

1 **SEC. ____ . AUTHORITY FOR COLLECTION OF PERSONALLY IDENTIFIABLE**
2 **INFORMATION REGARDING PROSPECTIVE RECRUITS.**

3 Section 503 of title 10, United States Code, is amended by adding the following new
4 subsection:

5 “(d) COLLECTION OF PROSPECTIVE RECRUIT INFORMATION; DIGITAL COLLECTION.—(1)

6 The Secretary of a military department, or the Secretary of Homeland Security with respect to

7 the Coast Guard when it is not operating as a service in the Navy, may collect Prospective

8 Recruit Information with respect to prospective recruits for the armed forces who are at least 17

9 years of age. In the case of any such prospective recruit, such information may only be

10 collected—

11 “(A) with the express consent of the prospective recruit; or

12 “(B) in the case of a prospective recruit who is 17 years of age, with parental
13 consent.

14 “(2) The process for obtaining consent under paragraph (1) shall be carried out so that—

15 “(A) the person whose consent is requested is provided information before such
16 consent is obtained that outlines the purpose of the collection, the authority for the
17 collection, and routine uses to be made of the collection consistent with section 552a of
18 title 5; and

19 “(B) the person has the opportunity to establish consent preferences.

20 “(3) Consent may be granted, and Prospective Recruit Information may be collected,

21 under paragraph (1) through a military recruiting digital website or platform. The collection of

22 Prospective Recruit Information may be accomplished by the use of cookies or similar

23 technology.

1 “(4)(A) Prospective Recruit Information pertaining to any person may not be maintained
2 for more than 3 years after the date the information pertaining to such person is first collected
3 under this subsection.

4 “(B) The maintenance of information collected under this subsection is subject to
5 subchapter II of chapter 35 of title 44 and section 552a of title 5.

6 “(5) In this subsection, the term ‘Prospective Recruit Information’ means, with respect to
7 a prospective recruit for the armed forces, the following:

8 “(A) Name, mailing address, physical address, email address, mobile/cell phone
9 number, and home phone number (if any).

10 “(B) Age, sex, household composition, education level, birth date, marital status,
11 and military/veteran status.

12 “(C) Information about browser types, connected devices, cookie data, and usage
13 metadata.

14 “(D) Unique identifiers such as IP addresses and social media handles.

15 “(E) Fitness activity data.

16 “(F) Such other data elements as determined necessary for effective recruiting, as
17 provided in regulations prescribed by the Secretary of Defense.”.

[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 grant the Secretaries of the military departments (or the Secretary of Homeland Security with respect to the Coast Guard) the statutory authority to define, collect, and securely retain Prospective Recruit Information (PRI), when expressly consented to by a prospective recruit who is 17 years of age with parental consent or 18 years and older, via military recruiting digital platforms. PRI includes the following data elements:

- (1) Name, mailing address, physical address, email address, mobile/cell phone number, and home phone (if any).

- (2) Age, sex, household composition, education level, birth date, marital status, and military/veteran status.
- (3) Information about browser types, connected devices, cookie data, and usage metadata.
- (4) Unique identifiers such as IP addresses and social media handles.
- (5) Fitness activity data.
- (6) Such other data elements as determined necessary for effective recruiting, as provided for in regulations prescribed by the Secretary of Defense.

Under section 503 of title 10, United States Code, the military departments are not authorized to collect Prospective Recruit Information (PRI) other than directory information, as statutorily defined (20 U.S.C. 1232g). Despite the approval for a pilot program granted under section 531(b) of the NDAA for FY 2023, the authorities, as written, do not provide the military departments the legal authorities to collect, analyze, or retain behavioral data such as a user's broader online activity, websites they visit, time spent on those sites, and their engagement on social media platforms. This legislative gap has created operational limitations in an environment where private sector marketing practices have dramatically advanced. The military departments are currently limited in capturing and retaining online demographic and behavioral data resulting in suboptimal marketing expenditures, which does not reflect modern user behaviors or preferences.

The Department will comply with all applicable laws and regulations pertaining to the maintenance, collection, use and dissemination of data in implementing this authority. To do so, the military departments will need to employ a consent management tool consistent with industry standards and federal law. Visitors shall be presented with a pop-up outlining the purpose, authority, routine uses, and mandatory nature of the collection consistent with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) and to set their consent preferences, which are recorded internally. Individuals must opt in to have their information collected in accordance with the legislative proposal. Individuals who do not opt in will not have their information collected. Internal systems will ensure compliance with these preferences when data is collected and advertisements are served. Preferences can be updated at any time through the "cookie settings" option on the homepages, allowing individuals to change their opt in selection at any time in addition to a validation of the prospective recruit's age. Data within the internal systems may be deleted once age information is obtained and if applicable legal requirements or parental consent has not been met.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year 2027 President's Budget.

Changes to Existing Law: This proposal would amend section 503 of title 10, United States Code, as amended by section 531 of the National Defense Authorization Act for Fiscal Year 2026, as follows:

TITLE 10, UNITED STATES CODE

* * * * *

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

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

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

(3) PII regarding a prospective recruit collected or compiled under this subsection shall be kept confidential, and a person who has had access to such PII may not disclose the information except for purposes of this section or other purpose authorized by law.

(4) In the course of conducting a recruiting campaign, the Secretary concerned shall—

(A) notify a prospective recruit of data collection policies of the armed force concerned; and

(B) permit the prospective recruit to elect not to participate in such data collection

(5) In this subsection, the term “PII” means personally identifiable information.

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

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

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

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

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

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

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

(i) shall provide to a military recruiter, for the purpose of recruiting students who are at least 17 years old, access—

(I) to the campus of a secondary school under the jurisdiction of such local educational agency; and

(II) that is equivalent to access provided to such campus to a prospective employer of such students, an institution of higher education, or another recruiter;

(ii) shall, upon the request of a military recruiter for the purpose described in clause (i), provide access to at least one in-person recruitment event (such as a career fair) per academic year; and

(iii) shall, upon the request of a military recruiter for the purpose described in clause (i), provide, not later than 30 days after receiving such request, access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone and mobile phone listings, notwithstanding subsection (a)(5) of section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

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

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

(3) If, after a meeting under paragraph (2) with representatives of a local educational agency that has denied a request for recruiting access or (if the educational agency declines a request for the meeting) after the end of such 120-day period, the Secretary of Defense determines that the agency continues to deny recruiting access, the Secretary shall transmit to the chief executive of the State in which the agency is located a notification of the denial of recruiting access and a request for assistance in obtaining that access. The notification shall be transmitted within 60 days after date of the determination. The Secretary shall provide to the Secretary of Education a copy of such notification and any other communication between the Secretary and that chief executive with respect to such access.

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

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

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

(i) the specified congressional committees;

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

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

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

(6) In this subsection:

(A) The term “local educational agency” means—

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

(ii) a private secondary school.

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

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

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

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

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

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

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

(d) COLLECTION OF PROSPECTIVE RECRUIT INFORMATION; DIGITAL COLLECTION.—(1) The Secretary of a military department, or the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may collect Prospective Recruit Information with respect to prospective recruits for the armed forces who are at least 17 years of age. In the case of any such prospective recruit, such information may only be collected—

(A) with the express consent of the prospective recruit; or

(B) in the case of a prospective recruit who is 17 years of age, with parental consent.

(2) The process for obtaining consent under paragraph (1) shall be carried out so that—

(A) the person whose consent is requested is provided information before such consent is obtained that outlines the purpose of the collection, the authority for the collection, and routine uses to be made of the collection consistent with section 552a of title 5; and

(B) the person has the opportunity to establish consent preferences.

(3) Consent may be granted, and Prospective Recruit Information may be collected, under paragraph (1) through a military recruiting digital website or platform. The collection of Prospective Recruit Information may be accomplished by the use of cookies or similar technology.

(4)(A) Prospective Recruit Information pertaining to any person may not be maintained for more than 3 years after the date the information pertaining to such person is first collected under this subsection.

(B) The maintenance of information collected under this subsection is subject to subchapter II of chapter 35 of title 44 and section 552a of title 5.

(5) In this subsection, the term “Prospective Recruit Information” means, with respect to a prospective recruit for the armed forces, the following:

(A) Name, mailing address, physical address, email address, mobile/cell phone number, and home phone number (if any).

(B) Age, sex, household composition, education level, birth date, marital status, and military/veteran status.

(C) Information about browser types, connected devices, cookie data, and usage metadata.

(D) Unique identifiers such as IP addresses and social media handles.

(E) Fitness activity data.

(F) Such other data elements as determined necessary for effective recruiting, as provided in regulations prescribed by the Secretary of Defense.

as a certifying official contributes to administrative burden, which, coupled with process delays, can result in financial burden on the catastrophically injured or ill Service member.

The need for a physician certification can result in time away from the clinic for the physician, which can impact access to care, especially in regions where there may be a shortage of physicians. Additionally, clinical requirements are potentially prioritized over administrative requirements, resulting in delays for a physician to review and certify in support of SCAADL benefits. Section 439 does not allow for SCAADL benefits to be awarded retroactively; consequently, any delays to the process delays the receipt of SCAADL benefits for catastrophically injured or ill Service members. This delay can create additional financial burden for Service members whose assistance with personal functions, required in everyday living, is provided by a spouse who quit their job to be a full-time care giver for their Service member.

The proposed change does not preclude physicians from certifying SCAADL requests. Rather, the proposal expands the certifying authority to additional licensed medical providers determined by the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) to be qualified to issue the certification necessary under the statute. Additionally, current Department of Defense SCAADL policy requires the development and implementation of “standardized training programs, guidelines, and curricula for military department personnel who administer the SCAADL processes,” which would further augment the ability of licensed medical providers to certify SCAADL requests.

Expanding certifying officials to include licensed medical providers would reduce the administrative burden on physicians, help redirect physician resources back into the clinic, mitigate risks with SCAADL process delays, improve timeliness of certification, and mitigate financial burden on Service members due to process delays.

This change would support healthcare organizations and the military departments for the successful and timely completion of SCAADL requests.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year 2027 President’s Budget.

Changes to Existing Law: This proposal would amend section 439 of title 37, United States Code, as follows:

§439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living

(a) MONTHLY COMPENSATION AUTHORIZED.—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

(b) COVERED MEMBERS. —A member eligible for monthly special compensation authorized by subsection (a) is a member who—

(1) has a catastrophic injury or illness that was incurred or aggravated in the line of duty;

(2) has been certified by a licensed ~~physician~~ medical provider to be in need of assistance from another person to perform the personal functions required in everyday living;

(3) in the absence of the provision of such assistance, would require hospitalization, nursing home care, or other residential institutional care; and

(4) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.”

(c) AMOUNT.—The amount of monthly special compensation payable to a member under subsection (a) shall be the amount as follows:

(1) The monthly amount of aid and attendance payable under section 1114(r)(2) of title 38.

(2) Upon the establishment by the Secretary of Veterans Affairs pursuant to subparagraph (C) of section 1720G(a)(3) of title 38 of the schedule of monthly personal caregiver stipends under the Department of Veterans Affairs program of comprehensive assistance for family caregivers under subparagraph (A)(ii)(V) of such section, the monthly personal caregiver stipend payable with respect to similarly circumstanced veterans under such schedule, rather than the amount specified in paragraph (1).

(d) DURATION.—The eligibility of a member to receive special monthly compensation under subsection (a) expires on the earlier of the following:

(1) The last day of the month during which a 90-day period ends that begins on the date of the separation or retirement of the member.

(2) The last day of the month during which the member dies.

(3) The last day of the month during which the member is determined to be no longer afflicted with the catastrophic injury or illness referred to in subsection (b)(1).

(4) The last day of the month preceding the month during which the member begins receiving compensation under section 1114(r)(2) of title 38.

(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

(f) BENEFIT INFORMATION.—

(1) The Secretary of Defense, in collaboration with the Secretary of Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

(2) The Secretary of Defense shall ensure that a member eligible to receive special monthly compensation under this section is aware that the member’s eligibility for such compensation will expire pursuant to subsection (d)(1) after the end of the 90-day period that begins on the date of the separation or retirement of the member even

though the member has not begun to receive compensation under section 1114(r)(2) of title 38 before the end of such period.

(g) CATASTROPHIC INJURY OR ILLNESS DEFINED.—In this section, the term “catastrophic injury or illness” means a permanent, severely disabling injury, disorder, or illness that the Secretary concerned determines compromises the ability of the afflicted person to carry out the activities of daily living to such a degree that the person requires—

- (1) personal or mechanical assistance to leave home or bed; or
- (2) constant supervision to avoid physical harm to self or others.

(h) REGULATIONS.— The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.

(i) DETERMINATION.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall determine which licensed medical providers are qualified to provide the certification required by subsection (b)(2).

1 **SEC. ____ . ENHANCED PERSONNEL MANAGEMENT AUTHORITY FOR**
2 **COMMANDER OF UNITED STATES CYBER COMMAND TO**
3 **ATTRACT EXPERTS IN SCIENCE AND ENGINEERING.**

4 Section 4092 of title 10, United States Code, is amended—

5 (1) in subsection (a)(9)—

6 (A) by striking “within the headquarters of” and inserting “for”;

7 (B) by inserting “within” after “Command and”; and

8 (C) by inserting “and to enhance the administration and management of
9 the Command” before the period at the end; and

10 (2) in subsection (b)—

11 (A) in paragraph (1)(I), by striking “computer scientists” and all that
12 follows through the semicolon and inserting “individuals to a total of not more
13 than 30 positions in the Command, of which—

14 “(i) not more than 15 such positions may be allocated in the Cyber
15 Mission Force; and

16 “(ii) not more than 5 such positions may be positions of
17 administration or management of the Command;”; and

18 (B) in paragraph (2)(A), by inserting “(I),” before “and (K)”; and

19 (3) in subsection (c)(2), by inserting “the United States Cyber Command,” before
20 “or the National Geospatial-Intelligence Agency”.

