

of Warrant Officers” for “Retirement” in item for chapter 65, substituted “1370” for “1371” as section number in item for chapter 69, amended item for chapter 73 to read: “Annuities Based on Retired or Retainer Pay”, and capitalized “Assistance”, “Persons”, “Enlisting”, “Active”, and “Duty” in item for chapter 107.

Pub. L. 96-450, title IV, §406(b), Oct. 14, 1980, 94 Stat. 1981, added item for chapter 108.

Pub. L. 96-342, title IX, §901(b), Sept. 8, 1980, 94 Stat. 1114, added item for chapter 107.

Pub. L. 96-323, §2(b), Aug. 4, 1980, 94 Stat. 1019, added item for chapter 138.

1977—Pub. L. 95-79, title IV, §402(b), July 30, 1977, 91 Stat. 330, added item for chapter 106.

1972—Pub. L. 92-426, §2(b), Sept. 21, 1972, 86 Stat. 719, added items for chapters 104 and 105.

Pub. L. 92-425, §2, Sept. 21, 1972, 86 Stat. 711, amended item for chapter 73 by inserting “; Survivor Benefit Plan” after “Pay” which could not be executed as directed in view of amendment by Pub. L. 87-381. See 1961 Amendment note below.

1968—Pub. L. 90-377, §2, July 5, 1968, 82 Stat. 288, added item for chapter 48.

1967—Pub. L. 90-83, §3(2), Sept. 11, 1967, 81 Stat. 220, struck out item for chapter 80 “Exemplary Rehabilitation Certificates”.

1966—Pub. L. 89-690, §2, Oct. 15, 1966, 80 Stat. 1017, added item for chapter 80.

1964—Pub. L. 88-647, title I, §101(2), title II, §201(2), Oct. 13, 1964, 78 Stat. 1064, 1069, added items for chapters 102 and 103.

1962—Pub. L. 87-651, title II, §203, Sept. 7, 1962, 76 Stat. 519, added item for chapter 4.

Pub. L. 87-649, §3(2), Sept. 7, 1962, 76 Stat. 493, added item for chapter 40.

1961—Pub. L. 87-381, §1(2), Oct. 4, 1961, 75 Stat. 810, substituted “Retired Serviceman’s Family Protection Plan” for “Annuities Based on Retired or Retainer Pay” in item for chapter 73.

1958—Pub. L. 85-861, §§1(21), (26), (33), 33(a)(4)(B), Sept. 2, 1958, 72 Stat. 1443, 1450, 1455, 1564, substituted “General Service Requirements” for “Service Requirements for Reserves” in item for chapter 37, “971” for “[No present sections]” in item for chapter 49, “Medical and Dental Care” for “Voting by Members of Armed Forces” in item for chapter 55, and struck out “Care of the Dead” and substituted “1475” for “1481” in item for chapter 75.

## PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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<sup>1</sup> So in original. Chapters 9A and 13 both begin with a section 251.

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### AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, §1002(a)(2), Dec. 12, 2017, 131 Stat. 1537, added item for chapter 9A.

2016—Pub. L. 114-328, div. A, title XII, §1241(o)(1), Dec. 23, 2016, 130 Stat. 2512, redesignated item for chapter 13 “The Militia” as 12 and substituted “246” for “311”, re-

designated item for chapter 15 “Insurrection” as 13 and substituted “251” for “331”, redesignated item for chapter 17 “Arming of American Vessels” as 14 and substituted “261” for “351”, redesignated item for chapter 18 “Military Support for Civilian Law Enforcement Agencies” as 15 and substituted “271” for “371”, and added item for chapter 16.

2015—Pub. L. 114-92, div. A, title X, §1081(a)(1), Nov. 25, 2015, 129 Stat. 1000, substituted “Cyber Matters” for “Cyber matters” in item for chapter 19.

2014—Pub. L. 113-291, div. A, title XVI, §1632(d), Dec. 19, 2014, 128 Stat. 3640, added item for chapter 19.

2013—Pub. L. 113-66, div. A, title X, §1091(a)(1), Dec. 26, 2013, 127 Stat. 875, substituted “Nuclear Posture” for “Nuclear posture” in item for chapter 24.

Pub. L. 112-239, div. A, title X, §1031(b)(2), Jan. 2, 2013, 126 Stat. 1918, added item for chapter 24.

2008—Pub. L. 110-181, div. A, title X, §1068(a)(4)(B), Jan. 28, 2008, 122 Stat. 326, substituted “Insurrection” for “Enforcement of the Laws to Restore Public Order” in item for chapter 15.

2006—Pub. L. 109-364, div. A, title X, §1076(a)(4)(A), Oct. 17, 2006, 120 Stat. 2405, substituted “Enforcement of the Laws to Restore Public Order” for “Insurrection” in item for chapter 15.

2004—Pub. L. 108-375, div. A, title X, §1084(d)(1), Oct. 28, 2004, 118 Stat. 2061, substituted “480” for “481” in item for chapter 23.

2003—Pub. L. 108-136, div. A, title IX, §921(d)(8), Nov. 24, 2003, 117 Stat. 1569, substituted “Geospatial-Intelligence” for “Imagery and Mapping” in item for chapter 22.

1997—Pub. L. 105-85, div. A, title X, §1073(a)(1), Nov. 18, 1997, 111 Stat. 1900, substituted “481” for “471” in item for chapter 23.

1996—Pub. L. 104-201, div. A, title XI, §1123(a)(2), Sept. 23, 1996, 110 Stat. 2688, substituted “National Imagery and Mapping Agency” for “Miscellaneous Studies and Reports” and “441” for “451” in item for chapter 22 and added item for chapter 23.

1994—Pub. L. 103-337, div. A, title V, §554(a)(2), Oct. 5, 1994, 108 Stat. 2773, added item for chapter 22.

1991—Pub. L. 102-190, div. A, title X, §1002(a)(2), Dec. 5, 1991, 105 Stat. 1455, substituted “Defense Budget Matters” for “Regular Components” and inserted “221” in item for chapter 9.

1988—Pub. L. 100-456, div. A, title XI, §1104(b), Sept. 29, 1988, 102 Stat. 2046, substituted “Support for” for “Cooperation With” and “Agencies” for “Officials” in item for chapter 18.

1987—Pub. L. 100-180, div. A, title III, §332(c), Dec. 4, 1987, 101 Stat. 1080, substituted “Humanitarian and Other Assistance” for “Humanitarian and Civic Assistance Provided in Conjunction With Military Operations” in item for chapter 20.

Pub. L. 100-26, §9(b)(4), Apr. 21, 1987, 101 Stat. 287, added item for chapter 21.

1986—Pub. L. 99-661, div. A, title III, §333(a)(2), Nov. 14, 1986, 100 Stat. 3859, added item for chapter 20.

Pub. L. 99-433, title VI, §605(a), Oct. 1, 1986, 100 Stat. 1075a, added items for chapters 2 and 6, inserted “and Functions” in item for chapter 3, substituted “Office of the Secretary of Defense” for “Department of Defense” in item for chapter 4, substituted “151” for “141” as section number in item for chapter 5, reenacted item for chapter 7 without change, and inserted “and Department of Defense Field activities” in item for chapter 8.

1982—Pub. L. 97-269, title V, §501(b), Sept. 27, 1982, 96 Stat. 1145, added item for chapter 8.

1981—Pub. L. 97-86, title IX, §905(a)(2), Dec. 1, 1981, 95 Stat. 1116, added item for chapter 18.

1962—Pub. L. 87-651, title II, §203, Sept. 7, 1962, 76 Stat. 519, added item for chapter 4.

## CHAPTER 1—DEFINITIONS

Sec.  
101. Definitions.

### § 101. Definitions

(a) IN GENERAL.—The following definitions apply in this title:

(1) The term “United States”, in a geographic sense, means the States and the District of Columbia.

[2] Repealed. Pub. L. 109-163, div. A, title X, §1057(a)(1), Jan. 6, 2006, 119 Stat. 3440.]

(3) The term “possessions” includes the Virgin Islands, Guam, American Samoa, and the Guano Islands, so long as they remain possessions, but does not include any Commonwealth.

(4) The term “armed forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term “uniformed services” means—

(A) the armed forces;

(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(C) the commissioned corps of the Public Health Service.

(6) The term “department”, when used with respect to a military department, means the executive part of the department and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, such term means the executive part of the department, including the executive parts of the military departments, and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of Defense, including those of the military departments.

(7) The term “executive part of the department” means the executive part of the Department of Defense, Department of the Army, Department of the Navy, or Department of the Air Force, as the case may be, at the seat of government.

(8) The term “military departments” means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

(9) The term “Secretary concerned” means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Department of the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

(10) The term “service acquisition executive” means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.

(11) The term “Defense Agency” means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

(B) that is designated by the Secretary of Defense as a Defense Agency.

(12) The term “Department of Defense Field Activity” means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department; and

(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.

(13) The term “contingency operation” means a military operation that—

(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12304a, 12305, or 12406 of this title, chapter 15 of this title, section 712 of title 14, or any other provision of law during a war or during a national emergency declared by the President or Congress.

(14) The term “supplies” includes material, equipment, and stores of all kinds.

(15) The term “pay” includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(16) The term “congressional defense committees” means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(17) The term “base closure law” means the following:

(A) Section 2687 of this title.

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(C) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(18) The term “acquisition workforce” means the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of this title.

(b) PERSONNEL GENERALLY.—The following definitions relating to military personnel apply in this title:

(1) The term “officer” means a commissioned or warrant officer.

(2) The term “commissioned officer” includes a commissioned warrant officer.

(3) The term “warrant officer” means a person who holds a commission or warrant in a warrant officer grade.

(4) The term “general officer” means an officer of the Army, Air Force, or Marine Corps serving in or having the grade of general, lieutenant general, major general, or brigadier general.

(5) The term “flag officer” means an officer of the Navy or Coast Guard serving in or having the grade of admiral, vice admiral, rear admiral, or rear admiral (lower half).

(6) The term “enlisted member” means a person in an enlisted grade.

(7) The term “grade” means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) The term “rank” means the order of precedence among members of the armed forces.

(9) The term “rating” means the name (such as “boatswain’s mate”) prescribed for members of an armed force in an occupational field. The term “rate” means the name (such as “chief boatswain’s mate”) prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

(10) The term “original”, with respect to the appointment of a member of the armed forces in a regular or reserve component, refers to that member’s most recent appointment in that component that is neither a promotion nor a demotion.

(11) The term “authorized strength” means the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces.

(12) The term “regular”, with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office in a regular component of an armed force.

(13) The term “active-duty list” means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers described in section 641 of this title, who are serving on active duty.

(14) The term “medical officer” means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an of-

ficer in the Air Force designated as a medical officer.

(15) The term “dental officer” means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

(16) The term “Active Guard and Reserve” means a member of a reserve component who is on active duty pursuant to section 12301(d) of this title or, if a member of the Army National Guard or Air National Guard, is on full-time National Guard duty pursuant to section 502(f) of title 32, and who is performing Active Guard and Reserve duty.

(c) RESERVE COMPONENTS.—The following definitions relating to the reserve components apply in this title:

(1) The term “National Guard” means the Army National Guard and the Air National Guard.

(2) The term “Army National Guard” means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(3) The term “Army National Guard of the United States” means the reserve component of the Army all of whose members are members of the Army National Guard.

(4) The term “Air National Guard” means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(5) The term “Air National Guard of the United States” means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(6) The term “reserve”, with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office held as a Reserve of one of the armed forces.

(7) The term “reserve active-status list” means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.

(d) DUTY STATUS.—The following definitions relating to duty status apply in this title:

(1) The term “active duty” means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

(2) The term “active duty for a period of more than 30 days” means active duty under a call or order that does not specify a period of 30 days or less.

(3) The term “active service” means service on active duty or full-time National Guard duty.

(4) The term “active status” means the status of a member of a reserve component who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve.

(5) The term “full-time National Guard duty” means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member’s status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

(6)(A) The term “active Guard and Reserve duty” means active duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard pursuant to an order to full-time National Guard duty, for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(B) Such term does not include the following:

(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 10301 of this title.

(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

(iv) Duty performed as a general or flag officer.

(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. 3809(b)(2)).

(7) The term “inactive-duty training” means—

(A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

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

(1) RANGE.—The term “range”, when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. Such term includes the following:

(A) Firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas.

(B) Airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration.

(2) RANGE ACTIVITIES.—The term “range activities” means—

(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and

(B) the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems.

(3) OPERATIONAL RANGE.—The term “operational range” means a range that is under the jurisdiction, custody, or control of the Secretary of a military department and—

(A) that is used for range activities, or

(B) although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities.

(4) MILITARY MUNITIONS.—(A) The term “military munitions” means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard.

(B) Such term includes the following:

(i) Confined gaseous, liquid, and solid propellants.

(ii) Explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents.

(iii) Chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges.

(iv) Devices and components of any item specified in clauses (i) through (iii).

(C) Such term does not include the following:

(i) Wholly inert items.

(ii) Improvised explosive devices.

(iii) Nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are man-

aged under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

(5) UNEXPLODED ORDNANCE.—The term “unexploded ordnance” means military munitions that—

(A) have been primed, fused, armed, or otherwise prepared for action;

(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

(C) remain unexploded, whether by malfunction, design, or any other cause.

(6) ENERGY RESILIENCE.—The term “energy resilience” means the ability to avoid, prepare for, minimize, adapt to, and recover from anticipated and unanticipated energy disruptions in order to ensure energy availability and reliability sufficient to provide for mission assurance and readiness, including task critical assets and other mission essential operations related to readiness, and to execute or rapidly reestablish mission essential requirements.

(7) ENERGY SECURITY.—The term “energy security” means having assured access to reliable supplies of energy and the ability to protect and deliver sufficient energy to meet mission essential requirements.

