1 **SEC. ___. AUTHORITY TO ENTER INTO INSTALLATION-SUPPORT SERVICE**

2 **AGREEMENTS WITH A FREELY ASSOCIATED STATE.**

3 (a) EXPANSION OF AUTHORITY.—Section 2679 of title 10, United States Code, is

4 amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by inserting ", or a Freely Associated State," after

7 "State, local, or tribal government"; and

8 (B) in paragraph (4)—

9 (i) by inserting ", a Freely Associated State," after "Federal

10 Government"; and

11 (ii) by striking "provided in subsection (a)" and inserting "under

12 paragraph (1)"; and

13 (2) in subsection (f)—

14 (A) in paragraph (3), by striking "the State of Yap of the Federated States

15 of Micronesia, and the Republic of Palau,";

16 (B) in paragraph (4), by inserting "or a Freely Associated State," after

17 "State, local, or tribal government"; and

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

19 "(5) The term 'Freely Associated State' means any of the following (or an agency

20 or instrumentality thereof):

21 "(A) The Federated States of Micronesia.

22 "(B) The Republic of the Marshall Islands.

23 "(C) The Republic of Palau.".

1 (b) SECURITY-GUARD AND FIREFIGHTING FUNCTIONS.—

2 (1) Section 2465(b) of such title is amended by adding at the end the following

3 new paragraph:

4 “(5) An intergovernmental support agreement entered into under section 2679 of

5 this title for services in the Commonwealth of the Northern Mariana Islands or a Freely

6 Associated State (as such term is defined in subsection (f) of such section).”.

7 (2) Section 2679(f)(1) of such title, as amended by subsection (a)(2)(A), is further

8 amended by inserting “other than as provided under section 2465(b)(5) of this title” after

9 “fire-fighting functions”.

[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

Subsection (a) this proposal would expand the authority in section 2679 of title 10, United States Code, (Section 2679) relating to installation-support services and intergovernmental support agreements. Under Section 2679, the Secretary concerned may enter into an intergovernmental support agreement, on a sole source basis, with a State, local, or tribal government to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the relevant department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs. Section 2679 was amended by sections 2843, 2844, and 2845 of the National Defense Authorization Act for Fiscal Year 2026 (Public Law 119-60) to extend the pilot program for use of cost savings realized’s termination date to 2030, to clarify that the authority under that section includes ordinance disposal, and to provide authority for the Republic of Palau and Yap State within the Federated States of Micronesia; however, those amendments fell short of the authority needed with regard to fire protection and security-guard services and with regard to other Freely Associated States. Subsection (a) of this proposal further would further amend Section 2679 to include authority to enter into agreements with the government of a Freely Associated State, beyond current language limited to the Republic of Palau and Yap State within the Federated States of Micronesia (adding the remainder of the Federated States of Micronesia and the Republic of the Marshall Islands).

Subsection (b) of this proposal would first amend the prohibition on contracts for performance of firefighting or security guard functions in section 2465 of title 10, United States Code, by adding a new exception for intergovernmental support agreements for services in a

U.S. Territory, U.S. Commonwealth, or a Freely Associated State. Second, it would amend subsection (f)(1) of Section 2679 to reference the new exception

As realignment and posture-related initiatives in the Indo-Pacific region expand operating areas and locations, there is a critical need to ensure installation support services are provided in a cost-effective manner that enhances mission effectiveness and takes advantage of efficiencies or economies of scale. In remote locations, including but not limited to the island of Tinian in the Commonwealth of the Northern Mariana Islands, Peleliu in the Republic of Palau, and Yap State in the Federated States of Micronesia, mission effectiveness can often be best achieved by utilizing and supplementing existing resources to provide critical installation-support services, including security guard or fire-fighting functions.

Entering into intergovernmental support agreements for these services will reduce the need to create duplicative and expensive capabilities in remote locations, will help ensure 24/7 coverage, and will free up critical manpower such as DoD firefighters and Security Forces, for utilization elsewhere in the theater. Providing this extended and expanded authority will have the added benefit of strengthening partnerships in the Pacific region and increasing economic stability.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President's Budget. However, if this proposal is not adopted there is likely to be a significant cost increase to the Department for installation-support services for FY 2028 and beyond.

Changes to Existing Law: This proposal would amend sections 2465 and 2679 of title 10, United States Code, as follows:

§2679. Installation-support services: intergovernmental support agreements

(a) IN GENERAL.—(1) Notwithstanding any other provision of law governing the award of Federal Government contracts for goods and services, the Secretary concerned may enter into an intergovernmental support agreement, on a sole source basis, with a State, local, or tribal government, or a Freely Associated State, to provide, receive, or share installation-support services if the Secretary determines that the agreement will serve the best interests of the department by enhancing mission effectiveness or creating efficiencies or economies of scale, including by reducing costs.

(2) An intergovernmental support agreement under paragraph (1)—

(A) may be for a term not to exceed ten years; and

(B) may use, for installation-support services provided by a State, local, or tribal government, wage grades normally paid by that State, local, or tribal government.

(3) An intergovernmental support agreement under paragraph (1) may only be used when the Secretary concerned or the State, local, or tribal government, as the case may be, providing the installation-support services already provides such services for its own use.

(4) Any contract for the provision of installation-support services awarded by the Federal Government, a Freely Associated State, or State, local, or tribal government pursuant to an

intergovernmental support agreement ~~provided in subsection (a)~~ <u>under paragraph (1)</u> shall be awarded on a competitive basis.

(b) EFFECT ON FIRST RESPONDER ARRANGEMENTS.—The authority provided by this section and limitations on the use of that authority are not intended to revoke, preclude, or otherwise interfere with existing or proposed mutual-aid agreements relating to police or fire protection services or other similar first responder agreements or arrangements.

(c) AVAILABILITY OF FUNDS.—Funds available to the Secretary concerned for operation and maintenance may be used to pay for such installation-support services. The costs of agreements under this section for any fiscal year may be paid using annual appropriations made available for that year. Funds received by the Secretary as reimbursement for providing installation-support services pursuant to such an agreement shall be credited to the appropriation or account charged with providing installation support.

(d) Effect on OMB Circular A-76.— The Secretary concerned shall ensure that intergovernmental support agreements authorized by this section are not used to circumvent the requirements of Office of Management and Budget Circular A-76 regarding public-private competitions.

(e) PILOT PROGRAM FOR USE OF COST SAVINGS REALIZED.—(1) Each Secretary concerned shall conduct a pilot program under which the Secretary will make available to the commander of each military installation for which cost savings are realized as a result of an intergovernmental support agreement entered into under this section an amount equal to not less than 25 percent of the amount of such cost savings for that military installation for a fiscal year.

(2) Amounts made available to an installation commander under paragraph (1) shall be used solely to address sustainment restoration and modernization requirements that have been approved by the major subordinate command or equivalent component.

(3) With respect to each military installation for which amounts are made available to the installation commander under paragraph (1), the Secretary concerned shall certify, not less frequently than annually for each fiscal year of the pilot program, to the congressional defense committees the following:

(A) The name of the installation and the amount of the cost savings achieved at the installation.

(B) The source and type of intergovernmental support agreement that achieved the cost savings.

(C) The amount of the cost savings made available to the installation commander under paragraph (1).

(D) The sustainment restoration and modernization purposes for which the amount made available under paragraph (1) were used.

(4) The authority to conduct the pilot program shall expire September 30, 2030.

(f) DEFINITIONS.—In this section:

(1) The term " installation-support services" means those services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to

its residents generally, except that the term does not include security guard or fire-fighting functions other than as provided under section 2465(b)(5) of this title. The term does include ordnance disposal.

(2) The term “local government” includes a county, parish, municipality, city, town, township, local public authority, school district, special district, and any agency or instrumentality of a local government.

(3) The term “State” includes the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands~~, the State of Yap of the Federated States of Micronesia, and the Republic of Palau~~ and any agency or instrumentality of a State.

(4) The term “intergovernmental support agreement” means a legal instrument reflecting a relationship between the Secretary concerned and a State, local, or tribal government or a Freely Associated State, that contains such terms and conditions as the Secretary concerned considers appropriate for the purposes of this section and necessary to protect the interests of the United States.

(5) The term “Freely Associated State” means any of the following (including any agency or instrumentality thereof):

(A) The Federated States of Micronesia.

(B) The Republic of the Marshall Islands.

(C) The Republic of Palau.

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§ 2465. Prohibition on contracts for performance of firefighting or security-guard functions

(a) Except as provided in subsection (b), funds appropriated to the Department of Defense may not be obligated or expended for the purpose of entering into a contract for the performance of firefighting or security-guard functions at any military installation or facility.

(b) The prohibition in subsection (a) does not apply to the following contracts:

(1) A contract to be carried out at a location outside the United States (including its commonwealths, territories, and possessions) at which members of the armed forces would have to be used for the performance of a function described in subsection (a) at the expense of unit readiness.

(2) A contract to be carried out on a Government-owned but privately operated installation.

(3) A contract (or the renewal of a contract) for the performance of a function under contract on September 24, 1983.

(4) A contract for the performance of firefighting functions if the contract is--

(A) for a period of one year or less; and

(B) covers only the performance of firefighting functions that, in the absence of the contract, would have to be performed by members of the armed forces who are not readily available to perform such functions by reason of a deployment.

(5) An intergovernmental support agreement entered into under section 2679 of this title for services in the Commonwealth of the Northern Mariana Islands or a Freely Associated State (as such term is defined in subsection (f) of such section).

1 **SEC. ___. AUTHORITY TO CARRY OUT FOREIGN-FUNDED CONSTRUCTION**

2 **PROJECTS INCIDENT TO FOREIGN MILITARY SALES.**

3 Subchapter I of chapter 169 of title 10, United States Code, is amended by adding at

4 the end the following new section:

5 **"§ 2818. Foreign military sales funded construction**

6 "(a) AUTHORITY.—The Secretary concerned may carry out a military construction project

7 not otherwise authorized by law in the case of a project that—

8 "(1) is funded in full by one or more foreign military sales customers in

9 accordance with applicable Letters of Offer and Acceptance and any associated

10 arrangements; and

11 "(2) is incident to the sale or lease of defense articles or defense services under

12 the Arms Export Control Act (22 U.S.C. 2751 et seq.).

13 "(b) CONGRESSIONAL NOTIFICATION.—When a decision is made to carry out a military

14 construction project under this section for which the estimated cost exceeds $20,000,000, the

15 Secretary concerned shall notify the appropriate committees of Congress of the scope of the

16 proposed project.".

Section-by-Section Analysis

This proposal would add a new section to the military construction authorities in title 10, United States Code.

Subsection (a) of the new title 10 section would provide the Department of Defense (DoD) needed authority for foreign funded military construction on DoD installations. At present, the Department does not have such authority, necessary to support foreign training or the provision of defense articles or other services on military installations. The lack of authority has resulted in the development of insufficient legal workarounds, including the provision of leases to foreign nations or the requirement for nations to provide "gifts" of real property to the Department. These additional transactions solely for construction create delays and administrative challenges. Because the authorization for military construction is wholly a matter

of United States law, the optimal solution is a change to title 10. This proposal represents the best solution in that it:

- Authorizes the Secretary to engage in military construction projects through the Foreign Military Sales (FMS) process provided that projects are fully funded by FMS customers and no United States Government (USG) funding is involved.
- Allows the construction to be approved at the Service Secretary level in the normal course of business, avoiding additional international agreements and USG staffing.
- Continues existing Congressional, State Department and Office of the Secretary of Defense (OSD) oversight through the normal FMS process, required by the FMS construction Letter of Offer and Acceptance (LOA).
- When necessary, requires an appropriate non-legally binding arrangement to identify the relevant facilities and locations and address administrative issues.
- Provides a United States (U.S.) legal solution to a U.S. legal problem (predicated upon the limits of existing DoD construction authority under title 10), rather than addressing the challenge through international agreements.

Subsection (b) of the new title 10 section would require that notice be provided to Congress when any FMS-funded military construction project exceeds $20,000,000 in cost. Requiring such notice is consistent with other standing military construction authorities within title 10. Having a dollar threshold on the requirement is appropriate because the FMS case process has its own congressional notice requirements. Coordination with the Department of State is also required in FMS construction cases.

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 title 10, United States Code, as set forth in the legislative text above.

SEC. ___. AUTHORITY FOR CONSTRUCTION OF CERTAIN NAVAL VESSELS IN FOREIGN SHIPYARDS.

(a) IN GENERAL.—The Secretary of the Navy may contract for the construction of two series of surface combatant vessels and two series of non-combat auxiliary vessels in foreign shipyards in support of shipbuilding efforts in domestic shipyards.

(b) AUTHORITY FOR CONSTRUCTION OF AUXILIARY VESSELS.—Notwithstanding section 8679 of title 10, United States Code, and any other provision of law impacting shipbuilding, the Secretary of the Navy may contract with one or more foreign shipbuilders in a foreign shipyard for the detailed design and construction of up to two series of auxiliary support ships if—

(1) the vessels to be constructed are auxiliary ships that do not have combatant classifications;

(2) the Secretary determines that such construction is in the national security interest of the United States, including for purposes of interoperability with allies and partners, forward logistics support, or accelerating achievement of fleet capacity requirements; and

(3) such construction in a foreign shipyard ensures concurrent direct capital investments into the United States maritime industrial base resulting in the onshoring of construction for such series of vessels domestically as well as onshoring the supplier base associated with the design over time.

(c) AUTHORITY FOR CONSTRUCTION OF SURFACE COMBATANT VESSELS.—Notwithstanding section 8679 of title 10, United States Code, and any other provision of law impacting shipbuilding, the Secretary of the Navy may contract with one or more foreign

shipbuilders for the detailed design and construction of up to two series of surface combatant vessels if—

(1) the final assembly and integration of combat systems occurs in a United States shipyard;

(2) the Secretary determines that such construction in foreign shipyards is in the national security interest of the United States; and

(3) such construction in a foreign shipyard ensures concurrent direct capital investments into the United States maritime industrial base resulting in the onshoring of construction for such series of vessels domestically as well as onshoring the supplier base associated with the design over time.

(d) ADDITIONAL REQUIREMENTS.—The Secretary of the Navy shall ensure that—

(1) all critical mission systems, command and control equipment, and secure communications systems are installed in the United States or a secure allied facility; and

(2) the vessels are projected to be constructed and delivered faster than if the vessels were constructed at a United States shipyard, or construction at a foreign shipyard otherwise provides a material benefit to readiness or force posture.

(e) CRITICAL MISSION SYSTEM DEFINED.—The term “critical mission system”, with respect to a naval vessel, means a system (weapon or auxiliary) the failure of which would prevent the successful completion of the mission or severely impact ability to fight.

Section-by-Section Analysis

This proposal would authorize the construction of Navy vessels in foreign shipyards to strategically enhance national security by leveraging allied industrial capabilities and fostering international partnerships. This proposal creates additional exceptions to the limitation established by 10 U.S.C. 8679 for the limited purpose of the four vessels. By selectively utilizing trusted foreign shipyards with proven expertise and advanced technologies, the Navy can accelerate vessel production timelines, reduce costs, and increase overall fleet readiness. This

proposal would allow the Secretary of the Navy to construct two auxiliary support ships in allied foreign shipyards and permit the construction of two large surface combatants in U.S. shipyards, provided that construction efforts may occur in allied foreign shipyards. This approach potentially accelerates the Navy's ability to pace threats and also diversifies the industrial base, mitigating capacity risks associated with domestic supply chain vulnerabilities and potential bottlenecks. Furthermore, engaging allied nations in shipbuilding strengthens defense cooperation, interoperability, and mutual security commitments, thereby contributing to a more resilient and globally integrated naval force capable of addressing evolving threats.

Resource Information: The table below reflects the best estimate of resources within the Fiscal Year (FY) 2027 President's Budget for ship construction.

Program	FY 2027	FY 2028	Appropriation	Budget Activity	BLI/ SAG	Program Element
Bulk Fuel Vessel	$450M	$450M	SCN	5	5118	0408042N
# of ships	1	1				
Total	$450M	$450M				

Program	FY 2027	Appropriation	Budget Activity	BLI/ SAG	Program Element
OBBBA – Lease or Purchase New Ships through National Defense Sealift Fund	$600M	SCN			
OBBBA – Advanced Procurement for Next Generation Logistics Ship	$100M	SCN			
Total	$700M				

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

1 **SEC. ___. AUTHORITY TO TRANSFER DATA FROM THE DEPARTMENT OF**
2 **DEFENSE COVID-19 DATA REGISTRY.**

3 Section 734 of the William M. (Mac) Thornberry National Defense Authorization Act for
4 Fiscal Year 2021 (Public Law 116-283; 10 U.S.C. 1074 note) is amended—
5 (1) in subsection (a)—
6 (A) by striking “ESTABLISHMENT.—Not later than June 1, 2021, and
7 subject to subsection (b),” and inserting “REGISTRY.—Subject to subsections (b)
8 and (d),”; and
9 (B) by striking “establish and”;
10 (2) by striking subsection (d); and
11 (3) by inserting after subsection (c) the following new subsection (d):
12 “(d) TRANSFER OF REGISTRY.—(1) The Secretary of Defense may transfer the data,
13 functions, and performance improvement activities of the COVID-19 Registry to the Department
14 of Defense Trauma Registry or any other appropriate Department of Defense health surveillance
15 system, as determined by the Secretary
16 “(2) Upon transfer of all data, functions, and performance improvement activities of the
17 COVID-19 Registry, the Secretary may close that registry.
18 “(3) In this subsection:
19 “(A) The term ‘COVID-19 Registry’ means the registry established and
20 maintained under subsection (a).
21 “(B) The term ‘health surveillance system’ means a data registry for the
22 continuous, systematic collection, analysis, and interpretation of health data.”.

Section-by-Section Analysis

This proposal would provide relief from the requirements in section 734 of Public Law 116-283 to establish and maintain a registry of covered TRICARE beneficiaries who have been diagnosed with COVID–19. The proposal would authorize integration of pandemic/epidemic data into the modernized Department of Defense Trauma Registry for future pandemic preparedness, public health emergency response readiness, and operational medical readiness.

The COVID-19 Registry was established during a time of unprecedented global emergency. With the pandemic phase concluded and the Department transitioning to long-term preparedness, maintaining a separate registry is redundant and cost inefficient.

This proposal would allow for data continuity, reduce unnecessary programmatic overhead, and align pandemic/epidemic response capabilities with broader Department medical surveillance infrastructure.

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)**
JTS - COVID19 REG	2.82	2.91	3.15	3.33	3.52	0130D	01	3	0807724D HA
Total									

Changes to Existing Law: This proposal would amend section 734 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283; 10 U.S.C. 1074 note) as follows:

SEC. 734. REGISTRY OF CERTAIN TRICARE BENEFICIARIES DIAGNOSED WITH COVID–19.

(a) ~~ESTABLISHMENT.—Not later than June 1, 2021, and subject to subsection (b),~~ REGISTRY.—Subject to subsections (b) and (d), the Secretary of Defense shall ~~establish and~~ maintain a registry of covered TRICARE beneficiaries who have been diagnosed with COVID–19.

(b) RIGHT OF BENEFICIARY TO OPT OUT. —A covered TRICARE beneficiary may elect to opt out of inclusion in the registry under subsection (a).

(c) CONTENTS.—*****

~~(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report on establishing the registry under subsection (a), including—~~

~~(1) a plan to implement the registry;~~
~~(2) the cost of implementing the registry;~~
~~(3) the location of the registry; and~~
~~(4) any recommended legislative changes with respect to establishing the registry.~~

(d) TRANSFER OF REGISTRY.—(1) The Secretary of Defense may transfer the data, functions, and performance improvement activities of the COVID-19 Registry to the Department of Defense Trauma Registry or any other appropriate Department of Defense health surveillance system, as determined by the Secretary.

(2) Upon transfer of all data, functions, and performance improvement activities of the COVID-19 Registry, the Secretary may close that registry.

(3) In this subsection:

(A) The term "COVID-19 Registry" means the registry established and maintained under subsection (a).

(B) The term "health surveillance system" means a data registry for the continuous, systematic collection, analysis, and interpretation of health data,

(e) COVERED TRICARE BENEFICIARY DEFINED.—****

SEC. ___. CODIFICATION AND REVISION OF PROCESS BY WHICH CERTAIN DEPARTMENT OF DEFENSE PERSONNEL MAY BE PERMITTED TO CARRY FIREARMS ON A MILITARY INSTALLATION OR OTHER DEFENSE FACILITY.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§1060d. Firearms on military installations and other defense facilities: process by which personnel may be permitted to carry

"(a) AUTHORITY.—A member of the armed forces or civilian employee of the Department of Defense who is assigned to duty at a facility specified in subsection (b) may carry a firearm when on that facility if permitted to do so by the designated commander. Such permission constitutes an authorization for purposes of section 930(d)(2) of title 18.

"(b) DESIGNATED FACILITIES.—For purposes of subsection (a), a facility designated in this subsection is any of the following located in the United States:

"(1) A military installation.

"(2) A military reserve center.

"(3) An armed services recruiting center.

"(4) Any other facility under the jurisdiction, custody, or control of the Department of Defense that is designated by the Secretary of Defense for purposes of this section.

"(c) DESIGNATED COMMANDER.—For purposes of subsection (a), a designated commander, with respect to a facility specified in subsection (b), is an officer serving in a grade below a general or flag officer grade who is—

24 “(1) the commander of the facility; or

25 “(2) a military commander otherwise designated by the Secretary of Defense for

26 the facility for purposes of this section.

27 “(d) PRESUMPTION OF APPROVAL.—In considering a request for permission to carry a

28 firearm on a designated facility, the designated commander with respect to that facility may

29 deny the request only for objective, clearly-described, individualized reasons.

30 “(e) IMPLEMENTATION.—The Secretary of Defense shall establish a process for the

31 implementation of this section.

32 “(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the

33 authority of the Secretary of Defense to permit additional individuals from seeking, or being

34 granted, permission to carry a firearm on a facility designated in subsection (b) in

35 accordance with procedures established by the Secretary.”.

36 (b) DEADLINE.—The process required by subsection (e) of section 1060d of title 10,

37 United States Code, as added by subsection (a), shall be implemented not later than

38 December 31, 2027.

39 (c) REPEAL.—Section 526 of the National Defense Authorization Act for Fiscal Year

40 2016 (Public Law 114-92; 10 U.S.C. 2672 note) is repealed.

[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 53 of title 10, United States Code, and repeal section 526 of the National Defense Authorization Act for Fiscal Year 2016 (10 U.S.C. 2672 note) (“FY 2016 NDAA”) to modify the process by which installation commanders permit members of the Armed Forces and civilian employees of the Department of Defense to carry firearms on domestic military installations, recruiting centers, and other designated facilities under the jurisdiction, custody, or control of the Department of Defense.

In response to the 2009 attack at Fort Hood, Texas, DoD issued an interim guidance message (IGM) in November 2010 that stated, in relevant part, "commanders will authorize where and when [personally owned firearms] may be used on their installations," including at "firing ranges, hunting areas" and for "other . . . lawful purposes." This IGM intended to comply with "the provisions of the Second Amendment to the United States Constitution."

Congress took similar action in response to a shooting at two Chattanooga, Tennessee, military installations in 2015. Section 526 of the FY 2016 NDAA required the Secretary of Defense to—no later than 31 December 2015—create a process "by which commanders of military installations," recruitment centers, and "other defense facilities . . . may authorize" warfighters "assigned to duty at the" relevant installation to "carry an appropriate firearm" thereon "if the commander determines" such is "necessary" for personal or force protection.

Despite these attempts by both DoD and Congress to ensure members of the Armed Forces can appropriately, safely, and reasonably protect themselves and exercise their Second Amendment right to keep and bear arms, no permits to carry firearms have been issued by installation commanders.

This proposal better effectuates Congress's intent in section 526 of the FY 2016 NDAA and ensure members of the Armed Forces —who are rigorously trained with firearms and other weaponry—have the ability to protect themselves on installations and are not needlessly stripped of their constitutional rights, this proposal would remove the requirement that approval of an on-installation firearm requires the commander's determination that carrying such a firearm is necessary as a personal- or force-protection measure.

