

1 **SEC. ____ . AUTHORITY TO ACQUIRE CONTRACTOR SERVICES FOR PROVISION**
2 **OF ASSISTANCE TO SECURE THE SOUTHERN LAND BORDER OF**
3 **THE UNITED STATES.**

4 (a) AUTHORITY TO ACQUIRE CONTRACTED SERVICES FOR PROVISION OF ASSISTANCE.—
5 Section 1059(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law
6 114-92; 10 U.S.C. 284 note) is amended—

7 (1) by redesignating paragraph (2) as paragraph (3); and

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

9 “(2) CONTRACT AUTHORITY.—In providing assistance to U.S. Customs and
10 Border Protection under paragraph (1), the Secretary may acquire, by contract, for the
11 purposes of such assistance the following:

12 “(A) Detection and monitoring services.

13 “(B) Warehousing and logistical supply chain services.

14 “(C) Transportation services.

15 “(D) Vehicle maintenance services.

16 “(E) Training other than lead or primary instructor services.

17 “(F) Intelligence analysis services.

18 “(G) Linguist services.

19 “(H) Data entry services.

20 “(I) Aviation services.”.

21 (b) AGENCY NAME CORRECTION.—Such section is further amended in paragraph (1)(A)
22 by striking “United States Customs and Border Protection” and inserting “U.S. Customs and
23 Border Protection”.

[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 1059 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 284 note) to authorize the Secretary of Defense to enter into services contracts to provide Department of Defense (DoD) assistance to U.S. Customs and Border Protection (CBP) for purposes of increasing ongoing efforts to secure the southern land border of the United States.

Currently, DoD assistance under section 1059 is limited to “members and units of the regular and reserve components of the Armed Forces.” Proposed new paragraph (2) of subsection (a) would provide the Secretary of Defense an alternative to using military units and members. The vast majority, if not all, of Department of Homeland Security (DHS) requests for DoD assistance to CBP under section 1059 have not been military-unique and have not required military personnel. Military personnel have been used for the support to DHS not because the DHS border security mission requires military-unique capabilities, but because the existing statutory authority for non-reimbursable DoD support does not authorize contracted support. Examples of DoD assistance provided pursuant to section 1059, since such assistance began in November 2018, include engineering; medical; ground and air transportation; meal preparation and distribution; welfare check; mobile surveillance camera operations; remote video detection and camera monitoring; and information analysis.

If granted the authority to contract for its support of DHS, DoD would be able to provide the requested support at a lower cost, a lower risk to military training and readiness, and a lower risk to DHS’s border security mission (i.e., contracted DoD support could be sustained during a major military contingency, whereas military DoD support may have to be recommitted to support DoD contingency operations, leaving the southern border unsecured). Additionally, contracted DoD support could be transitioned to DHS, when DHS has sufficient funds, making DHS more capable of carrying out its own statutory mission to secure the borders of the United States.

DoD preliminary estimates indicate a significant cost savings generated by not having to pay lodging and per diem (approximately \$166-to-\$304 per person per day), and family separation costs (\$250 per person per month). For example, if DoD were able to contract for its support to DHS in fiscal year 2024, DoD could have saved an estimated \$105,665,540 in lodging, per diem, and family separation costs.

The proposal would also make a technical revision to correct the name of U.S. Customs and Border Protection.

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

RESOURCE REQUIREMENTS (\$MILLIONS)									
	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030	Appropriation From	Budget Activity	Dash- 1 Line Item	Program Element
Military Personnel, Army	\$268 .4	\$276. 72	\$285. 29	\$294. 14	\$303.2 6	MILPERS, Army	01/02	N/A	N/A
Operation and Maintenance, Army	\$264 .9	\$273. 11	\$281. 57	\$290. 30	\$299.3 0	O&M, Army	100	N/A	N/A
Total	\$533 .3	\$549. 83	\$566. 86	\$584. 44	\$602.5 6				

Note 1: The estimate above uses the cost of DoD support in FY 2024 as a baseline and then factors in the current rate of inflation across the FYDP. The actual amounts will depend on the evolving situation at the southern border of the United States and any gaps in DHS capability or capacity.