**[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 hiring and pay authorities under section 4092 of title 10, United States Code, (Section 4092) for United States Cyber Command (USCYBERCOM) for exceptionally qualified science and engineering personnel at the headquarters and in the Cyber Mission Force and expands the authority to include administration and management positions.

Current law limits the number of personnel hireable under this authority. The proposal language would increase the number of positions that are authorized, as well as increase the maximum salary for those positions to be competitive with private industry.

Section 4092 limits the number of science and engineering experts that USCYBERCOM is authorized to hire to 10 positions. The proposed language increases the number authorized to 30 positions in the Command, of which up to 15 positions may be allocated to the Cyber Mission Force and 5 positions may be positions for administration and management.

Finally, Section 4092 does not include USCYBERCOM in the designated agencies authorized for basic pay and annual compensation rates at elevated levels. The proposed language includes USCYBERCOM as a designated agency authorized for such elevated pay levels.

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 IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
CIVPAY	12	12	12	12	12	60			
Total									

Resubmission Information: This proposal was submitted for FY2026 as LP 041. That proposal stalled with the change in administration and did not rise to the threshold for emergency action.

Changes to Existing Law: This proposal would amend section 4092 of title 10, United States Code as follows:

§ 4092. Personnel management authority to attract experts in science, engineering, and certain other disciplines

(a) PROGRAMS AUTHORIZED—

(1) LABORATORIES OF THE MILITARY DEPARTMENTS.—The Secretary of Defense may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for such laboratories of the military departments as the Secretary shall

designate for purposes of the program for research and development projects of such laboratories.

(2) DARPA—The Director of the Defense Advanced Research Projects Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(3) DOTE—The Director of the Office of Operational Test and Evaluation may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support operational test and evaluation missions of the Office.

(4) STRATEGIC CAPABILITIES OFFICE—The Director of the Strategic Capabilities Office may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Office.

(5) DIU—The Director of the Defense Innovation Unit may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for the Unit.

(6) JOINT ARTIFICIAL INTELLIGENCE.—The official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232) may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering to support the activities of such official under section 238 of such Act. The authority to carry out the program under this paragraph shall terminate on December 31, 2024.

(7) NGA—The Director of the National Geospatial-Intelligence Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency.

(8) SDA—The Director of the Space Development Agency may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in science or engineering for research and development projects and to enhance the administration and management of the Agency. The authority to carry out the program under this paragraph shall terminate on December 31, 2030.

(9) UNITED STATES CYBER COMMAND.—The Commander of United States Cyber Command may carry out a program of personnel management authority provided in subsection (b) in order to facilitate the recruitment of eminent experts in computer science, data science, engineering, mathematics, and computer network exploitation within the headquarters of for United States Cyber Command and within the Cyber National Mission Force and to enhance the administration and management of the Command.

(10) OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING—The Under Secretary of Defense for Research and Engineering may carry out a program of personnel management authority provided in subsection (b) in order to

facilitate recruitment of eminent experts in science or engineering for the Office of the Under Secretary.

(11) OFFICE OF STRATEGIC CAPITAL.—The Director of the Office of Strategic Capital may carry out a program of personnel management authority provided in subsection (b) in order to facilitate recruitment of eminent experts in finance and investment for the Office

(b) PERSONNEL MANAGEMENT AUTHORITY—Under a program under subsection (a), the official responsible for administration of the program may—

(1) without regard to any provision of title 5 governing the appointment of employees in the civil service—

(A) in the case of the laboratories of the military departments designated pursuant to subsection (a)(1), appoint scientists and engineers to a total of not more than 40 scientific and engineering positions in such laboratories;

(B) in the case of the Defense Advanced Research Projects Agency, appoint individuals to a total of not more than 140 positions in the Agency;

(C) in the case of the Office of Operational Test and Evaluation, appoint scientists and engineers to a total of not more than 10 scientific and engineering positions in the Office;

(D) in the case of the Strategic Capabilities Office, appoint scientists and engineers to a total of not more than 20 scientific and engineering positions in the Office, of which not more than 5 such positions may be positions of administration or management of the Office;

(E) in the case of the Defense Innovation Unit, appoint scientists and engineers to a total of not more than 35 scientific and engineering positions in the Unit, of which not more than 5 such positions may be positions of administration or management of the Office;

(F) in the case of the office of the official designated under section 238(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), appoint scientists and engineers to a total of not more than 5 scientific and engineering positions in support of the activities of such official under section 238 of such Act;

(G) in the case of the National Geospatial-Intelligence Agency, appoint individuals to a total of not more than 7 positions in the Agency, of which not more than 2 such positions may be positions of administration or management in the Agency;

(H) in the case of the Space Development Agency, appoint individuals to a total of not more than 25 positions in the Agency, of which not more than 5 such positions may be positions of administration or management of the Agency;

(I) in the case of United States Cyber Command, appoint ~~computer scientists, data scientists, engineers, mathematicians, and computer network exploitation specialists to a total of not more than 10 scientific and engineering positions in the Command~~ individuals to a total of not more than 30 positions in the Command, of which—

(i) not more than 15 such positions may be allocated in the Cyber Mission Force; and

(ii) not more than 5 such positions may be positions of administration or management of the Command;

(J) in the case of the Office of the Under Secretary of Defense for Research and Engineering, appoint scientists and engineers to a total of not more than 10 scientific and engineering positions in the Office; and

(K) in the case of the Office of Strategic Capital, appoint individuals to a total of not more than 30 positions in the Office;

(2) notwithstanding any provision of title 5 governing the rates of pay or classification of employees in the executive branch, prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1)—

(A) in the case of employees appointed pursuant to subparagraphs (B), (D), (E), (H), (I), and (K) of paragraph (1), at a rate to be determined by the head of the organization concerned up to 150 percent of the total annual compensation payable to the Vice President under section 104 of title 3;

(B) in the case of employees appointed pursuant to paragraph (1)(G), to any of 2 positions of administration or management designated by the Director of the National Geospatial-Intelligence Agency for purposes of this subparagraph; and

(C) in the case of any other employee appointed pursuant to paragraph (1), at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5;

(3) pay any employee appointed under paragraph (1), other than an employee appointed to a position designated as described in paragraph (2)(A), payments in addition to basic pay within the limit applicable to the employee under subsection (d); and

(4) during any fiscal year—

(A) pay up to 15 individuals newly appointed pursuant to paragraph (1)(B) the travel, transportation, and relocation expenses and services described under sections 5724, 5724a, and 5724c of title 5; and

(B) pay up to 15 individuals previously appointed pursuant to such paragraph, upon separation, the travel, transportation, and relocation expenses and services described under such sections (as applicable).

(c) LIMITATION ON TERM OF APPOINTMENT—

(1) IN GENERAL—Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed four years.

(2) EXTENSION.—The official responsible for the administration of a program under subsection (a) may, in the case of a particular employee under the program, extend the period to which service is limited under paragraph (1) by up to two years if the official determines that such action is necessary to promote the efficiency of a laboratory of a military department, the Defense Advanced Research Projects Agency, the Office of Operational Test and Evaluation, the Strategic Capabilities Office, the Defense Innovation Unit, the activities under section 238 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115–232), the Space Development Agency, the United States Cyber Command, or the National Geospatial-Intelligence Agency, as applicable.

(d) MAXIMUM AMOUNT OF ADDITIONAL PAYMENTS PAYABLE.—Notwithstanding any other provision of this section or section 5307 of title 5, no additional payments may be paid to an employee under subsection (b)(3) in any calendar year if, or to the extent that, the employee's total annual compensation in such calendar year will exceed the maximum amount of total annual compensation payable at the salary set in accordance with section 104 of title 3.

1 **SEC. ____ . ESTABLISHMENT OF DEFENSE HEALTH PROGRAM RECURRING**
2 **EXPENSES TRANSFORMATIONAL FUND.**

3 (a) ESTABLISHMENT OF FUND.—Section 1100 of title 10, United States Code, is
4 amended—

5 (1) in the heading of subsection (a), by inserting “DEFENSE HEALTH PROGRAM”
6 before “ACCOUNT”;

7 (2) by redesignating subsection (b) as paragraph (3) of subsection (a);

8 (3) in such paragraph (3), as so redesignated, by striking the heading; and

9 (4) by inserting before subsection (c) the following new subsection (b):

10 “(b) ESTABLISHMENT OF DEFENSE HEALTH PROGRAM RECURRING EXPENSES

11 TRANSFORMATIONAL FUND.—(1) There is hereby established in the Treasury of the United
12 States a fund to be known as the ‘Defense Health Program Recurring Expenses Transformational
13 Fund’ (in the subsection referred to as the ‘Fund’).

14 “(2) Unobligated balances of expired discretionary funds appropriated to the Defense
15 Health Program Account, the Private Sector Care Program account, or the Combat and
16 Operational Medicine Program account may be transferred into the Fund at the end of the fifth
17 fiscal year for which such funds are available for the purposes for which appropriated.

18 “(3) Amounts deposited into the Fund shall remain available until expended and, in
19 addition to such other funds as may be available for such purposes, may be used for the
20 following:

21 “(A) Facilities infrastructure improvements, including nonrecurring maintenance,
22 at Department of Defense military medical treatment facilities.

1 “(B) Information technology systems improvements and sustainment of the
2 military health system.

3 “(4) Use of the Fund is subject to approval by the Office of Management and Budget.

4 “(5) Prior to obligation of any amounts in the Fund, the Secretary of Defense shall submit
5 to the congressional defense committees notice in writing of the intent to make such obligation,
6 and the proposed obligation may then be made only after the end of the 30-day period beginning
7 on the date of the submission.”.

8 (b) HEADING AMENDMENT.—The heading of such section is amended to read as follows:

9 **“§1100. Defense Health Program Account and Defense Health Program Recurring
10 Expenses Transformational Fund”.**

11 (c) EFFECTIVE DATE.—Subsection (b) of section 1100 of title 10, United States Code, as
12 added by subsection (a), shall apply with respect to funds appropriated for fiscal year 2023 and
13 any fiscal year thereafter.

Section-by-Section Analysis

This proposal would establish the Defense Health Program (DHP) Recurring Expenses Transformational Fund (TF) to mirror the Department of Veterans Affairs (VA) Recurring Expenses Transformational Fund (38 U.S.C. 313 note), which was established in 2016. The DHP TF would be funded by transferring unobligated account balances in the Defense Health Program Account, the Private Sector Care Program account, or the Combat and Operational Medicine Program account that otherwise would have been canceled and transferred to the Treasury (five years after the appropriations expire) and move those funds into the DHP TF. Monies in the DHP TF would remain available until expended and may only be used for the following purposes:

- For military medical treatment facility infrastructure improvements, including nonrecurring maintenance;
- For military health system information technology (IT) systems improvements and sustainment; and
-

Use of DHP TF monies would be subject to approval by the Office of Management and Budget and would be available for obligation only after written notification is provided to the

House and Senate Appropriations Committees. The Department of Defense would be able to proceed with the obligation after 30 days have elapsed following submission of the written notices.

The DHP TF would provide the Department with needed flexibility to fund the specific needs noted above, and would be patterned after the same authority currently available to the VA. Healthcare costs are inherently changeable and unpredictable, as illustrated by the COVID-19 pandemic and the emergence of new variants. While current carryover authority provides a modest level of flexibility for unanticipated and emerging year-of-execution challenges, the DHP TF would target structural improvements and investments. Annually, the amounts of unobligated DHP account balances that cancel and are transferred to the Treasury averages to approximately \$450,000,000. The DHP TF would substantially alleviate budgetary challenges driven largely by ongoing cuts to the MHS IT portfolio and the volatility of Private Sector Care.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would amend section 1100 of title 10, United States Code, as follows:

TITLE 10, UNITED STATES CODE

§ 1100. Defense Health Program Account and Defense Health Program Recurring Expenses Transformational Account

(a) ESTABLISHMENT OF DEFENSE HEALTH PROGRAM ACCOUNT.—(1) There is hereby established in the Department of Defense an account to be known as the “Defense Health Program Account”. All sums appropriated to carry out the functions of the Secretary of Defense with respect to medical and health care programs of the Department of Defense shall be appropriated to the account.

(2) Of the total amount appropriated for a fiscal year for programs and activities carried out under this chapter, the amount equal to three percent of such total amount shall remain available for obligation until the end of the following fiscal year.

~~(b) (3) OBLIGATION OF AMOUNTS FROM ACCOUNT BY SECRETARY OF DEFENSE.~~—The Secretary of Defense may obligate or expend funds from the account for purposes of conducting programs and activities under this chapter, including contracts entered into under section 1079, 1086, 1092, or 1097 of this title, to the extent amounts are available in the account.

(b) ESTABLISHMENT OF DEFENSE HEALTH PROGRAM RECURRING EXPENSES TRANSFORMATIONAL FUND.—(1) There is hereby established in the Treasury of the United States a fund to be known as the “Defense Health Program Recurring Expenses Transformational Fund” (in the subsection referred to as the “Fund”).

(2) Unobligated balances of expired discretionary funds appropriated to the Defense Health Program Account, the Private Sector Care Program account, or the Combat and Operational Medicine Program account may be transferred into the Fund at the end of the fifth fiscal year for which such funds are available for the purposes for which appropriated.

(3) Amounts deposited into the Fund shall remain available until expended, and in addition to such other funds as may be available for such purposes, may be used for the following:

(A) Facilities infrastructure improvements, including nonrecurring maintenance, at Department of Defense military medical treatment facilities.

(B) Information technology systems improvements and sustainment of the military health system.