(f) RULES OF CONSTRUCTION.—In this title—

(1) “shall” is used in an imperative sense;

(2) “may” is used in a permissive sense;

(3) “no person may \* \* \*” means that no person is required, authorized, or permitted to do the act prescribed;

(4) “includes” means “includes but is not limited to”; and

(5) “spouse” means husband or wife, as the case may be.

(g) REFERENCE TO TITLE 1 DEFINITIONS.—For other definitions applicable to this title, see sections 1 through 5 of title 1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 3; Pub. L. 85-861, §§1(1), 33(a)(1), Sept. 2, 1958, 72 Stat. 1437, 1564; Pub. L. 86-70, §6(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, §4(a), July 12, 1960, 74 Stat. 411; Pub. L. 87-649, §6(f)(1), Sept. 7, 1962, 76 Stat. 494; Pub. L. 90-235, §7(a)(1), Jan. 2, 1968, 81 Stat. 762; Pub. L. 90-623, §2(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92-492, §1, Oct. 13, 1972, 86 Stat. 810; Pub. L. 96-513, title I, §§101, 115(a), title V, §501(2), Dec. 12, 1980, 94 Stat. 2839, 2877, 2907; Pub. L. 97-22, §2(a), July 10, 1981, 95 Stat. 124; Pub. L. 97-86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98-525, title IV, §414(a)(1), Oct. 19, 1984, 98 Stat. 2518; Pub. L. 99-145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99-348, title III, §303, July 1, 1986, 100 Stat. 703; Pub. L. 99-433, title III, §302, Oct. 1, 1986, 100 Stat. 1022; Pub. L. 100-26, §7(i), (k)(1), Apr. 21, 1987, 101 Stat. 282, 283; Pub. L. 100-180, div. A, title XII, §§1231(1), (20), 1233(a)(2), Dec. 4, 1987, 101 Stat. 1160, 1161; Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101-510, div. A, title XII, §1204, Nov. 5, 1990, 104 Stat. 1658; Pub. L. 102-190, div. A, title VI,

§631(a), Dec. 5, 1991, 105 Stat. 1380; Pub. L. 102-484, div. A, title X, §1051(a), Oct. 23, 1992, 106 Stat. 2494; Pub. L. 103-337, div. A, title V, §514, title XVI, §§1621, 1671(c)(1), Oct. 5, 1994, 108 Stat. 2753, 2960, 3014; Pub. L. 104-106, div. A, title XV, §1501(c)(1), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104-201, div. A, title V, §522, Sept. 23, 1996, 110 Stat. 2517; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title X, §§1042(a), 1043(a), 1045(a)(2), Nov. 24, 2003, 117 Stat. 1608, 1610, 1612; Pub. L. 108-375, div. A, title X, §1084(a), Oct. 28, 2004, 118 Stat. 2060; Pub. L. 109-163, div. A, title X, §§1056(c)(1), 1057(a)(1), (2), Jan. 6, 2006, 119 Stat. 3439, 3440; Pub. L. 109-364, div. A, title V, §524, Oct. 17, 2006, 120 Stat. 2193; Pub. L. 111-383, div. A, title VIII, §876, Jan. 7, 2011, 124 Stat. 4305; Pub. L. 112-81, div. A, title V, §515(b), Dec. 31, 2011, 125 Stat. 1395; Pub. L. 112-239, div. A, title VI, §681(a), Jan. 2, 2013, 126 Stat. 1795; Pub. L. 114-328, div. A, title X, §1081(b)(1)(A)(i), Dec. 23, 2016, 130 Stat. 2417; Pub. L. 115-91, div. B, title XXVIII, §2831(d), Dec. 12, 2017, 131 Stat. 1858.)

HISTORICAL AND REVISION NOTES  
1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
101(1) .....	50:351 (clause (b)).	Sept. 16, 1942, ch. 561, § 401 (clause (b)); added Apr. 1, 1944, ch. 150, § 401 (clause (b)); re-stated Apr. 19, 1946, ch. 142, §401 (clause (b)), 60 Stat. 102.
101(2) .....	32:4c (1st 33 words).	July 9, 1952, ch. 608, §101(d) (less 2d sentence), (e), (g), §702 (for definition purposes), 66 Stat. 481, 482, 501.
101(3) .....	[No source].	
101(4) .....	50:901(e).	
101(5) .....	5:181-1(c) (for definition purposes); 5:411a(a) (for definition purposes); 5:626(c) (for definition purposes).	
101(6) .....	[No source].	
101(7) .....	5:171(b) (last 23 words of clause (1), for definition purposes).	
101(8) .....	10:600(a); 34:135(a).	July 26, 1947, ch. 343, §§205(c) (for definition purposes), 206(a) (for definition purposes), 207(c) (for definition purposes), 61 Stat. 501, 502.
101(9) .....	[No source].	
101(10) .....	32:2 (for definition purposes); 32:4b (for definition purposes).	July 26, 1947, ch. 343, §201(b) (last 31 words of clause (1), for definition purposes); re-stated Aug. 10, 1949, ch. 412, §4 (last 31 words of clause (1) of 201(b), for definition purposes), 63 Stat. 579.
101(11) .....	50:1112(a) (for definition purposes).	June 3, 1916, ch. 134, §62 (1st 36 words of last proviso), 39 Stat. 198.
101(12) .....	10:1835 (less last 16 words, for definition purposes); 32:2 (for definition purposes); 32:4b (for definition purposes).	June 3, 1916, ch. 134, §117 (for definition purposes), 39 Stat. 212.
101(13) .....	50:1112(b) (for definition purposes).	
101(14) .....	5:181-3(b) (less last sentence); 10:1a(b) (less last sentence); 10:1801(b) (less last sentence); 37:231(c) (1st sentence, for definition purposes); 50:901(g).	June 3, 1916, ch. 134, §71 (for definition purposes); added June 15, 1933, ch. 87, §9 (for definition purposes), 48 Stat. 157; Oct. 12, 1949, ch. 681, §530 (for definition purposes), 63 Stat. 837; July 9, 1952, ch. 608, §803 (9th par., for definition purposes), 66 Stat. 505.
101(15) .....	[No source].	
101(16) .....	10:600(b); 34:135(b).	
101(17) .....	5:181-3(b) (last sentence); 10:1a(b) (last sentence); 10:1801(b) (last sentence); 50:551(9).	
101(18) .....	[No source].	
101(19) .....	[No source].	
101(20) .....	[No source].	
101(21) .....	[No source].	
101(22) .....	10:1036e(d) (for definition purposes); 34:440m(d) (for definition purposes).	
101(23) .....	[No source].	Sept. 19, 1951, ch. 407, §§2(b), 305 (less last 16 words, for definition purposes), 65 Stat. 326, 330.
101(24) .....	[No source].	
101(26) .....	[No source].	
101(27) .....	[No source].	
101(28) .....	[No source].	
101(29) .....	[No source].	
101(30) .....	[No source].	
101(31) .....	50:901(d) (less 2d sentence).	June 28, 1950, ch. 383, §2(b), 64 Stat. 263; July 9, 1952, ch. 608, §807(a), 66 Stat. 508.
101(32) .....	[No source].	Oct. 12, 1949, ch. 681, §102(c) (1st sentence, for definition purposes), 63 Stat. 804.
101(33) .....	[No source].	
101(34) .....	[No source].	

HISTORICAL AND REVISION NOTES—CONTINUED  
1956 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
		May 5, 1950, ch. 169, § 1 (Art. 1 (clause (9))), 64 Stat. 108. May 29, 1954, ch. 249, § 2(a), (b), 68 Stat. 157. June 29, 1948, ch. 708, § 306(d) (for definition purposes), 62 Stat. 1089.

The definitions in clauses (3), (15), (18)–(21), (23)–(30), and (31)–(33) reflect the adoption of terminology which, though undefined in the source statutes restated in this title, represents the closest practicable approximation of the ways in which the terms defined have been most commonly used. A choice has been made where established uses conflict.

In clause (2), the definition of “Territory” in 32:4c is executed throughout this revised title by specific reference, where applicable, to the Territories, Puerto Rico and the Canal Zone.

In clause (4), the definition of “armed forces” is based on the source statute instead of 50:551(2), which does not include an express reference to the Marine Corps. The words “including all components thereof” are omitted as surplusage.

In clause (5), the term “Department” is defined to give it the broad sense of “Establishment”, to conform to the source statute and the usage preferred by the Department of Defense, instead of the more limited sense defined by 5:421g(a) and 423a(a), and 10:1a(d) and 1801(d).

In clause (6), the term “executive part of the department” is created for convenience in referring to what is described in the source statutes for this title as “department” in the limited sense of the executive part at the seat of government. This is required by the adoption of the word “department” in clause (5) to cover the broader concept of “establishment”.

In clause (8), the term “Secretary concerned” is created and defined for legislative convenience.

In clause (9), a definition of “National Guard” is inserted for clarity.

In clause (10)(A), the words “a land force” are substituted for 32:2 (as applicable to Army National Guard). The National Defense Act of 1916, § 117 (last 66 words), 39 Stat. 212, is not contained in 32:2. It is also omitted from the revised section as repealed by the Act of February 28, 1925, ch. 374, § 3, 43 Stat. 1081.

In clauses (10) and (11), the word “Army” is inserted to distinguish the organizations defined from their Air Force counterparts.

In clauses (10) and (12), the words “unless the context or subject matter otherwise requires” and “as provided in this title”, in 32:4b, are omitted as surplusage.

In clauses (10)(B) and (12)(B), the words “has its officers appointed” are substituted for the word “officered”, in 32:4b.

In clauses (11) and (13), only that much of the description of the composition of the Army National Guard of the United States and the Air National Guard of the United States is used as is necessary to distinguish these reserve components, respectively, from the other reserve components.

In clause (12)(A), the words “an air force” are substituted for the words “for which Federal responsibility has been vested in the Secretary of the Air Force or the Department of the Air Force pursuant to law”, in 10:1835, and for 32:2 (as applicable to Air National Guard), to make the definition of “Air National Guard” parallel with the definition of “Army National Guard”, and to make explicit the intent of Congress, in creating the Air National Guard, that the organized militia henceforth should consist of three mutually exhaustive classes comprising the Army, Air, and Naval militia.

In clause (14), the definition of “officer” is based on the source statutes instead of 50:551(5), which excludes

warrant officers. The reference to appointment in 10:1a(b) (2d sentence and 10:1801(b) (2d sentence), and the words “commissioned warrant officer”, “flight officer”, and “either permanent or temporary”, in 37:231(c) (1st sentence), are omitted as surplusage. 5:181-3(b) (1st sentence), 10:1a(b) (1st sentence), and 10:1801(b) (1st sentence) are omitted as covered by the definitions in clauses (14) and (16) of the revised section and by section 3062(c) and section 8062(d) of this title.

In clause (16), the words “unless otherwise qualified”, “permanent or temporary”, and “in the Army, Navy, Air Force, Marine Corps, or Coast Guard, including any component thereof” are omitted as surplusage. The word “person” is substituted for the word “officer”.

In clause (22), the definition of “active duty” is based on the definition of “active Federal service” in the source statute, since it is believed to be closer to general usage than the definition in 50:901(b), which excludes active duty for training from the general concept of active duty.

1958 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
101(25) .....	50:1181(6).	Sept. 3, 1954, ch. 1257, § 102(6), 68 Stat. 1150.

The words “, other than a commissioned warrant officer,” are inserted to reflect 50:1181(1).

[Clause (35).] The word “original” is defined to make clear that when used in relation to an appointment it refers to the member’s first appointment in his current series of appointments and excludes any appointment made before a lapse in service.

REFERENCES IN TEXT

Section 125(d) of this title, referred to in subsec. (a)(12)(A), was repealed by Pub. L. 99-433, title III, § 301(b)(1), Oct. 1, 1986, 100 Stat. 1022.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(17)(B), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Tables.

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(17)(C), is Pub. L. 100-526, Oct. 24, 1988, 102 Stat. 2623, as amended. Title II of the Act is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (e)(4)(C)(iii), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 919, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

CODIFICATION

Pub. L. 107-296, § 1704(b)(1), which directed amendment of section 101(9) of this title by substituting “of Homeland Security” for “of Transportation” wherever appearing, could not be executed because there is no section 101(9).

AMENDMENTS

2017—Subsec. (e)(6), (7). Pub. L. 115-91 added pars. (6) and (7).

2016—Subsec. (d)(6)(B)(v). Pub. L. 114-328 substituted “(50 U.S.C. 3809(b)(2))” for “(50 U.S.C. App. 460(b)(2))”.

2013—Subsec. (a)(13)(B). Pub. L. 112-239 inserted “section 712 of title 14,” after “chapter 15 of this title.”

2011—Subsec. (a)(13)(B). Pub. L. 112-81 inserted “12304a,” after “12304.”

Subsec. (a)(18). Pub. L. 111-383 added par. (18).

2006—Subsec. (a)(2). Pub. L. 109-163, § 1057(a)(1), struck out par. (2) which read as follows: “The term ‘Terri-

tory' (except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States) means any Territory organized after August 10, 1956, so long as it remains a Territory."

Subsec. (a)(3). Pub. L. 109-163, §1057(a)(2), struck out "Territory or" before "Commonwealth".

Subsec. (b)(16). Pub. L. 109-364, §524(1), added par. (16).

Subsec. (d)(6)(A). Pub. L. 109-364, §524(2), struck out "or full-time National Guard duty" after "means active duty" and substituted "pursuant to an order to full-time National Guard duty," for "pursuant to an order to active duty or full-time National Guard duty".

Subsec. (e)(4)(B)(ii). Pub. L. 109-163, §1056(c)(1), struck out comma after "bulk explosives".

2004—Subsec. (e)(3). Pub. L. 108-375 substituted "Secretary of a military department" for "Secretary of Defense" in introductory provisions.

2003—Subsec. (a)(9)(D). Pub. L. 108-136, §1045(a)(2), substituted "Homeland Security" for "Transportation".

Subsec. (a)(16), (17). Pub. L. 108-136, §1043(a), added pars. (16) and (17).