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

Changes to Existing Law: This proposal would add section 1060d of title 10, United States Code, the full text of which is reflected above, and repeal section 526 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 2672 note), as follows:

~~SEC. 526. ESTABLISHMENT OF PROCESS BY WHICH MEMBERS OF THE ARMED FORCES MAY CARRY AN APPROPRIATE FIREARM ON A MILITARY INSTALLATION.~~

~~Not later than December 31, 2015, the Secretary of Defense, taking into consideration the views of senior leadership of military installations in the United States, shall establish and implement a process by which the commanders of military installations in the United States, or other military commanders designated by the Secretary of Defense for military reserve centers, Armed Services recruiting centers, and such other defense facilities as the Secretary may prescribe, may authorize a member of the Armed Forces who is assigned to duty at the installation, center or facility to carry an appropriate firearm on the installation, center, or facility if the commander determines that carrying such a firearm is necessary as a personal- or force-protection measure.~~

1 **SEC. ___. CONTINUATION IN OFFICE OF VICE CHIEF OF THE NATIONAL**
2 **GUARD BUREAU WHEN NECESSARY TO ENSURE LEADERSHIP**
3 **CONTINUITY.**

4 (a) EXTENSION OF TERM WHEN POSITION OF CHIEF OF THE NATIONAL GUARD BUREAU IS
5 VACANT.—Section 10505(a)(3) of title 10, United States Code, is amended—

6 (1) in subparagraph (A), by striking "subparagraph (B)" and inserting
7 "subparagraphs (B) and (C)"; and

8 (2) by adding at the end the following new subparagraph:

9 "(C) If upon the date on which the term of the Vice Chief of the National Guard Bureau
10 would otherwise expire the position of Chief of the National Guard Bureau is vacant and a
11 replacement for the position of Vice Chief of the National Guard Bureau has not been confirmed
12 by the Senate, the term of the Vice Chief of the National Guard Bureau shall be extended until
13 the date on which the Senate has confirmed a nominee for either position.".

14 (b) INCLUSION AS A MEMBER OF THE JOINT REQUIREMENTS OVERSIGHT COUNCIL.—
15 Section 181 of such title is amended—

16 (1) in subsection (c)(1), by adding at the end the following new subparagraph:

17 "(G) The Vice Chief of the National Guard Bureau."; and

18 (2) in subsection (d), by striking paragraph (4).

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

Section-by-Section Analysis

The Chief and Vice Chief of the National Guard Bureau serve under concurrent appointments and are limited to four-year appointments in accordance with 10 U.S.C. 10502 and 10 U.S.C. 10505, respectively. Subsection (a) of this proposal would amend the four-year appointment limitation for the Vice Chief of the National Guard Bureau in order to minimize the risk of a dual vacancy of both the Chief of the National Guard Bureau and Vice Chief of the

National Guard Bureau using the same method as authorized for the service Vice Chiefs of Staff (see sections 7034, 8035, 8044, & 9034 of title 10, U.S.C.).

In 2012, Congress provided for elevation of the Chief of the National Guard Bureau to serve as a principal advisor to the Secretary of Defense on National Guard matters as a member of the Joint Chiefs of Staff, and it restored the requirement for the position of Vice Chief of the National Guard Bureau to represent the Chief in his absence. Subsequently, in 2023, Congress further provided for the elevation of the Vice Chief of the National Guard Bureau to the grade of general (O-10). However, in implementing these changes, the law has not been modified to allow the Vice Chief of the National Guard Bureau to serve beyond the four-year appointment during a vacancy in the office of the Chief of the National Guard Bureau, as is currently authorized for the service Vice Chiefs of Staff.

Adding this authority would reduce the possibility of the Chief of the National Guard Bureau being filled by the senior officer of the Army or Air National Guard on duty with the National Guard Bureau, as currently required by 10 U.S.C. 10502(f)(2). Due to the concurrent appointments of the Chief and Vice Chief of the National Guard Bureau and the Directors of the Air and Army National Guard, this could result in a major general (O-8), who has not been appointed to a 10 U.S.C. 601 position, serving as an acting Chief of the National Guard Bureau and representing the National Guard as a member of the Joint Chiefs of Staff.

Subsection (b) of this proposal would add the Vice Chief of the National Guard Bureau, as a National Guard Bureau officer in the grade of general, to the membership of the Joint Requirements Oversight Council (JROC) under 10 U.S.C. 181. With the designation of the Chief of the National Guard Bureau as a standing member of the Joint Chiefs of Staff (10 U.S.C. 151), and in line with the authorities granted to other members of the Joint Chiefs of Staff, this amendment would recognize the Vice Chief of the National Guard Bureau as a member of the JROC, ensuring the National Guard's substantial total force strength and unique dual-use capabilities are adequately represented in critical decisions impacting Homeland Defense and state-level military readiness. The amendments made by this subsection would also remove the Vice Chief of the National Guard Bureau as an advisor to the JROC as that position would become a full voting member.

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 sections 10505 and 181 of title 10, United States Code, as follows:

§10505. Vice Chief of the National Guard Bureau

(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, appointed by the President, by and with the advice and consent of the Senate. The appointment shall be made from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

(B) are recommended by the Secretary of the Army, in the case of officers of the Army National Guard of the United States, or by the Secretary of the Air Force, in the case of officers of the Air National Guard of the United States, and by the Secretary of Defense;

(C) are determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience; and

(D) have had at least 10 years of federally recognized commissioned service in an active status in the National Guard.

(2) The Chief of the National Guard Bureau and the Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

(3)(A) Except as provided in ~~subparagraph (B)~~ subparagraphs (B) and (C), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

(B) The term of the Vice Chief of the National Guard Bureau shall end upon the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

(C) If upon the date on which the term of the Vice Chief of the National Guard Bureau would otherwise expire the position of Chief of the National Guard Bureau is vacant and a replacement for the position of Vice Chief of the National Guard Bureau has not been confirmed by the Senate, the term of the Vice Chief of the National Guard Bureau shall be extended beyond four years until the date on which the Senate has confirmed a nominee for either position.

(4) The Secretary of Defense may waive the restrictions in paragraph (2) and the provisions of paragraph (3) for not more than 90 days to provide for the orderly transition of officers appointed to serve in the positions of Chief of the National Guard Bureau and the Vice Chief of the National Guard Bureau.

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§181. Joint Requirements Oversight Council

(a) IN GENERAL.—There is a Joint Requirements Oversight Council in the Department of Defense.

(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall assist the Chairman of the Joint Chiefs of Staff in—

(1) evaluating global trends, emerging threats, and adversary capabilities to inform understanding of joint operational problems and to shape joint force design;

(2) coordinating with commanders of combatant commands to compile, refine, and prioritize joint operational problems;

(3) continuously reviewing and assessing joint military capabilities of elements of the Department of Defense listed in section 111(b) of this title in a manner that meets applicable requirements in the national defense strategy under section 113(g) of this title;

(4) identifying and prioritizing gaps and opportunities in joint military capabilities, including making recommendations for changes to address such capability and capacity gaps;

(5) identifying advances in technology, innovative commercial solutions, and concepts of operation that could improve the military advantage of the joint force;

(6) recommending joint capability requirements that—

(A) describe the joint operational problem to provide necessary context for the joint capability requirement;

(B) proposes nonprescriptive solutions to joint operational problems; and

(C) ensures system interoperability, where appropriate, between and among joint military capabilities;

(7) designing the joint force in a manner that—

(A) addresses joint operational problems; and

(B) evaluates force design initiatives of the Armed Forces to recommend acceptance, mitigation, or alternative force designs for the joint force;

(8) maintaining a repository of joint operational problems and identification of capabilities to address those problems; and

(9) evaluating effect of joint military capability requirements for the purposes of section 4376(a) of this title.

(c) COMPOSITION.—

(1) IN GENERAL.—The Joint Requirements Oversight Council is composed of the following:

(A) The Vice Chairman of the Joint Chiefs of Staff, who is the Chair of the Council and is the principal adviser to the Chairman of the Joint Chiefs of Staff for making recommendations about joint military capabilities.

(B) An Army officer in the grade of general.

(C) A Navy officer in the grade of admiral.

(D) An Air Force officer in the grade of general.

(E) A Marine Corps officer in the grade of general.

(F) A Space Force officer in the grade of general.

(G) The Vice Chief of the National Guard Bureau.

(2) SELECTION OF MEMBERS.—Members of the Council under subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for selection by the Secretary of the military department concerned.

(3) RECOMMENDATIONS.—In making any recommendation to the Chairman of the Joint Chiefs of Staff as described in paragraph (1)(A), the Vice Chairman of the Joint Chiefs of Staff shall provide the Chairman any dissenting view of members of the Council under paragraph (1) with respect to such recommendation.

(d) ADVISORS.—

(1) IN GENERAL.—The following officials of the Department of Defense shall serve as advisors to the Joint Requirements Oversight Council on matters within their authority and expertise:

(A) The Under Secretary of Defense for Policy.

(B) The Under Secretary of Defense for Intelligence and Security.

(C) The Under Secretary of Defense for Acquisition and Sustainment.

(D) The Under Secretary of Defense for Research and Engineering who shall serve as the Chief Technical Advisor to the Council and—

(i) shall provide assistance in evaluating the technical feasibility of requirements under development; and

(ii) shall identify options for expanding or generating new requirements based on opportunities provided by new or emerging technologies.

(E) The Under Secretary of Defense (Comptroller).

(F) The Director of Cost Assessment and Program Evaluation.

(G) The Director of Operational Test and Evaluation.

(H) The commander of a combatant command when matters related to the area of responsibility or functions of that command are under consideration by the Council.

(2) INPUT FROM COMBATANT COMMANDS.—The Council shall seek and strongly consider input from the commanders of the combatant commands in carrying out its mission under subsection (b).

(3) INPUT FROM SERVICE CHIEFS.—The Council shall seek and consider the views of the service chiefs in their roles as end users of capabilities delivered by the defense acquisition system on matters pertaining to a capability proposed by an armed force, Defense Agency, or other entity of the Department of Defense.

~~(4) INPUT FROM VICE CHIEF OF THE NATIONAL GUARD BUREAU.—The Council shall seek and consider the views of the Vice Chief of the National Guard Bureau regarding non-Federalized National Guard capabilities in support of homeland defense and civil support missions.~~

(5) INPUT FROM INDUSTRY.—The Council shall seek views from private entities on commercially available technology to address joint operational problems or gaps in joint military capabilities.

(e) ***

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1 **SEC. ___. CRIMINAL PENALTIES FOR PROVIDING MATERIAL SUPPORT TO A**

2 **COVERED FOREIGN COUNTRY.**

3 (a) IN GENERAL.—Chapter 37 of title 18, United States Code, is amended by inserting

4 before section 792 the following new section:

5 "**§ 791. Providing material support or resources to a covered foreign country**

6 "(a) OFFENSE.—

7 "(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for

8 any of the following persons to provide material support or resources (as defined in

9 section 2339A(b) of this title) to a covered foreign country with intent or reason to

10 believe that the material support or resources will be used to the injury of the

11 United States or to the advantage of a covered foreign country:

12 "(A) Any person who has or once had eligibility or access to classified

13 United States Government information.

14 "(B) Any person who is a current or former member of the armed forces of

15 the United States who served on active duty.

16 "(C) Any person who is a current or former civilian employee of the

17 Department of Defense.

18 "(D) Any person who is employed or formerly employed by an entity that

19 held a contract or subcontract with the Department of Defense during the person's

20 employment.

21 "(E) Any person who is a current or former member of foreign armed

22 force or group (as defined in section 2442 of this title), or civilian who is or was

affiliated with such force or group, who received formal or informal military training provided or authorized by the United States Government.

"(F) Any person who signed a non-disclosure agreement as a condition to access classified information, or other information related to national defense (including as described in sections 793(a) or 794(a) of this title).

"(G) Any person who aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a) or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(2) EXCLUSION FOR PERSONS ACTING ON BEHALF OF UNITED STATES.—Paragraph (1) does not apply to a person acting on behalf of, or at the direction of, the United States Government.

"(b) PENALTY.—Any person who violates subsection (a) shall be fined under this title, imprisoned not more than 20 years, or both.

"(c) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(d) DEFINITIONS.—In this section:

"(1) COVERED FOREIGN COUNTRY.—The term 'covered foreign country' means the government of a country listed in subsection (e). The term includes any agency, instrumentality, political subdivision thereof, or any company, entity, or other person the activities of which are directly or indirectly supervised, directed, controlled, financed, or subsidized, in whole or in major part by the covered foreign country.

1 “(2) ADVANTAGE.—The term ‘advantage’ means any material or non-material
2 benefit that improves the military, economic, intelligence-gathering, or diplomatic
3 capabilities of a covered foreign country, or that undermines the national security or
4 foreign policy interests of the United States.
5 “(3) CLASSIFIED INFORMATION.—The term ‘classified information’ means any
6 information or material that has been determined by the United States Government
7 pursuant to an Executive order, statute, or regulation, to require protection against
8 unauthorized disclosure for reasons of national security and any restricted data, as
9 defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C.
10 2014(y)).
11 “(e) LIST OF COVERED FOREIGN COUNTRIES.—
12 “(1) The Russian Federation.
13 “(2) The Islamic Republic of Iran.
14 “(3) The Democratic People’s Republic of Korea.
15 “(4) The People’s Republic of China.
16 “(5) Any other foreign country designated by the Attorney General for purposes
17 of this section, based upon a finding that such designation is in the national security
18 interests of the United States, and for which notice of the designation of such country by
19 the Attorney General has been published in the Federal Register.”.
20 (b) TABLE OF SECTIONS AMENDMENT.—The table of sections at the beginning of chapter
21 37 of title 18, United States Code, is amended by inserting before the item relating to section 792
22 the following new item:

“791. Providing material support or resources to a covered foreign country.”.

Section-by-Section Analysis

This proposal would criminalize knowingly providing material support or resources (as defined in section 2339A of title 18, United States Code) without authority, to the government of a covered foreign country with intent or reason to believe that it is to be used to the injury of the United States (U.S.) or to the advantage of the specified foreign countries. Advantage is defined as any material or non-material benefit that improves the military, economic, intelligence-gathering, or diplomatic capabilities of a covered foreign country, or that undermines the national security or foreign policy interests of the United States.

Foreign adversaries are exploiting loopholes in United States law to gain sensitive military knowledge from current and former U.S. personnel, rapidly eroding the U.S. military advantage and putting DoD personnel at risk. Current laws are insufficient to address this growing threat, as evidenced by China's recruitment of pilots and technical experts, potentially advancing their military capabilities by a decade or more. The current statutes present challenges to investigation and prosecution by DoD and other federal agencies. These statutes focus solely on classified information. They miss the root issue – providing material support or resources to adversary foreign governments – regardless of the classification or type of information provided. This proposal will close the gap and focus on the conduct that demonstrates the support provided by the individual to a foreign government, along with better internal executive policies and procedural changes underway, and enable prosecutorial tools to deter and prosecute those who transfer their military/defense access, training, or expertise to foreign governments.

This proposal would amend chapter 37 of title 18, United States Code, by inserting a new section creating criminal penalties for providing material support or resources, without authority, to the government of a covered foreign country included by statute or as later designated by the Attorney General after notification and publication in the Federal Register. This proposal criminalizes this conduct by special categories of persons who have acquired specialized knowledge or training by virtue of their affiliation with the military or United States Government when they provide such support or resources with intent or reason to believe that the material support or resources will be used to the injury of the United States or to the advantage of a covered foreign country. There is currently no effort to create a similar provision under the Uniform Code of Military Justice (U.C.M.J.), but section 934 of title 10, United States Code, could be used to assimilate the crime for military members at courts-martial. This proposal protects national security by preventing individuals from providing material support to foreign adversaries, ensuring the defense of the United States' strategic interests

The SASC, HASC, HFAC, and SSCI, and HPSCI, have shown keen interest in identifying tools to combat the threat posed by foreign adversaries to procure military tactics, techniques, and procedures and other key information to advance their military objectives contrary to U.S. national security goals. The United States has had great success encouraging our allies to pass new Foreign Government Employment laws. Strengthening our laws in this area will better protect key shared U.S. technologies including highly sensitive F-35 capabilities. This proposal is the comprehensive modernization needed to solve these issues by clearly defining and criminalizing activities related to providing military training to designated foreign adversaries, closing loopholes, and strengthening accountability.

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 add a new section to chapter 37 of title 18, United States Code, as set forth in the legislative text above.

1 **SEC. ___. DEFENSE INDUSTRIAL BASE FACILITY CONSTRUCTION.**

2 Subchapter I of chapter 169 of title 10, United States Code, is amended by inserting after

3 section 2810 the following new section:

4 **"§2810a. Defense Industrial Base Facility Construction**

5 "(a) CONSTRUCTION PROJECTS AUTHORIZED.—Within amounts appropriated for

6 military construction, the Secretary concerned may carry out military construction projects

7 not otherwise authorized by law for the design and construction of defense industrial base

8 facilities.

9 "(b) NOTICE AND WAIT REQUIREMENTS.—The Secretary concerned shall notify the

10 congressional defense committees when a decision is made to undertake a military

11 construction project authorized under subsection (a) that costs more than the unspecified

12 minor military construction threshold under section 2805(a) of this title. Such notification

13 shall include a description of the project, the anticipated year of execution, the justification

14 for the project, and the estimated cost of the project. No irrevocable action may be taken to

15 effect or implement a project under this section until the end of the 14-day period beginning

16 on the date on which the Secretary concerned submits the notice in an electronic medium

17 pursuant to section 480 of this title.

18 "(c) DEFINITION.—In this section, the term "defense industrial base facility" has the

19 meaning given such term in section 2208(u)(3) of this title.".

Section-by-Section Analysis

The proposal establishes a standing authorization, subject to the appropriation of funds for military construction, to construct facilities to modernize the Defense Industrial Base (DIB). Similar to the unspecified minor military construction processes, the Military Departments will be required to notify Congress and submit the project's scope and cost If adopted, this would allow the respective Military Departments account for the changes required to accommodate the

new modernized industrial processes to be housed in the new facility and changing market conditions resulting in DIB facilities to be delivered quicker and at less cost.[1]

Current line-item authorization and appropriation of new industrial base MILCON limits FY funding for the design and construction of projects across the DIB. With the recent volatility in the construction market over the last five years, several DIB projects have exceeded PA, resulting in the need for an Above Threshold Reprogramming (ATR) or Cost to Complete (CTC) funding.

An ATR is typically executed within 6-9 months, however, there is a cost to the Department for a contractor to hold bids. Price Includes Variation Over Time (PIVOT) is used where construction contractors propose pricing based on specific timeframes such at 0-90 days and 91-270 days. Allowing contractors to apply cost to the risk they are taking to hold bids while an ATR is processed in 6-9 months enables a project award, but a significant premium is paid for the delay. If this proposal is enacted, projects could be awarded within 90 days, avoiding premium costs for delays to process ATRs.

For CTC funding, there can be up to a three year wait between the identified need and the CTC funding enacted. In either case, while the project is on hold awaiting funds, construction industry inflation is compounding year over year at 15%-20%, well above the projected inflation rate. A specific example of CTC delays is the DIB Component Rebuild Shop at Red River Army Depot. This project was authorized in FY24 for $113M and is now delayed waiting for FY26 Cost to Complete funds in the amount of $93M. Each year of delay on a $100M project translates to approximately $10M-15M in inflation delay costs. There are similar examples of DIB projects delayed and awaiting Cost to Complete funds. Bulk funding would allow for continuation and completion of these projects at a lower cost if bulk funding were available. The challenges with DIB projects impact all construction agents alike.

The Army has two recent examples of construction projects experiencing 15%-20% inflation. While these examples are not OIB specific projects, they are recent, factual cases of inflation impacts when project awards are delayed. Both projects were advertised in 2021 or 2022 and failed to award due to bids exceeding the programmed amount. Both projects then waited for cost to complete funds and were readvertised in 2024.

Project 1- PN88967 Ft Gillem Forensic Laboratory, Georgia. This project was enacted in FY21 with a PA of $71M, advertised in FY21 and un-awardable in August 2021with a Current Working Estimate (CWE, based on bids received) of $89M. A $35M cost to complete project was enacted in 2023 and the project was readvertised in FY24. The award CWE based on bids received in 2024 was $155.69M. This is 20% growth year over year from FY21 to FY24. Had bulk funding been available, Army could have successfully awarded the project in 2021 with a $20M increase. Instead, Army had to request CTC funds and by the time CTC funds were available, the project costs had further increased to $155.69M resulting in the project remaining unawarded due to insufficient funding.

[1] This proposal would require an accompanying MILCON appropriations provision for full implementation.

Project 2- PN86812/95838 Ft Jackson Reception Barracks, South Carolina. The combined PA of this project was $88M. The project was advertised in April 2022 and the low bid received in August 2022 was $129.25M. The project received $101M in CTC funds in 2024 and was readvertised in April 2024 and successfully awarded at $189.67M. The cost growth over the three years waiting for cost to complete funding was 15%.

Both of the above examples are indicative of the MILCON planning, programming, and budgeting process that require projects to have fixed scope and cost (based on 35% design) two to three years before the project is line item authorized and appropriated for construction award. The MILCON process does not provide adequate flexibility to adjust scope and cost based on changes required by the modernization of the industrial process and/or market conditions. Typically, DIB projects have unique and evolving requirements, as well as frequent design changes, increasing the risk of cost overruns, which require reprograming or CTC requests to resolve. To address these unique challenges to DIB projects, the Department is seeking this new title 10 authority (full program authorization with established appropriation by year) to provide the Military Departments with consistent authority to undertake DIB construction projects. Although not like the process used for the $5B reconstruction of Tyndall AFB and submission of a spend plan. The reconstruction of Tyndall AFB had authority and funding provided by Congress for the overall reconstruction of the Air Force Base devastated by Hurricane Michael in 2018. Using a 'bulk' authority and funding (provided as a lump sum), the Air Force prioritizes the projects based on available funding and sought additional funding once requirements were further refined. The total scope of the reconstruction includes 49 MILCON projects, of which seven have been completed with another 16 scheduled for completion by the end of 2025. The Air Force will complete the reconstruction two to three years faster than if the traditional MILCON process was used.

This proposal seeks to mitigate delays in MILCON awards for DIB projects which would otherwise result in avoidable cost increases. If adopted, this proposal would provide necessary authority to address the defense industrial base shortfalls on military installations while reducing time associated risks. Through this proposal, Congress would enact a standing industrial base military construction authority, and the Military Departments would budget annually for separate, bulk amounts of MILCON funding for new industrial base construction and modernization, respectively (similar to the authorization and budgeting approach for Unspecified Minor Military Construction (UMMC) programs). To keep Congress apprised of projects executed under the authority, congressional notification would be required for any project with a cost exceeding the UMMC threshold under 10 U.S.C. § 2805(a) (currently $9M plus location adjustment).

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

Changes to Existing Law: This proposal would add a new section, section 2810a, to subchapter I of chapter 169 of title 10 as indicated above.

1 **SEC. ___. EXPANSION OF AUTHORITY FOR RETENTION OF AMOUNTS**

2 **COLLECTED FROM CONTRACTOR DURING THE PENDENCY OF**

3 **CONTRACT DISPUTE.**

4 Section 3863 of title 10, United States Code, is amended—

5 (1) by redesignating subsection (b) as subsection (c);

6 (2) by inserting after subsection (a) the following new subsection (b):

7 "(b) AMOUNTS COLLECTED RELATED TO MORE THAN ONE FUND ACCOUNT.—(1) When an

8 amount described in subsection (a) is collected for a claim related to more than one fund account

9 and it is not practicable to identify the affected lines of accounting, the amount shall be covered

10 into the account established in paragraph (2).

11 "(2) There is established in the Treasury of the United States an account to be known as the

12 'Defense Contractor Claims Account'. Amounts covered into the account pursuant to paragraph

13 (1) shall be credited to the account and shall remain available in accordance with this section only

14 for the purposes described in subsection (a)."; and

15 (3) in paragraph (1) of paragraph (c), as so redesignated, by inserting "or (b)"

16 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 seeks to amend section 3863 of title 10, United States Code, (Section 3863) to authorize the collection of funds belonging to the Federal Government but subject to a contractor dispute or litigation, be classified as miscellaneous receipts when more than one fund account is involved in a single claim. These funds are not a liability to the Government's central summary general ledger, nor are they intended to be used as an expenditure account, deposit fund, or clearing account.