(4) Use of the Fund is subject to approval by the Office of Management and Budget.

(5) Prior to obligation of any amounts in the Fund, the Secretary of Defense shall submit to the congressional defense committees written notice of the intent to make such obligation, and the proposed obligation may then be made only after the end of the 30-day period beginning on the date of the submission.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

1 **SEC. ____ . ESTABLISHMENT OF WORKING GROUPS WITHIN THE MILITARY**
2 **JUSTICE REVIEW PANEL.**

3 (a) WORKING GROUPS.—Section 946 of title 10, United States Code (article 146 of the
4 Uniform Code of Military Justice), is amended—

5 (1) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i),
6 (j), and (k), respectively; and

7 (2) by inserting after subsection (e) the following new subsection (f):

8 “(f) WORKING GROUPS.—

9 “(1) PERMANENT WORKING GROUP TO REVIEW ALLEGED SEX-RELATED OFFENSES.—

10 The Secretary of Defense shall establish and maintain a permanent working group of the
11 Panel to—

12 “(A) review on an ongoing basis cases involving alleged sex-related
13 offenses involving members of the armed forces; and

14 “(B) provide advice on the investigation, prosecution, defense, victim
15 representation, or adjudication with respect to courts-martial of such offenses.

16 “(2) OTHER WORKING GROUPS.—The Secretary of Defense may establish other
17 working groups of the Panel for any reason and period of time the Secretary considers
18 necessary.

19 “(3) MEMBERS.—The Secretary of Defense may appoint or assign as a member of
20 a working group under paragraph (1) or (2) any United States citizen with appropriate
21 experience, whether or not a member of the Panel. The Secretary may determine the
22 number of members appointed or assigned to a working group and the term of a
23 member’s appointment or assignment.

1 “(4) HEARINGS.—Any hearing of a working group shall be conducted in the same
2 manner as a hearing of the Panel.

3 “(5) DURATION OF PERMANENT WORKING GROUP.—

4 “(A) Except as provided in subparagraph (B), the permanent working
5 group shall terminate on the date that is five years after the date on which the
6 permanent working group is established.

7 “(B) The Secretary of Defense may continue the permanent working group
8 beyond the termination date under subparagraph (A) if the Secretary determines
9 that continuation of the permanent working group after that date is advisable and
10 appropriate.”.

11 (b) SUBMISSION OF PANEL REPORTS.—Subsection (g) of such section, as redesignated by
12 subsection (a)(1), is amended—

13 (1) by striking paragraphs (1) and (2);

14 (2) by redesignating paragraphs (3), (4), and (5) as paragraphs (1), (2), and (3),
15 respectively; and

16 (3) in paragraph (3), as so redesignated, by inserting “the Secretary of Defense
17 and” before “the Committees on”.

18 (c) MEMBERS TO SERVE WITHOUT PAY.—Paragraph (1) of subsection (j) of such section,
19 as redesignated by subsection (a)(1), is amended—

20 (1) by inserting “and members of any working group of the Panel established
21 under subsection (f)” after “of the Panel”; and

22 (2) by inserting “by reason of their service on the Panel or working group” after
23 “without pay”.

1 (d) ADMINISTRATIVE AND OTHER MATTERS.—Paragraph (2) of subsection (j) of such
2 section, as redesignated by subsection (a)(1), and subsection (k) of such section, as so
3 redesignated, are amended by inserting “, including any working group of the Panel” after “the
4 Panel”.

5 (e) REPEAL OF THE DEFENSE ADVISORY COMMITTEE ON INVESTIGATION, PROSECUTION,
6 AND DEFENSE OF SEXUAL ASSAULT IN THE ARMED FORCES.—Section 546 of the Carl Levin and
7 Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public
8 Law 113–291; 10 U.S.C. 1561 note) is repealed.

Section-by-Section Analysis

This proposal would amend section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice (UCMJ)), to add a new subsection requiring the Secretary of Defense to establish a permanent working group within the Military Justice Review Panel (MJRP) to provide advice on the investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial of alleged sex-related offenses involving members of the Armed Forces. It would require the advice to be based on the working group’s review, on an ongoing basis, of cases involving alleged sex-related offenses. This proposal would authorize the Secretary of Defense to establish such other working groups within the MJRP as the Secretary deems necessary, and would provide certain requirements for the membership, terms, and hearings of all working groups.

This proposal would also amend article 146, UCMJ to require that reports from the MJRP be transmitted to the Secretary of Defense as well as to the Committees on Armed Services of the Senate and House of Representatives (SASC and HASC).

The Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD) was established in 2016 as a non-discretionary Federal advisory committee, pursuant to section 546 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act (NDAA) for Fiscal Year 2015 (Public Law 113-291). The DAC-IPAD provides advice and recommendations on the investigation, prosecution, and defense of allegations of rape, sexual assault, and other sexual misconduct involving members of the Armed Forces to the Secretary of Defense and to the SASC and HASC. Pursuant to section 546(c)(2) of the Carl Levin and Howard P. “Buck” McKeon NDAA for FY 2015 (Public Law 113-291), the advice and recommendations provided by the DAC-IPAD are based on the Committee’s review, on an ongoing basis, of cases involving allegations of sexual misconduct. While the statutory authority for the DAC-IPAD was originally scheduled to terminate five years after the establishment of the Committee, it has twice been extended by Congress. Most recently, section 569D of the Servicemember Quality of Life Improvement and

NDAA for FY 2025 (Public Law 118-159) extended the statutory authority for the DAC-IPAD until February 28, 2031.

Section 5521 of the NDAA for FY 2017 (Public Law 114-328) amended article 146, UCMJ to create the MJRP, a panel composed of experts in military law and civilian criminal law, to conduct periodic reviews of the military justice system, including comprehensive reviews every eight years, interim reviews every four years, and additional reports on matters referred to the Panel by the Secretary of Defense or Congress. In accordance with article 146(f)(5), UCMJ these reports are submitted to the SASC and HASC.

This proposal would amend article 146, UCMJ to add a new subsection requiring the Secretary of Defense to establish a permanent working group within the MJRP to perform the functions of the DAC-IPAD, including providing advice on the investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial of alleged sex-related offenses involving members of the Armed Forces. The establishment of this permanent working group within the MJRP, in conjunction with the elimination of a separate Committee, would create efficiencies within the Department and streamline the provision of advice to the Secretary of Defense and to the SASC and HASC regarding the operation of the military justice system.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would amend section 946 of title 10, United States Code (article 146 of the Uniform Code of Military Justice) and repeal section 546 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 10 U.S.C. 1561 note) as follows:

TITLE 10, UNITED STATES CODE

§946. Art. 146. Military Justice Review Panel

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a panel to conduct independent periodic reviews and assessments of the operation of this chapter. The panel shall be known as the “Military Justice Review Panel” (in this section referred to as the “Panel”).

(b) MEMBERS.—***

(c) QUALIFICATIONS OF MEMBERS.—***

(d) CHAIR.—The Secretary of Defense shall select the chair of the Panel from among the members.

(e) TERM; VACANCIES.—***

(f) WORKING GROUPS.—

(1) PERMANENT WORKING GROUP TO REVIEW ALLEGED SEX-RELATED OFFENSES.—
The Secretary of Defense shall establish and maintain a permanent working group of the Panel to—

(A) review on an ongoing basis cases involving alleged sex-related offenses involving members of the armed forces; and

(B) provide advice on the investigation, prosecution, defense, victim representation, or adjudication with respect to courts-martial of such offenses.

(2) OTHER WORKING GROUPS.—The Secretary of Defense may establish other working groups of the Panel for any reason and period of time the Secretary considers necessary.

(3) MEMBERS.—The Secretary of Defense may appoint or assign as a member to a working group under paragraph (1) or (2) any United States citizen with appropriate experience, whether or not a member of the Panel. The Secretary may determine the number of members appointed or assigned to a working group and the term of a member's appointment or assignment.

(4) HEARINGS.—Any hearing of a working group shall be conducted in the same manner as a hearing of the Panel.

(5) DURATION OF PERMANENT WORKING GROUP.—

(A) Except as provided in subparagraph (B), the permanent working group shall terminate on the date that is five years after the date on which the permanent working group is established.

(B) The Secretary of Defense may continue the permanent working group beyond the termination date under subparagraph (A) if the Secretary determines that continuation of the permanent working group after that date is advisable and appropriate.

(g) REVIEWS AND REPORTS.—

~~(1) INITIAL REVIEW OF RECENT AMENDMENTS TO UCMJ.—~~ During fiscal year 2021, the Panel shall conduct an initial review and assessment of the implementation of the amendments made to this chapter during the preceding five years. In conducting the initial review and assessment, the Panel may review such other aspects of the operation of this chapter as the Panel considers appropriate.

~~(2) SENTENCING DATA COLLECTION AND REPORT.—~~ During fiscal year 2020, the Panel shall gather and analyze sentencing data collected from each of the armed forces from general and special courts martial applying offense based sentencing under section 856 of this title (article 56). The sentencing data shall include the number of accused who request member sentencing and the number who request sentencing by military judge alone, the offenses which the accused were convicted of, and the resulting sentence for each offense in each case. The Judge Advocates General and the Staff Judge Advocate to the Commandant of the Marine Corps shall provide the sentencing data in the format and for the duration established by the chair of the Panel.

~~(3)~~ (1) PERIODIC COMPREHENSIVE REVIEWS.— During fiscal year 2024 and every eight years thereafter, the Panel shall conduct a comprehensive review and assessment of the operation of this chapter.

~~(4)~~ (2) PERIODIC INTERIM REVIEWS.— During fiscal year 2028 and every eight years thereafter, the Panel shall conduct an interim review and assessment of such other

aspects of the operation of this chapter as the Panel considers appropriate. In addition, at the request of the Secretary of Defense, the Panel may, at any time, review and assess other specific matters relating to the operation of this chapter.

~~(5)~~ (3) REPORTS.—With respect to each review and assessment under this subsection, the Panel shall submit a report to the Secretary of Defense and to the Committees on Armed Services of the Senate and House of Representatives. Each report—

(A) shall set forth the results of the review and assessment concerned, including the findings and recommendations of the Panel; and

(B) shall be submitted not later than December 31 of the calendar year in which the review and assessment is concluded.

~~(hg)~~ HEARINGS.—The Panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Panel considers appropriate to carry out its duties under this section.

~~(ih)~~ INFORMATION FROM FEDERAL AGENCIES.—***

~~(ji)~~ ADMINISTRATIVE MATTERS.—

(1) MEMBERS TO SERVE WITHOUT PAY.—Members of the Panel and members of any working group of the Panel established under subsection (f) shall serve without pay by reason of their service on the Panel or working group, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Panel or working group.

(2) STAFFING AND RESOURCES.—The Secretary of Defense shall provide staffing and resources to support the Panel, including any working group of the Panel.

~~(kj)~~ CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall not apply to the Panel, including any working group of the Panel.

**Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act
for Fiscal Year 2015
(Public Law 113–291; 10 U.S.C. 1561 note)**

**~~SEC. 546. DEFENSE ADVISORY COMMITTEE ON INVESTIGATION,
PROSECUTION, AND DEFENSE OF SEXUAL ASSAULT IN THE
ARMED FORCES.~~**

~~(a) ESTABLISHMENT REQUIRED.~~—

~~(1) IN GENERAL.~~—The Secretary of Defense shall establish and maintain within the Department of Defense an advisory committee to be known as the “Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces” (in this section referred to as the “Advisory Committee”).

~~(2) DEADLINE FOR ESTABLISHMENT.— The Secretary shall establish the Advisory Committee not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2016 [Nov. 25, 2015].~~

~~(b) MEMBERSHIP.— The Advisory Committee shall consist of not more than 20 members, to be appointed by the Secretary of Defense, who have experience with the investigation, prosecution, and defense of allegations of sexual assault offenses. Members of the Advisory Committee may include Federal and State prosecutors, judges, law professors, and private attorneys. Members of the Armed Forces serving on active duty may not serve as a member of the Advisory Committee.~~

~~(c) DUTIES.—~~

~~(1) IN GENERAL.— The Advisory Committee shall advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces.~~

~~(2) BASIS FOR PROVISION OF ADVICE.— For purposes of providing advice to the Secretary pursuant to this subsection, the Advisory Committee shall review, on an ongoing basis, cases involving allegations of sexual misconduct described in paragraph (1).~~

~~(d) AUTHORITIES.—~~

~~(1) HEARINGS.— The Advisory Committee may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the committee considers appropriate to carry out its duties under this section.~~

~~(2) INFORMATION FROM FEDERAL AGENCIES.— Upon request by the chair of the Advisory Committee, a department or agency of the Federal Government shall provide information that the Advisory Committee considers necessary to carry out its duties under this section. In carrying out this paragraph, the department or agency shall take steps to prevent the unauthorized disclosure of personally identifiable information.~~

~~(e) ANNUAL REPORTS.— Not later than March 30 each year, the Advisory Committee shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report describing the results of the activities of the Advisory Committee pursuant to this section during the preceding year.~~

~~(f) TERMINATION.—~~

~~(1) IN GENERAL.— Except as provided in paragraph (2), the Advisory Committee shall terminate on the date that is 15 years after the date of the establishment of the Advisory Committee pursuant to subsection (a).~~

~~(2) CONTINUATION.— The Secretary of Defense may continue the Advisory Committee after the termination date applicable under paragraph (1) if the Secretary determines that continuation of the Advisory Committee after that date is advisable and appropriate. If the Secretary determines to continue the Advisory Committee after that date, the Secretary shall submit to the President and the congressional committees specified in subsection (d) a report describing the reasons for that determination and specifying the new termination date for the Advisory Committee.~~

1 **SEC. ____. EXTENSION OF SPECIAL EMERGENCY PROCUREMENT AUTHORITY**
2 **TO SPECIAL OPERATIONS PROCUREMENT.**

3 (a) COVERAGE OF SPECIAL OPERATIONS FORCES.—Section 1903 of title 41, United States
4 Code, is amended by adding at the end the following new subsection:

5 “(d) SPECIAL OPERATIONS FORCES PROCUREMENT.—

6 “(1) IN GENERAL.—The authorities provided in subsections (b) and (c) apply with
7 respect to a procurement of property or services that are to be used for operations and
8 activities of special operations forces.