Note 2: The estimate above reflects the cost of support provided by military personnel. The cost of support provided by contracted personnel would be less.

Changes to Existing Law: This proposal would make the following changes to section 1059 of the National Defense Authorization Act for Fiscal Year 2016 (10 U.S.C. 284 note; Public Law 114-92):

SEC. 1059. DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE ASSISTANCE TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES.

(a) AUTHORITY.—

(1) PROVISION OF ASSISTANCE.—

(A) IN GENERAL.—The Secretary of Defense may provide assistance to ~~United States~~ U.S. Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern land border of the United States in accordance with the requirements of this section.

(B) REQUIREMENTS.—If the Secretary provides assistance under subparagraph (A), the Secretary shall ensure that the provision of the assistance will not negatively affect military training, operations, readiness, or other military requirements.

(2) CONTRACT AUTHORITY.—In providing assistance to U.S. Customs and Border Protection under paragraph (1), the Secretary may acquire, by contract, for the purposes of such assistance the following:

(A) Detection and monitoring services.

- (B) Warehousing and logistical supply chain services.
- (C) Transportation services.
- (D) Vehicle maintenance services.
- (E) Training other than lead or primary instructor services.
- (F) Intelligence analysis services.
- (G) Linguist services.
- (H) Data entry services.
- (I) Aviation services.

~~(2)~~(3) NOTIFICATION REQUIREMENT.—Not later than 7 days after the date on which the Secretary approves a request for assistance from the Department of Homeland Security under paragraph (1), the Secretary shall electronically transmit to the Committee on Armed Services of the Senate and the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives notice of such approval.

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1 **SEC. ____.** **CONSOLIDATION OF REPORTING REQUIREMENTS RELATING TO**
2 **DEPARTMENT OF DEFENSE FINANCIAL IMPROVEMENT AND**
3 **AUDIT REMEDIATION PLAN.**

4 (a) FINANCIAL IMPROVEMENT AND AUDIT REMEDIATION PLAN.—Section 240b(b) of title
5 10, United States Code, is amended as follows:

6 (1) FUNDING ESTIMATE REQUIRED IN ANNUAL IMPLEMENTATION REPORT.—

7 Paragraph (1)(B) is amended by adding at the end the following new clause:

8 “(ix) A detailed estimate of the funding required for the next fiscal year to
9 procure, obtain, or otherwise implement each process, system, and technology
10 identified to address the corrective action plan or plans of each department,
11 agency, component, or element of the Department of Defense, and the corrective
12 action plan of the Department as a whole, for purposes of this chapter during such
13 fiscal year.”.

14 (2) COMPONENT RANKING REQUIRED IN ANNUAL BRIEFING.—Paragraph (2)(B) is
15 amended to read as follows:

16 “(B) The January 31 briefing under subparagraph (A) shall include a ranking of
17 all of the military departments and Defense Agencies in order of how advanced each is in
18 achieving auditable financial statements, as required by law.”.

19 (3) ANNUAL REPORT BY BOTTOM QUARTILE.—Paragraph (3) is redesignated as
20 paragraph (4) and the following new paragraph is inserted after paragraph (2):

21 “(3) ANNUAL REPORT BY BOTTOM QUARTILE.—Not later than June 30 of each
22 year, the head of each military department and Defense Agency that was ranked in the
23 bottom quartile of the report submitted under paragraph (2)(B) for that year shall submit

1 to the congressional defense committees a report that includes the following information
2 for that military department or Defense Agency:

3 “(A) A description of the material weaknesses of the military department or
4 Defense Agency.

5 “(B) The underlying causes of such weaknesses.

6 “(C) A plan for remediating such weaknesses.

7 “(D) The total number of open audit notices of findings and recommendations
8 (in this paragraph referred to as ‘NFRs’) for the most recently concluded fiscal year
9 and the preceding two fiscal years, where applicable.

