security Investment	01	D96D0005	

						Program (0804D)			
Total	433.9	538.1	670.3	838.7	1,056.1				

Changes to Existing Law: This proposal would amend section 2350q of title 10, United States Code, as shown below:

§ 2350q. Execution of projects under the North Atlantic Treaty Organization Security Investment Program

(a) AUTHORITY TO EXECUTE PROJECTS.—When the United States is designated as the Host Nation for purposes of executing a project under the North Atlantic Treaty Organization Security Investment Program (in this section referred to as the 'Program'), the Secretary of Defense may accept such designation and carry out such project consistent with the requirements of this section.

(b) PROJECT FUNDING.—The Secretary of Defense may fund authorized expenditures of projects accepted under subsection (a) with—

(1) contributions under subsection (c);

(2) appropriations of the Department of Defense for the Program when directed by the North Atlantic Treaty Organization to apply amounts of such appropriations as part of the share of contributions of the United States for the Program; or

(3) any combination of amounts described in paragraphs (1) and (2).

(c) AUTHORITY TO ACCEPT CONTRIBUTIONS.—(1) The Secretary of Defense may accept contributions from the North Atlantic Treaty Organization and member nations of the North Atlantic Treaty Organization for the purpose of carrying out a project under subsection (a).

(2) Contributions accepted under paragraph (1) shall be placed in an account established for the purpose of carrying out the project for which the funds were provided and shall remain available until expended.

(3)~~(A)~~ If contributions are made under paragraph (1) as reimbursement for a project or portion of a project previously completed by the Department of Defense, such contributions shall be credited to~~—~~appropriations for the Program, and shall merge with and remain available for the same purposes and duration as such appropriations.

~~(i) the appropriations used for the project or portion thereof, if such appropriations have not yet expired; or~~

~~(ii) the appropriations for the Program, if the appropriations described in clause (i) have expired.~~

~~(B) Funding credited under subparagraph (A) shall merge with and remain available for the same purposes and duration as the appropriations to which credited.~~

(d) OBLIGATION AUTHORITY.—The construction agent of the Department of Defense designated by the Secretary of Defense to execute a project under subsection (a) may recognize the North Atlantic Treaty Organization project authorization amounts as budgetary resources to incur obligations against for the purposes of executing the project.

(e) INSUFFICIENT CONTRIBUTIONS.—~~(1)~~ In the event that the North Atlantic Treaty Organization does not agree to contribute funding for all costs necessary for the Department of Defense to carry out a project under subsection (a), including necessary personnel costs of the construction agent designated by the Department of Defense, contract claims, and any conjunctive funding requirements that exceed the project authorization or standards of the North Atlantic Treaty Organization, the Secretary of Defense, upon determination that completion of the project is in the national interest of the United States, may fund such costs, and undertake such conjunctively funded requirements not otherwise authorized by law, using any unobligated funds ~~available among funds appropriated for the Program for military construction~~ appropriated for military construction, including appropriations available for operation and maintenance when the aggregate amount of insufficient contributions for a project does not exceed the funding ceiling specified in section 2805(c) of this title on spending from appropriations available for operation and maintenance for unspecified minor military construction.

~~(2) The use of funds under paragraph (1) from appropriations for the Program may be in addition to or in place of any other funding sources otherwise available for the purposes for which those funds are used.~~

(f) AUTHORIZED EXPENDITURE DEFINED.—In this section, the term 'authorized expenditures' means project expenses for which the North Atlantic Treaty Organization has agreed to contribute funding.

SEC. __. PROTECTION AGAINST MISUSE OF NAVAL SPECIAL WARFARE COMMAND INSIGNIA.

Chapter 891 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 8922. Protection against misuse of insignia of Naval Special Warfare Command**

"(a) DEFINITIONS.—In this section:

"(1) COVERED NAVAL SPECIAL WARFARE INSIGNIA.—The term 'covered Naval Special Warfare insignia' means any of the following:

"(A) The Naval Special Warfare Insignia comprising or consisting of the design of an eagle holding an anchor, trident, and flint-lock pistol.

"(B) The Special Warfare Combatant-craft Crewman Insignia comprising or consisting of the design of the bow and superstructure of a Special Operations Craft on a crossed flint-lock pistol and enlisted cutlass.

"(C) Any colorable imitation of the insignia referred to in subparagraphs (A) and (B).

"(2) COVERED PERSON.—The term 'covered person' means any individual, association, partnership, or corporation.

"(b) PROHIBITION AGAINST UNAUTHORIZED USE.—(1) Subject to subsection (c), no covered person shall, without the authorization of the Secretary of the Navy, use any covered Naval Special Warfare insignia—

"(A) as the name under which the covered person does business for the purpose of trade; or

"(B) in a manner which reasonably could lead the public to believe that any project or business in which the covered person is engaged, or product that the covered person manufactures, deals in, or sells, has been in any way endorsed, authorized, sponsored, or approved by, or is associated with, the Department of Defense or the Department of the Navy.

"(2) Whoever violates this subsection shall be fined not more than $20,000 for each violation.

"(c) EXCEPTION.—Subsection (b) shall not apply to the use of a covered Naval Special Warfare insignia for purposes of criticism, comment, news reporting, analysis, research, or scholarship.

"(d) TREATMENT OF DISCLAIMERS.—A determination of whether a covered person has violated this section shall be made without regard to any use of a disclaimer of affiliation, connection, or association with, endorsement by, or approval of the United States Government, the Department of Defense, the Department of the Navy, or any subordinate organization thereof to the extent consistent with international obligations of the United States.

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of the Navy to register any symbol**,** name, phrase, term, acronym, or abbreviation otherwise capable of registration under the provisions of the Act of July 5, 1946 (commonly referred to as the 'Trademark Act of 1946') (15 U.S.C. 1051 et seq.).".

Section-by-Section Analysis

This proposal would add a new section to chapter 891 of title 10, United States Code, to comprehensively protect the listed insignia used by the Department of the Navy, Naval Special Warfare Command, and organizations including Navy SEALs.

The Department of the Navy, Naval Special Warfare Command, and other organizations, including the Navy SEALs, makes widespread use of their insignia. All such insignia, in various ways, identify organizations, personnel, operations, and equipment associated with Naval Special

Warfare Command and its components. As such, they perform important public functions in identifying an official relationship with the Department of the Navy, Naval Special Warfare Command and its components. The unauthorized use of the subject insignia has the potential of confusing or misleading the public as to the nature of any connection between the Department of the Navy and its components and the activities of the unauthorized user.

This proposal specifically provides special protection to the Naval Special Warfare Command and its components because these organizations within the Department of the Navy face a unique and immediate need for such special protection. The operational success of the SEALs throughout their history, and particularly in recent years, has subjected the SEALs to unwanted media and public attention. Numerous commercial entities have attempted to exploit the fame of the SEALs by selling SEALs-branded merchandise and services (which include the identified insignia), and even filing applications with the U.S. Patent and Trademark Office seeking registrations that include the Special Warfare Trident Insignia as well as other Naval Special Warfare Command names and abbreviations. In view of the recent proliferation of unauthorized uses of the insignia of Naval Special Warfare Command and the SEALs, the need for immediate protection is more acute.

Both Federal trademark law and similar State-enacted laws provide exclusivity in, and legal protections for, the use of symbols, words, and phrases that act as trademarks, service marks, and other types of marks. These laws primarily protect marks used "in commerce." While both State governments and Federal agencies may claim ownership rights in trademarks, service marks, collective marks, and other types of marks, the public functions served by governments often vary considerably from traditional commerce. The need to provide protection against misuse of such insignia and names and to guard against confusion is, however, no less important.

Congress has long-recognized the unique challenges of protecting insignia and even the names of United States agencies and departments such as the Coast Guard (14 U.S.C. 639) the Central Intelligence Agency (50 U.S.C. 3513), the National Security Agency (50 U.S.C. 3613), the Defense Intelligence Agency (10 U.S.C. 425), and the National Aeronautics and Space Administration (51 U.S.C. 20141). Existing statutes provide only limited protection for military insignia (10 U.S.C. 771; 18 U.S.C. 701, 712; see also, 32 C.F.R. Part 507), although, in 1984, statutory protection similar to those described above was extended to the "seal, emblem, name, [and] initials of the United States Marine Corps" (10 U.S.C. 7881).