9 “(2) APPLICABILITY OF OVERSEAS THRESHOLDS.—For the purposes of this
10 section—

11 “(A) a contract to be awarded with respect to such a procurement shall be
12 deemed to be awarded and performed outside of the United States; and

13 “(B) a purchase to be made under such a procurement shall be deemed to
14 be made outside of the United States.

15 “(3) DEFINITION.—In this subsection, the term ‘special operations forces’ has the
16 meaning given such term in section 167(j) of title 10.”.

17 (b) CONFORMING AMENDMENT.—Subsection (b) of such section is amended by inserting
18 “or (d)” after “subsection (a)”.

[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 1903 of title 41, United States Code, to extend the applicability of the special emergency procurement authorities (SEPA) to include operations and activities of United States Special Operations Forces, as described in section 167(j) of title 10, United States Code, whether conducted within the United States (including its territories and possessions) or outside the United States.

Special Operations Forces play a unique and strategic role in advancing U.S. national security objectives in support of the National Defense Strategy (NDS) and the Secretary of Defense's stated priorities. As the NDS outlines, the United States faces an era of strategic competition, particularly with the People's Republic of China and revisionist powers such as Russia. Special Operations Forces are often the first military element deployed to counter hybrid threats, operate below the threshold of armed conflict, and shape conditions in contested environments. These missions are executed with little to no notice and occur in irregular, decentralized, and austere settings not designated as formal contingency operations under 10 U.S.C. 101(a)(13) or any of the other operation types under the current SEPA umbrella.

Despite the operational complexity, strategic sensitivity, and classification of Special Operations Forces missions, such activities do not consistently trigger the authorities required for elevated acquisition thresholds under SEPA. This statutory misalignment constrains the Department of Defense's ability to rapidly procure goods and services essential to operational success and saving lives, both in steady-state engagements and emergent, time-sensitive environments where "speed-to-need" contracting is critical.

In his 2025 Message to the Force, the Secretary of Defense emphasized the need to rebuild the military, revive the warrior ethos, and reestablish deterrence. A core component of these objectives is ensuring that the force, especially specialized units like Special Operations Forces, has the tools and flexibility needed to respond rapidly and decisively anywhere in the world.

"We must match threats with capability... We must enable our warriors, not burden them."

— Secretary of Defense Pete Hegseth, 2025

This proposal directly addresses that mandate by reducing acquisition delays for Special Operations Forces units tasked with missions critical to deterrence and strategic competition. Whether it is contracting for secure communications in support of partner-nation forces, acquiring expeditionary surveillance tools, or rapidly executing logistics support in politically sensitive environments, Special Operations Forces cannot afford procedural friction that undercuts operational tempo.

Similar to when the Department faced obstacles in rapidly responding to evacuation and humanitarian requests in Sudan due to the lack of a qualifying SEPA designations, Special Operations Force units often face similar legal limitations. Many of their operations occur under Title 10, Section 167 authority and Joint Staff taskings that do not activate traditional contingency triggers. The result is a procurement gap for missions involving hostile conditions, intelligence coordination, irregular warfare, and global competition, particularly in the Indo-Pacific and Africa.

Special Operations Forces support to Ukraine, "gray-zone" activities in the United States Indo-Pacific Command (USINDOPACOM) area of operations, and sensitive training/advisory missions all illustrate the need for targeted SEPA flexibility to a critical asset of the Department.

Expanding the authority to include Special Operations Forces would provide an operationally grounded statutory solution and close a known gap. These authorities would enable essential contracted capabilities at the speed of relevance. Special operations activities are oftentimes short duration so the emergency acquisition flexibilities under SEPA would be triggered for the same short duration reducing any risk to overusing such authorities.

Further, this proposal supports the National Defense Strategy's emphasis on "campaigning" and "integrated deterrence" by improving the Department's ability to operate in pre-conflict, competitive environments and to quickly leverage commercial capabilities to enable combat-credible forces to achieve deterrence and strengthen competitive campaigning. It complements broader Department initiatives to streamline contracting, promote responsiveness, and optimize industry engagement for forward-deployed forces.

Extending SEPA to cover United States Special Operations Forces under 10 U.S.C. 167 will:

- Enable contracting officers to respond to "tip of the spear" Special Operations Forces mission requirements worldwide with speed and agility to protect National interests;
- Reduce risk in time-sensitive operations that currently lack contingency or other SEPA triggers;
- Reinforce the Secretary of Defense's strategic priorities and operational vision;
- Support the implementation of the National Defense Strategy by empowering forces engaged in deterrence and "grayzone" activities and to enhance lethality;
- Allow United States Special Operations Forces and supported geographic combatant commands to fulfill urgent needs without unnecessary delay, especially during short notice, low duration, highly complex, critical, life-saving missions.

The Department must be postured to equip the joint force at the speed of relevance. This proposal ensures that Special Operations Forces maintain their operational edge, unimpeded by procedural constraints, in responding to today's most complex and dynamic security challenges. As the United States confronts increasingly complex, irregular, and geographically dispersed threats, the ability of Special Operations Forces to respond with precision and speed is vital. By expanding SEPA to include special operations and activities under 10 U.S.C. 167, this proposal delivers a tailored statutory solution that closes a known capability gap and strengthens the Department's ability to project power, support partners, and deter adversaries in contested environments.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2027 President's Budget.

Changes to Existing Law: This proposal would amend section 1903(a) of title 41, United States Code, as follows:

§1903. Special emergency procurement authority

(a) **APPLICABILITY.**—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services by or for an executive agency that the head of the executive agency determines are to be used—

(1) in support of a contingency operation (as defined in section 101(a) of title 10);

(2) to facilitate the defense against or recovery from cyber, nuclear, biological, chemical, or radiological attack against the United States;

(3) in support of a request from the Secretary of State or the Administrator of the United States Agency for International Development to facilitate the provision of international disaster assistance pursuant to chapter 9 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2292 et seq.); or

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

(b) **INCREASED THRESHOLDS AND LIMITATION.**—For a procurement to which this section applies under subsection (a) or (d)—

(1) the amount specified in section 1902(a), (d), and (e) of this title shall be deemed to be—

(A) \$15,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$25,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States;

(2) the term “simplified acquisition threshold” means—

(A) \$750,000 in the case of a contract to be awarded and performed, or purchase to be made, in the United States; and

(B) \$1,500,000 in the case of a contract to be awarded and performed, or purchase to be made, outside the United States; and

(3) the \$5,000,000 limitation in sections 1901(a)(2) and 3305(a)(2) of this title and section 3205(a)(2) of title 10 is deemed to be \$10,000,000.

(c) **AUTHORITY TO TREAT PROPERTY OR SERVICE AS COMMERCIAL PRODUCT OR COMMERCIAL SERVICE.**—

(1) **IN GENERAL.**—The head of an executive agency carrying out a procurement of property or a service to which this section applies under subsection (a)(2) may treat the property or service as a commercial product or a commercial service or the purpose of carrying out the procurement.

(2) **CERTAIN CONTRACTS NOT EXEMPT FROM STANDARDS OR REQUIREMENTS.**—A contract in an amount of more than \$15,000,000 that is awarded on a sole source basis for a product or service treated as a commercial product or a commercial service under paragraph (1) is not exempt from—

(A) cost accounting standards prescribed under section 1502 of this title;

or

(B) cost or pricing data requirements (commonly referred to as truth in negotiating) under chapter 35 of this title and chapter 271 of title 10.

(d) SPECIAL OPERATIONS FORCES PROCUREMENT.—

(1) IN GENERAL.—The authorities provided in subsections (b) and (c) apply with respect to a procurement of property or services that are to be used for operations and activities of special operations forces.

(2) APPLICABILITY OF OVERSEAS THRESHOLDS.—For the purposes of this section—

(A) a contract to be awarded with respect to such a procurement shall be deemed to be awarded and performed outside of the United States; and

(B) a purchase to be made under such a procurement shall be deemed to be made outside of the United States.

(3) DEFINITION.—In this subsection, the term “special operations forces” has the meaning given such term in section 167(j) of title 10.

1 **SEC. ___. INCREASE OF THE WORKING CAPITAL FUND, CAPITAL INVESTMENT**
2 **PROGRAM THRESHOLD.**

3 Section 2208(k)(2) of title 10, United States Code, is amended—
4 (1) by striking “or” and inserting a comma after “test facility installation”;
5 (2) by inserting a comma after “technology reinvention laboratory”; and
6 (3) by striking “not less than \$250,000 for procurements at all other facilities” and
7 inserting “at all other facilities”.

Section-by-Section Analysis

This proposal would increase the Working Capital Fund (WCF) Capital Investment Program (CIP) lower limit threshold in section 2208(k)(2) of title 10, United States Code, from \$250,000 to \$500,000. This change would provide WCF Organic Industrial Base (OIB) Commanders more local authority to quickly execute on equipment investment projects under this monetary amount; streamline equipment procurement for manufacturing and refurbishment operations; and improve agility and lethality of the force by allowing it to respond to emerging threats more rapidly.

The current WCF CIP lower limit threshold was last increased from by section 1403 of the Ike Skelton National Defense Authorization Act for Fiscal Year (FY) 2011 (Public Law 111-383). As a result, the current cap has been overcome by inflation rendering the threshold outdated and obsolete. This results in project delays and hinders OIB Commanders' ability to maintain readiness and modernize facilities. Increasing the WCF CIP threshold to \$500,000 will provide WCF Organic Industrial Base (OIB) Commanders more local authority to quickly execute on equipment investment projects under this amount; streamline equipment procurement for manufacturing and refurbishment operations; and improve agility and lethality of force by allowing it to respond to emerging threats more readily. Estimates indicate that this change could reduce execution timelines for CIP projects below the new threshold from 2+ years to 12 months or less.

Failure to adjust the threshold for inflation forces WCF OIB investment projects in the \$250,000 to \$500,000 value range results in such projects being incorporated into the years-long Budget Estimate Submission review process, which is intended for multi-million-dollar investments. This results in unnecessary delays and inefficiencies. Since FY 2011, the upper CIP limit has been raised multiple times, but the lower limit (\$250,000) has remained the same. This proposal seeks to raise the lower limit and remove the distinction between the different types of projects.

If adopted, this proposal would remedy WCF OIB project investment execution timeline challenges by updating the WCF lower limit threshold from \$250,000 to \$500,000.

Resource Information: This proposal has no significant impact on the use of resources requested within the FY 2027 President's Budget request.

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

§2208. Working-capital funds

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

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

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

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

- (A) An unspecified minor military construction project under section 2805(c) of this title.
- (B) Automatic data processing equipment or software.
- (C) Any other equipment.
- (D) Any other capital improvement.

Exhibit A: Study of cost comparison of similar items bought in different years at Red River Army Depot extrapolated over 16-years indicates that the cost is 109 percent higher. In other words, buying power of \$250K, 16 years later, is roughly \$522K.

RRAD Capital Investment Program (CIP) Comparative Analysis for Inflation Impact on Equipment Procurement Cost										
Item Desc	Loc	Mfr Name	Mfr Yr	Mfr Model Nbr	Total Cost	UI	LIN/TAMCN Desc	Inflation	Inflation Duration	Inflation Extrapolated Over 16-year span
BARRIER, VEHICLE ACTIVE GRAB BARRIER	595	SMITH & WESSON, USR	2011	GRAB 300	\$651,891	EA	BARRIER, PROTECTION	38%	Over 4 years 2007-2011	151%
BARRIER, VEHICLE ACTIVE GRAB BARRIER	595	SMITH & WESSON, USR	2007	GRAB 300	\$405,122	EA	BARRIER, PROTECTION			
KOLENE GAS HEATING SYSTEM	412	EPSON AMERICA INC MOLTEN SALT BATH	2020	541-F10-04	\$3,764,000	EA	CHROME PLATING	73%	Over 8 years 2012-2020	146%
SYSTEM, BARREL PLATING	345	ABSOLUTE FINISHING	2012	RIA34635	\$1,016,226	EA	CHROME PLATING			
WATER JET CUTTING SYSTEM	411	OMAX CORP	2016	80X-1	\$741,507	EA	CUTTING SYSTEM	39%	Over 6 years 2010-2016	104%
CUTTING SYSTEM, ABRASIVE WATERJET	411	OMAXWATERJET MIK	2010		\$451,049	EA	CUTTING SYSTEM			
MOLDING SYSTEM	493	KLOCKNER DESMA	2012	250Ton/1000cc	\$1,034,550	EA	MOLDING SYSTEM	41%	Over 13 years 1999-2012	50%
MOLDING SYSTEM	493	KLOCKNER DESMA	1999	250Ton/1000cc	\$612,207	EA	MOLDING SYSTEM			
SPINDLE NUT RUNNER SYSTEM	493	ATLAS COPCO	2021		\$223,506	EA	NUT RUNNER ELECTRIC	31%		163%

SPINDLE NUT RUNNER SYSTEM	493	ATLAS COPCO	2018	13304002	\$155,244	EA	NUT RUNNER ELECTRIC		Over 3 years 2018-2021	
TRUCK LT DUTY MECHANICS	443	FORD	2021	F550	\$137,256	EA	TRUCK, MAINTENANCE	21%	Over 5 years 2016-2021	68%
TRUCK FORD F550 BUCKET TRUCK	184	FORD MOTOR COMPANY	2016	F550	\$108,234	EA	TRUCK, MAINTENANCE			
VERTICAL LIFT MODULE	345	KARDEX REMSTAR	2019	SHUTTLE-XP	\$182,706	EA	VERTICAL LIFT MODULE	10%	Over 2 years 2017-2019	78%
VERTICAL LIFT MODULE	412	KARDEX REMSTAR	2017	SHUTTLE-XP	\$164,939	EA	VERTICAL LIFT MODULE			

Inflation over 16-yr. span at RRAD	109%
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Exhibit B: Impact of inflation (based on Consumer Price Index) and tariffs on buying power, 2011 through 2024, indicate buying power of \$250K in 2011 was \$359K in 2024.

