

1 **SEC. ____ . ESTABLISHMENT OF PRESIDENTIAL NATIONAL SECURITY**
2 **EXEMPTION UNDER THE NATIONAL ENVIRONMENTAL POLICY**
3 **ACT.**

4 Section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336) is
5 amended by adding at the end the following new subsection:

6 “(c) PRESIDENTIAL EXEMPTION AUTHORITY.—

7 “(1) AUTHORITY.—The President may exempt any major Federal action from the
8 requirements of this Act if the President determines it to be in the paramount interest of the
9 United States to do so based on national security or in response to an emergency declared by
10 the President or a Governor.

11 “(2) CONSULTATION WITH CEQ.—Whenever the President makes a determination
12 under paragraph (1), the Federal agency concerned shall consult with the White House
13 Council of Environmental Quality before initiating the action on the anticipated
14 environmental effects of the proposed action and reasonable mitigation measures, within the
15 agency’s statutory authority, that the agency may implement with respect to any significant
16 effects.

17 “(3) ANNUAL REPORTS TO CONGRESS.—The head of each Federal agency shall report
18 each January to the Congress each Presidential exemption from the requirements of this Act
19 granted during the preceding calendar year with respect to a major Federal action of that
20 agency, and shall provide additional details, as necessary, describing the need for the project
21 and the status of its implementation.”.

Section-by-Section Analysis

- **Summary:** This proposal would establish a Presidential national security exemption under the National Environmental Policy Act (NEPA). Currently NEPA does not include a Presidential exemption, unlike several other environmental laws. A legislative remedy is needed to provide the President with a national security waiver for NEPA to allow rapid responses (e.g., construction at the SW border) to national security threats.
- **Background:** NEPA requires Federal agencies to analyze the potential environmental effects of their major Federal actions and take public comments in decisions that may have significant environmental impacts. These projects include most military construction and new or changing training and testing activities. Preparing a full NEPA analysis (i.e., Environmental Impact Statement (EIS)) can take several years. In addition, because EIS NEPA documents require public comment and consultations with environmental regulators, completing an EIS within 2 years can be difficult. NEPA is a procedural statute that applies to major Federal actions and also entails completing compliance requirements of other applicable laws.
- There are no Presidential or national security exemptions available under NEPA. Although the Council on Environmental Quality (CEQ) has issued guidance to address emergencies, it is limited to agencies not delaying immediate actions necessary to secure lives and safety of citizens or to protect valuable resources. Necessary national security actions may not fall cleanly into the category of “secure lives and safety of citizens or to protect valuable resources.” Additionally, this guidance cannot waive NEPA’s statutory requirements. The President requires flexibility to rapidly adapt to changing circumstances without the delays inherent in preparing environmental documentation to respond to the changing security environment. Examples include the ability to ensure rebalance to the Indo-Pacific, secure the borders of the United States, and execute necessary training and testing activities in an expeditious manner. Even though the Fiscal Responsibility Act (2023) revised NEPA to require Federal Agencies complete an EIS in 2 years, that may not be fast enough to support responses to emerging threats. Additionally, NEPA litigation has been used to halt DoD projects until sufficient NEPA documents are prepared.
- This exemption would provide the President the ability to take quick action to construct projects or execute activities to enhance U.S. deterrence and defense or counter adversary threats, without delays caused by preparing NEPA documentation. For example, critical testing of missile defense systems, space launches and other activities to counter emerging threats could also be addressed, if necessary, by this Presidential exemption. Even when DoD prepares an EIS, it is subject to litigation challenges under NEPA. This exemption would eliminate or significantly reduce litigation over whether DoD had to prepare a NEPA document, and whether it is sufficient.
- **Key Provisions**
 - The proposal would add a new subsection (c) to section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336).