Currently, Section 3863 requires Department of Defense (DoD) retain amounts collected from a contractor during the pendency of a contract dispute but does not specifically authorize the creation or use of a specific account for funds retention. Office of Management

and Budget Circular A-11 Sec 20.9 directs that amounts received are deposited to the credit of the appropriation or fund account charged with the original obligations. Pursuant to Section 3863(a), these funds remain available to settle claims and judgements, or for the requisite time after the expiration of the period for bringing such an action expires. Contractor disputes or litigation often extend beyond the original appropriation's period of availability, which requires the DoD to request and monitor extended disbursing authority (EDA) until the dispute is resolved. EDA is only available for the entire appropriation, which introduces risk, and requires constant monitoring and reconciliation until the litigation concludes. Historically, the budgetary impact is often null, and any collections are posted to miscellaneous receipts with the U.S. Treasury.

DoD accounting systems, entitlement systems, or contracting processes do not have a practicable capability to identify every individual appropriation involved in complex DoD contracts. This is exacerbated further where many contracts are additionally funded by appropriations from non-DoD entities and reserve funds on contractual lines of accounting (LOA). Use of a receipt account alleviates the need for contracting entities to create a process to review and identify hundreds of potential LOAs applicable to the dispute, thus avoiding resource costs and Defense Finance and Accounting Service (DFAS) billings to manage funds that will likely end up in the Treasury General Fund once litigation concludes.

This proposal supports the distinction and accounting for monetary receipts in dispute or litigation. This streamlines the DoD's ability to receive, account for, and ultimately disburse, if appropriate, funds pursuant to Section 3863. It also creates efficiencies to avoid DoD systemic limitations and costly, if not impossible processes that require posting to individual appropriations involved in the initial payment(s) to the contractors and subsequently requesting and monitoring EDA if the litigation extends beyond the original appropriation's period of availability. The adoption of this proposal reduces audit risk by implementing a sustainable and auditable reporting process for the collection of litigation and dispute funds.

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 3863 of title 10, United States Code, as follows:

§ 3863. Retention of amounts collected from contractor during the pendency of contract dispute

(a) RETENTION OF FUNDS.—Notwithstanding sections 1552(a) and 3302(b) of title 31, any amount, including interest, collected from a contractor as a result of a claim made by a military department or Defense Agency under chapter 71 of title 41, shall remain available in accordance with this section to pay—

(1) any settlement of the claim by the parties;

(2) any judgment rendered in the contractor's favor on an appeal of the decision on that claim to the Armed Services Board of Contract Appeals under section 7104(a) of title 41; or

(3) any judgement rendered in the contractor's favor in an action on that claim in a court of the United States.

(b) AMOUNTS COLLECTED RELATED TO MORE THAN ONE FUND ACCOUNT.—(1) When an amount described in subsection (a) is collected for a claim related to more than one fund account and it is not practicable to identify the affected lines of accounting, the amount shall be covered into the account established in paragraph (2).

(2) There is established in the Treasury of the United States an account to be known as the "Defense Contractor Claims Account". Amounts covered into the account pursuant to paragraph (1) shall be credited to the account and shall remain available in accordance with this section only for the purposes described in subsection (a).

~~(b)~~(c) PERIOD OF AVAILABILITY.—(1) The period of availability of an amount under subsection (a) or (b), in connection with a claim—

(A) expires 180 days after the expiration of the period for bringing an action on that claim in the United States Court of Federal Claims under section 7104(b) of title 41 if, within that 180-day period—

(i) no appeal on the claim is commenced at the Armed Services Board of Contract Appeals under section 7104(a) of such title; and

(ii) no action on the claim is commenced in a court of the United States; or

(B) if not expiring under subparagraph (A), expires—

(i) in the case of a settlement of the claim, 180 days after the date of the settlement; or

(ii) in the case of a judgment rendered on the claim in an appeal to the Armed Services Board of Contract Appeals under section 7104(a) of title 41 or an action in a court of the United States, 180 days after the date on which the judgment becomes final and not appealable.

(2) While available under this section, an amount may be obligated or expended only for a purpose described in subsection (a).

(3) Upon the expiration of the period of availability of an amount under paragraph (1), the amount shall be covered into the Treasury as miscellaneous receipts.

———

1 **SEC.____. EXTENSION AND MODIFICATION OF INDO-PACIFIC MARITIME**

2 **SECURITY INITIATIVE.**

3 (a) EXPANSION OF TYPES OF ASSISTANCE AND TRAINING.—Subsection (c) of section 1263

4 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C.

5 333 note) is amended—

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

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

8 "(2) DEMONSTRATION AND OPERATIONAL TEST AND EVALUATION OF UNCREWED

9 SYSTEMS AND ASYMMETRIC OPERATIONAL CONCEPTS.—During the period ending on

10 December 31, 2028, assistance provided under subsection (a)(1)(A) may also include the

11 provision, in coordination with the Department of State, of the following:

12 "(A) Operational test and evaluation of uncrewed systems and asymmetric

13 operational concepts as part of other assistance to the national military or other

14 security forces described in subsection (a)(1)(A)(i) or the other national-level

15 governmental organizations described in subsection (a)(1)(A)(ii).

16 "(B) Demonstration of uncrewed systems and asymmetric operational

17 concepts as part of other assistance to the national military or other security forces

18 described in subsection (a)(1)(A)(i) or the other national-level governmental

19 organizations described in subsection (a)(1)(A)(ii).".

20 (b) MODIFICATION OF REPORT PERIOD.—Subsection (i)(1) of such section is amended by

21 striking "calendar year" in the matter preceding subparagraph (A) and in subparagraph (G) and

22 inserting "fiscal year".

23 (c) AVAILABILITY OF FUNDS ACROSS FISCAL YEARS.—Such section is further amended—

1 (1) by redesignating subsection (j) as subsection (k); and

2 (2) by inserting after subsection (i) the following new subsection (j):

3 "(j) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—Amounts

4 available in a fiscal year to carry out the authority in subsection (a) may be used for programs

5 under that authority that begin in such fiscal year and end not later than the end of the third fiscal

6 year thereafter.".

7 (d) EXTENSION.—Subsection (k) of such section, as so redesignated, is amended by

8 striking "December 31, 2027" and inserting "December 31, 2031".

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

Section-by-Section Analysis

This proposal would extend and modify the Indo-Pacific Maritime Security Initiative (MSI) to facilitate the provision of critical Maritime Security (MARSEC) and Maritime Domain Awareness (MDA) capabilities to allies and partners in the region and encourage long-term cooperation through bilateral and multilateral exercises and human capital development. This proposal would also permit cross-year availability of funds for MSI programs and activities; require annual reporting by fiscal year rather than calendar year; and extend the MSI authority through 2031 to enable the Department of Defense to support the National Defense Strategy (NDS) priority to deter China in the Indo-Pacific region.

This proposal would expand MSI to authorize demonstrations and operational test and evaluation of uncrewed systems and asymmetric operational concepts to eligible partner nations as part of assistance programs with those nations. DoD would seek to source systems and concepts for demonstrations and operational tests and evaluations under MSI from entrepreneurs, startups, and small businesses from U.S. industry that produce commercial, off-the-shelf (COTS) maritime security and maritime domain awareness solutions.

The asymmetric and uncrewed systems employed by the U.S. military services are exquisite technologies, provided at an acquisition and operational cost that is not feasible for the national defense or security budget of MSI partner nations. MSI partner nations have expressed considerable interest in achieving greater capability, with less risk, at a lower cost. Without exposure to solutions that are responsive to their operational needs and resource constraints, MSI partner nations may fail to invest in their own security or may choose solutions that neither improve their capabilities nor support the strategic objectives of MSI and USINDOPACOM.

Including COTS demonstrations, as well as testing and evaluation, in MSI assistance

activities offers the opportunity to alleviate extended delivery timelines of defense articles to MSI partners by expanding the market through testing, evaluating, demonstrating to, and equipping MSI partner nations with non-traditional solutions that the United States is not seeking to procure and that are not currently or formerly in U.S. inventory. Sourcing these defense articles primarily from suppliers within the U.S. industrial ecosystems of entrepreneurs, startups, and small businesses would have the incidental benefit of further expanding entry and strengthening participation in the defense industrial base.

Expanding MSI in this way also provides an opportunity to encourage burden sharing by allies and partners. Although a MSI partner may first receive a demonstrated system or concept through equipping under MSI or other security cooperation or security assistance authorities, MSI partners are more likely to purchase additional systems if they meet operational demands and fit within partner resource constraints.

The proposed amendment would also require the Department to submit its report on MSI strategy and assessment of recipient former countries every fiscal year, rather than every calendar year. This would reduce administrative burden by streamlining reporting and aligning it with the Department's budgetary and programming cycles, in turn increasing accuracy in reported results and improving overall transparency. Reporting by fiscal year would also align with the Congressional notification process for MSI, which requires notification based on data from preceding fiscal years not calendar years.

The proposed amendment would also include an express cross-fiscal year funding authority. This cross-fiscal year funding authority does not extend the period of availability of funds but allows for obligations properly incurred during the period availability to cover bona fide needs of multiple fiscal years. Since 2019, MSI has been funded through the International Security Cooperation Programs (ISCP) account, for which Congress typically appropriates funds with a two-year period of availability. However, unlike similar security cooperation authorities funded under ISCP (e.g., 10 U.S.C. section 333), MSI does not include an explicit cross-fiscal year funding authority, thereby restricting the period of performance for any severable service contract to the period of availability of the appropriated funds. This substantially complicates the Department's efforts to avoid a break in defense services for our supported foreign partners, including critical defense services such as the HawkEye 360 data feed, which facilitates MSI partner nations' maritime domain awareness activities and which is provided via a severable service contract.

Finally, the proposed amendment would extend the MSI authority until December 31, 2031 to allow activities and programs under MSI to continue without interruption under the five-year plan for significant security cooperation initiatives with MSI partner nations.

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 1263 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 10 U.S.C. 333 note) as follows:

SEC. 1263. INDO-PACIFIC MARITIME SECURITY INITIATIVE.

(a) ASSISTANCE AND TRAINING.—

(1) IN GENERAL.—The Secretary of Defense is authorized, with the concurrence of the Secretary of State, with the primary goal of increasing multilateral maritime security cooperation and maritime domain awareness of foreign countries in the area of responsibility of the United States Indo-Pacific Command—

(A) to provide assistance to—

(i) the national military or other security forces of any such country that has among its functional responsibilities a maritime security mission; and

(ii) any other national-level governmental organization of such a country that has among its functional responsibilities a maritime domain awareness mission, for purposes of helping to achieve the maritime domain awareness objectives of such country if such assistance directly contributes to the integration of a maritime domain awareness activity with the national military or other security forces described in clause (i); and

(B) to provide training to—

(i) ministry, agency, and headquarters-level organizations for such forces; or

(ii) other national-level governmental organizations described in paragraph (A)(ii).

(2) DESIGNATION OF ASSISTANCE AND TRAINING.—The provision of assistance and training under this section may be referred to as the "Indo-Pacific Maritime Security Initiative".

(b) RECIPIENT COUNTRIES.—The foreign countries that may be provided assistance and training under subsection (a) are the countries located within the area of responsibility of the United States Indo-Pacific Command.

(c) TYPES OF ASSISTANCE AND TRAINING.—

(1) AUTHORIZED ELEMENTS OF ASSISTANCE.—Assistance provided under subsection (a)(1)(A) may include the provision of equipment, supplies, training, and small-scale construction (as defined in section 301 of title 10, United States Code).

<u>(2) DEMONSTRATION AND OPERATIONAL TEST AND EVALUATION OF UNCREWED SYSTEMS AND ASYMMETRIC OPERATIONAL CONCEPTS.—During the period ending on December 31, 2028, assistance provided under subsection (a)(1)(A) may also include the provision, in coordination with the Department of State, of the following:</u>

<u>(A) Operational test and evaluation of uncrewed systems and asymmetric operational concepts as part of other assistance to the national military or other security forces described in subsection (a)(1)(A)(i) or the other national-level governmental organizations described in subsection (a)(1)(A)(ii).</u>

(B) Demonstration of uncrewed systems and asymmetric operational concepts as part of other assistance to the national military or other security forces described in subsection (a)(1)(A)(i) or the other national-level governmental organizations described in subsection (a)(1)(A)(ii).

~~(2)~~(3) REQUIRED ELEMENTS OF ASSISTANCE AND TRAINING.—Assistance and training provided under subsection (a) shall include elements that promote the following:

(A) Observance of and respect for the law of armed conflict, the rule of law, and human rights and fundamental freedoms.

(B) Respect for legitimate civilian authority within the country to which the assistance is provided.

(d) PRIORITIES FOR ASSISTANCE AND TRAINING.—In developing programs for assistance or training to be provided under subsection (a), the Secretary of Defense shall prioritize assistance, training, or both, to enhance—

(1) multilateral cooperation and coordination among recipient countries; or

(2) the capabilities of a recipient country to more effectively participate in a regional organization of which the recipient country is a member.

(e) INCREMENTAL EXPENSES OF PERSONNEL OF RECIPIENT COUNTRIES FOR TRAINING.—If the Secretary of Defense determines that the payment of incremental expenses (as defined in section 301 of title 10, United States Code) in connection with training described in subsection (a)(1)(B) will facilitate the participation in such training of organization personnel of recipient countries described in subsection (b), the Secretary may use amounts available under subsection (f) for assistance and training under subsection (a) for the payment of such incremental expenses.

(f) AVAILABILITY OF FUNDS FOR COAST GUARD PERSONNEL AND CAPABILITIES.—The Secretary of Defense may use funds made available under this section to facilitate the participation of Coast Guard personnel in, and the use of Coast Guard capabilities for, training, exercises, and other activities with foreign countries under this section.

(g) LIMITATIONS.—

(1) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—The Secretary of Defense may not use the authority in subsection (a) to provide any type of assistance described in subsection (c) that is otherwise prohibited by any provision of law.

(2) PROHIBITION ON ASSISTANCE TO UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The provision of assistance pursuant to a program under subsection (a) shall be subject to the provisions of section 362 of title 10, United States Code.

(3) SECURITY COOPERATION.—Assistance, training, and exercises with recipient countries described in subsection (b) shall be planned and prioritized consistent with applicable guidance relating to the security cooperation program and activities of the Department of Defense.

(4) ASSESSMENT, MONITORING, AND EVALUATION.—The provision of assistance and training pursuant to a program under subsection (a) shall be subject to the provisions of section 383 of title 10, United States Code.

(h) NOTICE TO CONGRESS ON ASSISTANCE AND TRAINING.—***

(i) ANNUAL MONITORING REPORTS.—

(1) IN GENERAL.—Not later than March 1, 2022, and annually thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth, for the preceding ~~calendar~~ fiscal year, the following:

(A) The overall strategy for improving multilateral maritime security cooperation and maritime domain awareness across the theater, including an identification of the following:

(i) Priority countries and associated capabilities across the theater.

(ii) Strategic objectives for the Indo-Pacific Maritime Security Initiative across the theater, lines of effort, and desired end results for such lines of effort.

(iii) Significant challenges to improving multilateral maritime security cooperation and maritime domain awareness across the theater and the manner in which the United States Indo-Pacific Command is seeking to address such challenges.

(B) An assessment, by recipient foreign country, of—

(i) the country's capabilities relating to maritime security and maritime domain awareness;

(ii) the country's capability enhancement priorities, including how such priorities relate to the theater campaign strategy, country plan, and theater campaign plan relating to maritime security and maritime domain awareness; and

(iii) how such capabilities can be leveraged to improve multilateral maritime security cooperation and maritime domain awareness.

(C) A discussion, by recipient foreign country, of—

(i) priority capabilities that the Department of Defense plans to enhance under the authority under subsection (a) and priority capabilities the Department plans to enhance under separate United States security cooperation and security assistance authorities; and

(ii) the anticipated timeline for assistance and training for each such capability.

(D) Information, by recipient foreign country, on the status of funds allocated for assistance and training provided under subsection (a), including funds allocated but not yet obligated or expended.

(E) Information, by recipient foreign country, on the delivery and use of assistance and training provided under subsection (a).

(F) Information, by recipient foreign country, on the timeliness of the provision of assistance and training under subsection (a) as compared to the timeliness of the provision of assistance and training previously provided to the foreign country under subsection (a).

(G) A description of the reasons the Department of Defense chose to utilize the authority for assistance and training under subsection (a) in the preceding ~~calendar~~ fiscal year.

(H) An explanation of any impediments to timely obligation or expenditure of funds allocated for assistance and training under subsection (a) or any significant delay in the delivery of such assistance and training.

(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term "appropriate committees of Congress" has the meaning given the term in subsection (h)(2).

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

(k) EXPIRATION.—Assistance and training may not be provided under this section after ~~December 31, 2027~~ December 31, 2031.

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1 **SEC. ___. EXTENSION OF CERTAIN EXPIRING AUTHORITIES FOR WEAPONS**

2 **TRANSFERS TO ISRAEL.**

3 (a) WAR RESERVES STOCKPILE AUTHORITY.—Section 12001(d) of the Department of

4 Defense Appropriations Act, 2005 (Public Law 108-287), is amended by striking "January 1,

5 2027" and inserting "January 1, 2029".

6 (b) RULES GOVERNING THE TRANSFER OF PRECISION-GUIDED MUNITIONS TO ISRAEL

7 ABOVE THE ANNUAL RESTRICTION.—Section 1275 of the William M. (Mac) Thornberry National

8 Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283; 22 U.S.C. 2321h note) is

9 amended—

10 (1) by redesignating subsection (e) as subsection (d); and

11 (2) in subsection (d), as so redesignated, by striking "January 1, 2027" and

12 inserting "January 1, 2032".

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

Section-by-Section Analysis

This proposal would extend the authority to transfer munitions to Israel from War Reserves Stockpile Allies, Israel (WRSA-I) until 2029, as well as the authority to transfer Precision Guided Munitions to Israel under the WRSA-I until 2032.

Under WRSA-I, the Department of Defense (DoD) maintains a stockpile of defense articles in Israel in the event of theater contingency operations to reduce delays associated with weapons transportation, logistics, and maintenance, this authority is generally available for NATO and major non-NATO allies. Since October 7, 2023, DoD has been able to use WRSA-I to rapidly source sales to Israel in response to urgent Israel Defense Forces requests. WRSA-I stocks in Israel remain DoD-owned until transferred pursuant to an existing transfer authority such as a transfer under foreign military sales. Under section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)), the value of defense stockpiles in Israel may not exceed $200,000,000.

As outlined in the National Defense Strategy (NDS), Israel has long demonstrated it can defend itself with critical but limited support from the United States, and DoD will continue to empower Israel to defend itself and promote our shared security interests. For example, through Israel's Operation ROARING LION, Israel has conducted hundreds of sorties against Iranian and Iranian-proxy targets. Similarly, extending the authority to transfer Precision Guided Munitions to Israel will further this NDS goal. For example, since October 7, 2023, the DoD has provided Israel with approximately 5,000 Small Diameter Bombs, 24,497 Mk-84 bombs, and 4,000 BLU-109 bombs.

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 12001(d) of the Department of Defense Appropriations Act, 2005 (Public Law 108-287) and section 1275(e) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283; 22 U.S.C. 2321h note) as follows:

TITLE X
OTHER MATTERS
* * * * * * *
CHAPTER 2—BILATERAL ECONOMIC ASSISTANCE
* * * * * * *
GENERAL PROVISIONS, THIS CHAPTER

SEC. 12001. (a)(1) Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President may transfer to Israel, in exchange for concessions to be negotiated by the Secretary of Defense, with the concurrence of the Secretary of State, any or all of the items described in paragraph (2).

(2) The items referred to in paragraph (1) are defense articles that are in the inventory of the Department of Defense as of the date of transfer, are intended for use as reserve stocks for Israel, and are located in a stockpile for Israel as of the date of transfer

(b) The value of concessions negotiated pursuant to subsection (a) shall be in an amount to be determined by the Secretary of Defense. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States, and other items of value.

(c) Not later than 30 days before making a transfer under the authority of this section, or as far in advance of such transfer as is practicable as determined by the President on a case-by-case basis during extraordinary circumstances impacting the national security of the United States, the President shall transmit a notification of the proposed transfer to the Committees on Foreign Relations and Armed Services of the Senate and the Committees on International Relations and Armed Services of the House of Representatives. The notification shall identify the items to be transferred and the concessions to be received.

(d) No transfer may be made under the authority of this section after January 1, ~~2027~~ 2029.

SEC. 1275. [22 U.S.C. 2321h note] RULES GOVERNING THE TRANSFER OF PRECISION-GUIDED MUNITIONS TO ISRAEL ABOVE THE ANNUAL RESTRICTION.

(a) IN GENERAL.—Notwithstanding section 514(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)), and subject to subsections (b) and (c) of this section, the President, acting through the Secretary of Defense and with the concurrence of the Secretary of State, is authorized to transfer to Israel precision-guided munitions from reserve stocks, including the War Reserve Stockpile for Allies-Israel, consistent with—

(1) all other requirements set forth in the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); and

(2) the requirements set forth in the Arms Export Control Act (22 U.S.C. 2751 et seq.).

(b) CONDITIONS.—Except in the case of an emergency, as determined by the President, a transfer under subsection (a) of this section may only occur if the transfer—

(1) does not affect the ability of the United States to maintain a sufficient supply of precision-guided munitions to satisfy United States warfighting requirements;

(2) does not harm the combat readiness of the United States;

(3) does not affect the ability of the United States to meet its commitments to allies with respect to the transfer of precision-guided munitions; and

(4) is in the national security interest of the United States.

(c) CERTIFICATION.—

(1) IN GENERAL.—Except in the case of an emergency, as determined by the President, not later than 15 days before making a transfer under subsection (a) of this section, the Secretary of Defense, with the concurrence of the Secretary of State, shall certify to the appropriate congressional committees that the transfer meets the conditions specified in subsection (b) of this section.

(2) EMERGENCIES.—In the case of an emergency, as determined by the President, not later than 5 days after making a transfer under subsection (a) of this section, the President shall— (A) certify to the appropriate congressional committees that the transfer supports the national security interests of the United States; and (B) provide to the appropriate committees of Congress an assessment of the impacts, risks, and mitigation measures with respect to the matters referred to in paragraphs (1) through (4) of subsection (b) of this section.

~~(c)~~ (d) TERMINATION.—The authority of the President to transfer precision-guided munitions under this section shall terminate on January 1, ~~2027~~2032.

1 **SEC. ___. EXTENSION OF FEDERAL ADMINISTRATIVE PROCEDURES FOR**
2 **COMPUTER MATCHING AGREEMENTS BETWEEN THE**
3 **DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF**
4 **VETERANS AFFAIRS.**

5 Section 552a(o)(2) of title 5, United States Code, is amended by adding at the end the
6 following new subparagraph:

7 "(E)(i) Such an agreement between the Department of Defense and the
8 Department of Veterans Affairs shall remain in effect only for such period, not to
9 exceed 36 months, as the Data Integrity Board of the agency determines is
10 appropriate in light of the purposes, and length of time necessary for the conduct,
11 of the matching program without regard to the limitation in subparagraph (C).

12 "(ii) Within 3 months prior to the expiration of such an agreement
13 pursuant to clause (i), the Data Integrity Board of the agency may, without
14 additional review, renew the matching agreement for a current, ongoing matching
15 program for not more than 3 additional years without regard to the limitation in
16 subparagraph (D) if—

17 "(I) such program will be conducted without any change; and

18 "(II) each party to the agreement certifies to the Board in writing
19 that the program has been conducted in compliance with the agreement.".

[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 subsection (o) of section 552a of title 5, United States Code, (popularly known as the Computer Matching and Privacy Protection Act of 1988) (CMPPA) to extend the current limited timeframes for Computer Matching Agreements (CMA) between the

Department of Veterans Affairs (VA) and the Department of Defense (DoD) under the CMPPA. Given the relative stability of VA-DoD CMAs, the disproportionately large administrative burden to VA and DoD of CMA renewal, and the impact of the disruption to Veterans and Servicemembers when CMAs lapse before they can be renewed, DoD seeks to extend the timelines for VA-DoD CMAs to three years with an option to renew for up to three additional years. This modification aligns timelines with those in section 3354(d) of title 31, United States Code (popularly known as the Payment Integrity Information Act of 2019).

The CMPPA requires Federal agencies to enter written CMAs specifying the terms under which they will match records. VA and DoD utilize CMAs to conduct data exchanges for the purposes of correctly administrating federal benefits programs, preventing duplication of benefits, and limiting improper payments. CMPPA provides that CMAs may only be active for a maximum of 18 months; agencies can then extend these agreements for an additional 12 months. When CMAs lapse, the dataflow ceases, claims processing is interrupted, and the number of improper payments made to Servicemembers and Veterans increases. VA and DoD find these timeframes to be too restrictive for their joint CMAs, leading them to lapse prior to renewal, which have significant impacts on Servicemembers and Veterans.