10 “(E) The number of repeat or reissued NFRs from the most recently concluded
11 fiscal year.

12 “(F) The number of NFRs that were previously forecasted to be closed during
13 the most recently concluded fiscal year that remain open.

14 “(G) The number of closed NFRs during the current fiscal year and prior
15 fiscal years.

16 “(H) The number of material weaknesses that were validated by external
17 auditors as fully resolved or downgraded in the current fiscal year over prior fiscal
18 years.

19 “(I) A breakdown by fiscal years in which open NFRs are forecasted to be
20 closed.

21 “(J) Explanations for unfavorable trends in the information under paragraphs
22 (1) through (9).”.

(4) REVISION TO DEFINITION OF CRITICAL CAPABILITIES.—Paragraph (4), as redesignated by paragraph (3) of this subsection, amended to read as follows:

“(4) CRITICAL CAPABILITIES DEFINED.—In this subsection, the term ‘critical capabilities’ means the financial statement audit priorities designated by the Secretary of Defense for the fiscal year in which the report is submitted.”.

(b) ANNUAL REPORTS ON FUNDING FOR CORRECTIVE ACTION PLANS.—Section 1009 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 240b note) is amended by striking subsection (c).

(c) ANNUAL REPORT ON AUDITABLE FINANCIAL STATEMENTS.—Section 240h of title 10, United States Code, is repealed.

Section-by-Section Analysis

This proposal would modify or repeal statutory reporting requirements as follows:

1. Financial Improvement and Audit Remediation Plan (10 U.S.C. 240b). Subsection (a) of this proposal would make a number of amendments to section 240b of title 10, United States Code, which requires the Under Secretary of Defense (Comptroller) to maintain a Financial Improvement and Audit Remediation Plan.

A. Paragraph (1) of subsection (a) would add an additional element to the required annual report on implementation of the Financial Improvement and Audit Remediation Plan. The new element would require the inclusion of a detailed estimate of the funding required to address the current corrective action plans of the departments, agencies, components, and elements of the Department of Defense, and the corrective action plan of the Department as a whole. This element is currently required under Annual Reports on Funding (section 1009(c) of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92; 10 U.S.C. 240b note)) and would be transferred into the title 10 section by this amendment.

B. Paragraphs (2) and (3) of subsection (a) would amend the Semiannual Briefing requirement to include in the January 31 briefing a requirement of ranking of the military departments and Defense Agencies in order of how advanced each is in achieving auditable financial statements and would require that the military departments and Defense Agencies ranked in the bottom quartile of the rankings submit a report that includes information as detailed. This information is currently required under Annual Report on Auditable Financial Statements (10 U.S.C. 240h) and would be transferred to section 240b by the amendments made by paragraphs (2) and (3).

C. Paragraph (4) of subsection (a) would amend this reporting requirement by updating the definition of “critical capabilities”, against which the Department of Defense (DoD) is required to report progress, to mean the financial statement audit priorities designated by the Secretary of Defense for the fiscal year in which the report is submitted. The critical capabilities, as currently codified, were defined in the May 2016 FIAR Report, prior to the Department beginning annual full financial statement audits – 8 years ago and 10 years before the authorization year under consideration. The financial statement audit priorities established annually by the Secretary of Defense are used regularly by senior leaders within the Department to measure progress against defined metrics. Further, the Department has realized progress in remediating these priorities by concentrating effort on the identified material weaknesses and monitoring and measuring progress.

2. Annual Reports on Funding (section 1009(c) of the National Defense Authorization Act for Fiscal Year 2020 (P.L. 116-92; 10 U.S.C. 240b note)). Subsection (b) of this proposal would repeal the requirement for this report since the information required will be included instead in the annual report on the Financial Improvement and Audit Remediation Plan under 10 U.S.C. 240b(b), as provided in the amendments made by subsection (a).

3. Annual Report on Auditable Financial Statements (10 U.S.C. 240h). Subsection (c) of this proposal would repeal this reporting requirement since the information required will be included instead in annual briefings and reports under 10 U.S.C. 240b(b) as provided in the amendments made by subsection (a).