Subsecs. (e) to (g). Pub. L. 108-136, §1042(a), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1996—Subsec. (d)(4). Pub. L. 104-201 substituted "a member of a reserve component" for "a reserve commissioned officer, other than a commissioned warrant officer".

Subsec. (d)(6)(B)(i). Pub. L. 104-160 substituted "section 10301" for "section 175".

1994—Subsec. (a)(13)(B). Pub. L. 103-337, §1671(c)(1), substituted "688, 12301(a), 12302, 12304, 12305, or 12406" for "672(a), 673, 673b, 673c, 688, 3500, or 8500".

Subsec. (c)(7). Pub. L. 103-337, §1621, added par. (7).

Subsec. (d)(6), (7). Pub. L. 103-337, §514, added par. (6) and redesignated former par. (6) as (7).

1992—Pub. L. 102-484 amended section generally, substituting subsecs. (a) to (f) for former pars. (1) to (47) which defined terms for purposes of this title.

1991—Par. (47). Pub. L. 102-190 added par. (47).

1990—Par. (46). Pub. L. 101-510 added par. (46).

1988—Pars. (3), (10), (12). Pub. L. 100-456 struck out "the Canal Zone," after "the Virgin Islands," in par. (3) and after "Puerto Rico," in pars. (10) and (12).

1987—Par. (1). Pub. L. 100-26, §7(k)(1)(A), inserted "The term" after par. designation.

Par. (2). Pub. L. 100-26, §7(1)(k)(B), inserted "the term" after "Air National Guard of the United States."

Pub. L. 100-180, §1233(a)(2), amended directory language of Pub. L. 100-26, §7(k)(1)(C), by adding par. (2) to those pars. excepted from direction that initial letter of first word after open quotation marks in each par. be made lowercase rather than uppercase.

Pars. (3) to (7). Pub. L. 100-26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (8) to (13). Pub. L. 100-26, §7(k)(1)(A), inserted "The term" after par. designation.

Par. (14). Pub. L. 100-180, §1231(1), inserted "a" after "means".

Pub. L. 100-26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (15) to (19). Pub. L. 100-26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Par. (20). Pub. L. 100-180, §1231(20), substituted "The term 'rate'" for "'Rate'" in second sentence.

Pub. L. 100-26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (21) to (43). Pub. L. 100-26, §7(k)(1)(A), (C), inserted "The term" after par. designation and struck

out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (44), (45). Pub. L. 100-26, §7(i)(1), (k)(1)(A), inserted "The term" after par. designation and substituted "October 1, 1986" for "the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986".

1986—Par. (43). Pub. L. 99-348 added par. (43).

Pars. (44), (45). Pub. L. 99-433 added pars. (44) and (45).

1985—Par. (41). Pub. L. 99-145 substituted "rear admiral (lower half)" for "commodore".

1984—Par. (22). Pub. L. 98-525, §414(a)(1)(A), inserted "It does not include full-time National Guard duty."

Par. (24). Pub. L. 98-525, §414(a)(1)(B), inserted "or full-time National Guard duty".

Par. (42). Pub. L. 98-525, §414(a)(1)(C), added par. (42).

1981—Par. (41). Pub. L. 97-86 substituted "commodore" for "commodore admiral".

Pub. L. 97-22 inserted "or Coast Guard" after "Navy". 1980—Par. (22). Pub. L. 96-513, §501(2), struck out "duty on the active list," after "It includes".

Par. (36). Pub. L. 96-513, §115(a), struck out par. (36) which provided that "dependent", with respect to a female member of an armed force, did not include her husband, unless he was in fact dependent on her for his chief support, or her child, unless his father was dead or he was in fact dependent on her for his chief support.

Pars. (37) to (41). Pub. L. 96-513, §101, added pars. (37) to (41).

1972—Par. (2). Pub. L. 92-492 inserted "Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States," before "Territory".

1968—Par. (8)(D). Pub. L. 90-623 substituted "Secretary of Transportation" for "Secretary of the Treasury".

Par. 36. Pub. L. 90-235 added par. (36).

1962—Par. (31)(A). Pub. L. 87-649 substituted "section 206 of title 37" for "section 301 of title 37".

1960—Par. (2). Pub. L. 80-624 struck out reference to Hawaii.

1959—Par. (2). Pub. L. 80-70 struck out reference to Alaska.

1958—Par. (25). Pub. L. 85-861, §1(1), added par. (25).

Par. (35). Pub. L. 85-861, §33(a)(1), added par. (35).

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title VI, §681(d), Jan. 2, 2013, 126 Stat. 1795, provided that:

"(1) INCLUSION OF PRIOR ORDERS.—The amendments made by this section [amending this section, section 12731 of this title, and section 3301 of Title 38, Veterans' Benefits] shall apply to any call or order to active duty authorized under section 712 of title 14, United States Code, on or after December 31, 2011, by the Secretary of the executive department in which the Coast Guard is operating.

"(2) CREDIT FOR PRIOR SERVICE.—The amendments made by this section shall be deemed to have been enacted on December 31, 2011, for purposes of applying the amendments to the following provisions of law:

"(A) Section 5538 of title 5, United States Code, relating to nonreduction in pay.

"(B) Section 701 of title 10, United States Code, relating to the accumulation and retention of leave.

"(C) Section 12731 of title 10, United States Code, relating to age and service requirements for receipt of retired pay for non-regular service."

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-296, title XVII, §1704(g), Nov. 25, 2002, 116 Stat. 2316, provided that: "The amendments made by this section (other than subsection (f)) [see Tables for classification] shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security]."

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by

that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(1) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1621 of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-180, div. A, title XII, §1233(c)[(1)], Dec. 4, 1987, 101 Stat. 1161, provided that: “The amendments made by subsection (a) [amending this section, section 2432 of this title, and section 406b of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-86, title IV, §405(f), Dec. 1, 1981, 95 Stat. 1106, provided that: “The amendments made by this section [amending this section, sections 525, 601, 611, 612, 619, 625, 634, 635, 637, 638, 645, 741, 5138, 5149, 5155, 5442, 5444, 5457, 5501, and 6389 of this title, section 201 of Title 37, Pay and Allowances of the Uniformed Services, and a provision set out as a note under section 611 of this title] shall take effect as of September 15, 1981.”

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-513, title VII, §701, Dec. 12, 1980, 94 Stat. 2955, provided that:

“(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on September 15, 1981.

“(b)(1) The authority to prescribe regulations under the amendments made by titles I through IV and under the provisions of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

“(2) The amendment made by section 415 [enacting section 302(h) of Title 37, Pay and Allowances of the Uniformed Services] shall take effect as of July 1, 1980.

“(3) The amendments made by part B of title V shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

“(4) Part D of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980].”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-649 effective Nov. 1, 1962, see section 15 of Pub. L. 87-649, set out as an Inconsistent Provisions note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-861, §33(g), Sept. 2, 1958, 72 Stat. 1568, provided that: “This section [see Tables for classification] is effective as of August 10, 1956, for all purposes.”

#### SHORT TITLE OF 2016 AMENDMENT

Pub. L. 114-328, div. E, §5001, Dec. 23, 2016, 130 Stat. 2894, provided that: “This division [div. E (§§5001-5542) of Pub. L. 114-328, see Tables for classification] may be cited as the ‘Military Justice Act of 2016.’”

#### SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111-23, §1(a), May 22, 2009, 123 Stat. 1704, provided that: “This Act [enacting sections 139c, 139d, 2334,

and 2433a of this title, amending sections 139a, 181, 2306b, 2366a, 2366b, 2430, 2433, 2434, 2445c, 2501, and 2505 of this title and section 5315 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 139a, 139c, 181, 2302, 2366a, 2366b, 2430, and 2433a of this title, and amending provisions set out as a note under section 2304 of this title] may be cited as the ‘Weapon Systems Acquisition Reform Act of 2009.’”

#### SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110-317, §1(a), Aug. 29, 2008, 122 Stat. 3526, provided that: “This Act [amending sections 1145, 1146, and 1174 of this title, sections 2108 and 8521 of Title 5, Government Organization and Employees, section 685 of Title 26, Internal Revenue Code, section 303a of Title 37, Pay and Allowances of the Uniformed Services, and sections 3011, 3012, 3702, and 4211 of Title 38, Veterans’ Benefits, and enacting provisions set out as notes under section 2108 of Title 5 and section 685 of Title 26] may be cited as the ‘Hubbard Act.’”

Pub. L. 110-181, div. A, title VIII, §800, Jan. 28, 2008, 122 Stat. 202, provided that: “This title [see Tables for classification] may be cited as the ‘Acquisition Improvement and Accountability Act of 2007.’”

Pub. L. 110-181, div. A, title XVIII, §1801, Jan. 28, 2008, 122 Stat. 496, provided that: “This title [enacting section 10508 of this title, amending sections 113, 164, 526, 10501 to 10503, 10541, 14508, 14511, and 14512 of this title, and enacting provisions set out as notes under sections 113 and 164 of this title and section 104 of Title 32, National Guard] may be cited as the ‘National Guard Empowerment Act of 2007.’”

#### SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109-148, div. A, title VIII, §8126(a), Dec. 30, 2005, 119 Stat. 2728, which provided that this Act, probably meaning section 8126 of div. A of Pub. L. 109-148, which amended section 2554 of this title and section 5309 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 2554 of this title and section 301 of Title 5, Government Organization and Employees, could be cited as the “Support Our Scouts Act of 2005”, was repealed by Pub. L. 109-364, div. A, title X, §1071(f)(3), Oct. 17, 2006, 120 Stat. 2402.

#### SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106-38, §1, July 22, 1999, 113 Stat. 205, provided that: “This Act [enacting provisions set out as notes under section 2431 of this title and section 5901 of Title 22, Foreign Relations and Intercourse] may be cited as the ‘National Missile Defense Act of 1999.’”

#### SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-25, §1, Apr. 6, 1991, 105 Stat. 75, provided that: “This Act [see Tables for classification] may be cited as the ‘Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991.’”

#### SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-26, §1, Apr. 21, 1987, 101 Stat. 273, provided that: “This Act [see Tables for classification] may be cited as the ‘Defense Technical Corrections Act of 1987.’”

#### SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97-22, §1(a), July 10, 1981, 95 Stat. 124, provided that: “this Act [see Tables for classification] may be cited as the ‘Defense Officer Personnel Management Act Technical Corrections Act.’”

#### SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96-513, §1(a), Dec. 12, 1980, 94 Stat. 2835, provided that: “This Act [see Tables for classification] may be cited as the ‘Defense Officer Personnel Management Act.’”

#### SAVINGS PROVISION

Pub. L. 96-513, title VII, §703, Dec. 12, 1980, 94 Stat. 2956, provided that: “Except as otherwise provided in



this Act, the provisions of this Act and the amendments made by this Act [see Tables for classification] do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act [see Effective Date of 1980 Amendment note above].”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### LAWS IN SUSPENDED STATUS PRIOR TO 1980 AMENDMENT BY PUB. L. 96-513

Pub. L. 96-513, title VII, §702, Dec. 12, 1980, 94 Stat. 2955, provided that: “If a provision of law that is in a suspended status on the day before the effective date of this Act [see Effective Date of 1980 Amendment note above] is amended by this Act [see Tables for classification], the suspended status of that provision is not affected by that amendment.”

#### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this title in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary’s designee, see section 3071 of Title 33, Navigation and Navigable Waters.

#### PUBLIC HEALTH SERVICE

Authority vested by this title in “military departments”, “the Secretary concerned”, or “the Secretary of Defense” to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

#### COORDINATION OF CERTAIN SECTIONS OF AN ACT WITH OTHER PROVISIONS OF THAT ACT

Pub. L. 115-91, div. A, title X, §1081(j), Dec. 12, 2017, 131 Stat. 1601, provided that: “For purposes of applying amendments made by provisions of this Act other than this section [see Tables for classification], the amendments made by this section shall be treated as having been enacted immediately before any such amendments by other provisions of this Act.”

Similar provisions were contained in the following prior acts:

Pub. L. 114-328, div. A, title X, §1081(d), Dec. 23, 2016, 130 Stat. 2420.

Pub. L. 114-92, div. A, title X, §1081(e), Nov. 25, 2015, 129 Stat. 1002.

Pub. L. 113-291, div. A, title X, §1071(k), Dec. 19, 2014, 128 Stat. 3512.

Pub. L. 113-66, div. A, title X, §1091(f), Dec. 26, 2013, 127 Stat. 877.

Pub. L. 112-239, div. A, title X, §1076(m), Jan. 2, 2013, 126 Stat. 1956.

Pub. L. 109-364, div. A, title X, §1071(i), Oct. 17, 2006, 120 Stat. 2403.

Pub. L. 107-107, div. A, title X, §1048(j), Dec. 28, 2001, 115 Stat. 1230.

Pub. L. 106-398, §1 [[div. A], title X, §1087(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A-294.

Pub. L. 106-65, div. A, title X, §1066(e), Oct. 5, 1999, 113 Stat. 773.

Pub. L. 105-261, div. A, title X, §1069(e), Oct. 17, 1998, 112 Stat. 2137.

Pub. L. 105-85, div. A, title X, §1073(i), Nov. 18, 1997, 111 Stat. 1907.

Pub. L. 104-201, div. A, title X, §1074(e), Sept. 23, 1996, 110 Stat. 2661.

Pub. L. 104-106, div. A, title XV, §1506, Feb. 10, 1996, 110 Stat. 515.

Pub. L. 103-337, div. A, title X, §1070(h), Oct. 5, 1994, 108 Stat. 2859.

Pub. L. 103-160, div. A, title XI, §1182(h), Nov. 30, 1993, 107 Stat. 1774.

Pub. L. 102-484, div. A, title X, §1055, Oct. 23, 1992, 106 Stat. 2503.

#### CONGRESSIONAL DEFENSE COMMITTEES DEFINED

The following provisions provided that the term “congressional defense committees” for purposes of the Acts in which they were contained has the meaning given that term in subsec. (a)(16) of this section:

Pub. L. 115-91, §3, Dec. 12, 2017, 131 Stat. 1305.