This proposal addresses these issues by significantly reducing the likelihood of duplication of benefits, improper payments, and disruption to Veterans and Servicemembers when CMAs lapse before they can be renewed and would better implement the recently signed memorandum between VA Secretary Collins and Secretary Hegseth to improve Servicemembers' transition to the VA system. It would also help deliver on Secretary Collins's promise to "deliver timely access to care and benefits for every eligible Veteran, family member, caregiver, and survivor" by optimizing shared use of health care, enable Servicemembers' automatic enrollment into the VA system for uninterrupted health care, and provide comprehensive and continuous mental health treatment.

As an example, CMA 87 between VA and DoD facilitates proactive notifications to Veterans returning to active duty of their potential debt incursion and eliminates improper payments. In 2024, that CMA temporarily lapsed before it could be renewed, affecting over 17,000 Veterans and resulting in approximately $24.7 million in overpayments.VA and DoD worked with the Office of Management and Budget to reinstate the CMA as soon as feasible; however, that required numerous additional manpower costs in terms of time and effort, and resulted in both departments having to outreach to Servicemembers and Veterans via social media and other communication methods to help prevent them from incurring debt.

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 552a(o)(2) of title 5, United States Code, as follows:

§552a. Records maintained on individuals

(a) ***

*****

(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

(A) the purpose and legal authority for conducting the program;

(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to-

(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

(ii) applicants for and holders of positions as Federal personnel, that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

(E) procedures for verifying information produced in such matching program as required by subsection (p);

(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

(ii) be available upon request to the public.

(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if-

(i) such program will be conducted without any change; and

(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

(E)(i) Such an agreement between the Department of Defense and the Department of Veterans Affairs shall remain in effect only for such period, not to exceed 36 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program without regard to the limitation in subparagraph (C).

(ii) Within 3 months prior to the expiration of such an agreement pursuant to clause (i), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than 3 additional years without regard to the limitation in subparagraph (D) if—

(I) the program will be conducted without any change; and

(II) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

1 **SEC. __. FEDERAL FINANCIAL ASSISTANCE FOR OPERATION AND**

2 **MAINTENANCE OF NATIONAL GUARD FACILITIES.**

3 Chapter 1 of title 32, United States Code, is amended by adding at the end the following

4 new section:

5 **"§ 116. Federal financial assistance for operation and maintenance of National Guard**

6 **facilities**

7 "The Secretary of Defense may provide assistance, through a grant or cooperative

8 agreement entered into with the Governor of a State (or, in the case of the District of Columbia,

9 with the commanding general of the District of Columbia National Guard), a local government,

10 or other recipient for the purpose of operating or maintaining National Guard facilities required

11 to organize, train, and equip the National Guard to perform State and Federal operations and

12 missions.".

Section-by-Section Analysis

This proposal would provide positive statutory authority for Grants and Cooperative Agreements (CAs) entered into between the National Guard Bureau (NGB) (through United States Property and Fiscal Officers assigned to each State, Territory, and the District of Columbia) and the State National Guard (for example, the Governor, The Adjutant General (TAG), or the Commanding General for the District of Columbia National Guard (DCNG-CG)) or other non-federal entities such as airport authorities and municipalities using Operations and Maintenance (O&M) funds.

Because of the unique Federal/State relationship with the Army National Guard, Army National Guard of the United States and Air National Guard and Air National Guard of the United States, Federal financial assistance instruments have been an effective way to provide operations and maintenance funds appropriated by Congress to the National Guards of the States, Territories, and the District of Columbia.

The 54 National Guards require land and facilities in order to organize, train, and equip their respective National Guards. On September 11, 1950, Congress passed the National Defense Facilities Act of 1950, H.R. 8594, P.L. 783, as amended, which authorized contributing funds to the States for various purposes, including to "expand, rehabilitate, or convert facilities owned by such State to the extent required for the joint utilization of such facilities" or "for the acquisition, construction, expansion, rehabilitation, or conversion by such State of such additional facilities as [the Secretary of Defense] shall determine to have been made by any increase in strength of the National Guard of the United State or the Air National Guard of the United States. This Act

was passed at an inflection point in the National Guard as its strength increased from around 190,000 in 1936 to over 356,000 by 1950.

The current authorities for contributions to the States are found in chapter 1803 of title 10. For example, 10 U.S.C. 18233(a)(4) authorizes the Secretary of Defense to "contribute to any State such amounts for the acquisition, construction, expansion, rehabilitation, or conversion by it of additional facilities as he determines to be required by any increase in the strength of the Army National Guard of the United States or the Air National Guard of the United States."

Today, most of the facilities in which the National Guard are located on state land and licensed or leased to the Federal government for a period of time. These contributions are handled by the National Guard Bureau through Military Construction Cooperative Agreements. Typically, the USPFO as Grantor enters into a Cooperative Agreement with The Adjutant General of a State to contribute Federal funds to the construction of the facility. The State agrees that the land and facility will be used for National Guard purposes for a minimum amount of time, typically at least 25 years.

While Congress authorized contributions to States for the acquisition, construction, rehabilitation, or conversion of State facilities, it did not explicitly provide statutory authority to enter into assistance agreements to operate and maintain those facilities. The National Guard Bureau has for decades relied on implied statutory authority derived from 32 U.S.C. 106 and 107—authorities which provide for annual operation and maintenance (O&M) funding and its availability—and Department of Defense (DoD) regulatory guidance in 32 C.F.R 21.415 to enter into what the NGB typically refers to as O&M Cooperative Agreements (e.g., ARNG and ANG facilities, Distance Learning Program, Fire Fighters, and Security Guards). This lack of positive authority has been periodically questioned, either by DoD General Counsel, the Government Accountability Office, State Attorneys General, or during audits or inspections.

This proposal is intended to merely provide the positive authority for providing financial assistance for operating and maintaining these facilities. It does not result in any change to existing practices of the National Guard Bureau and the National Guards of the 54 States, Territories, and the District of Columbia. Nor does this legislation result in any increase or decrease in funding or financial assistance.

This proposal would provide the positive authority to enter into assistance agreements with States, local governments, or other recipients to provide for the operation and maintenance of National Guard facilities. Cooperative Agreements entered into for such purposes will be consistent with the Federal Grants and Cooperative Agreement Act of 1977, P.L. 95-224, 31 U.S.C. Chapter 63; and in compliance with 2 C.F.R. part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; 32 C.F.R. parts, 21-37, DoD Grant and Agreement Regulations; and DoDD 3210.06, Defense Grant and Agreement Regulatory System (DGARS).

NGB shall issue supplemental rules and regulations to address other issues not required in legislation, e.g., management controls and topical issues such as how to handle in-kind assistance, modifications of Cooperative Agreements, and other matters necessary for the effective administration of these programs.

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 add a new section to chapter 1 of title 32, United States Code, the full text of which is shown in the legislative text above.

1 **SEC. ___. IMPROVEMENTS TO AIR FORCE FLYING AND SIMULATOR**

2 **INSTRUCTOR FUNCTION.**

3 (a) AUTHORITY.—In carrying out flying and simulator instructor functions of the

4 Department of the Air Force, the Secretary of the Air Force—

5 (1) may use such mix of civilian personnel and contractor personnel as the

6 Secretary determines appropriate to ensure pilot production that leverages commercial

7 sector capabilities and sources; and

8 (2) may realign Department of the Air Force civilian flying and simulator

9 instructor functions in occupational series 2181 as necessary for the purposes of

10 paragraph (1).

11 (b) WAIVER OF CERTAIN STATUTES.—The Secretary of the Air Force may carry out the

12 authority under subsection (a) without regard to the following:

13 (1) Section 2461 of title 10, United States Code.

14 (2) Section 741 of the Financial Services and General Government Appropriations

15 Act, 2023 (division E of Public Law 117–328), and successor provisions.

16 (3) Section 8046 of the Department of Defense Appropriations Act, 2023

17 (division C of Public Law 117-328), and successor provisions.

18 (c) SUNSET.—The authority under subsection (a) shall expire on December 31 of the fifth

19 year beginning after the date of the enactment of this Act.

Section-by-Section Analysis

This proposal would assist the Department of the Air Force in filling vacancies in these vital positions while also leveraging commercial innovation in this space. Section 2461 of title 10, United States Code, provides that functions performed by Department of Defense civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition that meets certain requirements, including certain costs of performance. An analysis conducted by the Air Force in

2021 determined that those requirements could not be met with respect to flying and simulator instructor functions. When coupled with annual appropriations Act provisions (most recently, section 8046 of the Department of Defense Appropriations Act, 2023 (division C of Public Law 117–328) and section 741 of the Financial Services and General Government Appropriations Act, 2023(division E of Public Law 117–328)), which prohibit Government agencies from converting civilian functions to contract performance without conducting public-private competitions, the results limit the Air Force from being able to take advantage of opportunities to improve flying and simulator instruction capabilities. This in turn limits the Air Force's ability to optimize its force for lethality and readiness while maximizing fiscal efficiency and organizational agility.

Consequently, this proposal would provide relief from section 2461 of title 10, United States Code, and associated annual appropriations Act provisions to enable the Department of the Air Force to directly transfer civilian flying and simulator instruction functions to contractor performance in order to leverage commercial ingenuity, innovation, and best practices in flying and simulator instruction. Although there is relief from the limitations in section 2461 of title 10 and section 8046 of the 2023 annual defense appropriations Act (and successor provisions) through exceptions set forth in those provisions, ultimately that relief is unavailing given the text of section 741 of the Financial Services and General Government Appropriations Act, 2023 (and successor provisions).

In carrying out the authority that would be provided by this proposal, the Department of the Air Force will ensure its employees currently carrying out flying and simulator instruction functions are not negatively affected. The proposal is intended to resolve the difficulty in filling vacancies and not designed to support the outsourcing of work performed by Government civilians. This proposal would not expand the current workforce.

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)**
Civilian	($65.99)	($67.38)	($68.79)	($70.24)	($71.71)	Operation and Maintenance, Air Force	3	32B	84741F
Contract	$114.18	$116.57	$119.02	$121.40	$123.83	Operation and Maintenance, Air Force	3	32B	84741F
Total	**($48.19)**	**($49.19)**	**($50.23)**	**($51.16)**	**($52.12)**	--	--	--	--

Manpower Requirements: The table below illustrates all current funded undergraduate flying training CSI requirements (civilian). This does not include future T-7 operations as there is no current CSI funding and the decision on GS or contract for the T-7 has not been made.

PERSONNEL IMPACT (END STRENGTH)					
Program	**FY 2027**	**FY 2028**	**FY2029**	**FY2030**	**FY2031**
USAF					
PEC 84700A	50	50	50	50	50
PEC 84741A	317	317	317	317	317
PEC 84743D	26	26	26	26	26
PEC 84701A	10	10	10	10	10
PEC 84744A	1	1	1	1	1
PEC 84744D	53	53	53	53	53
Total	**457**	**457**	**457**	**457**	**457**

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

1 **SEC. ___. INCREASE IN MILITARY CONSTRUCTION PROJECT THRESHOLD FOR**

2 **INCLUSION OF PROJECT SPENDING PLAN IN ANNUAL BUDGET.**

3 Section 2865 of title 10, United States Code, is amended by striking “$90,000,000” and

4 inserting “$125,000,000”.

[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 2865 of title 10, United States Code, requires the Department of Defense (DoD) to include with the President’s Budget submission for any fiscal year a Project Spending Plan for any military construction project over $90,000,000. This proposal would increase that threshold to $125,000,000.

The project spending plan for a military construction project includes: (1) a work in process curve chart to identify funding, obligations, and outlay figures; and (2) a monthly outlay table for funding, obligations, and outlay figures. The threshold was enacted on August 13,2018, in the John S. McCain National Defense Authorization Act for Fiscal Year (FY) 2019 and has not been adjusted for fact-of-life changes or inflation. In the years since 2019, the construction market has been significantly impacted by inflation and the global supply and labor disruptions caused by the COVID-19 pandemic. The abnormal construction price escalation resulting from widespread pandemic-induced supply chain disruptions and labor shortages, was coupled with general inflation of a historically large magnitude. From January 2019 to mid-2023, construction price escalation measured by the DoD Selling Price Index averaged 6.6 percent annualized, compared to a 2001-2019 historical average of 3.7 percent. This proposal would increase the current threshold to $125,000,000 dollars for the project spending plans to align with construction market inflation indices in accordance with the table below:

Year	Mortenson Construction Cost Index	Inflation (%)	WIP Curve Requirement
2019	135.0	3.2	$ 90,000
2020	137.8	2.1	$ 91,867
2021	167.4	21.5	$ 111,600
2022	178.6	6.7	$ 119,067
2023	182.4	2.1	$ 121,600
2024	187.1	2.6	$ 124,762

While the Department acknowledges the importance and value of Congressional oversight, the intent behind the threshold for the project spend plans was to allow for increased visibility into a subset of high dollar projects. Since FY 2020, the number of military construction projects that are $90,000,000 or greater included in the annual President’s Budget

request, has increased by 69 percent. In the FY 2026 President's Budget Request, there are 49 military construction projects greater than $90,000,000 (31 percent of total projects) as compared to FY 2020 where there were only 29 military construction projects greater than $90,000,000(19 percent of total projects).

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

Changes to Existing Law: This proposal would amend section 2865 of title 10, United States Code, as follows:

§2865. Work in Process Curve charts and outlay tables for military construction projects

Along with the budget for each fiscal year submitted by the President pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense and the Secretaries of the military departments shall include for any military construction project over ~~$90,000,000~~ <u>$125,000,000</u>, as an addendum to be included within the same document as the 1391s for the Military Construction Program budget documentation, a Project Spending Plan that includes—

(1) a Work in Process Curve chart to identify funding, obligations, and outlay figures; and

(2) a monthly outlay table for funding, obligations, and outlay figures.

1 **SEC. ___. INCREASE IN THRESHOLD FOR NOTICE TO CONGRESS BEFORE**

2 **OBLIGATION OF FUNDS FOR ARCHITECTURAL AND**

3 **ENGINEERING SERVICES AND CONSTRUCTION DESIGN.**

4 Section 2807(b) of title 10, United States Code, is amended by striking “$5,000,000” and

5 inserting “$10,000,000”.

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

Section-by-Section Analysis

This proposal would increase the notification threshold under section 2807(b) of title 10, United States Code, from $5,000,000 to $10,000,000. The current threshold was established in 2025 after 22 years of a $1,000,000 threshold, which did not keep pace with increased design costs, resulting in an increasing number of congressional notifications. Since inception in 1982, there have been a total of four changes to the notification requirement. Under the previous threshold, the requirement reached a point where almost all military construction projects and over 80 percent of all unspecified minor military construction projects required a notification before initial obligation of funds for design. A further increase to $10,000,000 would better reflect key obligations and avoid lower-value notifications.

Resource Information: This proposal has no impact on the use of resources requested within the Fiscal Year (FY) 2027 President’s Budget. There are no general budgetary impacts expected with the proposed changes to section 2807 of title 10, U.S.C.

Changes to Existing Law: This proposal would amend section 2807 of title 10, United States Code, as follows:

§2807. Architectural and engineering services and construction design

(a) Within amounts appropriated for military construction and military family housing, the Secretary concerned may obtain architectural and engineering services and may carry out construction design in connection with military construction projects, family housing projects, and projects undertaken in connection with the authority provided under section 2854 of this title that are not otherwise authorized by law. Amounts available for such purposes may be used for construction management of projects that are funded by foreign governments directly or through international organizations and for which elements of the armed forces of the United States are the primary user.

(b) In the case of architectural and engineering services and construction design to be undertaken under subsection (a) for which the estimated cost exceeds ~~**$5,000,000**~~ **$10,000,000**, the Secretary concerned shall notify the appropriate committees of Congress of the scope of the

proposed project and the estimated cost of such services before the initial obligation of funds for such services. The Secretary may then obligate funds for such services only after the end of the 14-day period beginning on the date on which the notification is received by the committees in an electronic medium pursuant to section 480 of this title.

(c) If the Secretary concerned determines that the amount authorized for activities under subsection (a) in any fiscal year must be increased the Secretary may proceed with activities at such higher level only after the end of the 14-day period beginning on the date on which the Secretary submits, in an electronic medium pursuant to section 480 of this title, to the appropriate committees of Congress notice of the need for the increase, including the source of funds to be used for the increase.

(d) For architectural and engineering services and construction design related to military construction and family housing projects, the Secretaries of the military departments may incur obligations for contracts or portions of contracts using military construction and family housing appropriations from different fiscal years to the extent that those appropriations are available for obligation.

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1 **SEC. ___. MODIFICATION TO PROHIBITION ON USE OF FUNDS FOR**

2 **RETIREMENT OF LEGACY MARITIME MINE COUNTERMEASURES**

3 **PLATFORMS.**

4 Section 1046(b) of the National Defense Authorization Act for Fiscal Year 2018 (Public Law

5 115-91), as amended by section 1027(a) of the William M. (Mac) Thornberry National Defense

6 Authorization Act for Fiscal Year 2021 (Public law 116-283; 134 Stat. 3844), is amended—

7 (1) in paragraph (1)(C)—

8 (A) by striking “deployed a sufficient” and inserting “determined that a

9 worldwide deployable”; and

10 (B) by inserting “and can be allocated (as required)” after “initial

11 operational capability”; and

12 (2) in paragraph (2), by inserting “or maintain in the inventory” before the period

13 at the end.

Section-by-Section Analysis

This proposal would provide greater flexibility to the Secretary of the Navy in making service level decisions concerning the transition from legacy Mine Countermeasures (MCM) capabilities, which include the MCM-1 Avenger class ships and the MH-53E Sea Dragon helicopters. Currently, the Navy has four legacy MCM-1 Avenger class ships and three MH-53E Sea Dragon helicopters deployed to Commander, Seventh Fleet.

The prohibition established by section 1046 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2018, as amended by section 1027 of the NDAA for FY 2021 (Section 1046), has been interpreted to mean that the Navy must have standing, deployed replacement forces in both theaters before retiring legacy MCM forces. This prohibition restricts the Navy’s ability to properly allocate its finite MCM resources to meet current and future mine warfare threats while transitioning to new capabilities.

In the wake of the Navy consolidating its MH-53E helicopter fleet into a single squadron, there are numerous aircraft that are uneconomical to maintain, and the proposed modifications to the prohibition in Section 1046 will provide the Navy with greater flexibility to determine which aircraft to maintain in the inventory. The modifications proposed to subsection (b)(1) of Section 1046 will allow the Navy to make necessary resource allocation decisions to source its global capability and capacity demands. The amendment to subsection (b)(2) of Section 1046 would

allow the Navy to retire MH-53E helicopters based upon factors other than repair due to damage, i.e. manpower and workforce limitations, Scheduled Depot Level Maintenance considerations, etc.

Resource Information: The resources affected by this proposal are reflected in the table below and are included within the FY 2027 President's Budget request.

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)**
MCM-7 PATRIOT	$.032	$.031	$.034	$.034	$.035	Operation and Maintenance, Navy	03	33B1K	NA
MCM-7 PATRIOT	$14.3	$5.9	$10.1	$.723	$.451	Operation and Maintenance, Navy	01	11B1B	NA
MCM-7 PATRIOT	$10.4	$7.1	$6.8	$.125	$.127	Operation and Maintenance, Navy	01	11B4B	NA
MCM-7 PATRIOT	$.210	$6.0	0	$.001	$.002	Operation and Maintenance, Navy	01	11B5B	NA
MCM-9 PIONEER	$.032	$.031	$.034	$.034	$.035	Operation and Maintenance, Navy	03	33B1K	NA
MCM-9 PIONEER	$14.3	$5.9	$10.1	$.723	$.451	Operation and Maintenance, Navy	01	11B1B	NA
MCM-9 PIONEER	$10.4	$7.1	$6.8	$.125	$.127	Operation and Maintenance, Navy	01	11B4B	NA
MCM-9 PIONEER	$.210	$6.0	0	$.001	$.002	Operation and Maintenance, Navy	01	11B5B	NA
MCM-10 WARRIOR	$.032	$.031	$.034	$.034	$.035	Operation and Maintenance, Navy	03	33B1K	NA
MCM-10 WARRIOR	$14.3	$5.9	$10.1	$.723	$.451	Operation and Maintenance, Navy	01	11B1B	NA

MCM-10 WARRIOR	$10.4	$7.1	$6.8	$.125	$.127	Operation and Maintenance, Navy	01	11B4B	NA
MCM-10 WARRIOR	$.210	$6.0	0	$.001	$.002	Operation and Maintenance, Navy	01	11B5B	NA
MCM-14 CHIEF	$.032	$.031	$.034	$.034	$.035	Operation and Maintenance, Navy	03	33B1K	NA
MCM-14 CHIEF	$14.3	$5.9	$10.1	$.723	$.451	Operation and Maintenance, Navy	01	11B1B	NA
MCM-14 CHIEF	$10.4	$7.1	$6.8	$.125	$.127	Operation and Maintenance, Navy	01	11B4B	NA
MCM-14 CHIEF	$.210	$6.0	0	$.001	$.002	Operation and Maintenance, Navy	01	11B5B	NA
HM-15	$24.7	$8.1	0	0	0	Operation and Maintenance, Navy	01	3B1K, 1C7C, 1A1A, 1A4N, 1A5A	NA
HM-15	$5.8	0	0	0	0	Operation and Maintenance, Navy Reserve	01	1A1A	NA
Total	**$130.3**	**$84.2**	**$67.7**	**$3.5**	**$2.5**				

Changes to Existing Law: This proposal would amend section 1046 of the National Defense Authorization Act for Fiscal Year 2018 (Public law 115–91), as amended by section 1027(a) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public law 116-283; 134 Stat. 3844), as follows:

SEC. 1046. PROHIBITION ON USE OF FUNDS FOR RETIREMENT OF LEGACY MARITIME MINE COUNTERMEASURES PLATFORMS.

(a) PROHIBITION.—Except as provided in subsection (b), the Secretary of the Navy may not obligate or expend funds to—

(1) retire, prepare to retire, transfer, or place in storage any AVENGER-class mine countermeasures ship or associated equipment;

(2) retire, prepare to retire, transfer, or place in storage any SEA DRAGON (MH-53) helicopter or associated equipment;

(3) make any reductions to manning levels with respect to any AVENGER-class mine countermeasures ship; or

(4) make any reductions to manning levels with respect to any SEA DRAGON helicopter squadron or detachment.

(b) WAIVER.—The Secretary of the Navy may waive the prohibition under subsection (a)—

(1) with respect to an AVENGER-class ship or a SEA DRAGON helicopter, if the Secretary, with the concurrence of the Director of Operational Test and Evaluation, certifies in writing to the congressional defense committees that the Secretary has—

(A) identified a replacement capability and the necessary quantity of such systems to meet all combatant-commander mine-countermeasures operational requirements that are currently being met by the ship or helicopter to be retired, transferred, or placed in storage;

(B) achieved initial operational capability of all systems described in subparagraph (A); and

(C) ~~deployed a sufficient~~ determined that a worldwide deployable quantity of systems described in subparagraph (A) that have achieved initial operational capability can be allocated (as required) to continue to meet or exceed all combatant-commander mine-countermeasures operational requirements that are currently being met by the ship or helicopter to be retired, transferred, or placed in storage; or

(2) with respect to a SEA DRAGON helicopter, if the Secretary certifies to such committees that the Secretary has determined, on a case-by-case basis, that such a helicopter is non-operational because of a mishap or other damage or because it is uneconomical to repair or maintain in the inventory.

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1 **SEC. ___. MODIFICATION OF RESTRICTIONS ON EXCESS DEFENSE ARTICLES**

2 **FOR CONSTRUCTION EQUIPMENT**

3 Section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)) is amended by

4 striking “(other than construction equipment, including tractors, scrapers, loaders, graders,

5 bulldozers, dump trucks, generators, and compressors)”.

[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 the section 644(g) of the Foreign Assistance Act of 1961 to modify the definition of excess defense articles (EDA) so that it does not exclude “construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors” thereby making such items eligible for transfer to allies and partners.