- (c): This new subsection (c) would provide the following:
 - **Presidential Exemption Authority:** The President may exempt any "major Federal action" from NEPA's requirements for environmental review by responsible Federal agencies.
 - **Conditions for Exemption:** This exemption can only be granted if the President determines that it is "in the paramount interest of the United States" to do so.
 - **Justification:** The exemption must be based on "national security or in response to an emergency declared by the President or a Governor."
 - **Consultation Requirement:** If the President makes such a determination, the relevant Federal agency must consult with the White House Council on Environmental Quality (CEQ) before initiating the action to identify reasonable mitigation measures that may be implemented to decrease environmental impacts of the action.
 - **Reporting Requirement:** Federal agencies shall report annually to Congress, each January, all exemptions granted during the preceding calendar year, along with the reasons for each exemption.
- **Relationship to Other Sections:** This section stands alone as an amendment to NEPA. It could indirectly affect several other Federal laws tied to NEPA compliance, but compliance with the Endangered Species Act, National Historic Preservation Act, and other related environmental statutes would still be required.
- **Overall Significance:** This amendment would create a new Presidential authority and exempt major Federal actions that meet a high threshold (paramount interest; national security or an emergency declared by the President or a Governor) from environmental review. Its impact will depend on how broadly the exemption is interpreted and how frequently it is used by the President.

Budget Implications: The table below details resource requirements associated with the portion of this proposal regarding the NEPA waiver authority. This proposal has no budgetary impacts, and would instead reduce requirements for actions needed to support the paramount interests of the U.S. If a Presidential exemption is provided and utilized at a rate of one per year, the annual estimated cost savings will be \$5,000,000.

| RESOURCE REQUIREMENTS (\$MILLIONS) | | | | | | | | | |
|------------------------------------|------------|------------|------------|------------|------------|-----------------------|--------------------|---------------------|--------------------|
| | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | Appropriation From | Budget Activity | Dash-1 Line Item | Program Element |
| | -\$5.0 | -\$5.0 | -\$5.0 | -\$5.0 | -\$5.0 | N/A | N/A | N/A | N/A |
| Total | -\$5.0 | -\$5.0 | -\$5.0 | -\$5.0 | -\$5.0 | -- | -- | -- | -- |

Changes to Existing Law: This proposal would amend section 106 of the National Environmental Policy Act of 1969 (42 U.S.C. 4336) as set forth in the legislative text above.

1 **SEC. ____ . FIVE-YEAR EXTENSION OF AUTHORITY TO TRANSFER FUNDS TO**
2 **DEPARTMENT OF STATE FOR BIEN HOA DIOXIN CLEANUP.**

3 Section 1253 of the William M. (Mac) Thornberry National Defense Authorization Act
4 for Fiscal Year 2021 (Public Law 116-283; 134 Stat. 3954) is amended—

5 (1) in subsection (a), by striking “, for use by the United States Agency for
6 International Development,”; and

7 (2) in subsection (b), by striking “fiscal year 2025” and inserting “each of fiscal
8 years 2025 through 2029”.

Section-by-Section Analysis

This proposal would amend section 1253 of the William M. (Mac) Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2021 (Public Law 116-283), as amended by section 1341 of the NDAA for Fiscal Year 2025 (Public Law 118-159), to enable the Department of Defense to transfer up to \$30,000,000 each year through Fiscal Year (FY) 2029 to the Department of State to complete dioxin remediation at Bien Hoa Airbase in Vietnam. Bien Hoa received 85 percent of the Agent Orange the United States sent to Vietnam (98,000 barrels remained when U.S. Forces departed). Dioxin is the active ingredient in Agent Orange. It is toxic. Soil and water surrounding Bien Hoa Airbase is contaminated, 50 years after the end of conflict.

In 2021, the United States Agency for International Development (USAID) completed its final cost estimate for Bien Hoa remediation of \$450,000,000, resulting in a \$124,000,000 gap over USAID’s initial estimate of \$390,000,000 from 2016. The Department of State and the Department of Defense (DoD) seek to close the funding gap. On March 27, 2024, the Secretary of Defense directed DoD staff to program in Operation & Maintenance, Defense-Wide, a total of \$95,000,000 across FY 2026 – FY 2029 (\$65,000,000 above prior commitments). In 2018, during President Trump’s first term, the United States committed to provide \$300,000,000 over ten years (FY 2018 – FY 2027), with a 50/50 funding split between DoD and USAID (now Department of State). The Government of Vietnam has contributed \$26,000,000 to date.