Subsection (a) of the proposed new section identifies insignia that have originated within, and have acquired special meaning related to, the Department of Navy, Naval Special Warfare Command, its components, and its personnel. A reasonable number of exceptions to this exclusivity would be recognized. The Department of the Navy would retain the ability to use and license all exclusively-owned marks for any use covered by the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) and its existing authority under 10 U.S.C. 2260 to retain and expend the fees earned from such licensing would remain unchanged.

Subsection (b) of the proposed new section would prohibit use of the marks identified in subsection (a) where such use would be likely to suggest a false affiliation, connection or association with, endorsement by, or approval of, the Department of the Navy.

Subsection (c) of the proposed new section states explicit exceptions to the prohibition in subsection (b) for commentary and criticism.

Subsection (d) of the proposed new section states that an outside party would not be able to use the identified marks merely by disclaiming approval, endorsement, or authorization.

Subsection (e) of the proposed new section would provide that the proposed statute would not limit the ability of the Department of the Navy to seek any other forms of relief provided under Federal, State, or common law. This subsection would preserve, among other remedies, traditional trademark and anti-counterfeiting claims available to the Department of the Navy.

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 add a new section to chapter 891 of title 10, United States Code, the full text of which is shown in the legislative language above.

SEC. ___. REAL PROPERTY AUTHORITY RELATING TO THE PENTAGON RESERVATION.

Section 2674 of title 10, United States Code, is amended—

(1) in subsection (f)(1), by striking "and the Raven Rock Mountain Complex" and inserting "the Raven Rock Mountain Complex, and such property and facilities as may be acquired under subsection (g)"; and

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

"(g) PENTAGON RESERVATION REAL PROPERTY ACQUISITION.— Notwithstanding section 2682 of this title, the Secretary may acquire fee title to real property and facilities for inclusion in the Pentagon Reservation. If the purchase price to acquire fee title to real property or facilities for inclusion in the Pentagon Reservation exceeds the limitation specified in section 2663(c) of this title for an acquisition of low-cost interests in land, the Secretary may acquire the real property or facilities only if the acquisition is specifically authorized by law in a Military Construction Authorization Act.".

Section-by-Section Analysis

Section 2674 of chapter 159 of title 10, United States Code, provides that the Pentagon Reservation, as the Headquarters of the Department of Defense (DoD), is under the jurisdiction, custody, and control of the Secretary of Defense, not a military department. This is unique in that all other DoD property is under the jurisdiction, custody, and control of the Secretaries of the military departments. In order to ensure the Secretary had the authorities necessary to operate, maintain, and manage the Pentagon Reservation, section 2821(e) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) amended section 2661 of title 10 to add subsection (d), which states that the terms "Secretary of a Military Department" and "Secretary concerned" include the Secretary of Defense with respect to the Pentagon Reservation. That amendment did not, however, authorize the Secretary of Defense to acquire real property to add to what constitutes the Pentagon Reservation. This provision would provide the Secretary with the authority to acquire fee title to property or facilities to include in the Pentagon Reservation.

Section 2682 of title 10 requires that a real property facility under the jurisdiction of DoD that is used by an activity or agency of DoD (other than a military department) shall be under the

jurisdiction of a military department designated by the Secretary of Defense. Section 2674 is an exception to this rule for many purposes, but not for real property acquisition. If the Secretary wishes to acquire property for incorporation into the Pentagon Reservation, such property must first be acquired by a military department designated by the Secretary and then subsequently transferred to the Secretary. Additionally, because the Pentagon Reservation is specifically defined in 10 U.S.C. §2674(f) and does not provide for the inclusion of any additional property, adding property into what constitutes the Pentagon Reservation currently cannot occur until Congress amends section 2674(f). This military department acquisition process and the additional legislative requirement impose unnecessary constraints and inefficiencies.

A lost opportunity in the summer of 2018 is an example of why the proposed amendments are necessary. In June 2018, DoD received an unsolicited proposal to sell the building at 4850 Mark Center Drive and the adjoining land at 4860 Mark Center Drive to DoD. These properties are adjacent to and contiguous with the Pentagon Reservation Mark Center Campus. Washington Headquarters Services (WHS) and the Pentagon Force Protection Agency conducted an initial inspection to assess necessary security upgrades and retrofit requirements for estimating start-up costs. WHS proposed to purchase 4850 Mark Center Drive and transition DoD tenants from the Suffolk Building leased office space to achieve efficiencies and significant cost savings, with a return on investment at 13 years. WHS calculated the facility lifecycle cost savings at $150 million over a 27-year period, or $9.5 million per year. WHS could not accomplish the acquisition in part because it first had to be programmed and budgeted through a military department. WHS sought support from the Army, but the time required and associated administrative burdens made it difficult to acquire an option on the property before the owner found another buyer. If WHS had been able to act on the Secretary's behalf without relying on a military department, the outcome may have been different. Enactment of this legislation will reduce obstacles to the Department taking advantage of similar opportunities in the future, opening up the possibility of DoD achieving significant cost savings during periods of relatively low market rates.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2025 President's Budget. Acquisition and disposal of Pentagon Reservation property has been and will be infrequent enough that the tasks associated with future undertakings will be accomplished with existing personnel resources.

Changes to Existing Law: This proposal would amend section 2674 of title 10, United States Code, as follows:

§ 2674. Operation and control of Pentagon Reservation and defense facilities in National Capital Region

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(f) DEFINITIONS.- In this section:

(1) The term "Pentagon Reservation" means the Pentagon, the Mark Center Campus, ~~and~~ the Raven Rock Mountain Complex, and such property and facilities as may be acquired under subsection (g).

(2) The term "National Capital Region" means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.

(3) The term "Pentagon" means that area of land (consisting of approximately 227 acres) and improvements thereon, including parking areas, located in Arlington County, Virginia, containing the Pentagon Office Building and its supporting facilities.

(4) The term "Mark Center Campus" means that area of land (consisting of approximately 16 acres) and improvements thereon, including parking areas, located in Alexandria, Virginia, and known on the day before the date of the enactment of this paragraph as the Fort Belvoir Mark Center Campus.

(5) The term "Raven Rock Mountain Complex" means that area of land (consisting of approximately 720 acres) and improvements thereon, including parking areas, at the Raven Rock Mountain Complex and its supporting facilities located in Maryland and Pennsylvania.

(g) PENTAGON RESERVATION REAL PROPERTY ACQUISITION.—Notwithstanding section 2682 of this title, the Secretary may acquire fee title to real property and facilities for inclusion in the Pentagon Reservation. If the purchase price to acquire fee title to real property or facilities for inclusion in the Pentagon Reservation exceeds the limitation specified in section 2663(c) of this title for an acquisition of low-cost interests in land, the Secretary may acquire the real property or facilities only if the acquisition is specifically authorized by law in a Military Construction Authorization Act.

SEC. ___. REMOVAL OF WASHINGTON HEADQUARTERS SERVICES DIRECT SUPPORT FROM PERSONNEL LIMITATION ON THE OFFICE OF THE SECRETARY OF DEFENSE.

Section 143(b) of title 10, United States Code, is amended by striking "(including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense)".

[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 remove direct support positions of the Washington Headquarters Services (WHS), supporting the staff of the Office of the Secretary of Defense (OSD), from a personnel limitation that applies to OSD. Section 143 of title 10, United States Code, establishes a limitation on the number of military and civilian personnel in OSD, but counts the direct support from WHS against the OSD workforce levels. The arbitrary inclusion of WHS support against the OSD limit prevents OSD from utilizing the full workforce levels allowed for core OSD functions (exacerbating current issues with needed capacity increases in OSD). Moreover, WHS, as a Department of Defense (DoD) Field Activity, is a separate entity whose mission and functions are distinct from OSD. The inclusion of WHS personnel in limitations on OSD staffing arbitrarily distorts OSD personnel levels (as measured against the statutory limit) and adversely impacts assignment and employment of capacity within OSD. Additionally, the WHS direct support to OSD is comprised of core WHS functions that support elements other than OSD (e.g., financial management for the Pentagon Force Protection Agency, Defense Legal Services Agency, and Office of Local Defense Community Cooperation). All other Defense Agencies and DoD Field Activities that provide support to OSD are not counted in the OSD limit because "Direct Support Activities" are not officially tracked.