Pub. L. 114-328, §3, Dec. 23, 2016, 130 Stat. 2025.

Pub. L. 114-92, §3, Nov. 25, 2015, 129 Stat. 745.

Pub. L. 113-291, §3, Dec. 19, 2014, 128 Stat. 3312.

Pub. L. 113-66, §3, Dec. 26, 2013, 127 Stat. 689.

Pub. L. 112-239, §3, Jan. 2, 2013, 126 Stat. 1652.

Pub. L. 112-81, §3, Dec. 31, 2011, 125 Stat. 1316.

Pub. L. 111-383, §3, Jan. 7, 2011, 124 Stat. 4151.

Pub. L. 111-84, §3, Oct. 28, 2009, 123 Stat. 2208.

Pub. L. 110-417, §3, Oct. 14, 2008, 122 Stat. 4372.

Pub. L. 110-181, §3, Jan. 28, 2007, 122 Stat. 23.

Pub. L. 109-364, §3, Oct. 17, 2006, 120 Stat. 2100.

Pub. L. 109-163, §3, Jan. 6, 2006, 119 Stat. 3152.

Pub. L. 108-375, §3, Oct. 28, 2004, 118 Stat. 1825.

Pub. L. 109-148, div. A, title VIII, §8028, Dec. 30, 2005, 119 Stat. 2704, provided that for purposes of Pub. L. 109-148 the term “congressional defense committees” means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and, for any matter pertaining to basic allowance for housing, facilities sustainment, restoration and modernization, environmental restoration and the Defense Health Program, “congressional defense committees” also means the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies [subcommittee jurisdiction now in Subcommittee on Military Construction, Veterans Affairs, and Related Agencies and Subcommittee on Defense] of the Committee on Appropriations of the House of Representatives.

The following provisions defined the term “congressional defense committees” for purposes of the Acts in which they were contained to mean the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives:

Pub. L. 111-118, div. A, title VIII, §8028, Dec. 19, 2009, 123 Stat. 3434.

Pub. L. 110-329, div. C, title VIII, §8028, Sept. 30, 2008, 122 Stat. 3627 (definition applies to div. C only).

Pub. L. 110-116, div. A, title VIII, §8027, Nov. 13, 2007, 121 Stat. 1320.

Pub. L. 109-289, div. A, title VIII, §8025, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 108-287, title VIII, §8030, Aug. 5, 2004, 118 Stat. 977.

Pub. L. 108-87, title VIII, §8031, Sept. 30, 2003, 117 Stat. 1079.

Pub. L. 107-248, title VIII, §8031, Oct. 23, 2002, 116 Stat. 1543.

Pub. L. 107-117, div. A, title VIII, §8034, Jan. 10, 2002, 115 Stat. 2255.

Pub. L. 106-259, title VIII, §8034, Aug. 9, 2000, 114 Stat. 682.

Pub. L. 106-79, title VIII, §8036, Oct. 25, 1999, 113 Stat. 1239.

The following provisions defined the term “congressional defense committees” for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations

of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives:

Pub. L. 108-136, § 3, Nov. 24, 2003, 117 Stat. 1406.  
 Pub. L. 107-314, § 3, Dec. 2, 2002, 116 Stat. 2471.  
 Pub. L. 107-107, § 3, Dec. 28, 2001, 115 Stat. 1027.  
 Pub. L. 106-398, § 1 [§ 3], Oct. 30, 2000, 114 Stat. 1654, 1654A-19.

Pub. L. 106-65, § 3, Oct. 5, 1999, 113 Stat. 529.  
 Pub. L. 103-337, § 3, Oct. 5, 1994, 108 Stat. 2678.  
 Pub. L. 103-160, § 3, Nov. 30, 1993, 107 Stat. 1562.  
 Pub. L. 102-484, § 3, Oct. 23, 1992, 106 Stat. 2331.  
 Pub. L. 102-190, § 3, Dec. 5, 1991, 105 Stat. 1301.  
 Pub. L. 102-25, § 3(4), Apr. 6, 1991, 105 Stat. 77.  
 Pub. L. 101-510, § 3, Nov. 5, 1990, 104 Stat. 1498.  
 Pub. L. 101-189, § 4, Nov. 29, 1989, 103 Stat. 1364.

The following provisions defined the term “congressional defense committees” for purposes of the Acts in which they were contained to mean the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on National Security of the Committee on Appropriations of the House of Representatives:

Pub. L. 105-262, title VIII, § 8036, Oct. 17, 1998, 112 Stat. 2305.

Pub. L. 105-56, title VIII, § 8038, Oct. 8, 1997, 111 Stat. 1229.

Pub. L. 104-208, div. A, title I, § 101(b) [title VIII, § 8040], Sept. 30, 1996, 110 Stat. 3009-71, 3009-97.

Pub. L. 104-61, title VIII, § 8049, Dec. 1, 1995, 109 Stat. 661.

The following provisions defined the term “congressional defense committees” for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives:

Pub. L. 105-261, § 3, Oct. 17, 1998, 112 Stat. 1935.  
 Pub. L. 105-85, § 3, Nov. 18, 1997, 111 Stat. 1645.  
 Pub. L. 104-201, § 3, Sept. 23, 1996, 110 Stat. 2439.  
 Pub. L. 104-106, § 3, Feb. 10, 1996, 110 Stat. 204.

The following provisions defined the term “congressional defense committees” for purposes of the Acts in which they were contained to mean the Committees on Armed Services, the Committees on Appropriations, and the subcommittees on Defense of the Committee on Appropriations, of the Senate and the House of Representatives:

Pub. L. 103-335, title VIII, § 8056, Sept. 30, 1994, 108 Stat. 2631.

Pub. L. 103-139, title VIII, § 8067, Nov. 11, 1993, 107 Stat. 1455.

Pub. L. 102-172, title VIII, § 8116, Nov. 26, 1991, 105 Stat. 1203.

#### DEFINITIONS FOR PURPOSES OF PUB. L. 102-25

Pub. L. 102-25, § 3, Apr. 6, 1991, 105 Stat. 77, as amended by Pub. L. 102-190, div. A, title XII, § 1203(a), Dec. 5, 1991, 105 Stat. 1508, provided that: “For the purposes of this Act [see Short Title of 1991 Amendment note above]:

“(1) The term ‘Operation Desert Storm’ means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort).

“(2) The term ‘incremental costs associated with Operation Desert Storm’ means costs referred to in [former] section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 ([former] 2 U.S.C. 901(b)(2)(D)(ii)).

“(3) The term ‘Persian Gulf conflict’ means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

“(4) The term ‘congressional defense committees’ has the meaning given that term in section 3 of the

National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1498).”

## CHAPTER 2—DEPARTMENT OF DEFENSE

Sec.	
111.	Executive department.
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113a.	Transmission of annual defense authorization request.
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117.	Readiness reporting system: establishment; reporting to congressional committees.
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118a.	Quadrennial quality of life review.
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119.	Special access programs: congressional oversight.
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#### AMENDMENTS

2016—Pub. L. 114-328, div. A, title IX, § 941(b)(2), title X, § 1062(b), title XI, § 1102(b), Dec. 23, 2016, 130 Stat. 2367, 2408, 2444, added item 119a and struck out items 115b “Biennial strategic workforce plan” and 118 “Defense strategy review”.

2015—Pub. L. 114-92, div. A, title X, § 1081(b)(3), Nov. 25, 2015, 129 Stat. 1001, amended directory language of Pub. L. 113-291, § 1072(a)(2). See 2014 Amendment note below.

2014—Pub. L. 113-291, div. A, title X, § 1072(b)(2), Dec. 19, 2014, 128 Stat. 3517, struck out item 118b “Quadrennial roles and missions review”.

Pub. L. 113-291, div. A, title X, § 1072(a)(2), Dec. 19, 2014, 128 Stat. 3516, as amended by Pub. L. 114-92, div. A, title X, § 1081(b)(3), Nov. 25, 2015, 129 Stat. 1001, substituted “Defense Strategy Review” for “Quadrennial defense review” in item 118.

2011—Pub. L. 112-81, div. A, title IX, § 935(a)(2), Dec. 31, 2011, 125 Stat. 1545, substituted “Biennial strategic workforce plan” for “Annual strategic workforce plan” in item 115b.

2009—Pub. L. 111-84, div. A, title XI, §§ 1108(a)(2), 1109(b)(2)(B)(ii), Oct. 28, 2009, 123 Stat. 2491, 2493, amended item 115a generally, substituting “Annual defense manpower requirements report” for “Annual manpower requirements report”, and added item 115b.

2008—Pub. L. 110-417, [div. A], title X, § 1061(a)(1), Oct. 14, 2008, 122 Stat. 4612, added item 118b.

2002—Pub. L. 107-314, div. A, title V, § 581(a)(2), title X, § 1061(b), Dec. 2, 2002, 116 Stat. 2561, 2649, added items 113a and 118a.

1999—Pub. L. 106-65, div. A, title IX, § 901(a)(2), Oct. 5, 1999, 113 Stat. 717, added item 118.

1998—Pub. L. 105-261, div. A, title III, § 373(a)(2), Oct. 17, 1998, 112 Stat. 1992, added item 117.

1994—Pub. L. 103-337, div. A, title XVI, § 1671(b)(1), Oct. 5, 1994, 108 Stat. 3013, struck out item 115b “Annual report on National Guard and reserve component equipment”.

1992—Pub. L. 102-484, div. A, title X, § 1002(d)(1), Oct. 23, 1992, 106 Stat. 2480, struck out item 114a “Multiyear Defense Program: submission to Congress; consistency in budgeting”.

1990—Pub. L. 101-510, div. A, title XIV, § 1402(a)(3)(B), Nov. 5, 1990, 104 Stat. 1674, which directed amendment of item 114a by substituting “Multiyear” for “Five-year”, was executed by substituting “Multiyear” for “Five-Year” as the probable intent of Congress.

Pub. L. 101-510, div. A, title XIII, § 1331(1), title XIV, § 1483(c)(1), Nov. 5, 1990, 104 Stat. 1673, 1715, substituted

“Personnel strengths: requirement for annual authorization” for “Annual authorization of personnel strengths; annual manpower requirements report” in item 115, added items 115a and 115b, and struck out items 117 “Annual report on North Atlantic Treaty Organization readiness” and 118 “Sale or transfer of defense articles: reports to Congress”.

1989—Pub. L. 101-189, div. A, title XVI, §1602(a)(2), Nov. 29, 1989, 103 Stat. 1597, added item 114a.

1987—Pub. L. 100-180, div. A, title XI, §1132(a)(2), Dec. 4, 1987, 101 Stat. 1152, added item 119.

1986—Pub. L. 99-433, title I, §101(a)(1), Oct. 1, 1986, 100 Stat. 994, added chapter heading and analysis of sections for chapter 2, consisting of items 111 to 118.

### § 111. Executive department

(a) The Department of Defense is an executive department of the United States.

(b) The Department is composed of the following:

- (1) The Office of the Secretary of Defense.
- (2) The Joint Chiefs of Staff.
- (3) The Joint Staff.
- (4) The Defense Agencies.
- (5) Department of Defense Field Activities.
- (6) The Department of the Army.
- (7) The Department of the Navy.
- (8) The Department of the Air Force.
- (9) The unified and specified combatant commands.

(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), the President shall notify Congress not later than 60 days thereafter.

(Added Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 517, §131; renumbered §111 and amended Pub. L. 99-433, title I, §101(a)(2), (b), Oct. 1, 1986, 100 Stat. 994, 995.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
131 .....	5:171(a) (less last 10 words), (b).	July 26, 1947, ch. 343, §201(a) (less last 10 words), (b); restated Aug. 10, 1949, ch. 412, §4 (1st (less last 10 words) and 2d pars.), 63 Stat. 579.

The words “There is established”, in 5 U.S.C. 171(a), are omitted as executed. 5 U.S.C. 171(b) (1st 26 words) is omitted as covered by the definitions of “department” and “military departments” in section 101(5) and (7), respectively, of this title. 5 U.S.C. 171(b) (27th through 49th words) is omitted as executed. 5 U.S.C. 171(b) (last 18 words) is omitted as surplusage.

#### AMENDMENTS

1986—Pub. L. 99-433 renumbered section 131 of this title as this section, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

#### CHANGE OF NAME

Pub. L. 104-106, div. A, title IX, §908, Feb. 10, 1996, 110 Stat. 406, provided that:

“(a) REDESIGNATION.—The agency in the Department of Defense known as the Advanced Research Projects

Agency shall after the date of the enactment of this Act [Feb. 10, 1996] be designated as the Defense Advanced Research Projects Agency.

“(b) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States or in any provision of this Act to the Advanced Research Projects Agency shall be considered to be a reference to the Defense Advanced Research Projects Agency.”

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-433, §1(a), Oct. 1, 1986, 100 Stat. 992, provided that: “This Act [see Tables for classification] may be cited as the ‘Goldwater-Nichols Department of Defense Reorganization Act of 1986’.”

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Department of Defense, including the functions of the Secretary of Defense relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 121(g)(2), 183(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Missions and functions of elements of Department of Defense as specified in classified annex to Pub. L. 104-201, and related personnel, assets, and balances of appropriations and authorizations of appropriations, transferred to National Imagery and Mapping Agency, see sections 1111 and 1113 of Pub. L. 104-201, set out as notes under section 441 of this title.

#### EXEMPTION TO REPORT TERMINATION REQUIREMENTS

Pub. L. 115-91, div. A, title VIII, §811(d)(2), Dec. 12, 2017, 131 Stat. 1460, provided that: “Section 1080(a) of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1000; 10 U.S.C. 111 note), as amended by section 1061(j) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2405; 10 U.S.C. 111 note), does not apply to the report required to be submitted to Congress under section 2313a of title 10, United States Code.”