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2026 President’s Budget. The modifications proposed would result in a manpower and resource savings, allowing important focus on audit progress.

Changes to Existing Law: This proposal would make the following changes to existing law:

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 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 detailed estimate of the funding required for the next fiscal year to procure, obtain, or otherwise implement each process, system, and technology identified to address 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, for purposes of this chapter during such fiscal year.

(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.~~

(B) The January 31 briefing under subparagraph (A) shall include a ranking of all of the military departments and Defense Agencies in order of how advanced each is in achieving auditable financial statements, as required by law.

(3) ANNUAL REPORT BY BOTTOM QUARTILE.—Not later than June 30 of each year, the head of each military department and Defense Agency that was ranked in the bottom quartile of the report submitted under paragraph (2)(B) for that year shall submit to the congressional defense committees a report that includes the following information for that military department or Defense Agency:

(A) A description of the material weaknesses of the military department or Defense Agency.

(B) The underlying causes of such weaknesses.

(C) A plan for remediating such weaknesses.

(D) The total number of open audit notices of findings and recommendations (in this paragraph referred to as ‘NFRs’) for the most recently concluded fiscal year and the preceding two fiscal years, where applicable.

(E) The number of repeat or reissued NFRs from the most recently concluded fiscal year.

(F) The number of NFRs that were previously forecasted to be closed during the most recently concluded fiscal year that remain open.

(G) The number of closed NFRs during the current fiscal year and prior fiscal years.

(H) The number of material weaknesses that were validated by external auditors as fully resolved or downgraded in the current fiscal year over prior fiscal years.

(I) A breakdown by fiscal years in which open NFRs are forecasted to be closed.

(J) Explanations for unfavorable trends in the information under subparagraphs (A) through (I).

(4) 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 the financial statement audit priorities designated by the Secretary of Defense for the fiscal year in which the report is submitted.

(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.

§ 240h. Annual report on auditable financial statements

~~(a) IN GENERAL.—Not later than January 30 of each year, the Secretary of Defense shall submit to the congressional defense committees a report that includes a ranking of all of the military departments and Defense Agencies in order of how advanced each such department and Agency is in achieving auditable financial statements, as required by law. In preparing the report, the Secretary shall seek to exclude information that is otherwise available in other reports to Congress.~~

~~(b) BOTTOM QUARTILE.— Not later than June 30 of each year, the head of each of the military departments and Defense Agencies that were ranked in the bottom quartile of the report submitted under subsection (a) for that year shall submit to the congressional defense committees a report that includes the following information for that military department or Defense Agency:~~

- ~~(1) A description of the material weaknesses of the military department or Defense Agency.~~
- ~~(2) The underlying causes of such weaknesses.~~
- ~~(3) A plan for remediating such weaknesses.~~
- ~~(4) The total number of open audit notices of findings and recommendations (hereinafter referred to as "NFRs") for the most recently concluded fiscal year and the preceding two fiscal years, where applicable.~~
- ~~(5) The number of repeat or reissued NFRs from the most recently concluded fiscal year.~~
- ~~(6) The number of NFRs that were previously forecasted to be closed during the most recently concluded fiscal year that remain open.~~
- ~~(7) The number of closed NFRs during the current fiscal year and prior fiscal years.~~
- ~~(8) The number of material weaknesses that were validated by external auditors as fully resolved or downgraded in the current fiscal year over prior fiscal years.~~
- ~~(9) A breakdown by fiscal years in which open NFRs are forecasted to be closed.~~
- ~~(10) Explanations for unfavorable trends in the information under paragraphs (1) through (9).~~

**Section 1009(c) of the National Defense Authorization Act for Fiscal Year 2020
(Public Law 116–92; 10 U.S.C. 240b note)**