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 143 of title 10, United States Code, as follows:

§ 143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed 4,300.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term "OSD personnel" means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense ~~(including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense)~~.

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

SEC. ___. REPEAL OF AUDIT INCENTIVE ELEMENT IN REPORT REQUIREMENT OF FINANCIAL IMPROVEMENT AND AUDIT REMEDIATION PLAN.

Section 240b(b)(1)(B) of title 10, United States Code, is amended by striking clause (ix).

[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 modify the reporting requirement in the Financial Improvement and Audit Remediation Plan in section 240b of title 10, United States Code, by eliminating the element pertaining to audit incentives. Audit incentives are not a reliable measurement of audit progress and should be eliminated from this report. Other information reported in the FIAR report and the semiannual briefings provide a more reliable measurement of audit progress.

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 240b of title 10, United States Code, as follows:

Title 10, United States Code

§ 240b. Financial Improvement and Audit Remediation Plan

(a) FINANCIAL IMPROVEMENT AND AUDIT REMEDIATION PLAN.—

(1) IN GENERAL.—The Under Secretary of Defense (Comptroller) shall, in consultation with the Performance Improvement Officer of the Department of Defense, maintain a plan to be known as the "Financial Improvement and Audit Remediation Plan".

(2) ELEMENTS.—The plan required by paragraph (1) shall—

(A) describe specific actions to be taken, including interim milestones with a detailed description of the subordinate activities required, and estimate the costs associated with—

(i) correcting the financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information;

(ii) ensuring the financial statements of the Department of Defense go under full financial statement audit, and that the Department leadership makes every effort to reach an unmodified opinion as soon as possible;

(iii) ensuring the audit of the financial statements of the Department of Defense for each fiscal year after fiscal year 2020 occurs by not later than March 31 following such fiscal year;

(iv) achieving an unqualified audit opinion for each major element of the statement of budgetary resources of the Department of Defense; and

(v) addressing the existence and completeness of each major category of Department of Defense assets; and

(B) systematically tie the actions described under subparagraph (A) to business process and control improvements and business systems modernization efforts described in section 2222 of this title.

(b) REPORT AND BRIEFING REQUIREMENTS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—
Not later than July 31 each year, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees a report on the status of the implementation by the Department of Defense of the Financial Improvement and Audit Remediation Plan under subsection (a).

(B) ELEMENTS.—Each report under subparagraph (A) shall include the following:

(i) An analysis of the consolidated corrective action plan management summary prepared pursuant to section 240c of this title.

(ii) Current Department of Defense-wide information on the status of corrective actions plans related to critical capabilities and material weaknesses, including the standard data elements recommended in the implementation guide for Office of Management and Budget Circular A–123, for the armed forces, military departments, and Defense Agencies.

(iii) A current description of the work undertaken and planned to be undertaken by the Department of Defense, and the military departments, Defense Agencies, and other organizations and elements of the Department, to test and verify transaction data pertinent to obtaining an unqualified audit of their financial statements, including from feeder systems.

(iv) A current projected timeline of the Department in connection with the audit of the full financial statements of the Department, to be submitted to Congress annually not later than six months after the submittal to Congress of the budget of the President for a fiscal year under section 1105 of title 31, including the following:

(I) The date on which the Department projects the beginning of an audit of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(II) The date on which the Department projects the completions of audits of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(III) The dates on which the Department estimates it will obtain an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year.

(v) A current estimate of the anticipated annual costs of maintaining an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year after an unqualified audit opinion on such full financial statements for a fiscal year is first obtained.

(vi) A certification of the results of the audit of the financial statements of the Department performed for the preceding fiscal year, and a statement summarizing, based on such results, the current condition of the financial statements of the Department.

(vii) A description of audit activities and results for classified programs, including a description of the use of procedures and requirements to prevent unauthorized exposure of classified information in such activities.

(viii) An identification of the manner in which the corrective action plan or plans of each department, agency, component, or element of the Department of Defense, and the corrective action plan of the Department as a whole, support the National Defense Strategy (NDS) of the United States.

~~(ix) A description of the incentives available pursuant to the guidance required by section 1004(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, including a detailed explanation of how such incentives were provided during the fiscal year covered by the report.~~

(2) SEMIANNUAL BRIEFINGS.—(A) Not later than January 31 and July 31 each year, the Under Secretary of Defense (Comptroller) and the comptrollers of the military departments shall provide a briefing to the congressional defense committees on the status of the corrective action plan.

(B) Not later than January 31 and July 31 each year, the Under Secretary of Defense (Comptroller) and the comptrollers of the military departments shall provide a briefing to the congressional defense committees on the status of the corrective action plan.

(3) CRITICAL CAPABILITIES DEFINED.—In this subsection, the term "critical capabilities" means the critical capabilities described in the Department of Defense report titled "Financial Improvement and Audit Readiness (FIAR) Plan Status Report" and dated May 2016.

(c) SELECTION OF AUDIT REMEDIATION SERVICES.—The selection of audit remediation service providers shall be based, among other appropriate criteria, on qualifications, relevant experience, and capacity to develop and implement corrective action plans to address internal control and compliance deficiencies identified during a financial statement or program audit.

SEC. ___. TALENT MANAGEMENT AND PERSONNEL RETENTION FOR MEMBERS OF THE ARMED FORCES.

(a) AUTHORITY FOR OFFICERS TO OPT-OUT OF PROMOTION BOARD CONSIDERATION.—

(1) REGULAR OFFICERS.—Section 619(e)(2)(A) of title 10, United States Code, is amended—

(A) by inserting "training," after "Department,"; and

(B) by striking "assignment or education" and inserting "assignment, education, or training or due to pregnancy or a temporary serious medical condition".

(2) RESERVE OFFICERS.—Section 14301(j)(2)(A) of title 10, United States Code, is amended—

(A) by inserting "training," after "Department,"; and

(B) by striking "assignment or education" and inserting "assignment, education, or training or due to pregnancy or a temporary serious medical condition".

(b) EFFECT OF FAILURE OF SELECTION FOR PROMOTION FOR CERTAIN OFFICERS.—

(1) FIRST LIEUTENANTS AND LIEUTENANTS (JUNIOR GRADE).—Section 631(a) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking "the President approves the report of the board which considered him for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public"; and

(B) in paragraph (2), by striking "the President approves the report of the board which considered him for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public".

(2) CAPTAINS AND MAJORS OF THE ARMY, AIR FORCE, AND MARINE CORPS AND LIEUTENANTS AND LIEUTENANT COMMANDERS OF THE NAVY.—Section 632(a)(2) of such title is amended by striking "the President approves the report of the board which considered him for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public".

(3) REGULAR NAVY AND REGULAR MARINE CORPS OFFICERS DESIGNATED FOR LIMITED DUTY.—Section 8372 of such title is amended—

(A) in subsection (b), by striking "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public";

(B) in subsection (d), by striking "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public"; and

(C) in subsection (e), by striking "the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public".

(4) RESERVE FIRST LIEUTENANTS OF THE ARMY, AIR FORCE, AND MARINE CORPS AND RESERVE LIEUTENANTS (JUNIOR GRADE) OF THE NAVY.—Section 14504 of such title is amended

(A) in subsection (a), by striking "the President approves the report of the board which considered the officer for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public"; and

(B) in subsection (b), by striking "President approves the report of the selection board which resulted in the second failure" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public".

(5) RESERVE CAPTAINS OF THE ARMY, AIR FORCE, AND MARINE CORPS AND RESERVE LIEUTENANTS OF THE NAVY.—Section 14505 of such title is amended by striking "the President approves the report of the board which considered the officer for the second time" and inserting "the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public".