Buying Power of \$250K (2011 through 2024) due to Inflation			
YEAR	CPI Inflation Rate	Actual	Value of \$250,000
2011	3.2%	Actual	\$258,000
2012	2.1%	Actual	\$263,418
2013	1.5%	Actual	\$267,369
2014	1.6%	Actual	\$271,647
2015	0.1%	Actual	\$271,919
2016	1.3%	Actual	\$275,454
2017	2.1%	Actual	\$281,238
2018	2.4%	Actual	\$287,988
2019	1.8%	Actual	\$293,172
2020	1.2%	Actual	\$296,690
2021	4.7%	Actual	\$310,634
2022	8.0%	Actual	\$335,485
2023	4.1%	Actual	\$349,240
2024	2.9%	Actual	\$359,368

* Data Source: US. Bureau of Labor Statistics, Consumer Price Index, 2011 through 2024

1 **SEC. ____ . MODIFICATION OF APPLICABILITY OF ANTI-TRAFFICKING-IN-**
2 **PERSONS TRAINING REQUIREMENT TO MEMBERS OF THE**
3 **ARMED FORCES.**

4 Section 122(c)(3) of the Trafficking Victims Prevention and Protection Reauthorization
5 Act of 2022 (5 U.S.C. 4103 note) is amended by inserting before the semicolon the following: “,
6 except that, for members of the Armed Forces, the Secretary of Defense may determine the
7 frequency and timing of refresher training based on mission requirements”.

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

Section-by-Section Analysis

Section 122(c)(3) of the Trafficking Victims Prevention and Protection Reauthorization Act of 2022 (5 U.S.C. 4103 note) requires anti-trafficking-in-persons training for new Executive Branch employees and regular refresher training every two years thereafter. This proposal would provide an exception for the Department of Defense regarding refresher training requirements, permitting the Department to determine the frequency and timing of refresher training for members of the Armed Forces based on mission necessity. It is not the Department’s intent to diminish the importance of combating human trafficking but to give military commanders the flexibility to determine the type, frequency, and timing of refresher training based on mission necessity as the Department developed targeted CTIP training tailored to specific warfighter mission requirements.

Resource Information: This proposal has no significant impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would amend section 122 of the Trafficking Victims Prevention and Protection Reauthorization Act of 2022 (5 U.S.C. 4103 note) as follows:

SEC. 122. ENSURING ANTI-TRAFFICKING-IN-PERSONS TRAININGS AND PROVISIONS INTO CODES OF CONDUCT OF ALL FEDERAL DEPARTMENTS AND EXECUTIVE AGENCIES.

(a) FINDINGS.—Congress finds the following:

(1) Human trafficking is inimical to every Federal agency’s core values and inherently harmful and dehumanizing.

(2) Through the adoption of a Code of Conduct, Federal agencies hold their personnel to similar standards that are required of contractors and subcontractors of the agency under Federal law.

- (3) Human trafficking is a violation of human rights and against Federal law.
- (4) The United States Government seeks to deter activities that would facilitate or support trafficking in persons.

(b) SENSE OF CONGRESS ON IMPLEMENTATION OF ANTI-TRAFFICKING-IN-PERSONS POLICIES.—It is the sense of Congress that—

- (1) beginning not later than 18 months after the date of the enactment of this Act [Jan. 5, 2023], the head of every Federal agency should incorporate a module on human trafficking into its staff training requirements and menu of topics to be covered in the annual ethics training of such agency;
- (2) such staff trainings should teach employees how to prevent, identify, and report trafficking in persons;
- (3) Federal agencies that already provide counter trafficking-in-persons training for staff should share their curricula with agencies that do not have such curricula;
- (4) the head of each agency should inform all candidates for employment about the anti-trafficking provisions in the Code of Conduct of the agency;
- (5) employees of each Federal agency should sign acknowledgment of the agency’s Code of Conduct, which should be kept in the file of the employee; and
- (6) a violation of the Code of Conduct should lead to disciplinary action, up to and including termination of employment.

(c) POLICY FOR EXECUTIVE BRANCH EMPLOYEES.—The President shall take such steps as may be necessary to ensure that each officer and employee (including temporary employees, persons stationed abroad while working for the United States, and detailees from other agencies of the Federal Government) of an agency in the executive branch of the Federal Government is subject to a policy with a minimum standard that contains—

- (1) a prohibition from engaging in human trafficking while employed by the Government in a full-time or part-time capacity;
- (2) a requirement that all Federal personnel, without regard to whether the person is stationed abroad, be sensitized to human trafficking and the ethical conduct requirements that prohibit the procurement of trafficking in persons;
- (3) a requirement that all such personnel be equipped with the necessary knowledge and tools to prevent, recognize, report, and address human trafficking offenses through a training for new personnel and through regular refresher courses every 2 years, except that, for members of the Armed Forces, the Secretary of Defense may determine the frequency and timing of refresher training based on mission requirements; and
- (4) a requirement that all such personnel report to the applicable inspector general and agency trafficking in persons point of contact any suspected cases of misconduct, waste, fraud, or abuse relating to trafficking in persons.

(d) TIMING.—The policy described in subsection (c)—

- (1) shall be established or integrated into all applicable employee codes of conduct not later than 18 months after the date of the enactment of this Act;
- (2) may not replace any preexisting code of conduct that contains more robust requirements than the requirements described in subsection (c); and

(3) shall be signed by all personnel described in subsection (c) not later than 2 years after such date of enactment.

(e) REPORTING.—The Office of Inspector General of a Federal department or agency, in consultation with the head of such agency, shall submit an annual report to Congress, which shall be publicly accessible, containing—

- (1) the number of suspected violations reported;
- (2) the number of investigations;
- (3) the status and outcomes of such investigations; and
- (4) any recommended actions to improve the programs and operations of such agency.

1 **SEC. ____ . MODIFICATION OF APPROVAL AND NOTIFICATION THRESHOLDS**
2 **FOR REPAIR PROJECTS.**

3 (a) APPROVAL THRESHOLD.—Subsection (b) of section 2811 of title 10, United States
4 Code, is amended by striking “\$7,500,000” and inserting “\$20,000,000”.

5 (b) CONGRESSIONAL NOTIFICATION.—Subsection (d) of such section is amended—

6 (1) by striking the matter preceding paragraph (1) (other than the subsection
7 designation) and inserting the following: “ANNUAL REPORT.—No later than 30 days after
8 the end of each fiscal year, the Secretary concerned shall submit to the appropriate
9 committees of Congress a report, in an electronic medium pursuant to section 480 of this
10 title, with respect to each repair project with a cost in excess of the amount specified in
11 subsection (b) that was approved during the previous fiscal year to be carried out under
12 this section. Each such report shall include for each such project the following:”;

13 (2) in paragraph (1)—

14 (A) by striking “the justification for the repair project and the” and
15 inserting “The”; and

16 (B) by striking the semicolon at the end of the paragraph and inserting a
17 period;

18 (3) by striking paragraph (3);

19 (4) by redesignating paragraph (2) as paragraph (3) and in that paragraph—

20 (A) by striking “if the” and inserting “If the”; and

21 (B) by striking “; and” at the end of the paragraph and inserting a period;

22 and

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

“(2) The project title and location.”.

[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 make two changes relating to military facility repair projects to be carried out under section 2811 of title 10, United States Code, (Section 2811) using funds available for operation and maintenance.

First, the proposal would increase the thresholds for Secretarial approval and for notification to congressional committees from a project cost of \$7,500,000 to a project cost of \$20,000,000. This change would adjust those thresholds to be in line with the level of effort required when the current thresholds were established in 2004.

Second, the proposal would revise the congressional notification requirement from a separate notification for each approved project to a single annual notification of all projects approved during the preceding fiscal year.

Section 2811 authorizes the Department of Defense (DoD) to carry out repair projects using funds available for operation and maintenance and requires the Secretary concerned to approve and notify congressional committees of repair projects costing more than \$7,500,000. These approval and notification cost thresholds have not been updated to keep pace with construction costs resulting in a continually increasing number of repair project approval packages required to be prepared by the squadrons - packaged, staffed, reviewed, approved, and notified well beyond the project visibility level intended by Congress, contributing to a \$49.5 billion deferred Department of the Air Force (DAF) maintenance and repair backlog. Further, adoption of this proposal would save approximately 2,462 DAF manhours annually.

Over the last several decades, DoD has received less than a handful of questions from congressional committees regarding repair projects for which notifications have been submitted, and most questions have been easily answered with no return questions. An annual report of all projects exceeding the approval threshold will keep the committees informed, reduce non-value-added workload, and contribute to more timely project execution.

As noted above, DoD and private sector cost resources indicate construction costs for similar work have more than doubled since 2004. The Unified Facilities Criteria 3-701-01 *DoD Facilities Facility Pricing Guide* is the Department’s cost and pricing guide supporting facility planning, investment, and analysis needs. The Guide shows in 2008 the cost to construct a multi-purpose admin facility was \$205 per square foot. In 2025 the cost increased to \$982 per square foot, representing a 479 percent escalation.

Industry indicators show a similar trend. The Turner Building Cost Index measures costs in the non-residential building construction market in the United States. Factors for determining and tracking 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 (1st quarter 2025) index value of 1459. This is more than 2.2x the cost of construction from when the 2004 repair project approval threshold was established in law.

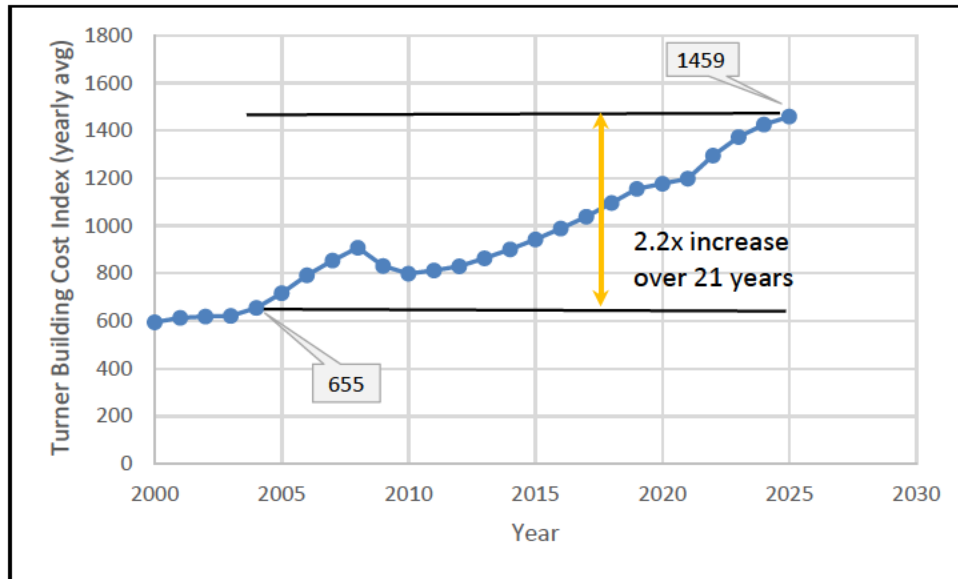


Figure 1 – Turner Building Cost Index 2000 – 2025

In addition to construction costs more-than-doubling since 2004 as described above, in the FY 2022 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. Congress would still have visibility of projects costing \$15,000,000 through posted awards but, under the proposal, would only receive separate approval notification of projects costing \$20,000,000.

The increased approval thresholds would adjust the number of approval and notification packages to back in line with levels established in 2004 and reduce the ever-increasing workload by approximately 2,462 DAF manhours annually for all involved (from installation level up to Headquarters Air Force). Changing from a separate notification for each project to an annual notification with all approved projects would contribute to reducing workload, provide better opportunity for timely project execution, and keep committees informed of approved projects. 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 Fiscal Year (FY) 2027 President’s Budget request. This proposal only affects projects requiring higher level approval which will be notified to congressional committees. Though the proposed approval and notification thresholds increase to \$20,000,000 in this proposal, construction costs have also more-than-doubled and therefore this proposal still ensures the same

level of congressional oversight and notification as established in 2004. 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 ~~\$20,000,000~~ 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-ANNUAL REPORT.—When a decision is made to carry out a repair project under this section with an estimated cost in excess of 7,500,000 the amount specified in subsection (b), 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—No later than 30 days after the end of each fiscal year the Secretary concerned shall submit to the appropriate committees of Congress a report, in an electronic medium pursuant to section 480 of this title, with respect to each repair project with a cost in excess of the amount specified in subsection (b) that was approved during the previous fiscal year to be carried out under this section. Each such report shall include for each such project the following:~~

~~(1) the justification for the repair project and the—~~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) The project title and location.~~

~~(2) (3) if~~ 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.

1 **SEC. ____ . NATIONAL GUARD ATTORNEY LICENSE PORTABILITY.**

2 Chapter 3 of title 32, United States Code, is amended by inserting after section 329 the
3 following new section:

4 **“ 330. Attorney license portability**

5 “(a) Notwithstanding any law regarding the licensure of attorneys, a judge advocate or
6 technician attorney performing duties under this title may provide legal services in any
7 jurisdiction in support of National Guard training or operations, subject to such regulations as
8 may be prescribed by the Secretary of the Army or the Secretary of the Air Force, as the case
9 may be.