**SEC. 1009. PLAN OF THE DEPARTMENT OF DEFENSE FOR FINANCIAL
MANAGEMENT INFORMATION.**

~~(c) ANNUAL REPORTS ON FUNDING FOR CORRECTIVE ACTION PLANS.— Not later than 10 days after the submittal to Congress under section 1105(a) of title 31, United States Code, of the budget of the President for any fiscal year after fiscal year 2020, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a detailed estimate of the funding required for such fiscal year to procure, obtain, or otherwise implement each process, system, and technology identified to address the current corrective action plans of the departments, agencies, components, and elements of the Department of Defense, and the corrective action plan of the Department as a whole, for purposes of chapter 9A of title 10, United States Code, during such fiscal year.~~

1 **SEC. ____.** **DEPARTMENT OF DEFENSE SUPPORT TO FEDERAL AGENCIES TO**
2 **PROTECT UNITED STATES AIRSPACE, MARITIME DOMAIN, AND**
3 **TERRITORY FROM INCURSIONS BY FOREIGN POWERS.**

4 Chapter 3 of title 10, United States Code, is amended by adding at the end the following
5 new section:

6 **“§ 130j. Support to Federal agencies to protect United States airspace, maritime domain,**
7 **and territory from incursions by foreign powers**

8 “(a) **SUPPORT AUTHORIZED.**—Notwithstanding any provision of title 18 (except for
9 section 1385 of such title) or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801
10 et seq.), the Secretary of Defense may provide the support described in subsection (b) to any
11 element of the Department of Defense, or to any other department or agency of the Federal
12 Government at the request of such department or agency, to—

13 “(1) prevent or respond to an incursion of an object reasonably believed to be by a
14 foreign power or agent of a foreign power in the territory, including the territorial waters,
15 of the United States or the airspace above such territory; or

16 “(2) respond to any exigent threat to public safety declared by the President in a
17 declaration of national emergency issued pursuant to the National Emergencies Act (50
18 U.S.C. 1601 et seq.), if the Secretary reasonably believes that the incursion of an object
19 directed by a foreign power or an agent of a foreign power is a threat to public safety.

20 “(b) **SUPPORT DESCRIBED.**—The support described in this subsection is the collection,
21 processing, analysis, production, and dissemination of signals intelligence information, including
22 through the use of electronic surveillance.

1 “(c) PROHIBITION ON TARGETING UNITED STATES PERSONS.—The Secretary may not
2 provide support under this section that intentionally targets a United States person to acquire
3 information.

4 “(d) CONGRESSIONAL NOTIFICATION.—The Secretary shall promptly report to the
5 congressional defense committees and the congressional intelligence committees any support
6 provided under this section.

7 “(e) REIMBURSABLE SUPPORT.—The head of an agency to which support is provided
8 under this section shall reimburse the Department of Defense for such support pursuant to
9 section 1535 of title 31.

10 “(f) CLASSIFICATION REVIEW.—

11 “(1) REVIEW REQUIRED.—Upon completion of support authorized under this
12 section, the Secretary of Defense, in consultation with the head of an agency to which
13 such support was provided, shall conduct a declassification review of the report required
14 by subsection (d) and make publicly available such report or a summary of such report to
15 the greatest extent practicable and consistent with the protection of national security.

16 “(2) COMPLETION OF REVIEW.—The Secretary of Defense shall complete the
17 declassification review required by paragraph (1) of a report required by subsection (d) as
18 soon as practicable following the completion of the support that is the subject such report
19 and not later than 180 days after the date on which such declassification review begins.

20 “(g) DEFINITIONS.—In this section:

21 “(1) The terms ‘agent of a foreign power’, ‘electronic surveillance’, ‘foreign
22 power’, and ‘United States person’ have the meaning given those terms in section 101 of
23 the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

1 “(2) The term ‘congressional intelligence committees’ has the meaning given the
2 term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).”.