(6) RESERVE MAJORS OF THE ARMY, AIR FORCE, AND MARINE CORPS AND RESERVE LIEUTENANT COMMANDERS OF THE NAVY.—Section 14506 of such title is amended by

striking “the President approves the report of the board which considered the officer for the second time” and inserting “the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public”.

[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 sections 619, 631, 632, 8372, 14301, 14504, 14505, and 14506 of title 10, United States Code to enhance the ability to manage military personnel.

Subsection (a) of the proposal would amend sections 619 and 14301 of title 10, United States Code. Currently, this section authorizes the Secretary of Defense to allow the Secretaries of the military departments, based on the request of an officer who satisfies one of the bases — broadening tour, advanced education, another assignment of significant value to the department, or a career progression requirement delayed by the assignment or education — the ability to opt out of consideration for promotion without penalty.

This proposal would expand the current law by authorizing the Secretary to authorize officers to opt out due to long initial training pipelines or recover from a temporary serious medical condition or pregnancy. This additional flexibility will encourage retention and better meet the training needs of the Department. Additionally, this flexibility would provide these officers with an opportunity to serve in milestone assignments or gain additional experience to better compete for promotion. This authority would not be mandatory, but would provide Secretaries of the military departments greater flexibility in managing their officer talent — assignments, retention, and training.

Subsection (b) of the proposal would amend sections 631, 632, 8372, 14504, 14505, and 14506 of title 10, United States Code. Currently those sections require an officer on the active duty list who has failed selection for promotion to the next higher grade for the second time to be discharged on the date not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered the officer for the second time.

This proposal would change the mandatory separation date of these officers to the first day of the seventh calendar month beginning after the month in which the Secretary concerned publicly releases the promotion board selection results.

If adopted, this proposal would provide increased flexibility to Secretaries of the military departments to manage the officer population in order to meet the needs of their Service while ensuring affected officers have the maximum allotted time from public notification to plan their transition out of active duty military service or make a determination of selective continuation acceptance. Under the current process, if a promotion board is approved but the public release of

the results is delayed due to unforeseen circumstances, the amount of time an affected officer has to plan for their transition out of the military is reduced (e.g., promotion board results are approved in December and announcement message is released in February). Under this proposal, the Service and Servicemember would have a full six months to plan for separation or continuation rather than a shortened time due to circumstances beyond their control.

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 619, 631, 632, 8372, 14504, 14505, and 14506 of title 10, United States Code, as follows:

§ 619. Eligibility for consideration for promotion: time-in-grade and other requirements

(a) TIME-IN-GRADE REQUIREMENTS.—(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade), except that the minimum period of service in effect under this subparagraph before October 1, 2008, shall be eighteen months.

(2) Subject to paragraph (5), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or rear admiral (lower half).

(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

(4) When the needs of the service require, the Secretary of the military department concerned may prescribe a shorter period of service in grade, but not less than two years, for

eligibility for consideration for promotion, in the case of officers designated for limited duty to whom paragraph (2) applies.

(5) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in subparagraph (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.

(6) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

* * * * *

(e) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—(1) The Secretary of a military department may provide that an officer under the jurisdiction of the Secretary may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 611(a) of this title to consider officers for promotion to the next higher grade.

(2) The Secretary concerned may only approve a request under paragraph (1) if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Department, training, or a career progression requirement delayed by the assignment, ~~or~~ education, or training or due to pregnancy or a temporary serious medical condition;

(B) the Secretary determines the exclusion from consideration is in the best interest of the military department concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests the exclusion from consideration.

* * * * *

§ 631. Effect of failure of selection for promotion: first lieutenants and lieutenants (junior grade)

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies), each officer of the Army, Air Force, Marine Corps, or Space Force on the active-duty list who holds the grade of first lieutenant and has failed of selection for promotion to the grade of captain for the second time, and each officer of the Navy on the active-duty list who holds the grade of lieutenant (junior grade) and has failed of selection for promotion to the grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher grade shall—

(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the board which considered him for the second time~~ the Secretary concerned

releases the promotion results of the board which considered the officer for the second time to the public;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the board which considered him for the second time~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

* * * * *

§ 632. Effect of failure of selection for promotion: captains and majors of the Army, Air Force, Marine Corps, and Space Force and lieutenants and lieutenant commanders of the Navy

(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 8146(e) or 8372 of this title applies) and except as provided under section 637(a) of this title, each officer of the Army, Air Force, Marine Corps, or Space Force on the active-duty list who holds the grade of captain or major, and each officer of the Navy on the active-duty list who holds the grade of lieutenant or lieutenant commander, 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 shall—

(1) except as provided in paragraph (3) and in subsection (c), be discharged on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public;

(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the board which considered him for the second time~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(3) if on the date on which he is to be discharged under paragraph (1) he is within two years of qualifying for retirement under section 7311, 8323, or 9311 of this title, be retained on active duty until he is qualified for retirement and then retired under that section, unless he is sooner retired or discharged under another provision of law.

* * * * *

§ 8372. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay

(a) MANDATORY RETIREMENT.—(1) Except as provided in subsection (k), each regular officer of the Navy who is an officer designated for limited duty and who is serving in a grade below the grade of commander and each regular officer of the Marine Corps who is an officer designated for limited duty shall be retired on the last day of the month following the month in which he completes 30 years of active naval service, exclusive of active duty for training in a reserve component.

(2) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision of law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public; or

(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

(3) Except as provided in subsection (k), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

(4) Except as provided in subsection (k), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

(b) LIEUTENANT COMMANDERS AND MAJORS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the selection board in which the officer is considered~~

~~as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(c) RETIRED GRADE AND RETIRED PAY.—Each officer retired under subsection (a) or (b)—

(1) unless otherwise entitled to a higher grade, shall be retired in the grade determined under section 1370 1 of this title; and

(2) is entitled to retired pay computed under section 8333 of this title.

(d) NAVY LIEUTENANTS AND MARINE CORPS CAPTAINS WHO TWICE FAIL OF SELECTION FOR PROMOTION.—Except as provided in subsections (f) and (k), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(e) OFFICERS IN PAY GRADES O–2 AND O–1 WHO TWICE FAIL OF SELECTION FOR PROMOTION OR ARE FOUND NOT QUALIFIED FOR PROMOTION.—(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant (in the case of an officer of the Navy) or captain (in the case of an officer of the Marine Corps) for the second time shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which ~~the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(2) Each regular officer on the active-duty list of the Navy serving in the grade of ensign who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of second lieutenant who is an officer designated for limited duty, who is found not qualified for promotion to the grade of lieutenant (junior grade) (in the case of an officer of the Navy) or first lieutenant (in the case of an officer of the Marine Corps) shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the officer was found not qualified for promotion.

* * * * *

§ 14301. Eligibility for consideration for promotion: general rules

(a) ONE-YEAR RULE.—An officer is eligible under this chapter for consideration for promotion by a promotion board convened under section 14101(a) of this title only if—

(1) the officer is on the reserve active-status list of the Army, Navy, Air Force, or Marine Corps; and

(2) during the one-year period ending on the date of the convening of the promotion board the officer has continuously performed service on either the reserve active-status list or the active-duty list (or on a combination of both lists).

* * * * *

(j) AUTHORITY TO ALLOW OFFICERS TO OPT OUT OF SELECTION BOARD CONSIDERATION.—(1) The Secretary of a military department may provide that an officer under the jurisdiction of the Secretary may, upon the officer's request and with the approval of the Secretary, be excluded from consideration by a selection board convened under section 14101(a) of this title to consider officers for promotion to the next higher grade.

(2) The Secretary concerned may only approve a request under paragraph (1) if—

(A) the basis for the request is to allow an officer to complete a broadening assignment, advanced education, another assignment of significant value to the Department, training, or a career progression requirement delayed by the assignment, ~~or~~ education, or training or due to pregnancy or a temporary serious medical condition;

(B) the Secretary determines the exclusion from consideration is in the best interest of the military department concerned; and

(C) the officer has not previously failed of selection for promotion to the grade for which the officer requests the exclusion from consideration.