#### ORGANIZATIONAL STRATEGY FOR THE DEPARTMENT OF DEFENSE

Pub. L. 114-328, div. A, title IX, §911, Dec. 23, 2016, 130 Stat. 2345, provided that:

“(a) ORGANIZATIONAL STRATEGY REQUIRED.—

“(1) IN GENERAL.—Not later than September 1, 2017, the Secretary of Defense shall formulate and issue to the Department of Defense an organizational strategy for the Department that—

“(A) identifies the critical objectives and other organizational outputs for the Department that span multiple functional boundaries and would benefit from the use of cross-functional teams under this section to ensure collaboration and integration across organizations within the Department;

“(B) improves the manner in which the Department integrates the expertise and capacities of the functional components of the Department for effective and efficient achievement of such objectives and outputs;

“(C) improves the management of relationships and processes involving the Office of the Secretary of Defense, the Joint Staff, the combatant commands, the military departments, and the Defense Agencies with regard to such objectives and outputs;

“(D) improves the ability of the Department to work effectively in interagency processes with regard to such objectives and outputs in order to better serve the President; and

“(E) achieves an organizational structure that enhances performance with regard to such objectives and outputs.”

“(2) ELEMENTS.—The strategy shall provide for the following:

“(A) The appropriate use of cross-functional teams to manage critical objectives and outputs of the Department described in paragraph (1)(A).

“(B) The furtherance and advancement of a collaborative, team-oriented, results-driven, and innovative culture within the Department that fosters an open debate of ideas and alternative courses of action, and supports cross-functional teaming and integration.

“(b) ACTIONS IN SUPPORT OF STRATEGY.—

“(1) STUDY.—The Department of Defense shall conduct a study of the following in order to determine how best to implement effective cross-functional teams in the Department to achieve the strategic objectives of the Secretary of Defense:

“(A) Lessons learned, as reflected in academic literature, business and management school case studies, and the work of leading management consultant firms, on the successful and failed application of cross-functional teams in the private sector and government, and on the cultural factors necessary to support effective cross-functional teams.

“(B) The historical and current use by the Department of cross-functional working groups, integrated process teams, councils, and committees, and the reasons why such entities have or have not achieved high levels of teamwork or effectiveness.

“(2) CONDUCT OF STUDY.—The study required by paragraph (1) shall be conducted by an independent organization with widely acknowledged expertise in modern organizational management and teaming selected by the Secretary for purposes of the study.

“(3) SCHEDULE.—The Secretary shall award any necessary contract for the study required by paragraph (1) pursuant to paragraph (2) by not later than March 15, 2017, and shall provide the results of the study to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than July 15, 2017.

“(c) CROSS-FUNCTIONAL TEAMS.—In support of the strategy required by subsection (a):

“(1) IN GENERAL.—The Secretary of Defense shall establish cross-functional teams to address critical objectives and outputs for such teams as are determined to be appropriate in accordance with the organizational strategy issued under subsection (a), with initial teams established by not later than September 30, 2017.

“(2) PURPOSES.—The purposes of cross-functional teams established pursuant to this subsection shall be, as determined appropriate by the Secretary—

“(A) to provide for effective collaboration and integration across organizational and functional boundaries in the Department of Defense;

“(B) to develop, at the direction of the Secretary, recommendations for comprehensive and fully integrated policies, strategies, plans, and resourcing decisions;

“(C) to make decisions on cross-functional issues, to the extent authorized by the Secretary and within parameters established by the Secretary; and

“(D) to provide oversight for and, as directed by the Secretary, supervise the implementation of approved policies, strategies, plans, and resourcing decisions approved by the Secretary.

“(3) GUIDANCE ON TEAMS.—Not later than September 30, 2017, the Secretary shall issue guidance—

“(A) addressing the role, authorities, reporting relationships, resourcing, manning, training, and operations of cross-functional teams established pursuant to this subsection;

“(B) delineating decision-making authority of such teams;

“(C) providing that the leaders of functional components of the Department that provide personnel to such teams respect and respond to team needs and activities; and

“(D) emphasizing that personnel selected for assignment to such teams shall faithfully represent the views and expertise of their functional components while contributing to the best of their ability to the success of the team concerned.

“(4) PARTICIPANTS.—In establishing a cross-functional team pursuant to this subsection, the Secretary shall consider personnel from the Office of the Secretary of Defense, the Joint Staff, the military departments, and the Defense Agencies in all functional areas that the Secretary considers appropriate.

“(5) TEAM PERSONNEL.—For each cross-functional team established by the Secretary pursuant to this subsection, the Secretary shall—

“(A) assign as leader of such team a senior qualified and experienced individual, who shall report directly to the Secretary regarding the activities of such team;

“(B) delegate to the team leader designated pursuant to subparagraph (A) authority to select members of such team from among civilian employees of the Department and members of the Armed Forces in any grade who are recommended for membership on such team by the head of a functional component of the Department within the Office of the Secretary of Defense, the Joint Staff, and the military departments, by the commander of a combatant command, or by the director of a Defense Agency;

“(C) provide the team leader with necessary full time support from team members, and the means to co-locate team members;

“(D) ensure that team members and all leaders in functional organizations that are in the supervisory chain for personnel serving on such team receive training in elements of successful cross-functional teams, including teamwork, collaboration, conflict resolution, and appropriately representing the views and expertise of their functional components; and

“(E) ensure that the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] are provided information on the progress and results of such team upon request.

“(6) TEAM STRATEGIES AND DECISION-MAKING AUTHORITY.—

“(A) IN GENERAL.—The Secretary shall ensure that the objectives of each cross-functional team established pursuant to this subsection are clearly established in writing, through a memorandum, statement, charter, or similar document.

“(B) METRICS.—To improve team performance and accountability, the Secretary shall task each team, as appropriate, to establish a strategy to achieve the objectives specified by the Secretary, metrics for evaluation of the achievement of such objectives by such team, and the alignment of individual and team goals for the achievement of such objectives by such team.

“(C) DELEGATION OF AUTHORITY.—The Secretary may delegate to a team any decision-making authority that, and shall delegate such authority as, the Secretary considers appropriate to permit such team to achieve the objectives established by the Secretary.

“(7) REVIEW OF TEAMS.—Not later than 18 months after the date on which the first cross-functional team is established pursuant to this subsection, the Secretary shall complete an analysis, with support from external experts in organizational and management sciences, of the successes and failures of teams established pursuant to this subsection, and determine how to apply the lessons learned from that analysis.

“(8) REPORT ON ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], the Secretary shall submit to Congress a report on the establishment of cross-functional teams under this subsection, including descriptions

from the leaders of teams established prior to the date on which this report is submitted of the manner in which the teams were designed and how they functioned.

“(d) DIRECTIVE ON COLLABORATIVE CULTURE AND BEHAVIOR.—The guidance issued by the Secretary of Defense pursuant to subsection (c)(3) shall also—

“(1) articulate the shared purposes, values, and principles for the operation of the Office of the Secretary of Defense that are required to promote a team-oriented, collaborative, results-driven culture within the Office to support the primary objectives of the Department of Defense;

“(2) ensure that collaboration across functional and organizational boundaries is an important factor in the performance review of leaders of cross-functional teams established pursuant to subsection (c), members of teams, and other appropriate leaders of the Department; and

“(3) identify key practices that senior leaders of the Department should follow with regard to leadership, organizational practice, collaboration, and the functioning of cross-functional teams, and the types of personnel behavior that senior leaders should encourage and discourage.

“(e) STREAMLINING OF ORGANIZATIONAL STRUCTURE AND PROCESSES OF OSD.—Not later than 18 months after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall take such actions as the Secretary considers appropriate to streamline the organizational structure and processes of the Office of the Secretary of Defense in order to increase spans of control, achieve a reduction in layers of management, eliminate unnecessary duplication between the Office and the Joint Staff, and reduce the time required to complete standard processes and activities.

“(f) TRAINING FOR INDIVIDUALS NOMINATED FOR APPOINTMENT FOR OSD POSITIONS CONFIRMED BY THE SENATE.—

“(1) IN GENERAL.—Within three months of the appointment of an individual to a position in the Office of the Secretary of Defense appointable by and with the advice and consent of the Senate, the individual shall complete a course of instruction in leadership, modern organizational practice, collaboration, and the operation of teams described in subsection (c).

“(2) WAIVER.—The President may waive the requirement in paragraph (1) with respect to an individual if the Secretary determines in writing that the individual possesses, through training and experience, the skill and knowledge otherwise to be provided through a course of instruction as described in that paragraph.

“(g) COMPTROLLER GENERAL OF THE UNITED STATES ASSESSMENTS.—

“(1) BIENNIAL REPORT ON ASSESSMENTS.—Not later than six months after the date of the enactment of this Act [Dec. 23, 2016], and every six months thereafter through December 31, 2019, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth a comprehensive assessment of the actions taken under this section during the six-month period ending on the date of such report and cumulatively since the date of the enactment of this Act.

“(2) ASSESSMENT TEAM.—The Comptroller General may establish within the Government Accountability Office a team of analysts to assist the Comptroller General in the performance assessments required by this subsection.”

TEMPORARY CONTINUATION OF CERTAIN DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS

Pub. L. 114-328, div. A, title X, § 1061, Dec. 23, 2016, 130 Stat. 2400, as amended by Pub. L. 115-91, div. A, title X, §§ 1051(u)–(w), 1081(d)(11), (12), Dec. 12, 2017, 131 Stat. 1566, 1567, 1600, provided that:

“(a) EXCEPTIONS TO REPORTS TERMINATION PROVISION.—Section 1080 of the National Defense Authoriza-

tion Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 1000; 10 U.S.C. 111 note) does not apply to any report required to be submitted to Congress by the Department of Defense, or by any officer, official, component, or element of the Department, pursuant to a provision of law specified in this section, notwithstanding the enactment of the reporting requirement by an annual national defense authorization Act or the inclusion of the report in the list of reports prepared by the Secretary of Defense pursuant to subsection (c) of such section 1080.

“(b) FINAL TERMINATION DATE FOR SUBMITTAL OF EXEMPTED REPORTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each report required pursuant to a provision of law specified in this section that is still required to be submitted to Congress as of December 31, 2021, shall no longer be required to be submitted to Congress after that date.

“(2) REPORTS EXEMPTED FROM TERMINATION.—The termination dates specified in paragraph (1) and section 1080 of the National Defense Authorization Act for Fiscal Year 2016 do not apply to the following:

“(A) The submission of the reports on the National Military Strategy and Risk Assessment under section 153(b)(3) of title 10, United States Code.

“(B) The submission of the future-years defense program (including associated annexes) under section 221 of title 10, United States Code.

“(C) The submission of the future-years mission budget for the military programs of the Department of Defense under section 221 of such title.

“(D) The submission of audits of contracting compliance by the Inspector General of the Department of Defense under section 1601(b) of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 10 U.S.C. 2533a note).

“(c) REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of title 10, United States Code:

“(1) Section 113(i).

“(2) Section 117(e).

“(3) [Section] 118a(d).

“(4) Section 119(a) and (b).

“(5) Section 127b(f).

“(6) Section 139(h).

“(7) [Former] Section 139b(d).

“(8) Sections [sic] 153(c).

“(9) Section 171a(e) and (g)(2).

“(10) Section 179(f).

“(11) Section 196(d)(1), (d)(4), and (e)(3).

“(12) Section 223a(a).

“(13) Section 225(c)[.]

“(14) Section 229.

“(15) Section 231.

“(16) Section 231a.

“(17) Section 238.

“(18) Section 341(f) of title 10, United States Code, as amended by section 1246 of this Act.

“(19) Section 401(d).

“(20) Section 407(d).

“(21) Section 481a(c).

“(22) Section 482(a).

“(23) Section 488(c).

“(24) Section 494(b).

“(25) Section 526(j).

“(26) Section 946(c) (Article 146 of the Uniform Code of Military Justice).

“(27) Section 981(c).

“(28) Section 1116(d).

“(29) Section 1566(c)(3).

“(30) Section 1557(e).

“(31) Section 1781a(e).

“(32) Section 1781c(h) [now 1781c(g)].

“(33) Section 2011(e) [now 322(e)].

“(34) Section 2166(i) [now 343(i)].

“(35) Section 2218(h).

“(36) Section 2228(e).