10 “(b) Such legal services—

11 “(1) may be provided only by a judge advocate or a technician attorney who is a
12 member of the bar of a Federal court or of the highest court of a State, and

13 “(2) must be within the scope of authorized duties as prescribed by the Secretary
14 concerned.”.

Section-by-Section Analysis

This proposal would provide law license portability for National Guard attorneys practicing law in a title 32 status in jurisdictions other than that in which they are licensed. National Guard attorneys are often required to participate in drill or inactive duty for training in jurisdictions other than those in which they are licensed. Their duties often require the practice of law which may be prohibited by State law or state rules of professional responsibility. This proposal would provide statutory protections for these attorneys similar to those provided to attorneys practicing in a title 10 status as found in section [1044 of title 10](#), United States Code. Although a court has determined that an Army Guard JA licensed in another state was not engaged in the unauthorized practice of law when attached to a California unit ([955 F.3d 795 \(2020\)](#)), this proposal will provide statutory protection and preempt burdensome litigation.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 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.

1 **SEC. __. NATIONAL GUARD EQUIPMENT READINESS AND REIMBURSEMENT.**

2 Section 710 of title 32, United States Code, is amended—

3 (1) in subsection (d), by striking “The proceeds of the following” and all that
4 follows through the period at the end of paragraph (3); and

5 (2) by adding at the end the following new subsections:

6 “(g) CREDITING OF RECEIPTS FOR SURVEYED PROPERTY.—

7 “(1) IN GENERAL.—Amounts received under this section from—

8 “(A) a member of the National Guard shall be deposited into the Treasury
9 as miscellaneous receipts; and

10 “(B) a State, the Commonwealth of Puerto Rico, the District of Columbia,
11 Guam, or the Virgin Islands shall be credited to appropriations currently available
12 to maintain, repair, or replace such lost, damaged, or destroyed property.

13 “(2) CREDITING OF RECEIPTS.—Proceeds from the disposition of unserviceable or
14 unsuitable property surveyed under subsection (d) shall be credited to appropriations
15 currently available to replace such lost, damaged, or destroyed property.

16 “(h) UNREIMBURSED EXPENSES RESULTING FROM USE OF MILITARY PROPERTY.—

17 “(1) AUTHORITY TO ASSESS CHARGES.—Charges may be assessed to recover
18 expenses incurred or that may be incurred by the United States as a result of use of
19 military property during a mission directed or requested by a State, the Commonwealth of
20 Puerto Rico, the District of Columbia, Guam, or the Virgin Islands.

21 “(2) EXCEPTION TO AUTHORITY TO ASSESS CHARGES—Charges under paragraph
22 (1) may not be assessed if appropriations of the Department of Defense are reimbursed
23 for such expenses by Federal funds not appropriated to the Department of Defense.

1 “(3) CREDITING AND USE OF RECEIPTS.—Amounts collected under paragraph (1)
2 shall be credited to appropriations of the Department of Defense available for operating,
3 maintaining, equipping, or supplying the Army National Guard or the Air National
4 Guard, and may be used to reimburse operating expenses incurred or replace property
5 lost, damaged, or destroyed.”.

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

Section-by-Section Analysis

This proposal would provide a significant, positive impact on Federal training and readiness levels. Retaining reimbursement of costs incurred while Federal equipment and property are utilized for State-directed¹ missions would ensure available funding for maintenance, repair, and replacement costs when needed. Equipment and property will remain ready for the National Guard (NG) Federal mission.

State Adjutants General have the authority to use Federal equipment and property during State-directed missions, and the U.S. Property and Fiscal Officers (USPFOs) have the responsibility to obtain reimbursement for loss, damage, and destruction associated with the use of such equipment and property.

When Governors or State Adjutants General utilize NG equipment and property in State-directed missions responding to disasters such as floods, fires, hurricanes, and/or other State missions, the Federal Government is required to obtain reimbursement from State and territorial governments for loss, damage, and destruction associated with the use of such equipment and property. Reimbursements are received by the USPFO and deposited to the General Fund of the U.S. Treasury in accordance with the Miscellaneous Receipts Statute (31 U.S.C. § 3302). Because the funds are not deposited into Department of Defense accounts, National Guard units are not able promptly to maintain, repair, or replace lost, damaged, or destroyed equipment used for State-directed missions.

This issue was addressed in the report on State-directed missions provided to the House Committee on Armed Services as requested on page 97 of House Report 116-120 accompanying H.R. 2500, the National Defense Authorization Act for Fiscal Year 2020.

Resource Information: This proposal has no impact on resources requested in the fiscal year (FY) 2026 President’s Budget. The table below reflects the best estimate of potential deposits for costs incurred by the Department of Defense associated with the loss or destruction of, or damage to, equipment and property issued to a State or territory during State-directed missions.

¹ Missions directed or requested by a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the U.S. Virgin Islands.

This proposal seeks to allow these reimbursements that currently are deposited in the U.S. Treasury, to instead be credited to the Department of Defense. From FY 2017 to FY 2021, approximately \$179M in reimbursements was collected by USPFOs from State and territorial governments for loss, damage, and destruction associated with the use of Federal equipment and property.

RESOURCE IMPACT (\$MILLIONS)														
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	FY 2032	FY 2033	FY 2034	FY 2035	FY 2036	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
Reimbursement	41.4	42.3	43.2	44.1	45.0	45.9	46.8	47.7	48.7	49.7	Operation and Maintenance, Army National Guard	1	111G / 116G	
Reimbursement	4.6	4.7	4.8	4.9	5.0	5.1	5.2	5.3	5.4	5.6	Operation and Maintenance, Air National Guard	1	011Z	
Total	46.0	47.0	48.0	49.0	50.0	51.0	52.0	53.0	54.1	55.3				

** The calculation of resource impact: The annual impact is the average of actual reimbursements from FY17 to FY21 and applies the standard inflation rate of 2% per year.*

Changes to Existing Law: This proposal would amend section 710 of title 32, United States Code, as follows:

§ 710. Accountability for property issued to the National Guard

(a) All military property issued by the United States to the National Guard remains the property of the United States.

(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be paid from its funds or from any other non-Federal funds.

(d) If property surveyed under this section is found to be unserviceable or unsuitable, the Secretary concerned or his designated representative shall direct its disposition by sale or otherwise. ~~The proceeds of the following under this subsection shall be deposited in the Treasury under section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934~~

~~(1) A sale.~~

~~(2) A stoppage against a member of the National Guard.~~

~~(3) A collection from a person, or from a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, to reimburse the United States for the loss or destruction of, or damage to, the property.~~

(e) If a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, neglects or refuses to pay for the loss or destruction of, or damage to, property charged against it under subsection (c), the Secretary concerned may bar it from receiving any part of appropriations for the Army National Guard or the Air National Guard, as the case may be, until the payment is made.

(f)(1) Instead of the procedure prescribed by subsections (b), (c), and (d), property issued to the National Guard that becomes unserviceable through fair wear and tear in service may, under regulations to be prescribed by the Secretary concerned, be sold or otherwise disposed of after an inspection, and a finding of unserviceability because of that wear and tear, by a commissioned officer designated by the Secretary. The State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands, whichever is concerned, is relieved of accountability for that property.

(2) In designating an officer to conduct inspections and make findings for purposes of paragraph (1), the Secretary concerned shall designate-

(A) in the case of the Army National Guard, a commissioned officer of the Regular Army or a commissioned officer of the Army National Guard who is also a commissioned officer of the Army National Guard of the United States; and

(B) in the case of the Air National Guard, a commissioned officer of the Regular Air Force or a commissioned officer of the Air National Guard who is also a commissioned officer of the Air National Guard of the United States.

(g) CREDITING OF RECEIPTS FOR SURVEYED PROPERTY.—

(1) IN GENERAL.—Amounts received under this section from—

(A) a member of the National Guard shall be deposited into the Treasury as miscellaneous receipts; and

(B) a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands shall be credited, at the discretion of the Secretary of Defense, to appropriations currently available to maintain, repair, or replace such lost, damaged, or destroyed property.

(2) CREDITING OF RECEIPTS.—Proceeds from the disposition of unserviceable or unsuitable property surveyed under subsection (d) shall be credited to appropriations currently available to replace such lost, damaged, or destroyed property.

(h) UNREIMBURSED EXPENSES RESULTING FROM USE OF MILITARY PROPERTY.—

(1) AUTHORITY TO ASSESS CHARGES.—Charges may be assessed to recover expenses incurred or that may be incurred by the United States as a result of use of military property during a mission directed or requested by a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands.

(2) EXCEPTION TO AUTHORITY TO ASSESS CHARGES.—Charges under paragraph (1) may not be assessed if appropriations of the Department of Defense are reimbursed for such expenses by other Federal funds.

(3) CREDITING AND USE OF RECEIPTS.—Amounts collected under paragraph (1) shall be credited to appropriations of the Department of Defense available for operating, maintaining, equipping, or supplying the Army National Guard or the Air National Guard, and may be used without further specific authorization in law.

1 **SEC. ____ . PARITY OF PERFORMANCE AWARDS FOR GOVERNMENT SENIOR**
2 **PROFESSIONALS WITH AWARDS FOR MEMBERS OF SENIOR**
3 **EXECUTIVE SERVICE.**

4 (a) PARITY WITH SENIOR EXECUTIVE SERVICE.—Chapter 53 of title 5, United States Code,
5 is amended by inserting after section 5376 the following new section:

6 **“§5376a. Performance awards for certain senior level positions**

7 “(a) AUTHORITY TO GRANT AWARDS.—(1) The head of an agency may pay performance
8 awards to senior professionals in accordance with this section notwithstanding the limits or
9 restrictions imposed under chapter 45 of this title.

10 “(2) For purposes of this section, a senior professional is an individual serving in—

11 “(A) a position classified above GS-15 pursuant to section 5108(a) of this
12 title; or

13 “(B) a scientific or professional position established under section 3104 of
14 this title.

15 “(b) PERFORMANCE AWARDS.—(1) A performance award under this section shall be
16 based on a rigorous performance appraisal system that makes meaningful distinctions based on
17 relative performance.

18 “(2) A performance award may not be paid under this section to a senior professional
19 whose performance was determined to be less than fully successful (or its equivalent) at the time
20 of the senior professional’s most recent performance appraisal and rating under subchapter I of
21 chapter 43 of this title.

22 “(3) The amount of a performance award under this section—

23 “(A) may not be less than 5 percent nor more than 20 percent of the senior
24 professional’s rate of basic pay; and

25 “(B) may not exceed the greater of—

26 “(i) an amount equal to 10 percent of the aggregate basic pay paid
27 to senior professionals in such agency during the preceding fiscal year; or

28 “(ii) an amount equal to 20 percent of the average of the annual
29 rates of basic pay paid to senior professionals in such agency during the
30 preceding year.

31 “(4) A performance award under this section shall not be considered part of basic pay.

32 “(c) LIMITATION ON AWARDS ABOVE \$25,000.—A performance award under this section
33 may be in an amount greater than \$25,000 only if the agency head—

34 “(1) determines that the senior professional’s exceptional performance warrants
35 such an amount; and

36 “(2) certifies that the senior professional has not been engaged in any action or
37 activity that adversely affects the agency.”.

38 (b) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter
39 53 of title 5, United States Code, is amended by adding at the end the following new item:

“5376a. Performance awards for certain senior level positions.”.

Section-by-Section Analysis

This proposal would align Senior Professional (SP) performance awards with the Senior Executive Service (SES), by removing the approval requirements for performance-based awards over \$10,000 for most agencies and \$25,000 for the Department of Defense (DoD), Department of Veterans Affairs, and the Internal Revenue Service, that may be granted to Senior Professional employees whose positions are established pursuant to title 5, United States Code (U.S.C.) 5108(a) (senior-level) and 5 U.S.C. 3104 (scientific and professional).

A senior-level (SL) position is a position classified above GS-15 that does not meet the SES functional criteria and is established by an agency using an SL position allocation issued by

the Office of Personnel Management (OPM) under 5 U.S.C. 5108(a). Scientific and professional (ST) positions are also classified above GS-15, do not meet the SES functional criteria, and are established by an agency using an ST position allocation issued by OPM under 5 U.S.C. 3104(a).

Although SES and SPs perform different roles within the Federal civil service, they play equally important parts. For example, in 2003 Congress enacted a law to expand eligibility for the Presidential Rank Award (PRA) to SP employees. The PRA was established by statute (5 U.S.C. 4507 and 5 U.S.C. 4507a) and is one of the highest awards bestowed upon the Career SES and SP (SL/ST) by the President. In 2008, Congress also passed legislation to raise the SP pay cap to the same pay cap as the SES. The pay cap for SP employees is now at Executive Level II for an agency with a certified performance appraisal system, up from the previous pay cap of Executive Level III.

Currently, the SES pay system is established as a performance-based compensation system, and is authorized to pay performance awards under 5 U.S.C. 5384 for employees performing at a fully successful level or above. The amount of an SES performance award may not be less than 5 percent of the SES member's rate of basic pay nor more than 20 percent of SES member's rate of basic pay from a bonus pool that is comprised of not more than 10 percent of the aggregate amount of basic pay paid to the career SES appointees in the agency, or an alternative similarly limiting formula. Although SP pay systems are similarly established as performance-based, they remain subject to 5 U.S.C. 4502 and 4505a that allow performance-based awards of up to 20 percent of basic pay but generally limit awards to not more than \$25,000. Moreover, with the exception of the DoD, Internal Revenue Service, and Department of Veterans' Affairs, an agency head may not grant an award greater than \$10,000 without OPM approval.