* * * * *

§ 14504. Effect of failure of selection for promotion: reserve first lieutenants of the Army, Air Force, and Marine Corps and reserve lieutenants (junior grade) of the Navy

(a) GENERAL RULE.—A first lieutenant on the reserve active-status list of the Army, Air Force, or Marine Corps or a lieutenant (junior grade) 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 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~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

(b) EXCEPTIONS.—Subsection (a) does not apply (1) in the case of an officer retained as provided by regulation of the Secretary of the military department concerned in order to meet planned mobilization needs for a period not in excess of 24 months beginning with the date on

which ~~the President approves the report of the selection board which resulted in the second failure~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public, or (2) as provided in section 12646 or 12686 of this title.

(c) OFFICERS IN GRADE OF FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE) FOUND NOT FULLY QUALIFIED FOR PROMOTION.—For the purposes of this chapter, an officer of the Army, Air Force, or Marine Corps on a reserve active-status list who holds the grade of first lieutenant, and an officer of the Navy on a reserve active-status list who holds the grade of lieutenant (junior grade), shall be treated as having failed of selection for promotion if the Secretary of the military department concerned determines that the officer would be eligible for consideration for promotion to the next higher grade by a selection board convened under section 14101(a) of this title if such a board were convened but is not fully qualified for promotion when recommending for promotion under section 14308(b)(4) of this title all fully qualified officers of the officer's armed force in such grade who would be eligible for such consideration.

§ 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 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~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

§ 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, 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~~ the Secretary concerned releases the promotion results of the board which considered the officer for the second time to the public.

SEC. ___. TERM OF OFFICE FOR JUDGES OF THE COURT OF MILITARY COMMISSION REVIEW.

(a) ESTABLISHMENT OF TERM OF OFFICE.—Paragraph (6) of section 950f(b) of title 10, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "The term" and all that follows through "paragraph (3)" and inserting "(A) The term of an appellate military judge assigned or appointed to the Court under this subsection"; and

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

"(B) The term of an appellate civilian judge of the Court shall expire on the date that is 10 years after the date on which the judge was appointed.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) APPLICABILITY TO EXISTING CIVILIAN JUDGES.—The term of any appellate civilian judge of the United States Court of Military Commission Review who will have served as such a judge for a period of 10 or more years as of the effective date described in paragraph (1) shall expire on such effective date.

[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 950f of title 10, United States Code, to provide that appellate civilian judges of the Court will serve a 10-year term. This proposed amendment is modeled on 10 U.S.C. 942(b)(2) for the part-time Senior Judges on the United States Court of

Appeals for the Armed Forces (CAAF). The Court of Military Commission Review (CMCR) is a part-time Court which hears appeals of military commission cases. Currently, it has two civilian judges, and the term for civilian judges is indefinite. *See In re Khadr*, 823 F.3d 92 (D.C. Cir. 2016) (noting unspecified term for CMCR civilian judges and discussing unrelated ethical issues). All three of the Article I Courts listed in 18 U.S.C. § 202(e)(2) have specified term limits for judges. *See* 10 U.S.C. § 942(b)(2)(A) (Court of Appeals for the Armed Forces); 28 U.S.C. § 172(a) (U.S. Court of Federal Claims); and 26 U.S.C. §7443(e) (Tax Court).

Setting tenure for civilian judges also will also help ensure continuity and independence of the Court. CMCR cases typically involve complex and novel constitutional issues. Cases are sometimes delayed pending resolution of related appellate issues cases at higher level courts. *See, e.g.*, *United States v. Khadr*, 568 F. Supp. 3d 1266, 1268–69 (CMCR 2021) (describing lengthy abeyance history). Establishing 10-year tenure enables civilian judges to manage these challenges appropriately by setting the expectation that they will serve 10 years as a judge when appointed.

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 950f of title 10, United States Code, as follows:

§ 950f. Review by United States Court of Military Commission Review

(a) ESTABLISHMENT.—There is a court of record to be known as the "United States Court of Military Commission Review" (in this section referred to as the "Court"). The Court shall consist of one or more panels, each composed of not less than three judges on the Court. For the purpose of reviewing decisions of military commissions under this chapter, the Court may sit in panels or as a whole, in accordance with rules prescribed by the Secretary of Defense.

(b) JUDGES.—(1) Judges on the Court shall be assigned or appointed in a manner consistent with the provisions of this subsection.

(2) The Secretary of Defense may assign persons who are appellate military judges to be judges on the Court. Any judge so assigned shall be a commissioned officer of the armed forces, and shall meet the qualifications for military judges prescribed by section 948j(b) of this title.

(3) The President may appoint, by and with the advice and consent of the Senate, additional judges to the United States Court of Military Commission Review.

(4) No person may serve as a judge on the Court in any case in which that person acted as a military judge, counsel, or reviewing official.

(5)(A) For purposes of sections 203, 205, 207, 208, and 209 of title 18, the term "special Government employee" shall include a judge of the Court appointed under paragraph (3).

(B) A person appointed as a judge of the Court under paragraph (3) shall be considered to be an officer or employee of the United States with respect to such person's status as a judge, but only during periods in which such person is performing the duties of such a judge. Any provision of law that prohibits or limits the political or business activities of an employee of the United States shall only apply to such a judge during such periods.

(6)(A) The term of an appellate military judge assigned or appointed to the Court under this subsection ~~under paragraph (2) or appointed to the Court under paragraph (3)~~ shall expire on the earlier of the date on which—

~~(A)~~(i) the judge leaves active duty; or

~~(B)~~(ii) the judge is reassigned to other duties in accordance with section 949b(b)(4) of this title.

(B) The term of an appellate civilian judge of the Court shall expire on the date that is 10 years after the date on which the judge was appointed.

(c) CASES TO BE REVIEWED.—The Court shall, in accordance with procedures prescribed under regulations of the Secretary, review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter properly raised by the accused.

(d) STANDARD AND SCOPE OF REVIEW.—In a case reviewed by the Court under this section, the Court may act only with respect to the findings and sentence as approved by the convening authority. The Court may affirm only such findings of guilty, and the sentence or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved. In considering the record, the Court may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the military commission saw and heard the witnesses.

(e) REHEARINGS.—If the Court sets aside the findings or sentence, the Court may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the Court sets aside the findings or sentence and does not order a rehearing, the Court shall order that the charges be dismissed.

SEC. ___. TERMINATION OF TABLE ROCK LAKE OVERSIGHT COMMITTEE.

Section 1185 of the Water Infrastructure Improvements for the Nation Act (Public Law 114–322; 130 Stat. 1680) is 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

This proposal repeals the requirements for the Table Rock Lake Oversight Committee (TRLOC), an administratively inactive Department of Defense (DoD) Federal advisory committee that has completed its statutorily prescribed purpose. This is in alignment with the congressional intent, expressed in section 1002(b)(3).of title 5, United States Code, that "advisory committees should be terminated when they are no longer carrying out the purposes for which they were established." The committee operated under the management and control of the Secretary of the Army, who is the DoD senior official with oversight of the U.S. Army Corps of Engineers (USACE) and select infrastructure efforts within the United States. Terminating this committee does not eliminate government work on protecting geographically focused waterways and supporting areas, as the USACE and Department of the Interior continue to hold these vital conversations in an agency-to-agency working group and work directly with State, local, tribal, and territorial members to enable engagement. The USACE completed all consultations with tribal and territorial partners before July 2021.

The TRLOC's objective was to provide recommendations regarding all permits issued for Table Rock Lake under the existing Table Rock Lake Master Plan and advise on revisions to the new Table Rock Lake Master Plan and the Table Rock Lake Shoreline Management Plan. In a memo dated November 8, 2018, the Secretary of the Army and the then-Chief Management Officer of the Department of Defense initially agreed the TRLOC would terminate on July 10, 2020. Due to COVID-19 safety precautions, the TRLOC was unable to complete its statutory work until September 23, 2020. Since TRLOC has concluded its statutory work, DoD, in consultation with the General Services Administration, made the TRLOC administratively inactive on September 9, 2021.