- “(37) Section 2229(d).
  - “(38) Section 2229a.
  - “(39) Section 2249c(c) [now 345(c)].
  - “(40) Section 2275.
  - “(41) Section 2276(e).
  - “(42) Section 2367(d).
  - “(43) Section 2399(g).
  - “(44) Section 2445b.
  - “(45) Section 2464(d).
  - “(46) Section 2466(d).
  - “(47) Section 2504.
  - “(48) Section 2561(c).
  - “(49) Section 2684a(g).
  - “(50) Section 2687a.
  - “(51) Section 2711.
  - “(52) Sections [sic] 2884(b) and (c).
  - “(53) Section 2911(a) and (b)(3).
  - “(54) Section 2925.
  - “(55) Section 2926(c)(4).
  - “(56) Section 4361(d)(4)(B).
  - “(57) Section 4721(e).
  - “(58) Section 6980(d)(4)(B).
  - “(59) Section 7310(c).
  - “(60) Section 9361(d)(4)(B).
  - “(61) Section 10216(c).
  - “(62) Section 10541.
  - “(63) Section 10543.
  - “(64) Section 10504(b).
  - “(65) Section 235.
  - “(66) Section 115a.
  - “(67) Section 2193b(g).
- “(d) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2015.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291):
- “(1) Section 546(d) (10 U.S.C. 1561 note).
  - “(2) Section 1003[A] (10 U.S.C. 221 note).
  - “(3) Section 1026(d) (128 Stat. 3490).
  - “(4) Section 1055 (128 Stat. 3498).
  - “(5) Section 1204(b) (10 U.S.C. 2249e note) [now 10 U.S.C. 362 note].
  - “(6) Section 1205(e) (128 Stat. 3537).
  - “(7) Section 1206(e) (10 U.S.C. 2282 note).
  - “(8) Section 1211 (128 Stat. 3544).
  - “(9) Section 1225 (128 Stat. 3550).
  - “(10) Section 1235 (128 Stat. 3558).
  - “(11) Section 1245 (128 Stat. 3566).
  - “(12) Section 1253(b) (22 U.S.C. 2151 note).
  - “(13) Section 1275(b) (128 Stat. 3591).
  - “(14) Section 1343 (128 Stat. 3605; 50 U.S.C. 3743).
  - “(15) Section 1650 (128 Stat. 3653).
  - “(16) Section 1662(c)(2) and (d)(2) (128 Stat. 3657; 10 U.S.C. 2431 note).
  - “(17) Section 2821(a)(3) (10 U.S.C. 2687 note).
  - “(18) Section 1209(d) (128 Stat. 3542).
- “(e) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66):
- “(1) Section 704(e) (10 U.S.C. 1074 note).
  - “(2) Sections [sic] 713(f), (g), and (h) (10 U.S.C. 1071 note).
  - “(3) Section 904(d)(2) (10 U.S.C. 111 note).
  - “(4) [Former] Section 1205(f)(3) ([Former] 32 U.S.C. 107 note).
- “(f) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239):
- “(1) Section 524(c)(2) (10 U.S.C. 1222 note).
  - “(2) Section 904(h)(1) and (2) (10 U.S.C. 133 note) [now 10 U.S.C. 133a note].
  - “(3) Section 1009 (126 Stat. 1906).
- “(4) Section 1023 (126 Stat. 1911).
  - “(5) Section 1052(b)(4) (126 Stat. 1936; 49 U.S.C. 40101 note).
- “(g) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383):
- “(1) Section 123 (10 U.S.C. 167 note).
  - “(2) Section 1216(c) (124 Stat. 4392).
  - “(3) Section 1217(i) (22 U.S.C. 7513 note).
  - “(4) Section 1631(d) (10 U.S.C. 1561 note).
- “(h) REPORTS REQUIRED BY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2010.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following sections of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84):
- “(1) Section 711(d) (10 U.S.C. 1071 note).
  - “(2) Section 1003(b) (10 U.S.C. 2222 note).
  - “(3) Section 1244(d) (22 U.S.C. 1928 note).
  - “(4) Section 1245 (123 Stat. 2542) [10 U.S.C. 113 note].
  - “(5) Section 1806 (10 U.S.C. 948a note).
- “(i) REPORTS REQUIRED BY OTHER LAWS.—Subject to subsection (b), subsection (a) applies to reporting requirements contained in the following provisions of law:
- “(1) Sections [sic] 1412(i) and (j) of the National Defense Authorization Act, 1986 [probably should be ‘Department of Defense Authorization Act, 1986’] (50 U.S.C. 1521), as amended by section 1421 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383).
  - “(2) Section 1703 of the National Defense Authorization Act for Fiscal Year 1994 (50 U.S.C. 1523).
  - “(3) Section 717(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 1073 note).
  - “(4) Section 234 of the National Defense Authorization Act for Fiscal Year 1998 (50 U.S.C. 2367).
  - “(5) Section 1309(c) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 113 note).
  - “(6) Section 1237(b)(2) of the [Strom Thurmond] National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).
  - “(7) Section 1202 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note).
  - “(8) Section 232(h)(2) [probably should be ‘232(h)(3)’] of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 2431 note).
  - “(9) Section 366(a)(5) and (c)(2) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 10 U.S.C. 113 note).
  - “(10) Section 1208(f) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2086).
  - “(11) Section 1208(d) of the National Defense Authorization Act for [Fiscal Year] 2006 (Public Law 109–163; 119 Stat. 3459).
  - “(12) Section 1405(d) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 10 U.S.C. 801 note).
  - “(13) Section 122(f)(1) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2104).
  - “(14) Section 721 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2294) [10 U.S.C. 1074 note].
  - “(15) Section 1017(e) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 10 U.S.C. 2631 note).
  - “(16) Section 1517(f) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2443).
  - “(17) Section 911(f)(2) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 2271 note).

“(18) Section 1034(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 309) [10 U.S.C. 272 note].

“(19) Section 1107(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 358) [10 U.S.C. 2358 note].

“(20) Section 1233(f) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 393).

“(21) Section 1234(e) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 394).

“(22) Section 219(c) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2358 note).

“(23) Section 533(i) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. prec. 701 note).

“(24) Section 1047(d)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 10 U.S.C. 2366b note).

“(25) Section 1201(b)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1619).

“(26) Section 1236 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1641).

“(27) Section 103A(b)(3) [probably should be “103a(b)(3)”] of the Sikes Act (16 U.S.C. 670c–1(b)(3)).

“(28) Section 1511(h) of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 411(h)).

“(29) Section 901(f) [now 901(g)] of the Office of National Drug Control Policy Reauthorization Act of 2006 (Public Law 109–469; 32 U.S.C. 112 note), as added by section 1008 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112–239).

“(30) Section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5).

“(31) Section 105A(b) of the Uniformed and Overseas Citizens Absentee Voting Act (52 U.S.C. 20308(b)), as added by section 586 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84).

“(32) Section 112(f) of title 32, United States Code.

“(33) Section 310b(i)(2) [probably should be “301b(i)(2)”] of title 37, United States Code.

“(34) Section 509(k) of title 32, United States Code.

“(35) Section 1022(c) of the National Defense Authorization Act for [Fiscal Year] 2004 (Public Law 108–136; 10 U.S.C. 371 note [probably should be “10 U.S.C. 271 note”]).

“(j) [Amended section 1080(a) of Pub. L. 114–92, set out below.]

“(k) REPORT TO CONGRESS.—Not later than February 1, 2017, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes each of the following:

“(1) A list of all reports that are required to be submitted to Congress as of the date of the enactment of this Act [Dec. 23, 2016] that will no longer be required to be submitted to Congress as of November 25, 2017.

“(2) For each such report, a citation to the provision of law under which the report is or was required to be submitted.”

[Pub. L. 115–91, div. A, title X, § 1051(u)–(w), Dec. 12, 2017, 131 Stat. 1566, 1567, provided that the amendments made by section 1051(u)–(w) to section 1061 of Pub. L. 114–328, set out above, are effective as of Dec. 23, 2016, and as if included in section 1061 as enacted.]

#### REDUCTION IN AMOUNTS AVAILABLE FOR DEPARTMENT OF DEFENSE HEADQUARTERS, ADMINISTRATIVE, AND SUPPORT ACTIVITIES

Pub. L. 114–92, div. A, title III, § 346(a), (b), Nov. 25, 2015, 129 Stat. 796, as amended by Pub. L. 115–91, div. A, title IX, §§ 922, 923, Dec. 12, 2017, 131 Stat. 1525, provided that:

“(a) PLAN FOR ACHIEVEMENT OF COST SAVINGS.—

“(1) IN GENERAL.—Commencing not later than 120 days after the date of the enactment of this Act [Nov.

25, 2015], the Secretary of Defense shall implement a plan to ensure that the Department of Defense achieves not less than \$10,000,000,000 in cost savings from the headquarters, administrative, and support activities of the Department during the period beginning with fiscal year 2015 and ending with fiscal year 2019. The Secretary shall ensure that at least one half of the required cost savings are programmed for fiscal years before fiscal year 2018.

“(2) TREATMENT OF SAVINGS PURSUANT TO HEADQUARTERS REDUCTION.—Documented savings achieved pursuant to the headquarters reduction requirement in subsection (b), other than savings achieved in fiscal year 2020, shall count toward the cost savings required by paragraph (1).

“(3) TREATMENT OF SAVINGS PURSUANT TO MANAGEMENT ACTIVITIES.—Documented savings in the human resources management, health care management, financial flow management, information technology infrastructure and management, supply chain and logistics, acquisition and procurement, and real property management activities of the Department during the period referred to in paragraph (1) may be counted toward the cost savings required by paragraph (1).

“(4) TREATMENT OF SAVINGS PURSUANT TO FORCE STRUCTURE REVISIONS.—Savings or reductions to military force structure or military operating units of the Armed Forces may not count toward the cost savings required by paragraph (1).

“(5) REPORTS.—The Secretary shall include with the budget for the Department of Defense for each of fiscal years 2017, 2018, and 2019, as submitted to Congress pursuant to section 1105 of title 31, United States Code, a report describing and assessing the progress of the Department in implementing the plan required by paragraph (1) and in achieving the cost savings required by that paragraph.

“(6) COMPTROLLER GENERAL ASSESSMENTS.—Not later than 90 days after the submittal of each report required by paragraph (5), the Comptroller General of the United States shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the assessment of the Comptroller General of the report and of the extent to which the Department of Defense is in compliance with the requirements of this section.

“(b) HEADQUARTERS REDUCTIONS.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall modify the headquarters reduction plan required by section 904 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113–66; 127 Stat. 816; 10 U.S.C. 111 note) to ensure that it achieves savings in the total funding available for major Department of Defense headquarters activities by fiscal year 2020 that are not less than 25 percent of the baseline amount. The modified plan shall establish a specific savings objective for each major headquarters activity in each fiscal year through fiscal year 2020. The budget for the Department of Defense for each fiscal year after fiscal year 2016 shall reflect the savings required by the modified plan.

“(2) BASELINE AMOUNT.—For the purposes of this subsection, the baseline amount is the amount authorized to be appropriated by this Act [see Tables for classification] for fiscal year 2016 for major Department of Defense headquarters activities, adjusted by a credit for reductions in such headquarters activities that are documented, as of the date that is 90 days after the date of the enactment of this Act, as having been accomplished in earlier fiscal years in accordance with the December 2013 directive of the Secretary of Defense on headquarters reductions. The modified plan issued pursuant to paragraph (1) shall include an overall baseline amount for all of the major Department of Defense headquarters activities that credits reductions accomplished in earlier fiscal

years in accordance with the December 2013 directive, and a specific baseline amount for each such headquarters activity that credits such reductions.

“(3) MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES DEFINED.—In this subsection, the term ‘major Department of Defense headquarters activities’ means the following:

“(A) Each of the following organizations:

“(i) The Office of the Secretary of Defense and the Joint Staff.

“(ii) The Office of the Secretary of the Army and the Army Staff.

“(iii) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and Headquarters, Marine Corps.

“(iv) The Office of the Secretary of the Air Force and the Air Staff.

“(v) The Office of the Chief, National Guard Bureau, and the National Guard Joint Staff.

“(B)(i) Except as provided in clause (ii), headquarters elements of each of the following:

“(I) The combatant commands, the sub-unified commands, and subordinate commands that directly report to such commands.

“(II) The major commands of the military departments and the subordinate commands that directly report to such commands.

“(III) The component commands of the military departments.

“(IV) The Defense Agencies, the Department of Defense field activities, and the Office of the Inspector General of the Department of Defense.

“(V) Department of Defense components that report directly to the organizations specified in subparagraph (A).

“(ii) Subordinate commands and direct-reporting components otherwise described in clause (i) that do not have significant functions other than operational, operational intelligence, or tactical functions, or training for operational, operational intelligence, or tactical functions, are not headquarters elements for purposes of this subsection.

“(4) IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary shall revise applicable guidance on the Department of Defense major headquarters activities as needed to—

“(A) incorporate into such guidance the definition of the term ‘major Department of Defense headquarters activities’ as provided in paragraph (3);

“(B) ensure that the term ‘headquarters element’, as used in paragraph (3)(B), is consistently applied within such guidance to include—

“(i) senior leadership and staff functions of applicable commands and components; and

“(ii) direct support to senior leadership and staff functions of applicable commands and components and to higher headquarters;

“(C) ensure that the budget and accounting systems of the Department of Defense are modified to track funding for the major Department of Defense headquarters activities as separate funding lines; and

“(D) identify and address any deviation from the specific savings objective established for a headquarters activity in the modified plan issued by the Secretary pursuant to the requirement in paragraph (1).

“(5) MANNER OF CARRYING OUT REDUCTIONS.—

“(A) IN GENERAL.—The Secretary of Defense shall implement the headquarters reduction plan referred to in paragraph (1), as modified pursuant to that paragraph, so that reductions in major Department of Defense headquarters activities pursuant to the plan are carried out only after consideration of—

“(i) the current manpower levels of major Department of Defense headquarters activities;

“(ii) the historic manpower levels of major Department of Defense headquarters activities;

“(iii) the mission requirements of major Department of Defense headquarters activities; and

“(iv) the anticipated staffing needs of major Department of Defense headquarters activities necessary to meet national defense objectives.

“(B) CONFORMING MODIFICATION OF PLAN FOR ACHIEVEMENT OF COST SAVINGS.—The Secretary of Defense shall modify the plan for achievement of cost savings required by subsection (a) to take into account the requirement specified in subparagraph (A).

“(6) CERTIFICATIONS ON COST SAVINGS ACHIEVED.—Not later than 120 days after the date of the enactment of this paragraph [Dec. 12, 2017], and not later than 60 days after the end of each of fiscal years 2018 through 2020, the Director of Cost Assessment and Program Evaluation shall certify to the Secretary of Defense, and to the congressional defense committees, the following:

“(A) The validity of the cost savings achieved for each major Department of Defense headquarters activity during the previous fiscal year, including the cost of personnel detailed by another Department entity to the headquarters activity.

“(B) Whether the cost savings achieved for each major Department of Defense headquarters activity during that fiscal year met the savings objective for the headquarters activity for that fiscal year, as established pursuant to paragraph (1).”

#### TERMINATION OF REQUIREMENT FOR SUBMITTAL TO CONGRESS OF REPORTS REQUIRED OF DEPARTMENT OF DEFENSE BY STATUTE

Pub. L. 114-92, div. A, title X, §1080, Nov. 25, 2015, 129 Stat. 1000, as amended by Pub. L. 114-328, div. A, title X, §1061(j), Dec. 23, 2016, 130 Stat. 2405, provided that:

“(a) TERMINATION.—Effective November 25, 2017, each report described in subsection (b) that is still required to be submitted to Congress as of such date shall no longer be required to be submitted to Congress.