Going forward, the Department will increasingly look to the SP cadre to enable the innovation necessary to project power and defend against threats to our nation and its critical infrastructure. From a labor market perspective, the types of professionals required in this space command salaries that often exceed those of many in the SES cadre. Recent updates to 10 U.S.C. 4092 allow the Secretary of Defense to compensate a limited number of employees within the Defense Advanced Research Projects Agency and selected other organizations and programs at up to 150 percent of the maximum rate for a GS-15; the same authority allows compensation levels up to the Vice President's salary for selected other positions. However, the 10 U.S.C. 4092 authorities only allow non-permanent appointments. In order to prevail in emerging strategic environments, the Department must also be able to recognize SP employees at levels commensurate with their contributions. Finally, under the new SP performance appraisal system effective October 1, 2025, SP employees will be held to similarly high-performance standards as the SES and are equally subject to appropriate accountability measures.

Resource Information: Currently, DoD closeout guidance specifies that pay pool funding for performance-based awards is limited to ten percent of the aggregate career SES and SP salaries, respectively, as of the end of the fiscal year (FY). Despite both SES and SP having the same budget for performance awards, on average SP personnel utilize 21 percent less of their full pay pool budget for performance awards than their SES counterparts. The \$25,000 cap forces reductions in bonus amounts across the board in order to achieve meaningful distinctions in bonus amounts driven by the performance rating.

The table below reflects the best estimate of resources requested within the FY 2027 President’s Budget that are impacted by this proposal. The cost of this proposal is the marginal increase caused by increasing the performance-based awards from a maximum of \$25,000 to a maximum 20 percent of basic pay. The specific cost will be based upon the number of performance awards processed. For the purposes of this table, we have established the cost based upon the marginal increase in the programing cost between the current maximum award (\$25,000) and the maximum award of 20% of EX-II basic pay (adjusted by 3 percent each year).

RESOURCE IMPACT (\$ MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element
Awards Budget	\$221	\$221	\$221	\$221	\$221	Operation and Maintenance, Defense-wide			
Total	\$221	\$221	\$221	\$221	\$221				

Changes to Existing Law: This proposal would add a new section to title 5, United States Code, as set forth in the legislative text above.

1 **SEC. ____ . PILOT PROGRAM FOR INCREASED COOPERATION WITH COMPACT**
2 **OF FREE ASSOCIATION COUNTRIES TO EXPEDITE**
3 **ENVIRONMENTAL REVIEWS FOR DEPARTMENT OF DEFENSE**
4 **PROJECTS IN THE INDO-PACIFIC REGION.**

5 (a) **AUTHORITY.**—When the Department of Defense is going to conduct a project or
6 program in the Indo-Pacific region for which an environmental review will be conducted or
7 carried out by a country that is in a Compact of Free Association with the United States (in this
8 section referred to as a “COFA country”), the Secretary of Defense, the Secretary of a military
9 department, or the Commander of the United States Indo-Pacific Command may provide
10 assistance under this section to the COFA country to expedite the activities of that country in its
11 environmental review, planning, consultation, or approval coordination process.

12 (b) **ACTIVITIES ELIGIBLE FOR ASSISTANCE.**—Activities for which assistance may be
13 provided under subsection (a) include the following:

14 (1) Planning activities that precede the initiation of the environmental review
15 process.

16 (2) Activities related to the environmental review process.

17 (3) Dedicated staffing, training of agency personnel, information gathering and
18 mapping, and development or execution of applicable consultation or compliance
19 procedures needed to support approval or execution of the Department of Defense project
20 or program.

21 (4) Related administrative and technical support for the agencies of the COFA
22 nation on behalf of Department of Defense projects.

1 (c) ASSISTANCE TO EXPEDITE AND IMPROVE REVIEW PROCESS.—Assistance may be
2 provided under subsection (a) to support activities that directly and meaningfully contribute to
3 expediting and improving environmental review processes, including—

4 (1) planning, assessment, and consultation processes for Department of Defense
5 projects or programs, including a military readiness activity (as such term is defined in
6 section 315(f) of the Bob Stump National Defense Authorization Act for 2003 (Public
7 Law 107-314; 16 U.S.C. 703 note); and

8 (2) construction of infrastructure in support of United States Indo-Pacific
9 Command responsibilities.

10 (d) MEANS BY WHICH ASSISTANCE MAY BE PROVIDED.—Assistance to a COFA country
11 under subsection (a) may be provided by direct or indirect financial or technical assistance
12 through any of the following means:

13 (1) Transfer of funds to the COFA country for dedicated staffing or contract
14 support.

15 (2) Assignment of civilian, contractor, or military personnel to the COFA country
16 to provide technical assistance.

17 (3) Contracts or cooperative agreements providing for third party technical
18 assistance to the COFA country.

19 (e) FUNDING.—Financial assistance under subsection (a) may be provided using any
20 funds otherwise available for operations and maintenance related to projects or programs in the
21 area of responsibility of the United States Indo-Pacific Command.

22 (f) ANNUAL REPORT.—Not later than December 31, 2026, and annually thereafter until
23 the termination of the authority in subsection (g), the Secretary of Defense shall submit to the

1 congressional defense committees a report that includes a description of all expenditures during
2 the preceding fiscal year under the program.

3 (g) TERMINATION OF AUTHORITY.—The authority provided by this section terminates on
4 December 31, 2035.

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

Section-by-Section Analysis

This proposal would establish a pilot program to support the posture of the Armed Forces in the United States Indo-Pacific Command (USINDOPACOM) area of responsibility, allowing the Secretary of Defense, the Secretary of a military department, or the Commander of USINDOPACOM to provide financial or technical assistance to Compact of Free Association (COFA) countries participating in environmental review, planning, consultation, or approval coordination processes for military projects or programs using funds otherwise available for operations and maintenance related to projects or programs in the USINDOPACOM area of responsibility.

Additional authority is needed with respect to COFA countries due to the number and scope of military projects being proposed by the Department of Defense (DoD) in these countries where pursuant to governing provisions of the various COFAs, U.S. environmental planning and substantive standards may apply absent other implementing agreements. Proposed military projects may dwarf a COFA country’s entire gross domestic product and the COFA countries lack environmental and administrative staff needed to provide timely and efficient review and approval of these projects. In addition, since the U.S. Department of Defense is responsible for the defense of COFA countries, other COFA agencies which are not staffed for this work need support to allow them to effectively assume these functions. Absent additional authority, there will likely be extensive delays in completing DoD projects and it is likely that many projects may be canceled. In particular, subsection (a) of this proposal would provide a new temporary authority, extending through calendar year 2035, for the Secretary of Defense, the Secretary of a military department, or the Commander of the United States Indo-Pacific Command to provide direct or indirect financial or technical assistance to COFA countries participating in environmental review, planning, consultation, or approval coordination processes for military projects or programs to expedite such activities.

Subsection (b) would clarify that the authority would include planning activities that precede the initiation of the environmental review process, activities related to the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of applicable consultation, compliance procedures needed to support review or consultation for a military project or program in a COFA country including related administrative and technical support for host nation agencies obtaining and holding permits on behalf of components of the DoD.

Subsection (c) would provide assistance to support activities that directly and meaningfully contribute to expediting and improving review processes, including planning, assessment, and consultation processes for military projects or programs, including military readiness activities as defined in section 315(f) of Public Law 107- 314 (16 U.S.C. § 703 note), and construction of infrastructure in support of the Armed Forces in the area of responsibility of USINDOPACOM,

Subsection (d) would specify that financial or technical assistance could be provided:

- (1) through transfer of funds for dedicated staffing or contract support,
- (2) through assignment of civilian, contractor, or military personnel to provide technical assistance, or
- (3) through contracts or cooperative agreements providing for third party technical assistance.

Subsection (e) would provide that direct or indirect financial or technical assistances under subsection (a) could be provided using any funds otherwise available for operations and maintenance related to projects or programs in the USINDOPACOM area of responsibility.

Subsection (f) would provide for annual reporting by December 31 of each year to the congressional defense committees by the Secretary of Defense of all expenditures during the preceding fiscal year under the program established in this.

Subsection (g) would provide for sunset of this section on December 31, 2035.

The authority requested in this section is needed to expand host nation capacity in the COFA countries to allow these small island nations to provide environmental reviews for DoD posture projects and military readiness activities. The volume and scope of environmental reviews currently being required by DoD in the COFA countries is already overwhelming both the regulators and the agencies that review, coordinate, or consult on our projects in the COFA countries. Without this authority, DoD will likely face years of delay for planned military construction projects and training and will be forced to prioritize and triage projects and training. Lack of regulator capacity is already resulting in increased costs for DoD as a result of repeated regulatory engagements and associated travel. Under current authorities, the DoD is only able to contract for support to provide Quality Assurance and Quality Control for DoD regulatory submittals and regulatory liaisons for DoD projects, and development of simplified technical submittals to make submittals more understandable to regulators with limited technical subject matter expertise; these measures are inadequate and result in both direct costs for regulatory engagements and more significant delay costs due to inflation related cost escalation.

In some cases, regulatory bottlenecks might be alleviated through provision of additional funding for temporary hires or temporary duty assignments; however in most cases for COFA country agencies, third party contract support will likely be required to assist the agencies with review of the volume and scope of the activities being proposed by the DoD. Local wage scales in the COFA countries are not competitive and will generally not allow COFA countries to retain highly qualified technical experts on staff. Absent additional authority to expand COFA country

capacity for regulatory reviews and consultation, the need for such reviews and consultation will become an increasingly tighter bottleneck resulting in extensive delays and increasing costs for infrastructure and training projects and programs needed to support USINDOPACOM posture requirements. Costs associated with providing reasonable direct and indirect financial assistance to the COFA countries under this Section to help expedite DoD project planning and reviews are expected to be funded from operations and maintenance funds related to programs in the United States Indo-Pacific Command area of responsibility. It is anticipated that initial costs under this program would be borne by the Indo-Pacific Command since benefits would be shared across multiple programs and Services. Absent such support, greater costs will be required for less effective attempts to overcome COFA capacity restrictions through high frequency and extended DoD engagements over a number of years to ensure that environmental concerns are adequately addressed, resulting in project and program delays.

Resource Information: The table below reflects the best estimate of resources requested within the Fiscal Year (FY) 2027 President’s Budget that are impacted by this proposal.

RESOURCE IMPACT (\$MILLIONS)									
Program	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031	Appropriation	Budget Activity	BLI/SAG	Program Element (for all RDT&E programs)
INDOPACOM O&M	\$2M	\$2M	\$2M	\$2M	\$2M	OMN	4	4B2N	0201114N
Total	\$2M	\$2M	\$2M	\$2M	\$2M				

Changes to Existing Law: This proposal would not change any existing provision of law.

1 **SEC. ____ . PROHIBITION OF UNAUTHORIZED USE OF NAME OR SEAL OF THE**
2 **MISSILE DEFENSE AGENCY.**

3 (a) PROHIBITION.—Section 5502 of title 10, United States Code, is amended by adding at
4 the end the following new subsection:

5 “(d) PROHIBITION OF UNAUTHORIZED USE OF NAME OR SEAL.—(1) Except with the
6 written permission of the Secretary of Defense, no person may knowingly use, in connection
7 with any merchandise, retail product, impersonation, solicitation, or commercial activity in a
8 manner reasonably calculated to convey the impression that such use is approved, endorsed, or
9 authorized by the Secretary, any of the following (or any colorable imitation thereof):

10 “(A) The words ‘Missile Defense Agency’.

11 “(B) The seal of the Missile Defense Agency.

12 “(2) Whenever it appears to the Attorney General that any person is engaged or is about
13 to engage in an act or practice which constitutes or will constitute conduct prohibited by
14 paragraph (1), the Attorney General may initiate a civil proceeding in a district court of the
15 United States to enjoin such act or practice. Such court shall proceed as soon as practicable to
16 the hearing and determination of such action and may, at any time before final determination,
17 enter such restraining orders or prohibitions, or take such other actions as is warranted, to
18 prevent injury to the United States or to any person or class of persons for whose protection the
19 action is brought.”.

20 (b) TECHNICAL AMENDMENTS TO OBSOLETE REFERENCES TO DATE OF ENACTMENT.—

21 Subsection (c)(3) of such section is amended—

22 (1) in subparagraph (A), by striking “the date of the enactment of this subsection”
23 and inserting “December 27, 2021,”;

24 (2) in subparagraph (B)—
25 (A) by striking “the date of the enactment of this subsection” and inserting
26 “December 27, 2021”; and
27 (B) by striking “the date of such enactment” and inserting “such date”; and
28 (3) in subparagraph (C), by striking “the date of the enactment of this subsection”
29 and inserting “December 27, 2021.”

[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 protect the name and seal of the Missile Defense Agency (MDA) against misuse. The language follows the text of 10 U.S.C. 425, which protects the name and seals of the Defense Intelligence Agency (DIA), the National Reconnaissance Office (NRO), the National Imagery and Mapping Agency, the Defense Mapping Agency, and the National Geospatial-Intelligence Agency (NGA). Similar protection exists for the seal and emblem of the Marine Corps (10 U.S.C. 8921), as well as for the name or seal of some non-Department of Defense Federal entities, including the CIA (50 U.S.C. 3513) and NASA (51 U.S.C. 20141).