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 make the following changes to existing law:

Water Infrastructure Improvements for the Nation Act
(Public Law 114-322, December 16, 2016)

~~**SEC. 1185. [130 Stat. 1680] TABLE ROCK LAKE, ARKANSAS AND MISSOURI.**~~

~~(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—~~

(1) shall include a 60-day public comment period for the Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan revision; and

(2) shall finalize the revision for the Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan during the 2-year period beginning on the date of enactment of this Act [December 16, 2016].

(b) SHORELINE USE PERMITS.—During the period described in subsection (a)(2), the Secretary shall lift or suspend the moratorium on the issuance of new, and modifications to existing, shoreline use permits based on the existing Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan.

(c) OVERSIGHT COMMITTEE.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall establish an oversight committee (referred to in this subsection as the "Committee").

(2) PURPOSES.—The purposes of the Committee shall be—

(A) to review any permit to be issued under the existing Table Rock Lake Master Plan at the recommendation of the District Engineer; and

(B) to advise the District Engineer on revisions to the new Table Rock Lake Master Plan and Table Rock Lake Shoreline Management Plan.

(3) MEMBERSHIP.—The membership of the Committee shall not exceed 6 members and shall include—

(A) not more than 1 representative each from the State of Missouri and the State of Arkansas;

(B) not more than 1 representative each from local economic development organizations with jurisdiction over Table Rock Lake; and

(C) not more than 1 representative each representing the boating and conservation interests of Table Rock Lake.

(4) STUDY.—The Secretary shall—

(A) carry out a study on the need to revise permit fees relating to Table Rock Lake to better reflect the cost of issuing those permits and achieve cost savings;

(B) submit to Congress a report on the results of the study described in subparagraph (A); and

(C) begin implementation of a new permit fee structure based on the findings of the study described in subparagraph (A).

SEC. ___. TIME FOR MAKING DEATH GRATUITY CLAIM FOR THE UNIFORMED SERVICES

(a) IN GENERAL.—Section 1480 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(A) The time limitation for making a claim for a death gratuity authorized by this chapter does not begin to run against a minor until the minor reaches 21 years of age.

"(B) A claim by a minor described in subparagraph (A) shall be made no later than three years after the minor reaches 21 years of age or six years after the date of the death for which the claim is made, whichever is later.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect for any death occurring on or after on January 1, 2025.

Section-by-Section Analysis

This proposal would allow eligible minor survivors of fallen uniformed service members extra time to claim death gratuity benefits. This authority is already afforded to the minor survivors of civilian employees whose death was in support of the Armed Forces, and this new provision will be applicable to any minor beneficiary of death gratuity payments under 10 U.S.C. §§ 1475 et seq.[1]

Under current law and regulations, minors may not receive a death gratuity benefit of $100,000 under 10 U.S.C. §§ 1475 et seq. unless a parent or guardian makes a claim on their behalf. However, in some cases, minor children have no surviving parents, or the surviving parent or guardian is in poor health, or is incapacitated with grief, or for unknown reasons a claim simply is not made, which leaves the minor child to navigate this complex process on his or her own. If the surviving child or someone acting on the child's behalf does not claim the death gratuity benefit within six years of the uniformed service member's death, the minor is statutorily barred from receiving the death gratuity.[2] In some cases, this means the claim for death gratuity will expire while the child is still a minor. For example, if a minor beneficiary is

[1] For Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard *see* 10 U.S.C. § 101(a)(4); for NOAA Commissioned Corps *see* 33 U.S.C. § 3071(a)(21); for Commissioned Corps of the Public Health Service *see* 42 U.S.C. § 213a(a)(6).

[2] 31 U.S.C. 3702(b).

11 when the service member dies, under 31 U.S.C. § 3702, the minor's claim would become time barred at age 17. During the period of 2021-2022, the Defense Finance and Accounting Service denied eight claims for death gratuities from eligible survivors who were minor children due to the claims not being received within six years of the member's death. In these cases, the minor children's parent or guardian had failed to file a timely claim on the minor's behalf.

This proposal would ensure that a service member's surviving children receive the benefits to which they are entitled, and intended to receive, but are unable to claim on their own as a result of their legal incapacity. This problematic situation has been addressed under the civilian death gratuity statute.[3] The proposed change to 10 U.S.C. § 1480 would not only bring similar relief to military families, but also bring the military death gratuity benefit in line with the civilian death gratuity benefit, but narrowly tailored to provide an exception for minor beneficiaries, regardless of whether a legal representative has been appointed.[4]

This proposal would limit the extension of time to three years from the date a minor turns age 21 or six years from the date of the death of the member, whichever is later. The intent of this provision is to allow minor individuals to reach the age of 21 before being held responsible for filing a claim, but also not otherwise preclude individuals under the age of 21 from having the full six years currently allotted under 31 U.S.C. § 3702 to make a claim.

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.

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[3] Under title 5, there are two types of death payments payable to civilian employees. One under 5 U.S.C. § 8102, which provides compensation for the death of a civilian employee whose death resulted due to an injury sustained while in the performance of their duty. The other payment is a death gratuity payment pursuant to 5 U.S.C. § 8102a for " injuries incurred in connection with employee's service with an Armed Force." Both payments are provided for in Chapter 81, subchapter I of title 5 of the U.S. Code.

[4] Notably, 5 U.S.C. § 8122 applies to claims for civilian death gratuity paid under 5 U.S.C. § 8102a. While it provides a shorter time limitation, three years for civilian death gratuity claims rather than the six years allowed under the Barring Act, it also provides exceptions to the time limitation in three separation situations. Specifically section 8122 provides that the three year time limitation does not "begin to run against a minor until he reaches 21 years of age or has had a legal representative appointed." Similarly, the time limit does not begin to run against "an incompetent individual while he is incompetent and has no duly appointed legal representative." Finally, the 3-year time limit does not run against "any individual whose failure to comply is excused by the Secretary on the ground that such notice could not be given because of exceptional circumstances." 5 U.S.C. § 8122(d).

The DFAS proposal only seeks to create a different time limitation for minors until they reach the age of 21, but does not seek to run the statute of limitations against minors who have legal representatives appointed as Section 8122 does. This is because, as described above, there have been cases where a minor has a legal representative, but the minor's representative fails to make a claim on the minor's behalf. Thus, the proposal seeks to preserve the minor's own right to claim the death gratuity.

As for the other categories, DFAS is not aware of a case being denied due to a failure to timely file due to mental incompetency. The DoD further already has some discretion for dealing with the time limitation for other "exceptional circumstances" under 31 U.S.C. § 3702(e) on pay claims up to $25,000. Further the military services have other equitable means, such as Boards for Corrections of Military Records (10 U.S.C. §1552), that could be used to addressed other barred cases.

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	0.89	0.91	0.93	0.94	0.98	Military Personnel, Army	01/02	N/A	N/A
Navy	0.43	0.44	0.45	0.46	0.47	Military Personnel, Navy	01/02	N/A	N/A
Marines	0.20	0.20	0.20	0.20	0.20	Military Personnel, Marines	01/02	N/A	N/A
Air Force	0.20	0.21	0.21	0.22	0.23	Military Personnel, Air Force	01/02	N/A	N/A
Total	1.72	1.76	1.79	1.82	1.88				

Changes to Existing Law: This proposal would amend section 1480 of title 10, United States Code, as follows:

§1480. Death gratuity: miscellaneous provisions

(a) A payment may not be made under sections 1475–1477 of this title if the decedent was put to death as lawful punishment for a crime or a military offense, unless he was put to death by a hostile force with which the armed forces of the United States were engaged in armed conflict.

(b) A payment may not be made under section 1476 unless the Secretary of Veterans Affairs determines that the decedent was discharged or released, as the case may be, under conditions other than dishonorable from the last period of the duty or training that he performed.