Currently, tens of thousands of pieces of military construction equipment are not being claimed each year by eligible U.S. agencies. The equipment, worth millions of dollars when first excessed, is instead being transferred, stored and/or destroyed at additional costs to the Department and the U.S. taxpayers. Some equipment that was operational when it was turned in, has now been stored for so long that it is not economically recoverable, but it will still cost U.S. taxpayers funds for its disposal. Even if only a small percentage of the Army construction equipment currently restricted from inclusion in the EDA program was claimed by allies and partners, it would result in immediate cost savings. Pursuant to the current statutory language, unclaimed equipment is stored, demilitarized, and disposed of at the U.S. taxpayer’s expense.

Critically, equipment immediately leaving inventory is highly sought after by allies and partners because it remains in an operational condition and can add significant capabilities to their militaries. The money saved by allowing construction equipment to be eligible as an EDA for allies and partners is money that DoD can in turn spend on readiness, training, and modernization for today’s fight rather than on the storage and disposal of yesterday’s equipment.

Allowing construction equipment to be exercised under the EDA program will have an immediate and lasting impact by reducing costs and improving support for allies and partners.

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

Changes to Existing Law: This proposal would make the following change to section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403):

SEC. 644. DEFINITIONS.—As used in this Act—

(a) "Agency of the United States Government" includes any agency, department, board, wholly or partly owned corporation, instrumentality, commission, or establishment of the United States Government.

(b) "Armed Forces" of the United States means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(c) "Commodity" includes any material, article, supply, goods, or equipment used for the purposes of furnishing nonmilitary assistance.

(d) "Defense article" includes—

(1) any weapon, weapons system, munition, aircraft, vessel, boat or other implement of war;

(2) any property, installation, commodity, material, equipment, supply, or goods used for the purposes of furnishing military assistance;

(3) any machinery, facility, tool, material supply, or other item necessary for the manufacture, production, processing repair, servicing, storage, construction, transportation, operation, or use of any article listed in this subsection; or

(4) any component or part of any article listed in this subsection; but

shall not include merchant vessels or, as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011), source material (except uranium depleted in the isotope 235 which is incorporated in defense articles solely to take advantage of high density or pyrophoric characteristics unrelated to radioactivity), by-product material, special nuclear material, production facilities, utilization facilities, or atomic weapons or articles involving Restricted Data.

(e) "Defense information" includes any document, writing, sketch, photograph, plan, model, specification, design, prototype, or other recorded or oral information relating to any defense article or defense service, but shall not include Restricted Data as defined by the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.], and data removed from the Restricted Data category under section 142d of that Act [42 U.S.C. 2162(d)].

(f) "Defense service" includes any service, test, inspection, repair, publication, or technical or other assistance or defense information used for the purposes of furnishing military assistance, but does not include military educational and training activities under chapter V of part II.

(g) "Excess defense articles" means the quantity of defense articles ~~(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)~~ owned by the United States Government, and not procured in anticipation of military assistance or sales requirements, or pursuant to a military assistance or sales order, which is in excess of the Approved Force Acquisition Objective and Approved Force Retention Stock of all Department of Defense Components at the time such articles are dropped from inventory by the supplying agency for delivery to countries or international organizations under this Act.

(h) "Function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity.

[(i) Repealed. Pub. L. 93–189, §22(2), Dec. 17, 1973, 87 Stat. 726.]

(j) "Officer or employee" means civilian personnel and members of the Armed Forces of the United States Government.

(k) "Services" include any service, repair, training of personnel, or technical or other assistance or information used for the purposes of furnishing nonmilitary assistance.

(l) ***

(m) ***

(n) ***

(o) ***

(p) ***

(q) "Major non-NATO ally" means a country which is designated in accordance with section 2321k of this title as a major non-NATO ally for purposes of this Act and the Arms Export Control Act (22 U.S.C. 2751 et seq.).

1 **SEC. ___. OPENING BALANCES OF DEPARTMENT OF DEFENSE FINANCIAL**
2 **STATEMENTS FOR AUDIT PURPOSES.**
3 (a) ESTABLISHMENT OF OPENING BALANCES.—Chapter 9A of title 10, United States
4 Code, is amended by adding at the end the following new section:
5 **"§ 240j. Financial statements: opening balances for audit purposes**
6 "(a) USSGL ACCOUNT DEFINED.—In this section, the term 'USSGL Account' means
7 United States Standard General Ledger Account.
8 "(b) DEPARTMENT OF THE ARMY.—For purposes of an audit conducted under this chapter
9 on the financial statements of the Department of the Army, opening balances shall be used as
10 follows:
11 "(1) DEPARTMENT OF THE ARMY WORKING CAPITAL FUND.—For the Department of
12 the Army Working Capital Fund, opening balances as of October 1, 2025, are as follows:
13 "(A) For USGGL Account 101000, titled 'Fund Balance with Treasury',
14 $2,010,085,640.47.
15 "(B) For USGGL Account 310000, titled 'Unexpended Appropriations -
16 Cumulative', $104,620,026.51.
17 "(C) For USGGL Account 413900, titled 'Contract Authority Carried
18 Forward', $4,448,474,255.57.
19 "(D) For USGGL Account 420100, titled 'Total Actual Resources -
20 Collected', $1,836,976,540.16.
21 "(E) For USGGL Account 445000, titled 'Unapportioned - Unexpired
22 Authority', $3,668,585,253.03.
23 "(2) [reserved]

1 “(c) DEPARTMENT OF THE AIR FORCE.—For purposes of an audit conducted under this
2 chapter on the financial statements of the Department of the Air Force, opening balances shall be
3 used as follows:
4 “(1) DEPARTMENT OF THE AIR FORCE WORKING CAPITAL FUND.—For the
5 Department of the Air Force Working Capital Fund, opening balances as of October 1,
6 2025, are as follows:
7 “(A) For USSGL Account 310000, titled ‘Unexpended Appropriations -
8 Cumulative’, $74,131,256.71.
9 “(B) For USSGL Account 413900, titled ‘Contract Authority Carried
10 Forward’, $6,333,279,921.52.
11 “(C) For USSGL Account 420100, titled ‘Total Actual Resources–
12 Collected’, $2,988,803,908.21.
13 “(D) For USSGL Account 445000, titled ‘Unapportioned - Unexpired
14 Authority’, $1,930,040,147.04.
15 “(2) [reserved]
16 “(d) DEFENSE LOGISTICS AGENCY.—For purposes of an audit conducted under this
17 chapter on the financial statements of the Defense Logistics Agency, opening and ending
18 balances shall be used as follows:
19 “(1) DEFENSE LOGISTICS AGENCY WORKING CAPITAL FUND.—For the Defense
20 Logistics Agency Working Capital Fund, opening balances as of October 1, 2024, are as
21 follows:
22 “(A) For USSGL Account 101000, titled ‘Fund Balance with Treasury’,
23 $3,483,483,641.67.

1 “(B) For USSGL Account 310000, titled ‘Unexpended Appropriations–
2 Cumulative’, $883,887,145.71.
3 “(C) For USSGL Account 331000, titled ‘Cumulative Results of
4 Operations’, $27,271,547,121.85.
5 “(D) For USSGL Account 413900, titled ‘Contract Authority Carried
6 Forward’, $13,130,151,985.39.
7 “(E) For USSGL Account 420100, titled ‘Total Actual Resources–
8 Collected’, $3,578,944,883.86.
9 “(F) For USSGL Account 445000, titled ‘Unapportioned–Unexpired
10 Authority’, $507,354,134.72.
11 “(2) NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—For the National
12 Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical
13 Materials Stock Piling Act (50 U.S.C. 98h), opening and ending balances are as follows:
14 “(A) The ending balance of $313,633,491.15 reported in the Central
15 Accounting Reporting System of the Department of the Treasury for September
16 30, 2021, is the Fund Balance with Treasury ending balance on that date.
17 “(B) For USSGL Account 420100, titled ‘Total Actual Resources–
18 Collected’, the opening balance as of October 1, 2021 is $314,548,154.42.
19 “(C) For USSGL Account 445000, titled ‘Unapportioned–Unexpired
20 Authority’, the ending balance as of September 30, 2021 is $216,976,300.69.
21 “(e) UNITED STATES TRANSPORTATION COMMAND WORKING CAPITAL FUND.—For
22 purposes of an audit conducted under this chapter on the financial statements of the United States

1 Transportation Command Working Capital Fund, opening balances as of October 1, 2025, shall
2 be used as follows:
3 "(1) For USSGL Account 101000, titled 'Fund Balance with Treasury',
4 $1,703,953,150.05.
5 "(2) For USSGL Account 310000, titled 'Unexpended Appropriations -
6 Cumulative', $9,279,074.12.
7 "(3) For USSGL Account 413900, titled 'Contract Authority Carried Forward',
8 $7,579,101.52.
9 "(4) For USSGL Account 420100, titled 'Total Actual Resources - Collected',
10 $1,705,320,750.62.
11 "(5) For USSGL Account 445000, titled 'Unapportioned - Unexpired Authority',
12 $453,684,782.00.
13 "(6) For USSGL Account 465000, titled 'Allotments - Expired Authority',
14 $2,135,263.61.".
15 (b) CONFORMING REPEALS OF STATUTES CODIFIED IN NEW SECTION 240J.—
16 (1) DEFENSE LOGISTICS AGENCY WORKING CAPITAL FUND.—Section 1422 of the
17 National Defense Authorization Act for Fiscal Year 2026 (Public Law 119-60; 139 Stat.
18 1137) is repealed.
19 (2) NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Section 1413 of the
20 National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31; 137 Stat.
21 528) is repealed.

Section-by-Section Analysis

The establishment of beginning balances for financial accounts is critical to the ability of the Department of Defense (DoD) to achieve an unmodified audit opinion by December 31,

2028, as required by section 1005 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31). DoD components are not positioned to provide historical documentation at the individual transaction level to support the inception-to-date opening balance of the original corpus of an account, as currently required by the independent public accounting firms performing the annual financial statement audits and the DoD Office of Inspector General. Auditors believe legislation specifying beginning balances will allow them to meet their professional obligations under generally accepted auditing standards.

Providing legislative authority will mitigate an intractable situation and will provide DoD components with the potential to pass an audit. This proposal would establish auditable opening account balances for DoD accounts where a beginning balance cannot be established by other means

Other options for resolving this issue have been explored and determined to be time prohibitive given the statutory requirement for the Department to achieve an unqualified audit opinion. For example, the Defense Logistics Agency (DLA) spent more than five years attempting to obtain or recreate transactional detail to support receipts of funding, collections, disbursements, and transfers in Fund Balance with Treasury going back to 2006 for the National Defense Stockpile Transaction Fund. Despite extensive efforts, DLA was unable to provide sufficient evidentiary matter to establish a balance and enable the auditors to move forward. Section 1413 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118–31) was enacted to establish beginning balances for the National Defense Stockpile Transaction Fund, enabling DLA to obtain an unmodified audit opinion. Further, section 1422 of the National Defense Authorization Act for Fiscal Year 2026 (Public Law 119-60; 139 Stat. 1137) established beginning balances for October 1, 2024, for accounts of the DLA Working Capital Fund, which will potentially address one of four auditor recommendations related to fund balance with Treasury. To provide for a single point of reference for all of the DoD's beginning balances provisions, this LP would codify those two sections in the new section 240j as subsection (e).

The reasons for beginning balance challenges vary by component and account but include limitations of legacy systems that can predate the accounting standards and the lack of a control environment in the past that would have been necessary to provide the detailed transaction history to support an audit.

Per the Bureau of Fiscal Services of the Department of the Treasury, Governmentwide Treasury Account Symbol Adjusted Trial Balance System (GTAS) users are provided a Period 12 Revision Window to adjust their initial submission for any audit adjustments.

The account balances in the final GTAS submission are the balances that are reported in the financial statements, produced from the system of record (i.e., general ledgers), and subject to audit. The amounts set forth in the legislative text are amounts as recorded in official accounting records

A strong internal controls environment and periodic account level reconciliations are essential to ensuring that the reported balances are properly supported at the transaction level.

Adequate transaction-level support results in auditable account balances that make up the GTAS and financial statement reporting.

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 add a new section to chapter 9A of title 10, United States Code, as set forth in the legislative text above. The proposal would also repeal section 1422 of the National Defense Authorization Act for Fiscal Year 2026 (Public Law 119-60; 139 Stat. 1137) and section 1413 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31; 137 Stat. 528) as follows:

National Defense Authorization Act for Fiscal Year 2026

~~**SEC. 1422. BEGINNING BALANCES OF THE DEFENSE LOGISTICS AGENCY WORKING CAPITAL FUND FOR AUDIT PURPOSES.**~~

~~For purposes of an audit conducted under chapter 9A of title 10, United States Code, of the Defense Logistics Agency Working Capital Fund established pursuant to section 2208 of title 10, United States Code, Working Capital Funds—~~

~~(1) the Fund Balance with Treasury opening balance for October 1, 2024, for United States Standard General Ledger Account 101000 is $3,483,483,641.67, as recorded in official accounting records;~~

~~(2) the Unexpended Appropriations Cumulative opening balance for October 1, 2024, for United States Standard General Ledger Account 310000 is $883,887,145.71, as recorded in official accounting records;~~

~~(3) the Cumulative Results of Operations opening balance for October 1, 2024, for United States Standard General Ledger Account 331000 is $27,271,547,121.85, as recorded in official accounting records;~~

~~(4) the Contract Authority Carried Forward opening balance for October 1, 2024, for United States Standard General Ledger Account 413900 is $13,130,151,985.39, as recorded in official accounting records;~~

~~(5) the Total Actual Resources Collected opening balance for October 1, 2024, for United States Standard General Ledger Account 420100 is $3,578,944,883.86, as recorded in official accounting records; and~~

~~(6) the Unapportioned Unexpired Authority opening balance for October 1, 2024, for United States Standard General Ledger Account 445000 is $507,354,134.72, as recorded in official accounting records.~~

National Defense Authorization Act for Fiscal Year 2024

~~**SEC. 1413. BEGINNING BALANCES OF THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND FOR AUDIT PURPOSES.**~~

~~For purposes of an audit conducted under chapter 9A of title 10, United States Code, of the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h)—~~

~~(1) the ending balance of $313,633,491.15 reported in the Central Accounting Reporting System of the Department of the Treasury for September 30, 2021, is the Fund Balance with Treasury ending balance on that date;~~

~~(2) the Total Actual Resources–Collected opening balance for October 1, 2021, for United States Standard General Ledger Account 420100 is $314,548,154.42, as recorded in official accounting records; and~~

~~(3) the Unapportioned–Unexpired Authority ending balance for September 30, 2021, for United States Standard General Ledger Account 445000 is $216,976,300.69, as recorded in official accounting records.~~

SEC. ___. PILOT PROGRAM TO EXPEDITE ENVIRONMENTAL, CULTURAL, AND HISTORIC PRESERVATION REVIEWS OF PRIORITY MILITARY PROJECTS AND PROGRAMS IN THE INDO-PACIFIC.

(a) AGREEMENTS AUTHORIZED.—

(1) AGREEMENTS WITH FEDERAL AGENCIES.—(A) The Secretary of Defense or the Secretary of a military department may enter into an agreement with the Director of the National Marine Fisheries Service or the Director of the United States Fish and Wildlife Service for the purpose of expediting a review process under a law referred to in subparagraph (B) for a priority military project or program, as designated by the Secretary, to be carried out in the area of responsibility of the United States Indo-Pacific Command.

(B) The laws referred to in this subparagraph are the following:

(i) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(ii) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(iii) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) AGREEMENTS WITH TERRITORIAL REGULATORY AGENCIES.—The Secretary of Defense or the Secretary of a military department may enter into an agreement with a territorial regulatory agency for the purpose of expediting a territorial environmental review, consultation, approval process, or a review process under division A of title III of title 54, United States Code (popularly known as the "National Historic Preservation Act of 1966") , for a priority military project or program, as designated by the Secretary, to be carried out on Guam or in the Commonwealth of the Northern Mariana Islands.

1 (b) FINANCIAL ASSISTANCE.—

2 (1) IN GENERAL.—Under the terms and conditions of an agreement entered into

3 under subsection (a), the Secretary of Defense or the Secretary of a military department

4 may provide to a covered agency direct financial assistance for the payment of all or a

5 portion of the estimated or actual eligible expenses of expediting a review process for the

6 project or program concerned.

7 (2) AGREEMENT WITH TERRITORIAL REGULATORY AGENCIES.—Under the terms

8 and conditions of an agreement entered into under subsection (a)(2), in addition to the

9 direct financial assistance described in paragraph (1), the Secretary may provide indirect

10 financial assistance to technically assist the to a territorial regulatory agency, including in

11 connection with obtaining an approval required for the project or program concerned,

12 through—

13 (A) the assignment of civilian, contractor, or military personnel; and

14 (B) contracts and cooperative agreements entered into with third parties.

15 (c) LIMITATION.—The Secretary of Defense or the Secretary of a military department

16 may enter into an agreement with a covered agency under subsection (a) with respect to a project

17 or program only if—

18 (1) the Secretary determines that it is in the interest of national defense to carry

19 out a review process for the project or program within a particular period of time; and

20 (2) the head of the covered agency provides notice to the Secretary that the

21 covered agency does not have sufficient funds or adequate personnel to carry out the

22 review process within such period without the receipt of assistance under the agreement.

1 (d) SOURCE OF FUNDS.—The Secretary of Defense or the Secretary of a military
2 department may use funds available for operation and maintenance to provide direct or indirect
3 financial assistance pursuant to an agreement under this section.
4 (e) PROHIBITIONS.—Financial assistance provided to a territorial regulatory agency under
5 subsection (b) may not be used to support permitting or approval processes or for an activity
6 described in section 2701 of title 10, United States Code.
7 (f) REPORT.—Not later than January 31, 2032, the Secretary of Defense shall submit to
8 the congressional defense committees a report on the program under this section. The report shall
9 include a statement of all expenditures under the program.
10 (g) DEFINITIONS.—In this section:
11 (1) COVERED AGENCY.—The term "covered agency" means the National Marine
12 Fisheries Service, the United States Fish and Wildlife Service, and a territorial regulatory
13 agency.
14 (2) ELIGIBLE EXPENSE.—The term "eligible expense", with respect to a review
15 process, includes an expense for—
16 (A) support of or participation in military planning activities that precede
17 the initiation of the review process;
18 (B) activities directly related to the review process, including any
19 associated consultation process; and
20 (C) development of programmatic agreements.
21 (3) REVIEW PROCESS.—The term "review process" means the process of
22 reviewing the potential environmental, cultural, or historic preservation impacts of a
23 project or program to determine whether the project or program meets the requirements

1 of a law referred to in subsection (a), including requirements for consultations, planning,

2 permits, and approvals.

3 (4) TERRITORIAL REGULATORY AGENCY.—The term "territorial regulatory

4 agency" means an environmental regulatory agency, or a territory or State historic

5 preservation office, that has jurisdiction on Guam or in the Commonwealth of the

6 Northern Mariana Islands.

7 (g) SUNSET.—The authority under this section shall terminate on September 30, 2031.

Section-by-Section Analysis

This proposal would establish a pilot program to authorize the Secretary of Defense or the Secretary of a military department to enter into an agreement with the National Marine Fisheries Service (NMFS) or the United States Fish and Wildlife Service (USFWS) to expedite a review process under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, or the Magnuson-Stevens Fishery Conservation and Management Act for a priority military project or program to be carried out in the United States Indo-Pacific Command (USINDOPACOM) area of responsibility. In addition, this proposal would authorize the Secretary of Defense or the Secretary of a military department to enter into an agreement with a territorial regulatory agency to expedite a territorial environmental review, consultation, approval process, or a review process under division A of subtitle III of title 54, United States Code, (popularly known as the National Historic Preservation Act of 1966) for a priority military project or program to be carried out on Guam or in the Commonwealth of the Northern Mariana Islands (CNMI). Delays associated with the completion of these reviews present an increasingly unreasonable risk that the military departments will be unable to conduct critical operational testing and training activities throughout the area of responsibility or carry out military construction projects on Guam and in the CNMI.

The proposal consists of the following provisions:

• Subsection (a)(1) authorizes the Secretary of Defense or the Secretary of a military department to enter into agreements with the NMFS or USFWS to expedite reviews under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Magnuson-Stevens Fishery Conservation and Management Act for a project or program to be carried out by a military department in the USINDOPACOM area of responsibility.

• Subsection (a)(2) authorizes the Secretary of Defense or the Secretary of a military department to enter into agreements with a territorial regulatory agency to expedite a territorial environmental review, consultation, approval process, or a review under the National Historic Preservation Act of 1966 for a project or program to be carried out by a military department on Guam or in the CNMI.

• Subsection (b)(1) authorizes payment of direct financial assistance to the NMFS, USFWS, and a territorial regulatory agency for all or a portion of the estimated or actual costs of undertaking an expedited review for a project or program described in subsection (a)(1) or (a)(2).

• Subsection (b)(2) authorizes payment of indirect financial assistance to a territorial regulatory agency for a broader scope of technical assistance activities, including any required approvals, for a project or program described in subsection (a)(2) and specifies methods for providing the technical assistance.

• Subsection (d) authorizes the use of military operation and maintenance funds to pay for direct or indirect financial assistance provided under the pilot program.

• Subsection (e) prohibits a territorial regulatory agency from using direct financial assistance provided under the pilot program for an activity described in section 2701 of title 10, United States Code.

Currently, the military departments have only limited authority to enter into agreements with the USFWS or Guam Environmental Protection Agency (GEPA) under section 2575 of the Servicemember Quality of Life Improvement and National Defense Authorization Act of Fiscal Year (FY) 2025 and do not have adequate authority with regard to USFWS or any authority regarding NMFS, territorial regulatory agencies other than GEPA, or territorial historic preservation offices to ensure these agencies can meet the Department of Defense's (DoD) requirements for completing an expedited environmental review, planning, consultation, permitting, and approval process within a specific period of time. These agencies are subject to significant constraints, including the review of competing non-DoD Federal agency actions, which often impact their ability to meet such requirements. These constraints have placed the military departments in the frequent position of having to prioritize their actions for the NMFS or the USFWS, often with adverse impacts to certain project or program schedules. This problem is particularly acute with respect to DoD priority posture projects and military readiness activities in the USINDOPACOM area of responsibility where the rapidly growing volume and scope of environmental reviews being required by DoD is already overwhelming agency review capacities. With respect to territorial regulatory agencies, the problem is even more acute, with territorial regulatory agencies often understaffed and unable to attract employees due to the volume of DoD work occurring in the area and the higher salary scales available on DoD projects.

This proposal, which is modeled off of the authority provided to the Secretary of Transportation under section 1312 of the Fixing America's Surface Transportation Act (FAST Act) (Public Law 114–94), would authorize a military department to enter into an agreement with the NMFS, the USFWS, and territorial regulatory agencies to expedite a review process for a project or program undertaken by the military department. The total amount to be paid is limited to the amount determined by the head of the military department concerned to expedite the environmental review or other process. This proposal will allow the military departments to ensure that the NMFS, the USFWS, and territorial regulatory agencies have the ability to complete expedited historic and environmental reviews or other processes for projects or programs undertaken by the military departments in the Indo-Pacific. This proposal will prevent

further regulatory delays to military projects and programs in the Indo-Pacific where such delays are already impacting military priorities. The authority provided by this proposal will allow the military departments to increase regulatory capacity to expedite reviews and prevent further adverse impacts to the national defense.

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)**
Army	1	1	1	1	1	Operation & Maintenance, Army	04	431	N/A
Navy	1	1	1	1	1	Operation & Maintenance, Navy	04	4A1M	N/A
Air Force	1	1	1	1	1	Operation & Maintenance, Air Force	04	042A	N/A
Total	3	3	3	3	3				

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

1 **SEC. ___. PUBLIC ACCESS TO COURTS-MARTIAL RECORDS OF TRIAL, DOCKET**
2 **INFORMATION, FILINGS, AND OTHER RECORDS.**

3 (a) PROTECTION OF NATIONAL SECURITY INFORMATION.—Subsection (b) of section 940a
4 of title 10, United States Code (article 140a of the Uniform Code of Military Justice), is
5 amended—

6 (1) by inserting "NATIONAL SECURITY INFORMATION AND" before "CERTAIN
7 PERSONALLY IDENTIFIABLE INFORMATION.—"; and

8 (2) by striking "shall restrict access to personally identifiable information" and
9 inserting "shall restrict access—

10 "(1) to national security information; and

11 "(2) to personally identifiable information".