There have been two previous attempts by contractors that have helped field a missile defense system to submit a trademark for the weapon system that included the name “Missile Defense Agency (MDA).” To preempt future attempts, the MDA would like to have statutory protection similar to that of other Federal agencies. The proposal would also make certain technical amendments needed due to the recodification of 10 U.S.C. 205 as 10 U.S.C. 5502 in section 1649 of the Servicemember Quality of Life Improvement and National Defense Authorization Act for Fiscal Year 2025.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would amend section 5502 of title 10, United States Code, as follows:

§5502. Missile Defense Agency

(a) APPOINTMENT OF DIRECTOR.—The Director of the Missile Defense Agency shall be a general or flag officer appointed for a six-year term.

(b) DEPUTY DIRECTOR.—***

(c) NOTIFICATION OF CHANGES TO NON-STANDARD ACQUISITION AND REQUIREMENTS PROCESSES AND RESPONSIBILITIES.—(1) ***

(2) ***

(3) In this subsection, the term “non-standard acquisition and requirements processes and Responsibilities” means the processes and responsibilities described in—

(A) the memorandum of the Secretary of Defense titled “Missile Defense Program Direction” signed on January 2, 2002, as in effect on ~~the date of the enactment of this subsection~~ December 27, 2021, or as modified in accordance with this subsection, or any successor memorandum issued in accordance with this subsection;

(B) Department of Defense Directive 5134.09, as in effect on ~~the date of the enactment of this subsection~~ December 27, 2021 (without regard to any modifications described in Directive-type Memorandum 20–002 of the Deputy Secretary of Defense, or any amendments or extensions thereto made before ~~the date of such enactment such date~~), or as modified in accordance with this subsection, or any successor directive issued in accordance with this subsection; and

(C) United States Strategic Command Instruction 538–3 titled “MD Warfighter Involvement Process”, as in effect on ~~the date of the enactment of this subsection~~ December 27, 2021, or as modified in accordance with this subsection, or any successor instruction issued in accordance with this subsection.

(d) PROHIBITION OF UNAUTHORIZED USE OF NAME OR SEAL.—(1) Except with the written permission of the Secretary of Defense, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary, any of the following (or any colorable imitation thereof):

(A) The words “Missile Defense Agency”.

(B) The seal of the Missile Defense Agency.

(2) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by paragraph (1), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

1 **SEC. ____ . PROTECTION OF PROPERTY OWNED, POSSESSED, OR SHIPPED BY**
2 **THE DEPARTMENT OF DEFENSE FROM LIEN, ARREST, OR**
3 **SEIZURE DURING GOVERNMENT SHIPMENT.**

4 (a) IN GENERAL.—Chapter 157 of title 10, United States Code, is amended by adding at
5 the end the following new section:

6 **“§ 2655. Property owned, possessed, or shipped by the Department of Defense: protection**
7 **from lien, arrest, or seizure during Government shipment**

8 “(a) IN GENERAL.—No carrier, port agent, warehouseman, freight forwarder, broker, or
9 other person involved in the transportation of cargo owned, possessed, or shipped by the
10 Department of Defense may have any lien on, or hold, impound, or otherwise interfere with the
11 transportation of, such cargo.

12 “(b) EXEMPTION FROM ARREST OR SEIZURE.—The following are not subject to lien,
13 arrest, or seizure by judicial process in the United States:

14 “(1) A vessel, aircraft, motor vehicle, rail car, or other conveyance owned by,
15 possessed by, or operated by or for the Department of Defense.

16 “(2) Cargo owned, possessed, or shipped by the Department of Defense.

17 “(c) AUTHORITY TO ACCOMPLISH DELIVERY.—The Department of Defense may take all
18 reasonable actions, without violating any judicial processes in the United States, necessary to
19 recoup, recover, arrange for, or accomplish transportation and delivery of any such Department
20 of Defense cargo.

21 “(d) EXCLUSION FOR DELAY OF SHIPMENT FOR UNDECLARED, MISPACKAGED, OR
22 MISLABELED HAZARDOUS MATERIAL.—This section does not preclude a carrier from stopping
23 the movement of undeclared, mispackaged, mislabeled, or otherwise noncompliant hazardous

1 material shipments until the hazardous material is properly offered for transportation in
2 accordance with section 5103 of title 49 and regulations prescribed under that section.

3 “(e) EXCLUSION FOR ARREST OR SEIZURE OF PROPERTY PURSUANT TO FEDERAL CRIMINAL
4 OR FORFEITURE LAW.—This section does not preclude the United States from arresting or seizing
5 personal property of a member of the armed forces or employee of the Department of Defense
6 pursuant to Federal criminal or forfeiture law.

7 “(f) DEFINITIONS.—In this section:

8 “(1) The term ‘broker’ means a person, other than a carrier or an employee or
9 agent of a carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds
10 itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging
11 for, transportation by carrier for compensation.

12 “(2) The term ‘carrier’ means a person, including a freight forwarder, who
13 transports passengers or property in commerce by pipeline, rail, motor, air, or water.

14 “(3) The term ‘freight forwarder’ means a person holding itself out to the general
15 public (other than as a pipeline, rail, motor, air, or water carrier) to provide transportation
16 of property for compensation and in the ordinary course of its business—

17 “(A) assembles and consolidates, or provides for assembling and
18 consolidating, shipments and performs or provides for break-bulk and distribution
19 operations of the shipments; and

20 “(B) assumes responsibility for the transportation from the place of receipt
21 to the place of destination.”.

22 (b) EXPANSION OF COVERAGE.—Section 453(c)(5) of title 37, United States Code, is
23 amended by striking “baggage and household goods” and inserting “personal property”.

[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 add a new section to chapter 157 of title 10, United States Code (U.S.C.), to add protections against the search, arrest, and seizure of Government property, including service members' household goods, privately owned vehicles (POVs), and other items shipped during a permanent change of station (PCS).

Recent bankruptcies of common carriers have disrupted the movement of Department of Defense (DoD) cargo and service member property stored temporarily within the United States. Despite the critical need for timely delivery of both DoD freight and service member belongings, civil litigation has resulted in holds being placed on government property in the possession of these financially distressed companies due to unrelated debts and contractual issues.

This proposal would exempt DoD conveyances and cargo from liens and seizures arising from local, state, or federal proceedings, including bankruptcy. The proposal would also expand the existing household goods exemption under section 453 of title 37, U.S.C., by replacing "household goods" with "personal property". As defined in section 451(b)(7) of title 37, U.S.C., "personal property" encompasses a broader range of items, including baggage, furniture, clothing, POVs, house trailers, mobile homes, and other personal items not otherwise prohibited by law or regulation. This expansion ensures consistent protection for all shipped items, including POVs, safeguarding service members' interests and clarifying legislative intent.

This proposal would also align DoD surface freight cargo and conveyances with chapter 309 of title 46, U.S.C. (popularly known as the “Suits in Admiralty Act”) and in particular with section 30908 of that title, which prohibits arrest or seizure by judicial process in the United States of a vessel or cargo owned, possessed by, or operated by or for the U.S. or a federally owned corporation.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget.

Changes to Existing Law: This proposal would (1) add a new section to chapter 157 of title 10, United States Code, as set forth in the legislative text above, and (2) amend section 453 of title 37, United States Code, as follows:

Title 37, United States Code

§ 453. Allowable travel and transportation: specific authorities

* * * * *

(c) MOVEMENT OF PERSONAL PROPERTY.—(1) A member of a uniformed service may be allowed moving expenses and transportation allowances for self and dependents associated with

the movement of personal property and household goods, including such expenses when associated with a self-move.

(2) The authority in paragraph (1) includes the movement and temporary and non-temporary storage of personal property, household goods, and privately owned vehicles (but not to exceed one privately owned vehicle per member household) in connection with the temporary or permanent move between authorized locations.

(3) For movement of household goods, the administering Secretaries shall prescribe weight allowances in regulations under section 464 of this title. The prescribed weight allowances may not exceed 18,000 pounds (including household goods in temporary storage, but excluding packing and crating), except that the administering Secretary may, on a case-by-case basis, authorize additional weight allowances as necessary.

(4) The administering Secretary may prescribe the terms, rates, and conditions that authorize a member of the uniformed services to ship or store a privately owned vehicle.

(5) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of ~~baggage and household goods~~ personal property being transported under this section.

* * * * *

1 **SEC. ____ . UNAUTHORIZED ACCESS TO DEPARTMENT OF DEFENSE FACILITIES.**

2 (a) IN GENERAL.—Chapter 67 of title 18, United States Code, is amended by adding at
3 the end the following new section:

4 **“§ 1390. Unauthorized access to Department of Defense facilities**

5 “(a) IN GENERAL.—Whoever, within the jurisdiction of the United States, without
6 authorization goes upon any property that—

7 “(1) is under the jurisdiction of the Department of Defense; and

8 “(2) has been clearly marked as closed, restricted, or otherwise not accessible
9 without authorization;

10 “shall be punished as described in subsection (b).

11 “(b) PENALTIES.—Whoever violates this section shall—

12 “(1) in the case of a first offense specified in subsection (c), be fined in
13 accordance with this title, or imprisoned not more than 180 days, or both;

14 “(2) in the case of a second offense specified in subsection (c), be fined in
15 accordance with this title, or imprisoned not more than 3 years, or both; and

16 “(3) in the case of a third or subsequent offense specified in subsection (c), be
17 fined in accordance with this title, or imprisoned not more than 10 years, or both.

18 “(c) OFFENSES CONSIDERED FOR PENALTY PURPOSES.—The offenses specified in this
19 subsection are the following:

20 “(1) Subsection (a) of this section.

21 “(2) Section 1382 of this title.

22 “(3) Section 21 of the Internal Security Act of 1950 (50 U.S.C. 797).”.

23 (b) SPECIFIC APPLICABILITY FOR ALIENS.—

24 (1) Section 236(c)(1)(E) of the Immigration and Nationality Act (8 U.S.C.
25 1226(c)(1)(E)), as amended by the Laken Riley Act (Public Law 119-1), is further
26 amended by inserting “a violation of section 1390 of title 18, United States Code,” in
27 clause (ii) after “shoplifting,”.

28 (2) Section 237(a)(2)(D) of the Immigration and Nationality Act (8 U.S.C.
29 1227(a)(2)(D)) is amended—

30 (A) by striking “or” at the end of clause (iii);

31 (B) by striking the comma at the end of clause (iv) and inserting “; or”;

32 and

33 (C) by inserting after clause (iv) the following new clause:

34 “(v) a violation of section 1390 of title 18, United States Code,”.

35 (c) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter
36 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.”.

[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 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, and section 21 of the Internal Security Act of 1950 (50 U.S.C. 797), regarding individuals who willfully violate defense property security regulations. 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, there are two critical gaps 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 those gaps be addressed.

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 a purpose prohibited by law or 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 threatening 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 increasing sanctions to handle repeat offenders.

DoD has seen instances where foreign nationals with or without lawful status gain unauthorized installation access. In some cases, individuals with lawful status have fled the country before law enforcement action could be taken. In other cases, removal proceedings against individuals without lawful status were dropped. This proposal would address both types of situations involving foreign nationals gaining unauthorized access to DoD installations.

This section is not targeted at "controlled turnarounds" wherein an individual arrives at a marked installation access control point ("gate"), is denied access and told to depart the installation, and does so without incident (the Department does not consider such individuals to have actually attempted to access the installation). Rather, this section is primarily targeted at individuals who proceed through those gates without authorization (often at speed) or who enter an installation after climbing over, cutting, or digging under a fence or wall of the installation.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 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. The proposal would also amend the Immigration and Nationality Act as follows:

IMMIGRATION AND NATIONALITY ACT

APPREHENSION AND DETENTION OF ALIENS

SEC. 236. [8 U.S.C. 1226] (a) ARREST, DETENTION, AND RELEASE.—On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—

(1) may continue to detain the arrested alien; and

(2) may release the alien on—

(A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole; but

(3) may not provide the alien with work authorization (including an "employment authorized" endorsement or other appropriate work permit), unless the alien is lawfully

admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

(b) REVOCATION OF BOND OR PAROLE.—***

(c) DETENTION OF CRIMINAL ALIENS.—

(1) CUSTODY.—The Attorney General shall take into custody any alien who—

(A) is inadmissible by reason of having committed any offense covered in section 212(a)(2),

(B) is deportable by reason of having committed any offense covered in section 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D),

(C) is deportable under section 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentence to a term of imprisonment of at least 1 year,

(D) is inadmissible under section 212(a)(3)(B) or deportable under section 237(a)(4)(B), or

(E)(i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a); and

(ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, a violation of section 1390 of title 18, United States Code, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person,

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(2) DEFINITION.—For purposes of paragraph (1)(E), the terms “burglary”, “theft”, “larceny”, “shoplifting”, “assault of a law enforcement officer”, and “serious bodily injury” have the meanings given such terms in the jurisdiction in which the acts occurred.

(3) DETAINER.—***

(4) RELEASE.—***

(d) IDENTIFICATION OF CRIMINAL ALIENS.—(1) ***

* * * * *

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 237. [8 U.S.C. 1227] (a) CLASSES OF DEPORTABLE ALIENS.—Any alien (including an alien crewman) in and admitted to the United States shall, upon the order of the Attorney General, be removed if the alien is within one or more of the following classes of deportable aliens:

(1) INADMISSIBLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS.—***

(2) CRIMINAL OFFENSES.—

(A) GENERAL CRIMES.—***

(B) CONTROLLED SUBSTANCES.—***

(C) CERTAIN FIREARM OFFENSES.—***

(D) MISCELLANEOUS CRIMES.—Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy or attempt to violate—

(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

(ii) any offense under section 871 or 960 of title 18, United States Code;

(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); ~~or~~

(iv) a violation of section 215 or 278 of this Act; or

(v) a violation of section 1390 of title 18, United States Code,

is deportable.

(E) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDER, CRIMES AGAINST CHILDREN.—***

(F) TRAFFICKING.—***

(3) FAILURE TO REGISTER AND FALSIFICATION OF DOCUMENTS.—***

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