Section-by-Section Analysis

This proposal would provide the Secretary of Defense, operating through the National Security Agency (NSA), with greater authority to provide signals intelligence and other support to combatant commands, Department of Defense elements, or any other department or agency to protect U.S. airspace, maritime domain, and territory from physical incursions by foreign powers or their agents, or to protect against an exigent threat to public safety that is reasonably believed to be directed by a foreign power or its agents. A physical object that enters U.S. airspace, maritime domain, or territory may present a risk to national security, especially if the object was not previously identified before entering U.S. airspace, maritime domain, or territory, or if the object is not readily attributable to a particular nation or entity, but under which the totality of the circumstances gives rise to a reasonable belief that the object is being operated by a foreign power or its agents. NSA may have the capabilities to detect and collect information regarding the object, including energy and signals that may emanate from the object. NSA could therefore play a critical role in identifying the object, helping assess the concern or risk presented by the object, and providing other important information to policymakers, decision-makers, and departments and agencies charged with preventing or disrupting hostile activities of foreign powers or their agents. This amendment is necessary to ensure that the Secretary of Defense has the authority to order elements of the DoD to provide such support in responding to foreign incursions of U.S. airspace, maritime domain, or territory, and to ensure that those elements have sufficient flexibility to respond to emergency situations that pose threats to public safety under situations involving a nexus to a foreign power or its agents, whether known or unknown. To account for potential concerns regarding privacy, civil liberties, and transparency, the proposed amendment contains extraordinary approval requirements, a congressional reporting provision, and a presumption of public disclosure of information concerning any support authorized pursuant to the authority granted by the amendment. Additional information will be provided in a classified memo.

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

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

**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 1105 of the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025 (Public Law 118–159; 138 Stat. 2088), is further amended by striking “2026” and inserting “2027”.

Section-by-Section Analysis

This proposal would extend through fiscal year 2027 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) 2026 President’s Budget that are impacted by this proposal. The Air Force and Defense-Wide appropriations are impacted to an insignificant level.

	RESOURCE IMPACT (\$MILLIONS)					
Program	FY 2026	FY 2027	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Army	\$7.600	\$8.700	Operation and Maintenance, Army	Multiple	Multiple	

Navy	\$2.451	\$2.500	Operation and Maintenance, Navy	Multiple	Multiple	
Total	\$10.1	11.2				

PERSONNEL IMPACT (END STRENGTH)						
Program	FY 2026	FY 2027	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Army	201	201	Operation and Maintenance, Army	Multiple	Multiple	
Navy	133	133	Operation and Maintenance, Navy	Multiple	Multiple	
Total	334	334				

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 ~~2026~~2027, 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.

1 **SEC. __. INCLUSION OF SMALL BUSINESS TECHNOLOGY TRANSFER**
2 **PROGRAM IN DIRECT TO PHASE II AUTHORITY AND REVISION OF**
3 **AUTHORITY TERMINATION DATE.**

4 (a) EXTENSION OF SBIR DIRECT TO PHASE II AUTHORITY TO STTR PROGRAM.—Section
5 9(cc) of the Small Business Act (15 U.S.C. 638(cc)) is amended by inserting “or STTR program”
6 after “SBIR program” each place it appears.

7 (b) COORDINATION OF EXPIRATION OF D2P2 AUTHORITY WITH SBIR PROGRAM
8 EXPIRATION.—Such section is further amended—

9 (1) by striking “During fiscal years 2012 through 2025, the” and inserting “(1)
10 The”; and

11 (2) by adding at the end the following new paragraph:
12 “(2) The authority under this subsection shall terminate on the date specified in
13 subsection (m).”.

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

Section-by-Section Analysis

This proposal would allow the Small Business Technology Transfer (STTR) program to use the Direct to Phase II (D2P2) authority currently available for the Small Business Innovation Research (SBIR) programs of the National Institutes of Health, the Department of Defense, and the Department of Education. The proposal would also tie the expiration date of the D2P2 authority to the expiration date of the overall SBIR program.

The D2P2 authority allows a small business concern (SBC) to be awarded a Phase II contract despite not having been awarded a Phase I contract. Currently, D2P2 awards to SBCs may only be made under the SBIR program. Additionally, the D2P2 authority is set to expire at the end of fiscal year (FY) 2025.