12 (b) PUBLIC ACCESS TO RECORDS WITHOUT REGARD TO PRIVACY ACT OR STATUS OF
13 PROCEEDINGS.—Such section is further amended—

14 (1) by redesignating subsection (d) as subsection (e); and

15 (2) by inserting after subsection (c) the following new subsection (d):

16 "(d) PUBLIC ACCESS TO RECORDS WITHOUT REGARD TO PRIVACY ACT OR STATUS OF
17 PROCEEDINGS.—Public access to docket information, filings, and records may be provided in
18 accordance with the uniform standards and criteria established by the Secretary under subsection
19 (a) without regard to—

20 "(1) section 552a(b) of title 5 (commonly referred to as the 'Privacy Act'); or

21 "(2) the status or outcome of the proceedings that are the subject of the records for
22 which public access is provided.".

[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 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice) to clarify that the uniform standards and criteria, established by the Secretary of Defense in accordance with that article can provide for public access to certain military justice records and information without regard to the requirements of section 552a(b) of title 5, United States Code (commonly known as the "Privacy Act"). Due to the normal process associated with applying redactions to records protected by the Privacy Act, most designated court-martial records are not publicly accessible until up to 45 days following certification of the record of trial in cases including a finding of guilty, although designated court-martial records may be made publicly accessible sooner. This proposal would also clarify that public access to certain military justice records and information can be granted without regard to the status or outcome of the proceedings. These clarifications are required following recent litigation creating ambiguity about the application of the Privacy Act to certain military justice records and information made accessible to the public. *See Pro. Publica, Inc. v. Bligh*, 804 F.Supp.3d 1082 (S.D. Cal 2025).

Because they are not executive branch agencies, Article III courts are not subject to the Privacy Act. Rather, they have promulgated rules to protect certain privacy-related information from disclosure. This proposal would allow the military services to make military justice records and information more accessible to the public, including in ongoing proceedings and cases that do not include a finding of guilty. The military services would then prescribe procedures, taking into account procedures used in Article III and the standards and criteria established by the Secretary of Defense or a designee of the Secretary, concerning redaction of national security and privacy-related information before records are made accessible to the public.

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 make the following changes to section 940a of title 10, United States Code (article 140a of the Uniform Code of Military Justice):

§940a. Art. 140a. Case management; data collection and accessibility

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall prescribe uniform standards and criteria for conduct of each of the following functions at all stages of the military justice system (including with respect to the Coast Guard), including pretrial, trial, post-trial, and appellate processes, using, insofar as practicable, the best practices of Federal and State courts:

(1) Collection and analysis of data concerning substantive offenses and procedural matters in a manner that facilitates case management and decision making within the military justice system, and that enhances the quality of periodic reviews under section 946 of this title (article 146).

(2) Case processing and management.

(3) Timely, efficient, and accurate production and distribution of records of trial within the military justice system.

(4) Facilitation of public access to docket information, filings, and records, taking into consideration restrictions appropriate to judicial proceedings and military records.

(b) PROTECTION OF NATIONAL SECURITY INFORMATION AND CERTAIN PERSONALLY IDENTIFIABLE INFORMATION.—Records of trial, docket information, filings, and other records made publicly accessible in accordance with the uniform standards and criteria for conduct established by the Secretary under subsection (a) shall restrict access—

(1) to national security information; and

(2) to personally identifiable information of minors and victims of crime (including victims of sexual assault and domestic violence), as practicable to the extent such information is restricted in electronic filing systems of Federal and State courts.

(c) INAPPLICABILITY TO CERTAIN DOCKETS AND RECORDS.—Nothing in this section shall be construed to provide public access to docket information, filings, or records that are classified, subject to a judicial protective order, or ordered sealed.

(d) PUBLIC ACCESS TO RECORDS WITHOUT REGARD TO PRIVACY ACT OR STATUS OF PROCEEDINGS.—Public access to docket information, filings, and records may be provided in accordance with the uniform standards and criteria established by the Secretary under subsection (a) without regard to—

(1) section 552a(b) of title 5 (commonly referred to as the "Privacy Act"); or

(2) the status or outcome of the proceedings that are the subject of the records for which public access is provided.

~~(d)~~ (e) PRESERVATION OF COURT-MARTIAL RECORDS WITHOUT REGARD TO OUTCOME.—The standards and criteria prescribed by the Secretary of Defense under subsection (a) shall provide for the preservation of general and special court-martial records, without regard to the outcome of the proceeding concerned, for not fewer than 15 years.

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1 **SEC. ___. REPEAL AND MODIFICATION OF REPORTING REQUIREMENTS**

2 **RELATED TO ACQUISITION AND SUSTAINMENT.**

3 (a) REPORT ON POLYFLUOROALKYL SUBSTANCES CONTAMINATION IN DRINKING WATER

4 AND DOD ASSESSMENT AND REMEDIATION PLAN.—Section 315 of the John S. McCain National

5 Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) is amended by striking

6 subsection (b).

7 (b) PFAS DESTRUCTION AND DISPOSAL GUIDANCE.—Section 7361 of the National

8 Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 15 U.S.C. 8961) is

9 amended by striking subsection (c).

10 (c) NOTIFICATION TO AGRICULTURAL OPERATIONS LOCATED IN AREAS EXPOSED TO

11 DEPARTMENT OF DEFENSE PFAS USE.—Section 335 of the William M. (Mac) Thornberry

12 National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283; 10 U.S.C. 2701

13 note) is repealed.

14 (d) DEPARTMENT OF DEFENSE PLAN TO REDUCE GREENHOUSE GAS EMISSIONS.—Section

15 323 of the National Defense Authorization Act for Fiscal Year 2022 (Public Law 117-81; 10

16 U.S.C. 2911 note) is amended by striking subsection (b).

17 (e) ANNUAL REPORT ON INCINERATION BY DOD OF PERFLUOROALKYL SUBSTANCES,

18 POLYFLUOROALKYL SUBSTANCES, AND AQUEOUS FILM FORMING FOAM.—Section 343(d) of the

19 National Defense Authorization Act for Fiscal Year 2022 (Public Law 117-81; 10 U.S.C. 2701

20 note) is amended by striking “and annually thereafter for three years,”.

21 (f) REVIEW AND GUIDANCE RELATING TO PREVENTION AND MITIGATION OF SPILLS OF

22 AQUEOUS FILM-FORMING FOAM.—Section 344 of the National Defense Authorization Act for

23 Fiscal Year 2022 (Public Law 117-81; 10 U.S.C. 2701 note) is repealed.

1 (g) REVIEW OF AGREEMENTS WITH NON-DOD ENTITIES WITH RESPECT TO PREVENTION
2 AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM.—Section 346 of the National
3 Defense Authorization Act for Fiscal Year 2022 (Public Law 117-81; 10 U.S.C. 2679) is
4 repealed.
5 (h) ANNUAL REPORT ON PFAS CONTAMINATION AT CERTAIN MILITARY INSTALLATIONS
6 FROM SOURCES OTHER THAN AQUEOUS FILM-FORMING FOAM.—Section 346 of the James M.
7 Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263) is
8 repealed.
9 (i) BRIEFINGS ON DOD PROCUREMENT OF CERTAIN ITEMS CONTAINING PFOS OR PFOA.—
10 Section 347(b) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023
11 (Public Law 117-263; 10 U.S.C. 2701 note) is amended—
12 (1) by striking "ANNUAL BRIEFINGS" and inserting "BRIEFING"; and
13 (2) by striking "and annually thereafter,".
14 (j) REPORTS ON SCHEDULE AND COST ESTIMATES FOR COMPLETION OF TESTING AND
15 REMEDIATION OF CONTAMINATED SITES; PUBLICATION OF CLEANUP INFORMATION.—Section 321
16 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31) is repealed.
17 (k) REPORTING ON USAGE AND SPILLS OF AQUEOUS FILM-FORMING FOAM.—Section 2712
18 of title 10, United States Code, is repealed.
19 (l) BUDGET JUSTIFICATION DOCUMENT FOR FUNDING RELATING TO PERFLUOROALKYL
20 SUBSTANCES AND POLYFLUOROALKYL SUBSTANCES.—Section 2716 of title 10, United States
21 Code, is amended by striking ", including" and all that follows and inserting a period.
22 (m) ANNUAL REPORT ON MILITARY INSTALLATION RESILIENCE PROJECTS.—Section 2815
23 of title 10, United States Code, is amended by striking subsection (f).

1 (n) AUTHORIZED COST AND SCOPE OF WORK VARIATIONS.—Section 2853 of title 10,
2 United States Code, is amended—
3 (1) by striking subsection (f); and
4 (2) in subsection (g), by striking "(f)" and inserting "(e)".
5 (o) REPORTING OF CERTAIN COST INCREASES UNDER MILITARY CONSTRUCTION
6 PROJECTS.—Section 2884 of title 10, United States Code, is amended—
7 (1) by striking subsections (b) and (c); and
8 (2) redesignating subsection (d) as subsection (b).
9 (p) ANNUAL AIRCRAFT PLAN AND CERTIFICATION.—Section 231a of title 10, United
10 States Code, is repealed.
11 (q) TIME FOR REPORTING RELATED TO FAILURE OF CONTRACTORS TO MEET GOALS
12 UNDER NEGOTIATED COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.—Section
13 834(d)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public
14 Law 101-189; 15 U.S.C. 637 note) is amended by striking "Effective in fiscal year 2016 and
15 each fiscal year thereafter" and inserting "Not later than 90 days after the end of any fiscal year".
16 (r) MODIFICATION OF AUTHORITY FOR EXCESS AIRCRAFT TRANSFERS.—Section 1091 of
17 the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 10 U.S.C.
18 2576 note) is amended by striking subsection (g).
19 (s) ANNUAL REPORT ON CONTRACTS RELATING TO CIVIL RESERVE AIR FLEET.—Section
20 9516 of title 10, United States Code, is amended by striking subsection (e).
21 (t) REPORT ON EXPENSES INCURRED FOR IN-FLIGHT REFUELING OF SAUDI COALITION
22 AIRCRAFT CONDUCTING MISSIONS RELATING TO CIVIL WAR IN YEMEN.—Section 1275 of the
23 National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92) is repealed.

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

Section-by-Section Analysis

This proposal would repeal or modify statutory reporting requirements related to acquisition and sustainment as follows:

1. Report on Polyfluoroalkyl Substances Contamination in Drinking Water and DoD Assessment and Remediation Plan: Subsection (a) of this proposal would repeal the requirement under section 315(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019. This reporting requirement was enacted long before the Department's significant work over the last six years to address PFAS, and the information requested in section 315(b) has been and is being provided in other reports. In addition, DoD cannot provide the information requested in (b)(4) "...past expenditures of local water authorities…"

2. PFAS Destruction and Disposal Guidance: Subsection (b) of this proposal would repeal the requirement under section 7361(c) of the National Defense Authorization Act for Fiscal Year 2020 for the Environmental Protection Agency (EPA) to publish revisions to its PFAS destruction and disposal guidance issued in accordance with subsections (a) and (b) of Sec 7361 at least every three years. EPA has already issued two guidance documents under the Sec 7361(a) and (b) requirements, both with varying options for the destruction and disposal of PFAS. As technology evolves, it may be appropriate for EPA to update its guidance, but unnecessary to require these revisions under subsection (c).

3. Notification to Agricultural Operations Located in Areas Exposed to Department of Defense PFAS Use: Subsection (c) of this proposal would repeal the notification requirements under section 335 of the National Defense Authorization Act for Fiscal Year 2021. This requirement is significantly burdensome and outdated; it only notifies an agricultural operator that there is a possibility their property may have been impacted by PFOS & PFOA over 70 parts per trillion or PFBS over 40 parts per billion from a DoD installation. However, it takes further investigation to determine if the operator's property is actually affected. The Department has already completed 99% of its PFAS preliminary assessment/site inspections and has begun over half of the remedial investigations (RI). During the RIs, the Department will define the actual extent of releases and, as part of that process, will notify any affected landowner with actual PFAS results.

4. Department of Defense Plan to Reduce Greenhouse Gas Emissions: Subsection (d) of this proposal would repeal the annual briefing requirement under section 323(b) of the National Defense Authorization Act for Fiscal Year 2022. The greenhouse gas targets associated with the plan in section 323(a) are being reviewed for consistency with Executive Order 14154, Unleashing American Energy, and may need to be updated. As such, this reporting requirement would provide no useful information.

5. Annual Report on Incineration by DoD of Perfluoroalkyl Substances, Polyfluoroalkyl Substances, and Aqueous Film Forming Foam: Subsection (e) of this proposal would repeal

the recurrence of the reporting requirement under section 343(d) of the National Defense Authorization Act for Fiscal Year 2022 (P.L. 117-81; 10 U.S.C. 2701 note). DoD has had an incineration moratorium for materials containing PFAS since 2022, making this reporting requirement obsolete.

6. Review and Guidance Relating to Prevention and Mitigation of Spills of Aqueous Film-Forming Foam: Subsection (f) of this proposal would repeal the reporting requirement under section 344 of the National Defense Authorization Act for Fiscal Year 2022. The military departments have made and continue to make significant progress transitioning to fluorine-free foams, making this guidance requirement and subsequent briefing obsolete.

7. Review of Agreements with Non-DoD Entities with Respect to Prevention and Mitigation of Spills of Aqueous Film-Forming Foam: Subsection (g) of this proposal would repeal the requirements under section 346 of the National Defense Authorization Act for Fiscal Year 2022. The military departments have made and continue to make significant progress transitioning to fluorine-free foams, making this guidance requirement and subsequent briefing obsolete. In addition, the type of information discussed in this section is not appropriate for insertion in mutual support agreements.

8. Annual Report on PFAS Contamination at Certain Military Installations from Sources Other than Aqueous Film-Forming Foam: Subsection (h) of this proposal would repeal the reporting requirement under section 346 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023. The Department has completed 99 percent of the preliminary assessments/site inspections, which is the phase where we would identify PFAS sources other than AFFF. The information contained in this report does not change from year to year, making the annual requirement unnecessary.

9. Briefings on DoD Procurement of Certain Items Containing PFOS or PFOA: Subsection (i) of this proposal would repeal the annual briefing requirement under section 347(b) of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 to identify steps DoD is taking to prevent procurement of "covered items" that contain PFOS and PFOA. The Department has issued Defense Federal Acquisition Regulation language to prevent the procurement of these items and annual reports will not provide significant new information on this topic.

10. Report on Schedule and Cost Estimates for Completion of Testing and Remediation of Contaminated Sites; Publication of Cleanup Information: Subsection (j) of this proposal would repeal the requirement under section 321 of the National Defense Authorization Act for Fiscal Year 2024 to provide certain status and cost data for cleanup sites. The current reporting requirement is convoluted and overly burdensome without providing useful information.

11. Reporting on Usage and Spills of Aqueous Film-Forming Foam: Subsection (k) of this proposal would repeal the requirement under section 2712 of title 10, United States Code to provide a notification to the Committees on Armed Services notices within 48 hours of usage or a spill of aqueous film forming foam and a subsequent action plan for addressing the spill or

usage. The Military Departments have made and continue to make significant progress transitioning to fluorine-free foams, making this reporting requirement obsolete.

12. Budget Justification Document for Funding Relating to Perfluoroalkyl Substances and Polyfluoroalkyl Substances: Subsection (l) of this proposal would streamline the requirement under section 2716 of title 10, United States Code to provide a budget justification document specific to per- and polyfluoroalkyl substances. While the Department supports continuing to submit this document, the Military Departments do not collect funding information in the specific categories listed. For example, "testing" and "disposal" are done throughout the investigation and cleanup process.

13. Annual Report on Military Installation Resilience Projects: Subsection (m) of this proposal would repeal the expired reporting requirement under section 2815(f) of title 10, United States Code. This section of the code provides no additional authority not already provided to the Department, making the reporting requirement redundant.

14. **Authorized Cost and Scope of Work Variations:** Subsection (n) of this proposal would repeal the reporting requirement under section 2853(f) of title 10, United States Code. This report imposes onerous administrative burden on the Department but, due to legal restrictions on much of its content related to sensitive personnel actions, provides no additional useful information over the standard 2853 cost variation report, which is still required.

15. Reporting of Certain Cost Increases Under Military Construction Contracts: Subsection (o) of this proposal would repeal the reporting requirements under section 2884(b) and 2884(c) of title 10, United States Code. Both requirements were sunset by section 1061 of the National Defense Authorization Act for Fiscal Year 2017 and should be removed to reduce any confusion.

16. Annual Aircraft Plan and Certification: Subsection (p) of this proposal would remove the requirement for the Department to produce a report with information that is already provided in the budget submission books for the relevant Military Department. The Department expends extensive manpower, time, and financial resources (valued at over $1.5 million each year) to consolidate the budgetary and narrative information and ensure symmetry with the Military Department's budget books, which already incorporate this information in greater detail.

17. Time for Reporting Related to Failure of Contractors to Meet Goals Under Negotiated Comprehensive Small Business Subcontracting Plans: Subsection (q) of this proposal would amend section 872 of Public Law 114-92, the National Defense Authorization Act for 2016, to clarify that the reporting related to failure of contractors to meet goals under negotiated comprehensive small business subcontracting plans is due 90 days after the end of the following fiscal year. The data needed for the report does not become available until July of the following fiscal year, thus necessitating the change. If this proposal were not adopted, the Department would be required to submit continuous interim letters to Congress and divert staff time from executing other defense activities.

18. Modification of Authority for Excess Aircraft Transfers: Subsection (r): The Department of Defense (DoD) maintains robust systems, procedures, and interagency processes for managing

the transfer of excess aircraft to federal agencies, states, and designated programs. This annual reporting requirement is redundant, as DoD regularly addresses transfer-related concerns with congressional oversight bodies through established channels. Eliminating it will free up limited resources currently dedicated to this report, without diminishing oversight.

19. Improvement of Transparency and Congressional Oversight of Civil Reserve Air Fleet: <u>Subsection (s):</u>The DoD, through USTRANSCOM, does not contract for airlift services with air carriers eligible for the Civil Reserve Air Fleet (CRAF) who have opted not to participate. DoD reports no contracts have been awarded to CRAF-eligible carriers since this reporting requirement was adopted. Congress may direct further inquiries to USTRANSCOM regarding this matter. If the requirement is not removed, consideration could be given to an exception whereby this reporting requirement would be activated upon execution of a CRAF contract.

20. Report on expenses incurred for in-flight refueling of Saudi coalition aircraft conducting missions relating to civil war in Yemen: <u>Subsection (t):</u> This is monthly report provides no new findings or perspectives, as full reimbursement from the members of the Saudi-led coalition remains unpaid. Maintaining this report frequency is unsustainable due to coordination and staffing requirement challenges, as it falls outside the scope of both DLA and DoD. If the requirement is not removed, consideration could be given to reducing the reporting frequency to annually.

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 make the following changes to existing law:

John S. McCain National Defense Authorization Act for Fiscal Year 2019

(Public Law 115–232)

SEC. 315. FUNDING OF STUDY AND ASSESSMENT OF HEALTH IMPLICATIONS OF PER- AND POLYFLUOROALKYL SUBSTANCES CONTAMINATION IN DRINKING WATER BY AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

(a) ***

~~(b) REPORT TO CONGRESS ON DEPARTMENT OF DEFENSE ASSESSMENT AND REMEDIATION PLAN.—Not later than 180 days after the date on which the Administrator of the Environmental Protection Agency establishes a maximum contaminant level for per- and polyfluoroalkyl substances (PFAS) contamination in drinking water in a national primary drinking water regulation under section 1412 of the Safe Drinking Water Act (42 U.S.C. 300g-1), the Secretary of Defense shall submit to the congressional defense committees a report containing a plan to—~~

~~(1) assess any contamination at Department of Defense installations and surrounding communities that may have occurred from PFAS usage by the Department of Defense;~~

~~(2) identify any remediation actions the Department plans to undertake using the maximum contaminant level established by the Environmental Protection Agency;~~

~~(3) provide an estimate of the cost of such remediation and a schedule for accomplishing such remediation; and~~

~~(4) provide an assessment of past expenditures by local water authorities to address contamination before the Environmental Protection Agency established a maximum contaminant level and an estimate of the cost to reimburse communities that remediated water to a level not greater than such level.~~

(c) ASSESSMENT OF HEALTH EFFECTS OF PFAS EXPOSURE.—The Secretary of Defense shall conduct an assessment of the human health implications of PFAS exposure. Such assessment shall include—

(1) a meta-analysis that considers the current scientific evidence base linking the health effects of PFAS on individuals who served as members of the Armed Forces and were exposed to PFAS at military installations;

(2) an estimate of the number of members of the Armed Forces and veterans who may have been exposed to PFAS while serving in the Armed Forces;

(3) the development of a process that would facilitate the transfer between the Department of Defense and the Department of Veterans Affairs of health information of individuals who served in the Armed Forces and may have been exposed to PFAS during such service; and

(4) a description of the amount of funding that would be required to administer a potential registry of individuals who may have been exposed to PFAS while serving in the Armed Forces.

National Defense Authorization Act for Fiscal Year 2020

(Public Law 116–92)

SEC. 7361. PFAS DESTRUCTION AND DISPOSAL GUIDANCE.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall publish interim guidance on the destruction and disposal of perfluoroalkyl and polyfluoroalkyl substances and materials containing perfluoroalkyl and polyfluoroalkyl substances, including—

(1) aqueous film-forming foam;

(2) soil and biosolids;

(3) textiles, other than consumer goods, treated with perfluoroalkyl and polyfluoroalkyl substances;

(4) spent filters, membranes, resins, granular carbon, and other waste from water treatment;

(5) landfill leachate containing perfluoroalkyl and polyfluoroalkyl substances; and

(6) solid, liquid, or gas waste streams containing perfluoroalkyl and polyfluoroalkyl substances from facilities manufacturing or using perfluoroalkyl and polyfluoroalkyl substances.

(b) CONSIDERATIONS; INCLUSIONS.—The interim guidance under subsection (a) shall—

(1) take into consideration—

(A) the potential for releases of perfluoroalkyl and polyfluoroalkyl substances during destruction or disposal, including through volatilization, air dispersion, or leachate; and

(B) potentially vulnerable populations living near likely destruction or disposal sites; and

(2) provide guidance on testing and monitoring air, effluent, and soil near potential destruction or disposal sites for releases described in paragraph (1)(A).

~~(c) REVISIONS.—The Administrator shall publish revisions to the interim guidance under subsection (a) as the Administrator determines to be appropriate, but not less frequently than once every 3 years.~~

William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021

(Public Law 116–283)

~~SEC. 335. NOTIFICATION TO AGRICULTURAL OPERATIONS LOCATED IN AREAS EXPOSED TO DEPARTMENT OF DEFENSE PFAS USE.~~

~~(a) NOTIFICATION REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Agriculture, shall provide a notification described in subsection (b) to any agricultural operation located within one mile down gradient of a military installation or National Guard facility where covered PFAS—~~

~~(1) has been detected in groundwater;~~

~~(2) has been hydrologically linked to a local agricultural or drinking water source, including a water well; and~~

~~(3) is suspected to be, or known to be, the result of the use of PFAS at an installation of the Department of Defense located in the United States or State-owned facility of the National Guard.~~

~~(b) NOTIFICATION REQUIREMENTS.—The notification required under subsection (a) shall include the following information:~~

~~(1) The name of the Department of Defense installation or National Guard facility from which the covered PFAS in groundwater originated.~~

~~(2) The specific covered PFAS detected in groundwater.~~

~~(3) The levels of the covered PFAS detected.~~

~~(4) Relevant governmental information regarding the health and safety of the covered PFAS detected, including relevant Federal or State standards for PFAS in groundwater, livestock, food commodities and drinking water, and any known restrictions for sale of agricultural products that have been irrigated or watered with water containing PFAS.~~

~~(c) ADDITIONAL TESTING RESULTS.—The Secretary of Defense shall provide to an agricultural operation that receives a notice under subsection (a) any pertinent updated information, including any results of new elevated testing, by not later than 15 days after receiving validated test results.~~

~~(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the status of providing notice under subsection (a). Such report shall include, for the period covered by the report—~~

~~(1) the approximate locations of such operations relative to installations of the Department of Defense located in the United States and State-owned facilities of the National Guard;~~

~~(2) the covered PFAS detected in groundwater; and~~

~~(3) the levels of covered PFAS detected.~~

~~(e) DEFINITIONS.—In this section:~~

~~(1) The term ''covered PFAS'' means each of the following:~~

~~(A) Perfluorooctanoic acid (commonly referred to as "PFOA") (Chemical Abstracts Service No. 335–67–1) detected in groundwater above 70 parts per trillion, individually or in combination with PFOS.~~

~~(B) Perfluorooctane sulfonic acid (commonly referred to as "PFOS") (Chemical Abstracts Service No. 1763–23–1) detected in groundwater above 70 parts per trillion, individually or in combination with PFOA.~~

~~(C) Perfluorobutanesulfonic acid (commonly referred to as ''PFBS'') (Chemical Abstracts Service No. 375–73–5) detected in groundwater above 40 parts per billion.~~

~~(2) The term "PFAS" means a perfluoroalkyl or polyfluoroalkyl substance with at least one fully fluorinated carbon atom, including the chemical GenX.~~

National Defense Authorization Act for Fiscal Year 2022

(Public Law 116–283)

SEC. 323. DEPARTMENT OF DEFENSE PLAN TO REDUCE GREENHOUSE GAS EMISSIONS.