(c) For the purposes of section 1475(a)(3) of this title, the Secretary concerned shall determine whether the decedent was authorized or required to perform the duty or training and whether or not he died from injury so incurred. For the purposes of section 1476 of this title, the Secretary of Veterans Affairs shall make those determinations. In making those determinations, the Secretary concerned or the Secretary of Veterans Affairs, as the case may be, shall consider—

(1) the hour on which the Reserve began to travel directly to or from the duty or training;

(2) the hour at which he was scheduled to arrive for, or at which he ceased performing, that duty or training;

(3) the method of travel used;

(4) the itinerary;

(5) the manner in which the travel was performed; and

(6) the immediate cause of death.

In cases covered by this subsection, the burden of proof is on the claimant.

(d) Payments under sections 1475–1477 of this title shall be made from appropriations available for the payment of members of the armed force concerned.

(e)(A) The time limitation for making a claim for a death gratuity authorized by this chapter does not begin to run against a minor until the minor reaches 21 years of age.

(B) A claim by a minor described in subparagraph (A) shall be made no later than three years after the minor reaches 21 years of age or six years after the date of the death for which the claim is made, whichever is later.

SEC. ___. TRAINING FOR EASTERN EUROPEAN NATIONAL SECURITY FORCES IN THE COURSE OF MULTILATERAL EXERCISES: EXTENSION, MODIFICATION, AND INCLUSION OF THE REPUBLIC OF CYPRUS.

(a) IN GENERAL.—Section 1251 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 333 note) is amended—

(1) in subsection (b), by inserting "bilateral or" before "multilateral" each place it appears;

(2) in subsection (c)(1), by adding at the end the following new subparagraph:

"(D) The Republic of Cyprus."; and

(3) in subsection (h)—

(A) by striking "December 31, 2026" each place it appears and inserting "December 31, 2027"; and

(B) in the second sentence, by striking the second period at the end.

(b) CONFORMING AMENDMENT.—The heading of such section is amended by inserting "**BILATERAL AND**" before "**MULTILATERAL**".

[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 extend and enhance the authority to provide training to Eastern European national security forces under section 1251 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 (Public Law 114-92; 10 U.S.C 333 note). This proposal is informed by lessons learned to date from the effects on the economy of the Republic of Cyprus (ROC) caused by Russia's war and the desire of Cyprus and other designated partners to participate in and increase bilateral exercises and training. Extension and enhancement of this authority would permit the Secretary of Defense to increase the payment of incremental expenses incurred by countries that participate in bilateral exercises with the United States and may have insufficient funding to increase the capability and capacity of national security forces. This funding provides United States European Command (USEUCOM) greater flexibility to conduct and participate in exercises with national security forces of European Union, Partnership for

Peace, and North Atlantic Treaty Organization (NATO) member countries, which may have limited funding as they aim to lessen historical dependence on Russia, to enhance: (1) countering hybrid threats; (2) operational cooperation including at sea and on migration; (3) cyber security and defense; (4) defense capabilities; (5) defense industry and research; (6) exercises; (7) supporting Eastern and Southern partners' capacity-building efforts; and (8) regional stability.

Section 1251(b) of the FY 2016 NDAA prohibits the Secretary of Defense from paying the incremental expenses incurred by a country receiving training while participating in a bilateral exercise with USEUCOM. This prohibition limits USEUCOM to participation only in multilateral exercises, which require greater coordination and time to plan, reducing the speed and number of exercises that can be conducted with allies and partners that are eligible for payment of incremental expenses paid by the Secretary of Defense.

Subsection 1251(c)(1) of the FY 2016 NDAA limits payment to Partnership for Peace and NATO countries. This prohibition excludes Cyprus, which has increased its security relationship with the United States since 2018, of the European Union from having incremental expenses incurred during exercises paid by the Secretary of Defense.

The United States established diplomatic relations with the ROC in 1960 following its independence from the United Kingdom. Shortly after the founding of the ROC, serious differences arose between the Greek Cypriot and Turkish Cypriot communities about the implementation and interpretation of the constitution. Following a coup d'état in 1974 backed by the Greek military junta, Turkey intervened militarily resulting in the de facto division of the island. The ROC is the only internationally recognized government on the island, but since 1974 the northern third of Cyprus has been administered separately by Turkish Cypriots with the support of Turkey. This area proclaimed itself the "Turkish Republic of Northern Cyprus" (TRNC) in 1983. The United States does not recognize the TRNC, nor does any country other than Turkey.

The United States enacted an arms embargo on Cyprus in 1987 in an effort to bring about a negotiated settlement to the conflict involving Cyprus, Turkey, and Greece, to prevent an arms buildup on the island and to push the countries to reach an agreement through diplomacy. Barred access to U.S. weapons, Cyprus turned to Russia to procure defense articles such as the Mi-35 attack helicopters, T-80 tanks, and Tor-M1 anti-aircraft missile systems. The Department of State determined and certified to Congress that the ROC has met the necessary conditions under relevant legislation to allow the approval of exports, re-exports, and transfers of defense articles to the ROC for FY 2023. As a result of this determination and certification, the Secretary lifted the defense trade restrictions for the ROC for FY 2023. The International Traffic in Arms Regulations was amended to reflect the new policy, effective October 1, 2022.

In late 2018, the United States and ROC signed a statement of intent on bilateral security cooperation. The United States works closely with the ROC to advance shared priorities in the Eastern Mediterranean region. Since then, our security partnership has continued to deepen in the areas of counterterrorism, nonproliferation, maritime security, search and rescue, counter-trafficking, cybersecurity, disaster and emergency response, and non-combatant evacuation. In

December 2019, the Eastern Mediterranean Security and Energy Partnership Act of 2019 was signed into law as part of the FY 2020 Appropriations Act and the NDAA for FY 2020, highlighting the security interests of the United States in the Eastern Mediterranean region, including countering Russian malign influence.

The Eastern Mediterranean Security and Energy Partnership Act of 2019 and the FY 2020 NDAA require that the policy of denial for exports, re-exports, or transfers of defense articles on the United States Munitions List to the Republic of Cyprus remain in place unless the President determines and certifies to the appropriate congressional committees, not less than annually, that: (1) the Government of the ROC is continuing to cooperate with the United States government in efforts to implement reforms on anti-money laundering regulations and financial regulatory oversight, and (2) that the Government of the ROC has made and is continuing to take the steps necessary to deny Russian military vessels access to ports for refueling and servicing. In accordance with both Acts, the Department reviews compliance with the Acts annually. The United States will assess annually whether Cyprus complies with conditions for the embargo lift, including implementing anti-money laundering regulations and denying Russian military vessels access to ports for refueling and servicing.

Cyber-attacks are on the rise in Cyprus, with both the public and private sectors being targeted almost every day, a trend that unfortunately is expected to continue and grow. Thousands of attacks occur on a regular basis on various infrastructures, and these can be automated or targeted. While not all incidents are publicized, the frequency of attacks is alarming.

Cyprus built an economy that courted Russian tourists, Russian investors, and Russian oligarchs. Russia accounted for hundreds of thousands of tourists per year and over €100 billion in investments; representing over 25 percent of all foreign investments coming into Cyprus. Cyprus has supported sanctions against Russia in the wake of its Ukraine invasion, even as Cyprus is known for its past relationship with Russia and the oligarchs. The war could be impacting the Cypriot economy disproportionately compared to other economies due to the structure of the Cypriot economy and its past reliance on Russia and Russian tourists. Cyprus falls under the category of Small Island Developing States, which is recognized by the United Nations as a distinct group of developing countries facing specific social, economic, and environmental vulnerabilities.

The gross domestic product of Cyprus was negatively affected by 1 percent due to its airspace being closed to Russia for the majority of 2022. Following the invasion, Russian visitors comprised less than 10 percent of Cyprus's total visitors and this resulted in a loss of €600m in 2022. Cyprus's visitor total was 17 percent below pre-pandemic levels. In addition to the impact on tourism from Russia, a rapid and significant increase in oil and gas prices raised energy costs for the private sector.