Between FYs 2019 and 2023, the Department of Defense’s SBIR program made 1,513 D2P2 awards, an investment of over \$2,000,000,000 in critical technology research and development. The exclusion of the STTR program from the D2P2 authority limits the STTR program’s ability to accelerate critical technology solutions.

Resource Information: The proposal has no impact on the use of resources requested within the FY 2026 President’s Budget.

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

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

* * * * *

(cc) PHASE FLEXIBILITY.—~~During fiscal years 2012 through 2025, the~~ (1) The National Institutes of Health, the Department of Defense, and the Department of Education may each provide to a small business concern an award under Phase II of the SBIR program or STTR program with respect to a project, without regard to whether the small business concern was provided an award under Phase I of an SBIR program or STTR program with respect to such project, if the head of the applicable agency determines that the small business concern has completed the determinations described in subsection (e)(4)(A) with respect to such project despite not having been provided a Phase I award.

(2) The authority under this subsection shall terminate on the date specified in subsection (m).

* * * * *

1 **SEC. ____ . MODIFICATION OF DEFINITION OF MILITARY INSTALLATION**
2 **RESILIENCE.**

3 Section 101(f)(8) of title 10, United State Code, is amended—

4 (1) by striking “or from” before “anticipated or unanticipated changes in
5 environmental conditions”; and

6 (2) by inserting “, energy or water disruptions, or human-induced hazards” before
7 “, that do”.

**[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 definition of “military installation resilience” in title 10, United States Code (U.S.C.), to allow an all-hazards approach to identifying and planning for installation resilience vulnerabilities. This proposal would clarify that the term “military installation resilience” includes resilience against extreme weather events, energy resilience, water and wastewater resilience, solid waste resilience, cyber resilience, built and natural infrastructure resilience, and community resilience. All of these efforts are ongoing within the Department of Defense; however, updates are needed to this statutory definition to integrate these efforts. For example, this would integrate section 2864 of title 10, U.S.C., which includes a military installation resilience component in Installation Master planning, as well as section 2391 of title 10, U.S.C., which supports community resilience grants for the installation resilience program under the jurisdiction of the Office of Local Defense Community Cooperation.

Projects stemming from resources of the military installation resilience program result in plans and designs that upgrade infrastructure capacity, create redundant sources for lifeline connections, facilities, and services, and harden existing critical linkages that cannot be replaced in the short-term.

The modification of this language would allow communities to partner with military installations to understand and identify expanded and wholistic options to mitigate challenges to mission-related resilience issues affecting housing, education, healthcare, and single points of failure for critical infrastructure.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2026 President’s Budget that are impacted by this proposal for community grants under the Office of Local Defense Community Cooperation.

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)
Installation Resilience Program	\$5	\$5	\$10	\$10	\$10	Operation and Maintenance, Defense-Wide	4	4GTM	N/A
Total	\$5	\$5	\$10	\$10	\$10				

Changes to Existing Law: This proposal would amend section 101(f)(8) of title 10, U.S.C., as follows:

Title 10, United States Code

§ 101. Definitions

(f) FACILITIES AND OPERATIONS.—The following definitions relating to facilities and operations apply in this title:

(8) MILITARY INSTALLATION RESILIENCE.—The term “military installation resilience” means the capability of a military installation to avoid, prepare for, minimize the effect of, adapt to, and recover from extreme weather events, ~~or from~~ anticipated or unanticipated changes in environmental conditions, energy or water disruptions, or human-induced hazards, that do, or have the potential to, adversely affect the military installation or essential transportation, logistical, or other necessary resources outside of the military installation that are necessary in order to maintain, improve, or rapidly reestablish installation mission assurance and mission-essential functions.