“(b) COVERED REPORTS.—A report described in this subsection is a report that is required to be submitted to Congress by the Department of Defense, or by any officer, official, component, or element of the Department, by any annual national defense authorization Act as of April 1, 2015.

“(c) REPORT TO CONGRESS.—Not later than February 1, 2016, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes each of the following:

“(1) A list of all reports described in subsection (b).

“(2) For each such report, a citation to the provision of law under which the report is required to be submitted.

“(3) Draft legislation that would repeal each such report.”

#### STREAMLINING OF DEPARTMENT OF DEFENSE MANAGEMENT HEADQUARTERS

Pub. L. 113-66, div. A, title IX, §904, Dec. 26, 2013, 127 Stat. 816, as amended by Pub. L. 113-291, div. A, title IX, §905(e), Dec. 19, 2014, 128 Stat. 3472, provided that:

“(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall develop a plan for streamlining Department of Defense management headquarters by changing or reducing the size of staffs, eliminating tiers of management, cutting functions that provide little or no added value, and consolidating overlapping and duplicative programs and offices.

“(b) ELEMENTS OF PLAN.—The plan required by subsection (a) shall include the following for each covered organization:

“(1) A description of the planned changes or reductions in staffing and services provided by military personnel, civilian personnel, and contractor personnel.



“(2) A description of the planned changes or reductions in management, functions, and programs and offices.

“(3) The estimated cumulative savings to be achieved over a 10-fiscal-year period beginning with fiscal year 2015, and estimated savings to be achieved for each of fiscal years 2015 through 2024.

“(c) COVERED ORGANIZATION.—In this section, the term ‘covered organization’ includes each of the following:

“(1) The Office of the Secretary of Defense.

“(2) The Joint Staff.

“(3) The Defense Agencies.

“(4) The Department of Defense field activities.

“(5) The headquarters of the combatant commands.

“(6) Headquarters, Department of the Army, including the Office of the Secretary of the Army, the Office of the Chief of Staff of the Army, and the Army Staff.

“(7) The major command headquarters of the Army.

“(8) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and Headquarters, United States Marine Corps.

“(9) The major command headquarters of the Navy and the Marine Corps.

“(10) Headquarters, Department of the Air Force, including the Office of the Secretary of the Air Force, the Office of the Air Force Chief of Staff, and the Air Staff.

“(11) The major command headquarters of the Air Force.

“(12) The National Guard Bureau.

“(d) REPORTS.—

“(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the plan required by subsection (a).

“(2) STATUS REPORT.—The Secretary shall include with the Department of Defense materials submitted to Congress with the budget of the President for each of fiscal years 2017 through 2024 (as submitted to Congress pursuant to section 1105 of title 31, United States Code) a report describing the implementation of the plan required by subsection (a) during the preceding fiscal year and any modifications to the plan required due to changing circumstances. Each such report shall include the following:

“(A) A summary of savings achieved for each covered organization in the fiscal year covered by such report.

“(B) A description of the savings through changes, consolidations, or reductions in staffing and services provided by military personnel, civilian personnel, and contractor personnel in the fiscal year covered by such report.

“(C) A description of the savings through changes, consolidations, or reductions in management, functions, and programs and offices, or other associated cost drivers, including a discussion of how the changes, consolidations, or reductions were prioritized, in the fiscal year covered by such report.

“(D) In any case in which savings under the plan fall short of the objective of the plan for the fiscal year covered by such report, an explanation of the reasons for the shortfall.

“(E) A description of any modifications to the plan made during the fiscal year covered by such report, and an explanation of the reasons for such modifications, including the risks of, and capabilities gained or lost by implementing, such modifications.

“(F) A description of how the plan supports or affects current Department of Defense strategic guidance, policy, and mission requirements, including the quadrennial defense review, the Unified Command Plan, and the strategic choices and management review.

“(G) A description of the associated costs specifically addressed by the savings.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 904(d)(2) of Pub. L. 113–66, set out above, see section 1061 of Pub. L. 114–328, set out as a note above.]

#### MILITARY ACTIVITIES IN CYBERSPACE

Pub. L. 112–81, div. A, title IX, §954, Dec. 31, 2011, 125 Stat. 1551, provided that: “Congress affirms that the Department of Defense has the capability, and upon direction by the President may conduct offensive operations in cyberspace to defend our Nation, Allies and interests, subject to—

“(1) the policy principles and legal regimes that the Department follows for kinetic capabilities, including the law of armed conflict; and

“(2) the War Powers Resolution (50 U.S.C. 1541 et seq.).”

#### INTERAGENCY POLICY COORDINATION

Pub. L. 110–181, div. A, title IX, §952, Jan. 28, 2008, 122 Stat. 291, provided that:

“(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall develop and submit to Congress a plan to improve and reform the Department of Defense’s participation in and contribution to the interagency coordination process on national security issues.

“(b) ELEMENTS.—The elements of the plan shall include the following:

“(1) Assigning either the Under Secretary of Defense for Policy or another official to be the lead policy official for improving and reforming the interagency coordination process on national security issues for the Department of Defense, with an explanation of any decision to name an official other than the Under Secretary and the relative advantages and disadvantages of such decision.

“(2) Giving the official assigned under paragraph (1) the following responsibilities:

“(A) To be the lead person at the Department of Defense for the development of policy affecting the national security interagency process.

“(B) To serve, or designate a person to serve, as the representative of the Department of Defense in Federal Government forums established to address interagency policy, planning, or reforms.

“(C) To advocate, on behalf of the Secretary, for greater interagency coordination and contributions in the execution of the National Security Strategy and particularly specific operational objectives undertaken pursuant to that strategy.

“(D) To make recommendations to the Secretary of Defense on changes to existing Department of Defense regulations or laws to improve the interagency process.

“(E) To serve as the coordinator for all planning and training assistance that is—

“(i) designed to improve the interagency process or the capabilities of other agencies to work with the Department of Defense; and

“(ii) provided by the Department of Defense at the request of other agencies.

“(F) To serve as the lead official in Department of Defense for the development of deployable joint interagency task forces.

“(c) FACTORS TO BE CONSIDERED.—In drafting the plan, the Secretary of Defense shall also consider the following factors:

“(1) How the official assigned under subsection (b)(1) shall provide input to the Secretary of Defense on an ongoing basis on how to incorporate the need to coordinate with other agencies into the establishment and reform of combatant commands.

“(2) How such official shall develop and make recommendations to the Secretary of Defense on a regular or an ongoing basis on changes to military and ci-

vilian personnel to improve interagency coordination.

“(3) How such official shall work with the combatant command that has the mission for joint warfighting experimentation and other interested agencies to develop exercises to test and validate interagency planning and capabilities.

“(4) How such official shall lead, coordinate, or participate in after-action reviews of operations, tests, and exercises to capture lessons learned regarding the functioning of the interagency process and how those lessons learned will be disseminated.

“(5) The role of such official in ensuring that future defense planning guidance takes into account the capabilities and needs of other agencies.

“(d) RECOMMENDATION ON CHANGES IN LAW.—The Secretary of Defense may submit with the plan or with any future budget submissions recommendations for any changes to law that are required to enhance the ability of the official assigned under subsection (b)(1) in the Department of Defense to coordinate defense interagency efforts or to improve the ability of the Department of Defense to work with other agencies.

“(e) ANNUAL REPORT.—If an official is named by the Secretary of Defense under subsection (b)(1), the official shall annually submit to Congress a report, beginning in the fiscal year following the naming of the official, on those actions taken by the Department of Defense to enhance national security interagency coordination, the views of the Department of Defense on efforts and challenges in improving the ability of agencies to work together, and suggestions on changes needed to laws or regulations that would enhance the coordination of efforts of agencies.

“(f) DEFINITION.—In this section, the term ‘interagency coordination’, within the context of Department of Defense involvement, means the coordination that occurs between elements of the Department of Defense and engaged Federal Government agencies for the purpose of achieving an objective.

“(g) CONSTRUCTION.—Nothing in this provision shall be construed as preventing the Secretary of Defense from naming an official with the responsibilities listed in subsection (b) before the submission of the report required under this section.”

#### COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES

Pub. L. 108-132, § 128, Nov. 22, 2003, 117 Stat. 1382, as amended by Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108-324, div. A, § 127, Oct. 13, 2004, 118 Stat. 1229, established the Commission on the Review of the Overseas Military Facility Structure of the United States to conduct a thorough study of matters relating to the military facility structure of the United States overseas, directed the Commission to submit a report to the President and Congress not later than Aug. 15, 2005, and provided that the Commission would terminate 45 days after such date.

#### COMMISSION TO ASSESS UNITED STATES NATIONAL SECURITY SPACE MANAGEMENT AND ORGANIZATION

Pub. L. 106-65, div. A, title XVI, subtitle C, Oct. 5, 1999, 113 Stat. 813, as amended by Pub. L. 106-398, § 1 [[div. A], title X, § 1091], Oct. 30, 2000, 114 Stat. 1654, 1654A-300, established Commission To Assess United States National Security Space Management and Organization for purpose of assessing (1) manner in which military space assets may be exploited to provide support for United States military operations, (2) current interagency coordination process regarding operation of national security space assets, (3) relationship between intelligence and nonintelligence aspects of national security space, and potential costs and benefits of partial or complete merger of programs, projects, (4) manner in which military space issues are addressed by professional military education institutions, (5) potential costs and benefits of establishing changes to existing organizational structure of Department of Defense

for national security space management and organization, and (6) advisability of certain actions relating to assignment of specified officers in United States Space Command; and further provided for report to Congress and Secretary of Defense on its findings and conclusions not later than six months after first meeting, submission to Congress by Secretary of Defense of assessment of Commission’s report not later than 90 days after submission of Commission’s report, and for termination of Commission 60 days after submission of its report to Congress.

#### COMMISSION ON NATIONAL MILITARY MUSEUM

Pub. L. 106-65, div. B, title XXIX, Oct. 5, 1999, 113 Stat. 881, as amended by Pub. L. 107-107, div. A, title X, § 1048(g)(9), Dec. 28, 2001, 115 Stat. 1228, established the Commission on the National Military Museum to conduct a study regarding construction of a national military museum in the National Capital Area, directed that appointments to the Commission be made not later than 90 days after Oct. 5, 1999, directed the Commission to convene its first meeting not later than 60 days after all appointments, directed the Commission to submit a report to Congress not later than 12 months after its first meeting, and provided for the termination of the Commission 60 days after submission of its report.

#### PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Pub. L. 105-261, div. A, title XII, § 1232, Oct. 17, 1998, 112 Stat. 2155, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the training or operations of the United States Armed Forces or limit the military equipment procured by the United States Armed Forces.

“(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

“(1) specifically refers to this section; and

“(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

“(c) MATTERS NOT AFFECTED.—Nothing in this section shall be construed to preclude the Department of Defense from implementing any measure to achieve efficiencies or for any other reason independent of the Kyoto Protocol.”

#### APPLICABILITY OF CERTAIN PAY AUTHORITIES TO MEMBERS OF SPECIFIED INDEPENDENT STUDY ORGANIZATIONS

Pub. L. 105-85, div. A, title X, § 1081, Nov. 18, 1997, 111 Stat. 1916, provided that:

“(a) APPLICABILITY OF CERTAIN PAY AUTHORITIES.—(1) An individual who is a member of a commission or panel specified in subsection (b) and is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission or panel is not subject to the provisions of that section with respect to such membership.

“(2) An individual who is a member of a commission or panel specified in subsection (b) and is a member or former member of a uniformed service is not subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission or panel.

“(b) SPECIFIED ENTITIES.—Subsection (a) applies—

“(1) effective as of September 23, 1996, to members of the National Defense Panel established by section 924 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2626) [formerly set out below]; and

“(2) effective as of October 9, 1996, to members of the Commission on Servicemembers and Veterans

Transition Assistance established by section 701 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104-275; 110 Stat. 3346; 38 U.S.C. 545 note)."

#### MISSION OF WHITE HOUSE COMMUNICATIONS AGENCY

Pub. L. 104-201, div. A, title IX, §912, Sept. 23, 1996, 110 Stat. 2623, as amended by Pub. L. 109-163, div. A, title IX, §906, Jan. 6, 2006, 119 Stat. 3402, provided that:

"(a) TELECOMMUNICATIONS SUPPORT AND AUDIOVISUAL SUPPORT SERVICES.—The Secretary of Defense shall ensure that the activities of the White House Communications Agency in providing support services on a nonreimbursable basis for the President from funds appropriated for the Department of Defense for any fiscal year are limited to the provision of telecommunications support and audiovisual support services to the President and Vice President and to related elements (as defined in regulations of that agency and specified by the President with respect to particular individuals within those related elements).

"(b) OTHER SUPPORT.—Support services other than telecommunications and audiovisual support services described in subsection (a) may be provided by the Department of Defense for the President through the White House Communications Agency on a reimbursable basis.

"(c) WHITE HOUSE COMMUNICATIONS AGENCY.—For purposes of this section, the term 'White House Communications Agency' means the element of the Department of Defense within the Defense Communications Agency that is known on the date of the enactment of this Act [Sept. 23, 1996] as the White House Communications Agency and includes any successor agency."

#### MILITARY FORCE STRUCTURE REVIEW

Pub. L. 104-201, div. A, title IX, subtitle B, Sept. 23, 1996, 110 Stat. 2623, directed Secretary of Defense, in consultation with Chairman of the Joint Chiefs of Staff, to complete in 1997 a review of defense program of United States, which was to include comprehensive examination of defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of defense program and policies with view toward determining and expressing defense strategy of United States and establishing revised defense program through year 2005, further established National Defense Panel to complete review and report to Secretary not later than Dec. 1, 1997, further directed Secretary to submit final report to Congress not later than Dec. 15, 1997, and provided for termination of Panel 30 days after submission of report to Secretary.