Since 2021, the United States has deepened its bilateral cooperation with the ROC: the first group of Cyprus National Guard leaders to participate in the U.S. International Military Education and Training program; the first Cyprus-hosted operational joint training between the U.S. Navy SEALS and the Special Operations Teams of the Cyprus National Guard; and the first

U.S.-Cyprus Security Cooperation Dialogue that furthered understanding and identified future opportunities for cooperation.

The United States views the ROC as an important partner for regional stability, security, and prosperity, and works closely with the ROC to advance shared security priorities in the Eastern Mediterranean region. The United States and Cyprus signed an acquisition and cross services agreement (ACSA), which is a mutually beneficial agreement that will facilitate U.S. presence in the region and make the process of accessing facilities and receiving logistical support more effective between the ROC and the United States. It paves the way for the Cyprus Armed Forces to exchange logistics and services and support the deployment of U.S. forces in the Eastern Mediterranean. The ACSA will expand bilateral trade and commerce and allow the U.S. Armed Forces to increase their operational capabilities while ensuring the key goal of interoperability with allies and partners. Furthermore, the ACSA enables U.S. ships to make port calls in Cyprus more frequently, with the knowledge and assurance that the necessary logistical support and services will be provided in a seamless way.

Cyprus is situated in the northeast corner of the Mediterranean Sea. The island lies at the crossroads of Europe, Africa, and Asia. It is on the sea lane of the maritime highway connecting the Mediterranean Sea through sea gates—the Suez Canal and Bab al-Mandab—with the Indian Ocean, leading to the Strait of Hormuz, the Persian Gulf, and the Strait of Malacca to the Pacific. Its strategic location makes the country indispensable in the geopolitical matrix of the international system, and it can be used as a base, both commercially and militarily, as it lies close to the busy shipping and air routes linking Europe with West Asia and the Far East.

Cyprus' location is being used as an intelligence and logistics center by the West. For the United States and NATO, these bases form a link from Germany to Eastern Europe and help in launching military operations in West Asia.

Cyprus sending arms to help Ukraine benefits Cyprus, the United States, Europe, and Ukraine as it offers a diplomatic opportunity to reach an agreement with Cyprus to give some Russian-made arms to Ukraine in exchange for the provision of modern U.S. equipment and other security assistance. The United States would benefit from Cyprus providing Ukraine with some of its Russian-made weapons such as 82 T-80U tanks, 43 BMP-3 infantry fighting vehicles, 11 Mi-35P helicopters, 6 Tor-M1 air defense systems, 4 Bulk-M1-2 air defense systems, and 4 BM-21 multiple rocket launchers, which are among the 6,300 weapon systems available for potential transfer to Ukraine from various countries. All of Cyprus' weapons have similar variants operated by the Ukrainian military. Cyprus sending these arms to Ukraine would increase the Ukrainian arms inventory, replace losses, support their existing systems, and lessen the United States contribution to Ukraine. Cyprus could improve its military capabilities, preparedness, and interoperability with the United States by increasing U.S. Navy port calls, military exercises, and training exercises and by providing a temporary stationing of additional US forces.

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)**
Multinational Training (Subsection 1251 of FY16 NDAA)	$10.9	$10.9	$10.9	$10.9	$10.9	Operation and Maintenance, Army	01	142	N/A
Total	$10.9	$10.9	$10.9	$10.9	$10.9	--	--	--	--

Changes to Existing Law: This proposal would amend section 1251 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 333 note) as follows:

SEC. 1251. TRAINING FOR EASTERN EUROPEAN NATIONAL SECURITY FORCES IN THE COURSE OF <u>BILATERAL AND</u> MULTILATERAL EXERCISES.

(a) AUTHORITY.—The Secretary of Defense may provide the training specified in subsection (b), and pay the incremental expenses incurred by a country as the direct result of participation in such training, for the national security forces provided for under subsection (c).

(b) TYPES OF TRAINING.-The training provided to the national security forces of a country under subsection (a) shall be limited to training that is—

(1) provided in the course of the conduct of a <u>bilateral or</u> multilateral exercise in which the United States Armed Forces are a participant;

(2) comparable to or complimentary of the types of training the United States Armed Forces receive in the course of such <u>bilateral or</u> multilateral exercise; and

(3) for any purpose as follows:

(A) To enhance and increase the interoperability of the security forces to be trained to increase their ability to participate in coalition efforts led by the United States or the North Atlantic Treaty Organization (NATO).

(B) To increase the capacity of such security forces to respond to external threats.

(C) To increase the capacity of such security forces to respond to hybrid warfare.

(D) To increase the capacity of such security forces to respond to calls for collective action within the North Atlantic Treaty Organization.

(c) ELIGIBLE COUNTRIES.—

(1) IN GENERAL.—Training may be provided under subsection (a) to the national security forces of the countries determined by the Secretary of Defense, with the concurrence of the Secretary of State, to be appropriate recipients of such training from among the countries as follows:

(A) Countries that are a signatory to the Partnership for Peace Framework Documents, but not a member of the North Atlantic Treaty Organization.

(B) Countries that became a member of the North Atlantic Treaty Organization after January 1, 1999.

(C) The Republic of Kosovo.

(D) The Republic of Cyprus.

(2) ELIGIBLE COUNTRIES.—Before providing training under subsection (a), the Secretary of Defense shall, in coordination with the Secretary of State, submit to the Committees on Armed Services of the Senate and the House of Representatives a list of the countries determined pursuant to paragraph (1) to be eligible for the provision of training under subsection (a).

* * * * *

(h) TERMINATION OF AUTHORITY.—The authority under this section shall terminate on ~~December 31, 2026~~ December 31, 2027. Any activity under this section initiated before that date may be completed, but only using funds available for the period beginning on October 1, 2015, and ending on ~~December 31, 2026.~~ December 31, 2027.

SEC. __. UNAUTHORIZED ACCESS TO DEPARTMENT OF DEFENSE FACILITIES.

(a) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at the end the following new section:

"**§ 1390. Unauthorized access to Department of Defense facilities**

"(a) IN GENERAL.—Whoever, within the jurisdiction of the United States, without authorization goes upon any property that—

"(1) is under the jurisdiction of the Department of Defense; and

"(2) has been clearly marked as closed or restricted;

"shall be punished as described in subsection (b).

"(b) PENALTIES.—Whoever violates this section shall—

"(1) in the case of the first offense, be fined in accordance with this title, or imprisoned not more than 180 days, or both;

"(2) in the case of the second offense, be fined in accordance with this title, or imprisoned not more than 3 years, or both; and

"(3) in the case of the third or subsequent offense, be fined in accordance with this title, or imprisoned not more than 10 years, or both.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by adding at the end the following new item:

"1390. Unauthorized access to Department of Defense facilities.".

Section-by-Section Analysis

This proposal would add a new section 1390 to title 18, United States Code, to complement the existing section 1382 regarding individuals who go upon military property without authorization. Although the Department of defense (DoD) finds value in section 1382, particularly as it pertains to barment from entry or subsequent reentry to military property, two critical gaps exist in current law. As recognized in recent media reporting and congressional engagements, DoD continues to see significant numbers of attempted and successful unauthorized installation events, making it critical that we address those gaps.

First, where section 1382 applies in situations where the individual's purpose for going upon the property is prohibited, the proposed new section 1390 would apply in any situation where the individual is not authorized to go upon the property. Section 1382 relies on the commander to enumerate specific purposes that are prohibited, resulting in a gap in situations where an individual goes upon the installation for a purpose the commander has not previously prohibited.

Second, the proposed section 1390 provides for a series of escalating periods of imprisonment for repeat offenders. The existing section 1382 makes unlawful entry to military property punishable by not more than six months' imprisonment. Many United States Attorneys do not pursue cases as minor as these, and many local jurisdictions regularly decline to prosecute these cases. This results in installations experiencing the same individuals repeatedly breaching security, not only harming the security of the facility but also increasing the likelihood of injury to either the trespasser or security personnel during the response. Making the crime a felony with longer periods of imprisonment provides the Government with more options to handle repeat offenders.

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 add a new section 1390 to title 18, United States Code, the full text of which is shown in the legislative language above.