1 **SEC. ____ . PILOT PROGRAM FOR ADDITIONAL SEQUENTIAL PHASE II AWARDS**
2 **FOR SMALL BUSINESS CONCERNS.**

3 Section 9(ff) of the Small Business Act (15 U.S.C. 638(ff)) is amended by adding at the
4 end the following new paragraph:

5 “(3) DEPARTMENT OF DEFENSE PILOT AUTHORITY FOR AWARDING AN ADDITIONAL
6 SEQUENTIAL PHASE II AWARD.—

7 “(A) The Secretary of Defense may award one additional Phase II SBIR
8 award or one additional Phase II STTR award to a small business concern that
9 received a Phase II award under paragraph (1) for continued work on that project
10 with—

11 “(i) a Department of Defense component other than the component
12 that made the original Phase II SBIR or STTR award for the project; or

13 “(ii) another Federal agency.

14 “(B) The Secretary of Defense or head of another Federal agency
15 continuing work on a project under clause (ii) of subparagraph (A) may use not
16 more than 3 percent of the funds allocated to the SBIR and STTR programs of the
17 Department of Defense or that other agency in carrying out this paragraph and
18 shall submit an application to the Administrator for approval prior to any award
19 under subparagraph (A). The application shall include an explanation for why the
20 requirement could not be funded as a Phase III award and a description of how the
21 Department of Defense or other Federal agency will minimize, to the maximum
22 extent possible, the number of awards under this paragraph.

1 “(C) The authority under this paragraph shall terminate on the date
2 specified in subsection (m).”.

Section-by-Section Analysis

This proposal would clarify and expand the current authority for sequential Phase II awards that Federal agencies may award to small business concerns (SBCs). The current authority in the Small Business Act (15 U.S.C. 638(j)(1)) limits agencies in the number of total Phase II awards allowed as not-to-exceed two Phase II awards in total to the same SBC for the same topic. This limitation has proven to limit the utility of section (9)(ff) of the Small Business Act (15 U.S.C. 638(ff)), as the original sponsoring agency of the Phase II award usually declines requests from other agencies to make a sequential Phase II award to further develop the technology for the agency’s own transition efforts.

This proposal would allow a sequential Phase II award to be made by another Defense Component or Federal agency to further the research of an applicable innovative solution, allowing the requesting component or agency to enforce an expedited research and transition timeline, thus achieving transition soonest. Expanding this authority to allow for a third Phase II award to the same SBC for the same topic, would also afford the Defense Components and Federal agencies greater flexibility in allowing cross-agency collaboration to further mature SBIR and STTR technology to technology readiness level that would enable insertion into a program of record and/or fielded system.

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

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

SEC. 9. (a) ***

(ff) ADDITIONAL SBIR AND STTR AWARDS.—

(1) EXPRESS AUTHORITY FOR AWARDING A SEQUENTIAL PHASE II AWARD.—A small business concern that receives a Phase II SBIR award or a Phase II STTR award for a project remains eligible to receive 1 additional Phase II SBIR award or Phase II STTR award for continued work on that project.

(2) PREVENTING DUPLICATIVE AWARDS.—The head of a Federal agency shall verify that any activity to be performed with respect to a project with a Phase I or Phase II SBIR or STTR award has not been funded under the SBIR program or STTR program of another Federal agency.

(3) DEPARTMENT OF DEFENSE PILOT AUTHORITY FOR AWARDING AN ADDITIONAL SEQUENTIAL PHASE II AWARD.—

(A) The Secretary of Defense may award one additional Phase II SBIR award or one additional Phase II STTR award to a small business concern that

received a Phase II award under paragraph (1) for continued work on that project with—

(i) a Department of Defense component other than the component that made the original Phase II SBIR or STIR award for the project; or

(ii) another Federal agency.

(B) The Secretary of Defense or head of another Federal agency continuing work on a project under clause (ii) of subparagraph (A) may use not more than 3 percent of the funds allocated to the SBIR and STTR programs of the Department of Defense or that other agency in carrying out this paragraph and shall submit an application to the Administrator for approval prior to any award under subparagraph (A). The application shall include an explanation for why the requirement could not be funded as a Phase III award and a description of how the Department of Defense or other Federal agency will minimize, to the maximum extent possible, the number of awards under this paragraph.

(C) The authority under this paragraph shall terminate on the date specified in subsection (m).