(a) PLAN REQUIRED.—Not later than September 30, 2022, the Secretary of Defense shall submit to Congress a plan to reduce the greenhouse gas emissions of the Department of Defense.

~~(b) BRIEFINGS.—The Secretary shall provide to the Committees on Armed Services of the House of Representatives and the Senate annual briefings on the progress of the Department of Defense toward meeting science-based emissions targets in the plan required by subsection (a).~~

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SEC. 343. TEMPORARY MORATORIUM ON INCINERATION BY DEPARTMENT OF DEFENSE OF PERFLUOROALKYL SUBSTANCES, POLYFLUOROALKYL SUBSTANCES, AND AQUEOUS FILM FORMING FOAM..

(a) TEMPORARY MORATORIUM.—Beginning not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prohibit the incineration of covered materials until the earlier of the following:

(1) The date on which the Secretary issues guidance implementing—

(A) the interim guidance on the destruction and disposal of PFAS and materials containing PFAS published by the Administrator of the Environmental Protection Agency under section 7361 of the National Defense Authorization Act for Fiscal Year 2020 (15 U.S.C. 8961); and

(B) section 330 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2701 note).

(2) The date on which the Administrator of the Environmental Protection Agency publishes in the Federal Register a final rule regarding the destruction and disposal of such materials pursuant to such section.

(b) REQUIRED ADOPTION OF FINAL RULE.—Upon publication of the final rule specified in subsection (a)(2), the Secretary shall adopt such final rule, regardless of whether the Secretary previously implemented the interim guidance specified in subsection (a)(1)(A).

(c) TREATMENT OF CERTAIN MATERIALS.—Notwithstanding subsection (a), until the date on which the Secretary adopts the final rule pursuant to subsection (b), the Secretary may treat covered materials, including soils that have been contaminated with PFAS, through the use of any remediation or disposal technology that is approved by the Administrator of the Environmental Protection Agency.

(d) REPORT.—Not later than one year after the enactment of this Act [Dec. 22, 2023], ~~and annually thereafter for three years,~~ the Secretary shall submit to the Administrator and the Committees on Armed Services of the Senate and the House of Representatives a report on all incineration by the Department of Defense of covered materials during the year covered by the report, including—

(1) the total amount of covered materials incinerated;

(2) the temperature range specified in the permit where the covered materials were incinerated;

(3) the locations and facilities where the covered materials were incinerated;

(4) details on actions taken by the Department of Defense to implement section 330 of the National Defense Authorization Act for Fiscal Year 2020; and

(5) recommendations for the safe storage of PFAS and PFAS-containing materials prior to destruction and disposal.

(e) SCOPE.—The prohibition in subsection (a) and reporting requirements in subsection (d) shall apply not only to materials sent directly by the Department of Defense to an incinerator, but also to materials sent to another entity or entities, including any waste processing facility, subcontractor, or fuel blending facility, prior to incineration.

(f) DEFINITIONS.—In this section:

(1) The term "AFFF" means aqueous film forming foam.

(2) The term "covered material" means any AFFF formulation containing PFAS, material contaminated by AFFF release, or spent filter or other PFAS-contaminated material resulting from site remediation or water filtration that—

(A) has been used by the Department of Defense or a military department;

(B) is being discarded for disposal by the Department of Defense or a military department; or

(C) is being removed from sites or facilities owned or operated by the Department of Defense.

(3) The term "PFAS" means per- or polyfluoroalkyl substances.

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~~SEC. 344. REVIEW AND GUIDANCE RELATING TO PREVENTION AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM.~~

~~(a) REVIEW REQUIRED.—Not later than 180 days of after the date of the enactment of this Act, the Secretary of Defense shall complete a review of the efforts of the Department of~~

~~Defense to prevent or mitigate spills of aqueous film-forming foam (in this section referred to as "AFFF"). Such review shall assess the following:~~

~~(1) The preventative maintenance guidelines for fire trucks of the Department and fire suppression systems in buildings of the Department, to mitigate the risk of equipment failure that may result in a spill of AFFF.~~

~~(2) Any requirements for the use of personal protective equipment by personnel when conducting a material transfer or maintenance activity of the Department that may result in a spill of AFFF, or when conducting remediation activities for such a spill, including requirements for side-shield safety glasses, latex gloves, and respiratory protection equipment.~~

~~(3) The methods by which the Secretary ensures compliance with guidance specified in material safety data sheets with respect to the use of such personal protective equipment.~~

~~(b) GUIDANCE.—Not later than 90 days after the date on which the Secretary completes the review under subsection (a), the Secretary shall issue guidance on the prevention and mitigation of spills of AFFF based on the results of such review that includes, at a minimum, best practices and recommended requirements to ensure the following:~~

~~(1) The supervision by personnel trained in responding to spills of AFFF of each material transfer or maintenance activity of the Department of Defense that may result in such a spill.~~

~~(2) The use of containment berms and the covering of storm drains and catch basins by personnel performing maintenance activities for the Department in the vicinity of such drains or basins.~~

~~(3) The storage of materials for the cleanup and containment of AFFF in close proximity to fire suppression systems in buildings of the Department and the presence of such materials during any transfer or activity specified in paragraph (1).~~

~~(c) BRIEFING.—Not later than 30 days after the date on which the Secretary issues the guidance under subsection (b), the Secretary shall provide to the congressional defense committees a briefing that summarizes the results of the review conducted under subsection (a) and the guidance issued under subsection (b).~~

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~~SEC. 346. REVIEW OF AGREEMENTS WITH NON-DEPARTMENT ENTITIES WITH RESPECT TO PREVENTION AND MITIGATION OF SPILLS OF AQUEOUS FILM-FORMING FOAM.~~

~~(a) REVIEW REQUIRED.—Not later than 180 days of after the date of the enactment of this Act, the Secretary of Defense shall complete a review of mutual support agreements entered into with non-Department of Defense entities (including State and local entities) that involve fire suppression activities in support of missions of the Department.~~

~~(b) MATTERS.—The review under subsection (a) shall assess, with respect to the agreements specified in such subsection, the following:~~

~~(1) The preventative maintenance guidelines specified in such agreements for fire trucks and fire suppression systems, to mitigate the risk of equipment failure that may result in a spill of aqueous film-forming foam (in this section referred to as "AFFF").~~

~~(2) Any requirements specified in such agreements for the use of personal protective equipment by personnel when conducting a material transfer or maintenance activity pursuant to the agreement that may result in a spill of AFFF, or when conducting remediation activities for such a spill, including requirements for side-shield safety glasses, latex gloves, and respiratory protection equipment.~~

~~(3) The methods by which the Secretary, or the non-Department entity with which the Secretary has entered into the agreement, ensures compliance with guidance specified in the agreement with respect to the use of such personal protective equipment.~~

~~(c) GUIDANCE.—Not later than 90 days after the date on which the Secretary completes the review under subsection (a), the Secretary shall issue guidance (based on the results of such review) on requirements to include under the agreements specified in such subsection, to ensure the prevention and mitigation of spills of AFFF. Such guidance shall include, at a minimum, best practices and recommended requirements to ensure the following:~~

~~(1) The supervision by personnel trained in responding to spills of AFFF of each material transfer or maintenance activity carried out pursuant to such an agreement that may result in such a spill.~~

~~(2) The use of containment berms and the covering of storm drains and catch basins by personnel performing maintenance activities pursuant to such an agreement in the vicinity of such drains or basins.~~

~~(3) The storage of materials for the cleanup and containment of AFFF in close proximity to fire suppression systems in buildings of the Department and the presence of such materials during any transfer or activity specified in paragraph (1).~~

~~(d) BRIEFING.—Not later than 30 days after the date on which the Secretary issues the guidance under subsection (c), the Secretary shall provide to the congressional defense committees a briefing that summarizes the results of the review conducted under subsection (a) and the guidance issued under subsection (c).~~

James M. Inhofe National Defense Authorization Act for Fiscal Year 2023
(Public Law 117–263)

~~SEC. 346. ANNUAL REPORT ON PFAS CONTAMINATION AT CERTAIN MILITARY INSTALLATIONS FROM SOURCES OTHER THAN AQUEOUS FILM FORMING FOAM.~~

~~Not later than one year after the date of the enactment of this Act, and annually thereafter for the following four years, the Under Secretary of Defense for Acquisition and Sustainment shall submit to the congressional defense committees a report on any known or suspected contamination on or around military installations located in the United States resulting from the release of any perfluoroalkyl substance or polyfluoroalkyl substance originating from a source other than aqueous film-forming foam.~~

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SEC. 347. REPORT ON CRITICAL PFAS USES; BRIEFINGS ON DEPARTMENT OF DEFENSE PROCUREMENT OF CERTAIN ITEMS CONTAINING PFOS OR PFOA.

(a) IDENTIFICATION OF CRITICAL USES.—Not later than June 1, 2023, the Secretary of Defense, in consultation with the Defense Critical Supply Chain Task Force and the Chemical and Material Risk Management Program of the Department of Defense, shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report

outlining the uses of perfluoroalkyl substances and polyfluoroalkyl substances that are critical to the national security of the United States, with a focus on such critical uses in—

(1) the sectors outlined in the February 2022 report of the Department of Defense titled ''Securing Defense-Critical Supply Chains''; and

(2) sectors of strategic importance for domestic production and investment to build supply chain resilience, including kinetic capabilities, energy storage and batteries, and microelectronics and semiconductors.

(b) ~~ANNUAL~~ BRIEFING~~S~~.—Not later than 270 days after the date of the enactment of this Act, ~~and annually thereafter,~~ the Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing that includes a description of each of the following:

(1) Steps taken to identify covered items procured by the Department of Defense that contain perfluorooctane sulfonate (PFOS) or perfluorooctanoic acid (PFOA).

(2) Steps taken to identify products and vendors of covered items that do not contain PFOS or PFOA.

(3) Steps taken to limit the procurement by the Department of covered items that contain PFOS or PFOA.

(4) Steps the Secretary intends to take to limit the procurement of covered items that contain PFOS or PFOA.

(c) COVERED ITEM DEFINED.—In this section, the term "covered item" means—

(1) nonstick cookware or cooking utensils for use in galleys or dining facilities; and

(2) upholstered furniture, carpets, and rugs that have been treated with stain-resistant coatings.

National Defense Authorization Act for Fiscal Year 2024

(Public Law 118–31)

~~SEC. 321. REPORT ON SCHEDULE AND COST ESTIMATES FOR COMPLETION OF TESTING AND REMEDIATION OF CONTAMINATED SITES; PUBLICATION OF CLEANUP INFORMATION.~~

~~(a) REPORT REQUIRED.—~~

~~(1) REPORT.—Not later than one year after the date of the enactment of this Act, and once every two years thereafter until December 31, 2029, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives and the Senate a report that includes—~~

~~(A) a proposed schedule for the completion of testing and remediation activities (including with respect to the remediation of perfluoroalkyl substances and polyfluoroalkyl substances) at military installations, National Guard facilities, and sites formerly used by the Department of Defense in the United States with respect to which the Secretary obligated funds for environmental restoration activities in fiscal year 2022;~~

~~(B) for each site specified in subparagraph (A) for which an element of the Department of Defense has completed a remedial investigation but for which testing and remediation activities have not been completed, a detailed cost estimate—~~

~~(i) for any such activities to be carried out at such site during the following year; and~~

~~(ii) for the completion of such activities at such site;~~

~~(C) if either cost estimate specified in subparagraph (B) is unavailable with respect to a given site specified in subparagraph (A), a detailed description of known and unknown factors, including site characteristics and the nature of contamination, that may affect the cost to complete testing and remediation activities at such site based on historical costs of remediation for—~~

~~(i) sites remediated under the Defense Environmental Restoration Program under section 2701 of title 10, United States Code;~~

~~(ii) other federally-funded sites; or~~

~~(iii) privately-funded sites; and~~

~~(D) for each site specified in subparagraph (A) for which the Secretary has completed the preliminary assessment or site inspection phase and that has been designated as requiring a remedial investigation or study on the feasibility of remediating the site, the timeline for the completion of such investigation or study.~~

~~(2) DEFINITIONS.—In this subsection:~~

~~(A) The term ''military installation'' has the meaning given such term in section 2801(c) of title 10, United States Code.~~

~~(B) The term ''National Guard facility'' has the meaning given that term in section 2700 of title 10, United States Code.~~

~~(b) PUBLICATION OF INFORMATION.—Beginning not later than one year after the date of the enactment of this Act, the Secretary of Defense shall publish on the publicly available website established under section 331(b) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 10 U.S.C. 2701 note) timely and regularly updated information on the status of cleanup at sites for which the Secretary has obligated funds for environmental restoration activities.~~

Title 10, United States Code

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~~§2712. Reporting on usage and spills of aqueous film-forming foam~~

~~(a) IN GENERAL.—Not later than 48 hours after the Deputy Assistant Secretary of Defense for Environment receives notice of the usage or spill of aqueous film forming foam, either as concentrate or mixed foam, at any military installation, the Deputy Assistant Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives notice of a usage or spill of greater than 10 gallons of concentrate, or greater than 300 gallons of mixed foam. Each such notice shall include each of the following information:~~

~~(1) The name of the installation where the usage or spill occurred.~~

~~(2) The date on which the usage or spill occurred.~~

~~(3) The amount, type, and specified concentration of aqueous film-forming foam that was used or spilled.~~

~~(4) The cause of the usage or spill.~~

~~(5) A summary narrative of the usage or spill.~~

~~(b) ACTION PLAN.—Not later than 60 days after submitting notice of a usage or spill under subsection (a), the Deputy Assistant Secretary shall submit to the Committees on Armed~~

~~Services of the Senate and the House of Representatives an action plan for addressing such usage or spill. The action plan shall include the following:~~

~~(1) A description of what actions have been taken to arrest and clean up a spill.~~

~~(2) A description of any coordination with relevant local and State environmental protection agencies.~~

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§2716. Budget justification document for funding relating to perfluoroalkyl substances and polyfluoroalkyl substances

The Secretary of Defense shall submit to Congress, concurrent with the submission to Congress of the budget of the President for each fiscal year pursuant to section 1105(a) of title 31, a separate budget justification document that consolidates all information pertaining to activities of the Department of Defense relating to perfluoroalkyl substances or polyfluoroalkyl substances.~~, including funding for and descriptions of—~~

~~(1) research and development efforts;~~

~~(2) testing;~~

~~(3) remediation;~~

~~(4) contaminant disposal; and~~

~~(5) community outreach.~~

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§2815. Military installation resilience projects

(a) PROJECTS REQUIRED.—The Secretary of Defense shall carry out military construction projects for military installation resilience, in accordance with section 2802 of this title (except as provided in subsections (d)(3) and (e)).

(b) CONGRESSIONAL NOTIFICATION.—(1) When a decision is made to carry out a project under this section, the Secretary of Defense shall notify the congressional defense committees of that decision.

(2) The Secretary of Defense shall include in each notification submitted under paragraph (1) the rationale for how the project would—

(A) enhance military installation resilience;

(B) enhance mission assurance;

(C) support mission critical functions; and

(D) address known vulnerabilities.

(c) TIMING OF PROJECTS.—Except as provided in subsection (e)(2), a project may be carried out under this section only after the end of the 14-day period beginning on the date that notification with respect to that project under subsection (b) is received by the congressional defense committees in an electronic medium pursuant to section 480 of this title.

(d) LOCATION OF PROJECTS.—Projects carried out pursuant to this section may be carried out-

(1) on a military installation;

(2) on a facility used by the Department of Defense that is owned and operated by a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, even if the facility is not under the jurisdiction of the Department of Defense, if the Secretary of Defense determines that the facility is subject to significant use by the armed forces for testing or training; or

(3) outside of a military installation or facility described in paragraph (2) if the Secretary concerned determines that the project would preserve or enhance the resilience of—

(A) a military installation;

(B) a facility described in paragraph (2); or

(C) community infrastructure determined by the Secretary concerned to be necessary to maintain, improve, or rapidly reestablish installation mission assurance and mission-essential functions.

(e) ALTERNATIVE FUNDING SOURCE.—(1) In carrying out a project under this section, the Secretary concerned may use amounts available for operation and maintenance for the military department concerned if the Secretary concerned submits a notification to the congressional defense committees of the decision to carry out the project using such amounts and includes in the notification—

(A) the current estimate of the cost of the project;

(B) the source of funds for the project; and

(C) a certification that deferral of the project for inclusion in the next Military Construction Authorization Act would be inconsistent with national security or the protection of health, safety, or environmental quality, as the case may be.

(2) A project carried out under this section using amounts under paragraph (1) may be carried out only after the end of the 7-day period beginning on the date on which a copy of the notification described in paragraph (1) is provided in an electronic medium pursuant to section 480 of this title.

(3) The maximum aggregate amount that the Secretary concerned may obligate from amounts available to the military department concerned for operation and maintenance in any fiscal year for projects under the authority of this subsection is $125,000,000.

~~(f) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year until December 31, 2025, the Secretary of Defense shall submit to the congressional defense committees a report on the status of the planned and active projects carried out under this section (including completed projects), and shall include in the report with respect to each such project the following information:~~

~~(1) The title, location, a brief description of the scope of work, the original project cost estimate, and the current working cost estimate.~~

~~(2) The information provided under subsection (b)(2).~~

~~(3) Such other information as the Secretary considers appropriate.~~

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§2853. Authorized cost and scope of work variations

(a) COST VARIATIONS AUTHORIZED; LIMITATION.—Except as provided in subsection (c), (d), or (e), the cost authorized for a military construction project or for the construction, improvement, and acquisition of a military family housing project may be increased or decreased by not more than 25 percent of the total authorized cost of the project or 200 percent of the minor construction project ceiling specified in section 2805(a) of this title, whichever is less, if the Secretary concerned determines that such revised cost is required for the sole purpose of meeting unusual variations in cost and that such variations in cost could not have reasonably been anticipated at the time the project was authorized by Congress.

(b) SCOPE OF WORK VARIATIONS AUTHORIZED; LIMITATION.—(1) Except as provided in subsection (c), the scope of work for a military construction project or for the construction,

improvement, and acquisition of a military family housing project may be reduced by not more than 25 percent from the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition. Any reduction in scope of work for a military construction project shall not result in a facility or item of infrastructure that is not complete and useable or does not fully meet the mission requirement contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(2) Except as provided in subsection (d), the scope of work for a military construction project or for the construction, improvement, and acquisition of a military family housing project may not be increased above the amount specified for that project, construction, improvement, or acquisition in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(3) In this subsection, the term "scope of work" refers to the function, size, or quantity of a facility or item of complete and useable infrastructure contained in the justification data provided to Congress as part of the request for authorization of the project, construction, improvement, or acquisition.

(c) EXCEPTIONS TO LIMITATION ON COST VARIATIONS AND SCOPE OF WORK REDUCTIONS.—(1)(A) Except as provided in subparagraph (D), the Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a military family housing project under subsection (a) and approve an increase in the cost authorized for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost increase in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall-

(i) identify the amount of the cost increase and the reasons for the increase;

(ii) certify that the cost increase is sufficient to meet the mission requirement identified in the justification data provided to Congress as part of the request for authorization of the project; and

(iii) describe the funds proposed to be used to finance the cost increase.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(D) The Secretary concerned may not use the authority provided by subparagraph (A) to waive the cost limitation applicable to a military construction project with a total authorized cost greater than $500,000,000 or a military family housing project with a total authorized cost greater than $500,000,000 if that waiver would increase the project cost by more than 50 percent of the total authorized cost of the project.

(E) In addition to the notification required by this paragraph, subsection (f) applies whenever a military construction project or military family housing project with a total authorized cost greater than $40,000,000 will have a cost increase of 25 percent or more. Subsection (f) may not be construed to authorize a cost increase in excess of the limitation imposed by subparagraph (D).

(2)(A) The Secretary concerned may waive the percentage or dollar cost limitation applicable to a military construction project or a military family housing project under subsection (a) and approve a decrease in the cost authorized for the project in excess of that

limitation if the Secretary concerned notifies the appropriate committees of Congress of the cost decrease not later than 14 days after the date funds are obligated in connection with the project.

(B) The notification required by subparagraph (A) shall be provided in an electronic medium pursuant to section 480 of this title.

(3)(A) The Secretary concerned may waive the limitation on a reduction in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve a scope of work reduction for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this paragraph.

(B) The notification required by subparagraph (A) shall-

(i) describe the reduction in the scope of work and the reasons for the decrease; and

(ii) certify that the mission requirement identified in the justification data provided to Congress can still be met with the reduced scope.

(C) A waiver and approval by the Secretary concerned under subparagraph (A) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such subparagraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(d) EXCEPTIONS TO LIMITATION ON SCOPE OF WORK INCREASES.—(1) Except as provided in paragraph (4), the Secretary concerned may waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project under subsection (b)(1) and approve an increase in the scope of work for the project in excess of that limitation if the Secretary concerned notifies the appropriate committees of Congress of the reduction in the manner provided in this subsection.

(2) The notification required by paragraph (1) shall describe the increase in the scope of work and the reasons for the increase.

(3) A waiver and approval by the Secretary concerned under paragraph (1) shall take effect only after the end of the 14-day period beginning on the date on which the notification required by such paragraph is received by the appropriate committees of Congress in an electronic medium pursuant to section 480 of this title.

(4) The Secretary concerned may not use the authority provided by paragraph (1) to waive the limitation on an increase in the scope of work applicable to a military construction project or a military family housing project and approve an increase in the scope of work for the project that would increase the scope of work by more than 10 percent of the amount specified for the project in the justification data provided to Congress as part of the request for authorization of the project.

(e) ADDITIONAL COST VARIATION EXCEPTIONS.—The limitation on cost variations in subsection (a) does not apply to the following:

(1) The settlement of a contractor claim under a contract.

(2) The costs associated with the required remediation of an environmental hazard in connection with a military construction project or military family housing project, such as asbestos removal, radon abatement, lead-based paint removal or abatement, or any other legally required environmental hazard remediation, if the required remediation could not have reasonably been anticipated at the time the project was approved originally by Congress.