Completing dioxin remediation at Bien Hoa is the most important action the United States can take to advance our bilateral defense relationship with Vietnam. That defense relationship creates new dilemmas for the People’s Republic of China in the region and complicates Russia’s attempts to grow regional relationships.

Resource Information: The table below reflects the best estimate of resources requested within the FY 2026 President’s Budget that are impacted by this proposal.

| RESOURCE IMPACT (\$MILLIONS) | | | | | | | | | |
|------------------------------|---------|---------|---------|---------|---------|---------------------------------------|-----------------|---------|--|
| Program | FY 2026 | FY 2027 | FY 2028 | FY 2029 | FY 2030 | Appropriation | Budget Activity | BLI/SAG | Program Element (for all RDT&E programs) |
| Bien Hoa Dioxin Remediation | \$30 | \$30 | \$25 | \$10 | \$0 | Operation & Maintenance, Defense-Wide | | | |
| Total | \$30 | \$30 | \$25 | \$10 | \$0 | | | | |

Changes to Existing Law: This proposal would amend section 1253 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 as follows:

SEC. 1253. AUTHORITY TO TRANSFER FUNDS FOR BIEN HOA DIOXIN CLEANUP.

(a) TRANSFER AUTHORITY.—Notwithstanding section 2215 of title 10, United States Code, the Secretary of Defense may transfer to the Secretary of State, ~~for use by the United States Agency for International Development,~~ amounts to be used for the Bien Hoa dioxin cleanup in Vietnam.

(b) LIMITATION ON AMOUNT.—Not more than \$30,000,000 may be transferred in ~~fiscal year 2025~~ each of fiscal years 2025 through 2029 under the authority in subsection (a).

(c) ADDITIONAL TRANSFER AUTHORITY.—The transfer authority in subsection (a) is in addition to any other transfer authority available to the Department of Defense.

(d) NOTICE ON EXERCISE OF AUTHORITY.—If the Secretary of Defense determines to use the transfer authority in subsection (a), the Secretary shall notify the congressional defense committee of that determination not later than 30 days before the Secretary uses the transfer authority.

1 **SEC. ____ . REPEAL OF REQUIREMENT THAT THE BOARD OF VISITORS TO THE**
2 **UNITED STATES AIR FORCE ACADEMY INCLUDE AT LEAST TWO**
3 **GRADUATES OF THE ACADEMY.**

4 Section 9455(b) of title 10, United States Code, is amended—

5 (1) by striking “(1)” after “(b)”; and

6 (2) by striking paragraph (2).

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

Section-by-Section Analysis

This proposal would repeal the requirement at section 9455(b) of title 10, United States Code, that at least two of the six members of the Board of Visitors to the United States Air Force Academy who are designated by the President must be graduates of the Academy. This change would bring the requirements for composition of the Air Force Academy Board of Visitors into alignment with those for the United States Military Academy (10 U.S.C. 7455) and the United States Naval Academy (10 U.S.C. 8468).

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2026 President’s Budget.

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

§9455. Board of Visitors

(a) A Board of Visitors to the Academy is constituted annually of—

(1) the chair of the Committee on Armed Services of the Senate, or the designee of such chair;(2) the ranking member of the Committee on Armed Services of the Senate, or the designee of the ranking member;

(3) two other members of the Senate designated by the Majority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(4) two other members of the Senate designated by the Minority Leader of the Senate, one of whom is a member of the Committee on Appropriations of the Senate;

(5) the chair of the Committee on Armed Services of the House of Representatives, or the designee of such chair;

(6) the ranking member of the Committee on Armed Services of the House of Representatives, or the designee of the ranking member;

(7) two other members of the House of Representatives designated by the Speaker of the House of Representatives, one of whom is a member of the Committee on Appropriations of the House of Representatives;

(8) one other member of the House of Representatives designated by the Minority Leader of the House of Representatives; and

(9) six persons designated by the President.

(b)(4) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is designated by the President. The President shall designate persons each year to succeed the members designated by the President whose terms expire that year.

~~(2) At least two of the members designated by the President shall be graduates of the Academy.~~

(c) ***