~~(f) ADDITIONAL REPORTING REQUIREMENT FOR CERTAIN COST INCREASES.—(1) In addition to the notification sent under paragraph (1) of subsection (c) of a cost increase with respect to a project, the Secretary concerned shall provide an additional report notifying the congressional defense committees of any military construction project or military family housing project with a total authorized cost greater than $40,000,000 that has a cost increase of 25 percent or more.~~

~~(2) The report under paragraph (1) shall include the following-~~

~~(A) A description of the specific reasons for the cost increase and the specific organizations and individuals responsible.~~

~~(B) A description of any ongoing or completed proceedings or investigation into a government employee, prime contractor, subcontractor, or non-governmental organization that may be responsible for the cost increase, and the status of such proceeding or investigation.~~

~~(C) If any proceeding or investigation identified in subparagraph (B) resulted in final judicial or administrative action, the following:~~

~~(i) In the case of a judicial or administrative action taken against a government employee, the report shall identify the individual's organization, position within the organization, and the action taken against the individual, but shall exclude personally identifiable information about the individual.~~

~~(ii) In the case of a judicial or administrative action taken against a prime contractor, subcontractor, or non-governmental organization, the report shall identify the prime contractor, subcontractor, or non-governmental organization and the action taken against the prime contractor, subcontractor, or non-governmental organization.~~

~~(D) A summary of any changes the Secretary concerned believes may be required to the organizational structure, project management and oversight practices, policy, or authorities of a government organization involved in military construction projects as a result of problems identified and lessons learned from the project.~~

~~(3) If any proceeding or investigation described in paragraph (2)(C) is still ongoing at the time the Secretary concerned submits the report under paragraph (1), the Secretary shall provide a supplemental report to the congressional defense committees not later than 30 days after such proceeding or investigation has been completed. If such proceeding or investigation resulted in final judicial or administrative action against a government employee, prime contractor, subcontractor, or non-governmental organization, the Secretary shall include in the supplemental report the information required by paragraph (2)(C).~~

~~(4) Each report under this subsection shall be cosigned by the senior engineer authorized to supervise military construction projects and military family housing projects under section 2851(a).~~

~~(5) The Secretary shall send the report required under paragraph (1) with respect to a project not later than 180 days after the Secretary sends to the appropriate committees of Congress the notification under paragraph (1) of subsection (c) of a cost increase with respect to the project.~~

(g) RELATION TO OTHER LAW.—Notwithstanding the authority under subsections (a) through ~~(f)~~ (e), the Secretary concerned shall ensure compliance of contracts for military construction projects and for the construction, improvement, and acquisition of military family housing projects with section 1341 of title 31 (commonly referred to as the “Anti-Deficiency Act”).

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§2884. Reports

(a) PROJECT REPORTS.—(1) The Secretary concerned shall transmit to the appropriate committees of Congress a report describing-

(A) each contract or agreement for the acquisition or construction of family housing units or unaccompanied housing units under this subchapter; and

(B) each conveyance or lease proposed under section 2878 of this title.

(2) A report required by paragraph (1) shall include the following:

(A) A description of the contract, agreement, conveyance, or lease, including a summary of the terms of the contract, agreement, conveyance, or lease.

(B) A description of the authorities to be utilized in entering into the contract, agreement, conveyance, or lease and the intended method of participation of the United States in the contract, agreement, conveyance, or lease, including a justification of the intended method of participation.

(C) A statement of the scored cost of the contract, agreement, conveyance, or lease, as determined by the Office of Management and Budget.

(D) A statement of the United States funds required for the contract, agreement, conveyance, or lease and a description of the source of such funds, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred to the Funds established under section 2883 of this title in order to finance the contract, agreement, conveyance, or lease.

(E) An economic assessment of the life cycle costs of the contract, agreement, conveyance, or lease, including an estimate of the amount of United States funds that would be paid over the life of the contract, agreement, conveyance, or lease from amounts derived from payments of government allowances, including the basic allowance for housing under section 403 of title 37, if the housing affected by the project were fully occupied by military personnel over the life of the contract, agreement, conveyance, or lease.

(3)(A) In the case of a contract or agreement described in paragraph (1) proposed to be entered into with a private party, the report shall specify whether the contract or agreement will or may include a guarantee (including the making of mortgage or rental payments) by the Secretary to the private party in the event of-

(i) the closure or realignment of the installation for which housing will be provided under the contract or agreement;

(ii) a reduction in force of units stationed at such installation; or

(iii) the extended deployment of units stationed at such installation.

(B) If the contract or agreement will or may include such a guarantee, the report shall also-

(i) describe the nature of the guarantee; and

(ii) assess the extent and likelihood, if any, of the liability of the United States with respect to the guarantee.

(4) The report shall be submitted in an electronic medium pursuant to section 480 of this title not later than 21 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

~~(b) ANNUAL REPORTS TO ACCOMPANY BUDGET MATERIALS.—The Secretary of Defense shall include each year in the materials that the Secretary submits to Congress in support of the budget submitted by the President pursuant to section 1105 of title 31 the following:~~

~~(1) A separate report on the expenditures and receipts during the preceding fiscal year covering each of the Funds established under section 2883 of this title, including a description of the specific construction, acquisition, or improvement projects from which funds were transferred and the privatization projects or contracts to which those funds were transferred. Each report shall also include, for each military department or defense agency, a description of all funds to be transferred to such Funds for the current fiscal year and the next fiscal year.~~

~~(2) A report setting forth, by armed force, the following:~~

~~(A) An estimate of the amounts of basic allowance for housing under section 403 of title 37 that will be paid, during the current fiscal year and the fiscal year for which the budget is submitted, to members of the armed forces living in housing provided under the authorities in this subchapter.~~

~~(B) The number of units of military family housing and military unaccompanied housing upon which the estimate under subparagraph (A) for the current fiscal year and the next fiscal year is based.~~

~~(3) A description of the plans for housing privatization activities to be carried out under this subchapter-~~

~~(A) during the fiscal year for which the budget is submitted; and~~

~~(B) during the period covered by the then-current future-years defense plan under section 221 of this title.~~

~~(4) A report identifying each family housing unit acquired or constructed under this subchapter that is used, or intended to be used, as quarters for a general officer or flag officer and for which the total operation, maintenance, and repair costs for the unit exceeded $50,000. For each housing unit so identified, the report shall also include the total of such operation, maintenance, and repair costs.~~

~~(c) Annual Report on Privatization Projects.—The Secretary of Defense shall submit to the congressional defense committees a semi-annual report containing an evaluation of the status of oversight and accountability measures under section 2885 of this title for military housing privatization projects. To the extent each Secretary concerned has the right to attain the information described in this subsection, each report shall include, at a minimum, the following:~~

~~(1) An assessment of the backlog of maintenance and repair at each military housing privatization project where a significant backlog exists, including an estimation of the cost of eliminating the maintenance and repair backlog.~~

~~(2) If the debt associated with a privatization project exceeds net operating income or the occupancy rates for the housing units are below 75 percent for more than one year, the plan developed to mitigate the financial risk of the project.~~

~~(3) An assessment of any significant project variances between the actual and pro forma deposits in the recapitalization account, to specifically include any unique variances associated with litigation costs.~~

~~(4) The details of any significant withdrawals from a recapitalization account, including the purpose and rationale of the withdrawal and, if the withdrawal occurs before the normal recapitalization period, the impact of the early withdrawal on the financial health of the project.~~

~~(5) An assessment of the extent to which the information required to comply with paragraphs (1) through (4) has been requested by the Secretaries, but has not been made available.~~

~~(6) An assessment of cost assessed to members of the armed forces for utilities compared to utility rates in the local area.~~

~~(7) An assessment of the condition of housing units based on the average age of those units and the estimated time until recapitalization.~~

~~(8) An assessment of tenant complaints.~~

~~(9) An assessment of maintenance response times and completion of maintenance requests.~~

~~(10) An assessment of the dispute resolution process under section 2894(c) of this title, which shall include a list of dispute resolution cases by installation and the final outcome of each case.~~

~~(11) An assessment of overall customer service for tenants.~~

~~(12) A description of the results of any no-notice housing inspections conducted.~~

~~(13) The results of any resident surveys conducted.~~

~~(14) With regard to issues of lead-based paint in housing units, a summary of data relating to the presence of lead-based paint in such housing units, including the following by military department:~~

~~(A) The total number of housing units containing lead-based paint.~~

~~(B) A description of the reasons for the failure to inspect any housing unit that contains lead-based paint.~~

~~(C) A description of all abatement or mitigation efforts completed or underway in housing units containing lead-based paint.~~

~~(D) A certification as to whether military housing under the jurisdiction of the Secretary concerned complies with requirements relating to lead-based paint, lead-based paint activities, and lead-based paint hazards, as described in section 408 of the Toxic Substances Control Act (15 U.S.C. 2688).~~

~~(d)~~(b) ANNUAL BRIEFINGS.—Not later than February 1 of each year, each Secretary concerned shall provide to the Committees on Armed Services of the Senate and House of Representatives a briefing on military housing privatization projects under the jurisdiction of the Secretary. Such briefing shall include, for the 12-month period preceding the date of the briefing, each of the following:

(1) The information described in paragraphs (1) through (14) of subsection (c) with respect to all military housing privatization projects under the jurisdiction of the Secretary.

(2) A review of any such project that is expected to require the restructuring of a loan, including any public or private loan.

(3) For any such project expected to require restructuring, a timeline for when such restructuring is expected to occur.

(4) Such other information as the Secretary determines appropriate.

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~~§ 231a. Budgeting for life-cycle costs of aircraft for the Army, Navy, and Air Force: annual plan and certification~~

~~(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 30 days after the date on which the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees the following:~~

~~(1) A plan for the procurement of the aircraft specified in subsection (b) for each of the Department of the Army, the Department of the Navy, and the Department of the Air Force developed in accordance with this section.~~

~~(2) A certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.~~

~~(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:~~

~~(1) Fighter aircraft.~~

~~(2) Attack aircraft.~~

~~(3) Bomber aircraft.~~

~~(4) Intertheater lift aircraft.~~

~~(5) Intratheater lift aircraft.~~

~~(6) Intelligence, surveillance, and reconnaissance aircraft.~~

~~(7) Tanker aircraft.~~

~~(8) Remotely piloted aircraft.~~

~~(9) Rotary-wing aircraft.~~

~~(10) Operational support and executive lift aircraft.~~

~~(11) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.~~

~~(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—~~

~~(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a) should be designed so that the aviation force provided for under the plan is capable of supporting the national military strategy of the United States as set forth in the most recent National Defense Strategy submitted under section 113(g) of this title and the most recent National Military Strategy submitted under section 153(b) of this title.~~

~~(2) Each annual aircraft procurement plan shall include the following:~~

~~(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Army, the Department of the Navy, and the Department of the Air Force over the next 15 fiscal years.~~

~~(B) A description of the aviation force structure necessary to meet the requirements of the national military strategy of the United States.~~

~~(C) The estimated levels of annual investment funding necessary to carry out each aircraft program, together with a discussion of the procurement strategies on which such estimated levels of annual investment funding are based, set forth in aggregate for the Department of Defense and in aggregate for each military department.~~

~~(D) The estimated level of annual funding necessary to operate, maintain, sustain, and support each aircraft program throughout the life-cycle of the program, set forth in aggregate for the Department of Defense and in aggregate for each military department.~~

~~(E) For each of the cost estimates required by subparagraphs (C) and (D)—~~

~~(i) a description of whether the cost estimate is derived from the cost estimate position of the military department concerned or from the cost estimate position of the Office of Cost Assessment and Program Evaluation;~~

~~(ii) if the cost estimate position of the military department and the cost estimate position of the Office of Cost Assessment and Program Evaluation differ by more than 5 percent for any aircraft program, an annotated cost estimate difference and sufficient rationale to explain the difference;~~

~~(iii) the confidence or certainty level associated with the cost estimate for each aircraft program; and~~

~~(iv) a certification that the calculations from which the cost estimate is derived are based on common cost categories used by the Under Secretary of Defense for Acquisition and Sustainment for calculating the life-cycle cost of an aircraft program.~~

~~(F) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Army, the Department of the Navy, and the Department of the Air Force meet the national security requirements of the United States.~~

~~(3) For any cost estimate required by subparagraph (C) or (D) of paragraph (2) for any aircraft program for which the Secretary is required to include in a report under section 4351 of this title, the source of the cost information used to prepare the annual aircraft plan shall be derived from the Selected Acquisition Report data that the Secretary plans to submit to the congressional defense committees in accordance with subsection (f) of that section for the year for which the annual aircraft procurement plan is prepared.~~

~~(4) Each annual aircraft procurement plan shall be submitted in unclassified form, and shall contain a classified annex. A summary version of the unclassified report shall be made available to the public.~~

~~(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for any fiscal year provides for funding of the procurement of aircraft for the Department of the Army, the Department of the Navy, or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes the funding shortfall and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. The assessment shall be coordinated in advance with the commanders of the combatant commands.~~

~~(e) ANNUAL REPORT ON AIRCRAFT INVENTORY.—(1) As part of the annual plan and certification required to be submitted under this section, the Secretary shall include a report on the aircraft in the inventory of the Department of Defense.~~

~~(2) Each report under paragraph (1) shall include, for the year covered by such report, the following:~~

~~(A) The total number of aircraft in the inventory.~~

~~(B) The total number of the aircraft in the inventory that are active, stated in the following categories (with appropriate subcategories for mission aircraft, training aircraft, dedicated test aircraft, and other aircraft):~~

~~(i) Primary aircraft.~~

~~(ii) Backup aircraft.~~

~~(iii) Attrition and reconstitution reserve aircraft.~~

~~(C) The total number of the aircraft in the inventory that are inactive, stated in the following categories:~~

~~(i) Bailment aircraft.~~

~~(ii) Drone aircraft.~~

~~(iii) Aircraft for sale or other transfer to foreign governments.~~

~~(iv) Leased or loaned aircraft.~~

~~(v) Aircraft for maintenance training.~~

~~(vi) Aircraft for reclamation.~~

~~(vii) Aircraft in storage.~~

~~(D) The aircraft inventory requirements approved by theJoint Chiefs of Staff.~~

~~(3) Each report under paragraph (1) shall set forth each item specified in paragraph (2) separately for the regular component of each armed force and for each reserve component of each armed force and, for each such component, shall set forth each type, model, and series of aircraft provided for in the future-years defense program that covers the fiscal year for which the budget accompanying the plan, certification and report is submitted.~~

~~(f) BUDGET DEFINED.—In this section, the term "budget" means the budget of the President for a fiscal year as submitted to Congress pursuant to section 1105 of title 31.~~

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Section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note)

SEC. 834. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS

(a) TEST PROGRAM.—(1) The Secretary of Defense shall establish a test program under which contracting activities in the military departments and the Defense Agencies are authorized to undertake one or more demonstration projects to determine whether the negotiation and administration of comprehensive subcontracting plans will reduce administrative burdens on contractors while enhancing opportunities provided under Department of Defense contracts for covered small business concerns. In selecting the contracting activities to undertake demonstration projects, the Secretary shall take such action as is necessary to ensure that a broad range of the supplies and services acquired by the Department of Defense are included in the test program.

(2) In developing the test program, the Secretary of Defense shall-

(A) consult with the Administrator of the Small Business Administration; and

(B) provide an opportunity for public comment on the test program.

(b) Comprehensive Small Business Subcontracting Plan.—***

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(c) Waiver of Certain Small Business Act Subcontracting Plan Requirements.—A Department of Defense contractor is not required to negotiate or submit a subcontracting plan under paragraph (4) or (5) of section 8(d) of the Small Business Act (15 U.S.C. 637(d)) with respect to a Department of Defense contract if-

(1) the contractor has negotiated a comprehensive subcontracting plan under the test program that includes the matters specified in section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6));

(2) such matters have been determined acceptable by the Secretary of the military department or head of a Defense Agency negotiating such comprehensive subcontracting plan; and

(3) the comprehensive subcontracting plan applies to the contract.

(d) Failure To Make a Good Faith Effort To Comply With a Comprehensive Subcontracting Plan.—(1) A contractor that has negotiated a comprehensive subcontracting plan under the test program shall be subject to section 8(d)(4)(F) of the Small Business Act (15 U.S.C. 637(d)(4)(F)) regarding the assessment of liquidated damages for failure to make a good faith effort to comply with its comprehensive subcontracting plan and the goals specified in that plan. In addition, any such failure shall be a factor considered as part of the evaluation of past performance of an offeror.

(2) ~~Effective in fiscal year 2016 and each fiscal year thereafter~~ Not later than 90 days after the end of any fiscal year in which the test program is in effect, the Secretary of Defense shall report to Congress on any negotiated comprehensive subcontracting plan that the Secretary determines did not meet the subcontracting goals negotiated in the plan for the prior fiscal year.

(e) Test Program Period.—The test program authorized by subsection (a) shall begin on October 1, 1990, unless Congress adopts a resolution disapproving the test program. The test program shall terminate on December 31, 2027.

(f) Report.—Not later than September 30, 2015, the Comptroller General of the United States shall submit a report on the results of the test program to the Committees on Armed Services and on Small Business of the House of Representatives and the Committees on Armed Services and on Small Business and Entrepreneurship of the Senate.

(g) Definitions.—In this section, the term "covered small business concern" includes each of the following:

(1) A small business concern, as that term is defined under section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(2) A small business concern owned and controlled by veterans, as that term is defined in section 3(q)(3) of such Act (15 U.S.C. 632(q)(3)).

(3) A small business concern owned and controlled by service-disabled veterans, as that term is defined in section 3(q)(2) of such Act (15 U.S.C. 632(q)(2)).

(4) A qualified HUBZone small business concern, as that term is defined under section 31(b) of such Act [15 U.S.C. 657a(b)].

(5) A small business concern owned and controlled by socially and economically disadvantaged individuals, as that term is defined in section 8(d)(3)(C) of such Act (15 U.S.C. 637(d)(3)(C)).

(6) A small business concern owned and controlled by women, as that term is defined under section 3(n) of such Act (15 U.S.C. 632(n)).

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Section 1091 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 10 U.S.C. 2576 note)

(a) ***

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~~(g) REPORTING.—Not later than December 1, 2022, and annually thereafter, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on aircraft transferred, during the fiscal year preceding the date of such report, to—~~

~~(1) the Secretary of Agriculture, the Secretary of Homeland Security, or the Governor of a State under this section;~~

~~(2) the chief executive officer of a State under section 112 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1318); or~~

~~(3) the Secretary of the Air Force or the Secretary of Agriculture under section 1098 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 881).~~

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Section 9516 of title 10, United States Code

§9516. Airlift service

(a) INTERSTATE TRANSPORTATION.—(1) Except as provided in subsection (d) of this section, the transportation of passengers or property by CRAF-eligible aircraft in interstate air transportation obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service in the United States may be provided only by an air carrier that—

(A) has aircraft in the civil reserve air fleet or offers to place the aircraft in that fleet; and

(B) holds a certificate issued under section 41102 of title 49.

(2) The Secretary of Transportation shall act as expeditiously as possible on an application for a certificate under section 41102 of title 49 to provide airlift service.

(b) TRANSPORTATION BETWEEN THE UNITED STATES AND FOREIGN LOCATIONS.—Except as provided in subsection (d), the transportation of passengers or property by CRAF-eligible aircraft between a place in the United States and a place outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a).

(c) TRANSPORTATION BETWEEN FOREIGN LOCATIONS.—The transportation of passengers or property by CRAF-eligible aircraft between two places outside the United States obtained by the Secretary of Defense or the Secretary of a military department through a contract for airlift service shall be provided by an air carrier referred to in subsection (a) whenever transportation by such an air carrier is reasonably available.

(d) EXCEPTION.—Subject to subsection (e), when the Secretary of Defense decides that no air carrier holding a certificate under section 41102 of title 49 is capable of providing, and willing to provide, the airlift service, the Secretary of Defense may make a contract to provide the service with an air carrier not having a certificate.

~~(e) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report that—~~

~~(1) identifies each contract for airlift services awarded in the preceding fiscal year to a provider that does not meet the requirements set forth in subparagraphs (A) and (B) of subsection (a)(1); and~~

~~(2) for each such contract—~~

~~(A) specifies the dollar value of the award; and~~

~~(B) provides a detailed explanation of the reasons for the award.~~

(f) CRAF-ELIGIBLE AIRCRAFT DEFINED.—In this section, "CRAF-eligible aircraft" means aircraft of a type the Secretary of Defense has determined to be eligible to participate in the civil reserve air fleet.

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Section 1275 of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92)

~~SEC. 1275. REPORTS ON EXPENSES INCURRED FOR IN-FLIGHT REFUELING OF SAUDI COALITION AIRCRAFT CONDUCTING MISSIONS RELATING TO CIVIL WAR IN YEMEN.~~

~~(a) REPORTS REQUIRED.—~~

~~(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and every 30 days thereafter, the Secretary of Defense shall submit a report to the appropriate committees of Congress detailing the expenses incurred by the United States in providing in-flight refueling services for Saudi or Saudi-led coalition non-United States aircraft conducting missions as part of the civil war in Yemen during the period of March 1, 2015, through November 11, 2018, and the extent to which such expenses have been reimbursed by members of the Saudi-led coalition.~~

~~(2) ELEMENTS.—Each report required under paragraph (1) shall include the following:—~~

~~(A) The total expenses incurred by the United States in providing in-flight refueling services, including fuel, flight hours, and other applicable expenses, to Saudi or Saudi-led coalition, non-United States aircraft conducting missions as part of the civil war in Yemen.~~

~~(B) The amount of the expenses described in subparagraph (A) that has been reimbursed by each member of the Saudi-led coalition.~~

~~(C) Any action taken by the United States to recoup the remaining expenses described in subparagraph (A), including any commitments by members of the Saudi-led coalition to reimburse the United States for such expenses.~~

~~(3) SUNSET.—The reporting requirement under paragraph (1) shall cease to be effective on the date on which the Secretary certifies to the appropriate committees of~~

~~Congress that all expenses incurred by the United States in providing in-flight refueling services for Saudi or Saudi-led coalition non-United States aircraft conducting missions as part of the civil war in Yemen during the period of March 1, 2015, through November 11, 2018, have been reimbursed.~~

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

~~(1) the Committee on Armed Services of the Senate;~~

~~(2) the Committee on Armed Services of the House of Representatives;~~

~~(3) the Committee on Foreign Relations of the Senate; and (4) the Committee on Foreign Affairs of the House of Representatives.~~

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1 **SEC. ___. RESERVE COMPONENT STUDENT LOAN RELIEF.**

2 Section 16301(b) of title 10, United States Code, is amended by striking “15 percent” and

3 inserting “20 percent”.

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

Section-by-Section Analysis

This proposal would enhance authority for the Secretaries of the military departments to repay loan amounts in an accelerated manner that will allow members of the reserve components of the Armed Forces to realize the intended benefit of the program under section 16301 of title 10, United States Code (Section 16301). Section 16301 presently limits the annual amount that may be repaid to 15 percent, or $1000, whichever is greater, which is not repayable until after the period of service is performed. Under the current statute, in order to fully repay the reserve component member’s student loans, a member must serve 8 years in the Selected Reserve.

Under the current recruiting environment, the vast majority of applicants contract for six years. As a result, reserve component members do not fully realize full repayment of their student loans. This limitation reduces the effectiveness of the incentive.

59 percent of Army National Guard (ARNG) soldiers with Student Loan Repayment Program (SLRP) contracts have student loan debt between $32,000 and $50,000. 29 percent of those with SLRP have student loans in excess of $50,000, with multiple soldiers having loans in excess of $90,000. The median loan debt balance is currently at $52,172.11.

With 88 percent of ARNG soldiers possessing loans in excess of $32,000, increasing the percentage by which the ARNG may repay a student loan will enhance flexibility in offering this as an incentive.

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.

PERSONNEL IMPACT (END STRENGTH OR FTES)									
	FY 2027	**FY 2028**	**FY 2029**	**FY 2023**	**FY 2031**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element**
ARNG	7,000	7,350	7,750	8,150	8,150	National Guard Personnel, Army	1R	1R33A2	
USAR									
USAF Reserve									
ANG									
USN Reserve									

RESOURCE IMPACT ($MILLIONS)									
Program	**FY 2027**	**FY 2028**	**FY 2029**	**FY 2030**	**FY 2031**	**Appropriation**	**Budget Activity**	**BLI/SAG**	**Program Element**
ARNG	$6	$6.4	$7	$7.1	$7.1	National Guard Personnel, Army	1R	1R33A2	
USAR	$5	$5	$5	$5	$5	Reserve Personnel, Army	IR	IR3	
USAF Reserve	$0.62	$0.62	$0.62	$0.62	$0.62	United States Air Force Reserve, Personnel	01	73915	
ANG	Does not intend to use this authority								
USN Reserve	Does not intend to use this authority								

Changes to Existing Law: This proposal would amend section 16301 of title 10, United States Code, as follows:

§ 16301. Education loan repayment program: members of Selected Reserve

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.);

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.); or

(D) any loan incurred for educational purposes made by a lender that is—

(i) an agency or instrumentality of a State;

(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

(iii) a pension fund approved by the Secretary for purposes of this section; or

(iv) a nonprofit private entity designated by a State, regulated by that State, and approved by the Secretary for purposes of this section.

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for service performed as a member of the Selected Reserve of the Ready Reserve of an

armed force in a reserve component and in an officer program or military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is ~~15~~ **20** percent or $1,000, whichever is greater, for each year of service, plus the amount of any interest that may accrue during the current year.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required. For the purposes of this section, any interest that has accrued on the loan for periods before the current year shall be considered as within the total loan amount that shall be repaid.

(d) ***

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