#### COMMISSION ON ROLES AND MISSIONS OF ARMED FORCES

Pub. L. 103-160, div. A, title IX, subtitle E, Nov. 30, 1993, 107 Stat. 1738, as amended by Pub. L. 103-337, div. A, title IX, §923(a)(1), (2), (b)-(d), Oct. 5, 1994, 108 Stat. 2830, 2831, established the Commission on Roles and Missions of the Armed Forces to review the efficacy and appropriateness of post-Cold War era allocations of roles, missions, and functions among the Armed Forces and to evaluate and report on alternatives and make recommendations for changes, directed that appointments to the Commission be made within 45 days after Nov. 30, 1993, and that the Commission convene its first meeting within 30 days of all appointments, and thereafter submit a report not later than one year after the date of its first meeting, directed the Secretary of Defense to submit comments on the report not later than 90 days following receipt, and provided for the termination of the Commission on the last day of the sixteenth month after its first meeting or no earlier than

30 days after submission of comments by the Secretary of Defense.

#### TERMINATION OF DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS DETERMINED BY SECRETARY OF DEFENSE TO BE UNNECESSARY OR INCOMPATIBLE WITH EFFICIENT MANAGEMENT OF DEPARTMENT OF DEFENSE

Pub. L. 103-160, div. A, title XI, §1151, Nov. 30, 1993, 107 Stat. 1758, provided that:

"(a) TERMINATION OF REPORT REQUIREMENTS.—Unless otherwise provided by a law enacted after the date of the enactment of this Act [Nov. 30, 1993], each provision of law requiring the submittal to Congress (or any committee of Congress) of any report specified in the list submitted under subsection (b) shall, with respect to that requirement, cease to be effective on October 30, 1995.

"(b) PREPARATION OF LIST.—(1) The Secretary of Defense shall submit to Congress a list of each provision of law that, as of the date specified in subsection (c), imposes upon the Secretary of Defense (or any other officer of the Department of Defense) a reporting requirement described in paragraph (2). The list of provisions of law shall include a statement or description of the report required under each such provision of law.

"(2) Paragraph (1) applies to a requirement imposed by law to submit to Congress (or specified committees of Congress) a report on a recurring basis, or upon the occurrence of specified events, if the Secretary determines that the continued requirement to submit that report is unnecessary or incompatible with the efficient management of the Department of Defense.

"(3) The Secretary shall submit with the list an explanation, for each report specified in the list, of the reasons why the Secretary considers the continued requirement to submit the report to be unnecessary or incompatible with the efficient management of the Department of Defense.

"(c) SUBMISSION OF LIST.—The list under subsection (a) shall be submitted not later than April 30, 1994.

"(d) SCOPE OF SECTION.—For purposes of this section, the term 'report' includes a certification, notification, or other characterization of a communication.

"(e) INTERPRETATION OF SECTION.—This section does not require the Secretary of Defense to review each report required of the Department of Defense by law."

#### REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101-510, div. A, title XIII, §1321, Nov. 5, 1990, 104 Stat. 1670, provided that section 1322 of Pub. L. 101-510, with respect to Goldwater-Nichols terminations, repeals certain provisions of law containing terminated report requirements and section 1323 of Pub. L. 101-510, with respect to such terminations, restores effectiveness of selected other provisions of law containing such requirements and described Goldwater-Nichols terminations for purposes of such repeals or restorations.

#### RESTORATION OF CERTAIN REPORTING REQUIREMENTS OF TITLE 10 TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101-510, div. A, title XIII, §1323, Nov. 5, 1990, 104 Stat. 1672, restored effectiveness of following report and notification provisions previously terminated by section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99-433, formerly set out below: (1) the quarterly report required by section 127(c) of this title relating to emergency and extraordinary expenses, (2) the notifications required by section 2672a(b) of this title relating to urgent acquisitions of interests in land, (3) the notifications required by section 7308(c) of this title relating to the transfer or gift of obsolete, condemned, or captured vessels, and (4) the notifications required by section

7309(b) of this title relating to construction or repair of vessels in foreign shipyards.

**GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986; CONGRESSIONAL DECLARATION OF POLICY**

Pub. L. 99-433, §3, Oct. 1, 1986, 100 Stat. 993, provided that: "In enacting this Act [see Short Title of 1986 Amendment note above], it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401) [now 50 U.S.C. 3002]—

"(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

"(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense;

"(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

"(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

"(5) to increase attention to the formulation of strategy and to contingency planning;

"(6) to provide for more efficient use of defense resources;

"(7) to improve joint officer management policies; and

"(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense."

**REDUCTION OF REPORTING REQUIREMENTS**

Pub. L. 99-433, title VI, §602, Oct. 1, 1986, 100 Stat. 1066, as amended by Pub. L. 100-180, div. A, title XIII, §1314(a)(4), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101-189, div. A, title II, §243, Nov. 29, 1989, 103 Stat. 1402; Pub. L. 101-510, div. A, title XIII, §1324, Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, directed Secretary of Defense to compile a list of all provisions of law in effect on or after Oct. 1, 1986, and before Feb. 1, 1987, which require President or any official or employee of Department of Defense to submit a report, notification, or study to Congress or any committee of Congress and to submit this list not later than six months after Oct. 1, 1986, with any recommendation or draft of legislation to implement any changes in law recommended by the Secretary.

**LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW**

Pub. L. 99-433, title VI, §604, Oct. 1, 1986, 100 Stat. 1075a, directed Secretary of Defense, not later than six months after Oct. 1, 1986, to submit to Committees on Armed Services of Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by Pub. L. 99-433.

**READINESS STATUS OF MILITARY FORCES OF THE NORTH ATLANTIC TREATY ORGANIZATION; ASSESSMENT, FINDINGS, AND REPORT TO CONGRESSIONAL COMMITTEES**

Pub. L. 96-107, title VIII, §808, Nov. 9, 1979, 93 Stat. 814, which directed Secretary of Defense to report annually to Congress on readiness of military forces of NATO, was repealed and restated as section 133a (re-numbered §117 and repealed) of this title by Pub. L. 97-295, §§1(2)(A), 6(b), Oct. 12, 1982, 96 Stat. 1287, 1314.

**DEFENSE MANPOWER COMMISSION**

Pub. L. 93-155, title VII, §§701-708, Nov. 16, 1973, 87 Stat. 609-611, established the Commission; provided for

its composition, duties, powers, compensation, staff, appropriations, and use of General Services Administration; and directed that interim reports to President and Congress be submitted and that Commission terminate 60 days after its final report which was to be submitted not more than 24 months after appointment of Commission.

**AIR FORCE RESERVE AND AIR NATIONAL GUARD OF UNITED STATES; STUDY AND INVESTIGATION OF RELATIVE STATUS; ADVANTAGES AND DISADVANTAGES OF ALTERNATIVES; MODERNIZATION AND MANPOWER NEEDS; REPORT TO PRESIDENT AND CONGRESS**

Pub. L. 93-155, title VIII, §810, Nov. 16, 1973, 87 Stat. 618, directed the Secretary of Defense to study the relative status of the Air Force Reserve and the Air National Guard of the United States; to measure the effects on costs and combat capability as well as other advantages and disadvantages of (1) merging the Reserve into the Guard, (2) merging the Guard into the Reserve, and (3) retaining the status quo; and to consider the modernization needs and manpower problems of both; and also directed that a report of such study be submitted to the President and to the Congress no later than Jan. 31, 1975.

**REORGANIZATION PLAN NO. 6 OF 1953**

Eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, as amended Aug. 6, 1958, Pub. L. 85-559, §10(b), 72 Stat. 521; Sept. 7, 1962, Pub. L. 87-651, title III, §307C, 76 Stat. 526

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

**DEPARTMENT OF DEFENSE**

**SECTION 1. TRANSFERS OF FUNCTIONS**

(a) All functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations are hereby transferred to the Secretary of Defense.

(b) The selection of the Director of the Joint Staff by the Joint Chiefs of Staff, and his tenure, shall be subject to the approval of the Secretary of Defense.

(c) The selection of the members of the Joint Staff by the Joint Chiefs of Staff, and their tenure, shall be subject to the approval of the Chairman of the Joint Chiefs of Staff.

(d) The functions of the Joint Chiefs of Staff with respect to managing the Joint Staff and the Director thereof are hereby transferred to the Chairman of the Joint Chiefs of Staff.

**SEC. 2. ABOLITION OF AGENCIES AND FUNCTIONS**

(a) There are hereby abolished the Munitions Board, the Research and Development Board, and the Defense Supply Management Agency.

(b) The offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Deputy Director of the Defense Supply Management Agency, and Director of Installations are hereby abolished.

(c) The Secretary of Defense shall provide for winding up any outstanding affairs of the said abolished agency, boards, and offices, not otherwise provided for in this reorganization plan.

(d) The function of guidance to the Munitions Board in connection with strategic and logistic plans as required by section 213(c) of the National Security Act of 1947, as amended [section 171h(c) of former Title 5], is hereby abolished.

**SEC. 3. ASSISTANT SECRETARIES OF DEFENSE**

[Repealed. Pub. L. 85-599, §10(b), Aug. 6, 1958, 72 Stat. 521, eff. six months after Aug. 6, 1958. Section authorized appointment of six additional Assistant Secretaries and prescribed their duties and compensation.]

## SEC. 4. GENERAL COUNSEL

[Repealed. Pub. L. 87-651, title III, §307C, Sept. 7, 1962, 76 Stat. 526. Section authorized appointment of a General Counsel for the Department of Defense. See section 140 of this title.]

## SEC. 5. PERFORMANCE OF FUNCTIONS

[Repealed. Pub. L. 87-651, title III, §307C, Sept. 7, 1962, 76 Stat. 526. Section authorized the Secretary of Defense from time to time to make such provisions as he deemed appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary. See section 113 of this title.]

## SEC. 6. MISCELLANEOUS PROVISIONS

(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762).

## EXECUTIVE ORDER NO. 12049

Ex. Ord. No. 12049, Mar. 27, 1978, 43 F.R. 13363, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which provided for establishment of Defense Economic Adjustment Program and continued the Economic Adjustment Committee, was superseded by Ex. Ord. No. 12788, Jan. 15, 1992, 57 F.R. 2213, set out as a note under section 2391 of this title.

**§ 112. Department of Defense: seal**

The Secretary of Defense shall have a seal for the Department of Defense. The design of the seal is subject to approval by the President. Judicial notice shall be taken of the seal.

(Added Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 517, §132; renumbered §112 and amended Pub. L. 99-433, title I, §§101(a)(2), 110(d)(1), Oct. 1, 1986, 100 Stat. 994, 1002.)

## HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
132 .....	5:171a(e).	July 26, 1947, ch. 343, §202(e); added Aug. 10, 1949, ch. 412, §5 (10th par.), 63 Stat. 580.

## AMENDMENTS

1986—Pub. L. 99-433 renumbered section 132 of this title as this section and substituted “Department of Defense: seal” for “Seal” in section catchline.

**§ 113. Secretary of Defense**

(a) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of

the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 3002) he has authority, direction, and control over the Department of Defense.

(c) The Secretary shall report annually in writing to the President and the Congress on the expenditures, work, and accomplishments of the Department of Defense during the period covered by the report, together with—

(1) a report from each military department on the expenditures, work, and accomplishments of that department;

(2) itemized statements showing the savings of public funds, and the eliminations of unnecessary duplications, made under sections 125 and 191 of this title; and

(3) such recommendations as he considers appropriate.

(d) Unless specifically prohibited by law, the Secretary may, without being relieved of his responsibility, perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Department of Defense as he may designate.

(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043) for the fiscal year concerned.

(f) When a vacancy occurs in an office within the Department of Defense and the office is to be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

(g)(1)(A) Except as provided in subparagraph (E), in January every four years, and intermittently otherwise as may be appropriate, the Secretary of Defense shall provide to the Secretaries of the military departments, the Chiefs of Staff of the armed forces, the commanders of the unified and specified combatant commands, and the heads of all Defense Agencies and Field Activities of the Department of Defense and other elements of the Department specified in paragraphs (1) through (10) of section 111(b) of this title, and to the congressional defense committees, a defense strategy. Each strategy shall be known as the “national defense strategy”, and shall support the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043).

(B) Each national defense strategy shall include the following:

(i) The priority missions of the Department of Defense, and the assumed force planning scenarios and constructs.

(ii) The assumed strategic environment, including the most critical and enduring threats to the national security of the United States and its allies posed by state or non-state actors, and the strategies that the Department will employ to counter such threats and provide for the national defense.

(iii) A strategic framework prescribed by the Secretary that guides how the Department will prioritize among the threats described in clause (i) and the missions specified pursuant to clause (i), how the Department will allocate and mitigate the resulting risks, and how the Department will make resource investments.

(iv) The roles and missions of the armed forces to carry out the missions described in clause (i), and the assumed roles and capabilities provided by other United States Government agencies and by allies and international partners.

(v) The force size and shape, force posture, defense capabilities, force readiness, infrastructure, organization, personnel, technological innovation, and other elements of the defense program necessary to support such strategy.

(vi) The major investments in defense capabilities, force structure, force readiness, force posture, and technological innovation that the Department will make over the following five-year period in accordance with the strategic framework described in clause (iii).

(C) The Secretary shall seek the military advice and assistance of the Chairman of the Joint Chiefs of Staff in preparing each national defense strategy required by this subsection.

(D) Each national defense strategy under this subsection shall be presented to the congressional defense committees in classified form with an unclassified summary.

(E) In a year following an election for President, which election results in the appointment by the President of a new Secretary of Defense, the Secretary shall present the national defense strategy required by this subsection as soon as possible after appointment by and with the advice and consent of the Senate.

(F) In February of each year in which the Secretary does not submit a new defense strategy as required by paragraph (A), the Secretary shall submit to the congressional defense committees an assessment of the current national defense strategy, including an assessment of the implementation of the strategy by the Department and an assessment whether the strategy requires revision as a result of changes in assumptions, policy, or other factors.

(2) In implementing a national defense strategy under paragraph (1), the Secretary, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments, the Chiefs of Staff of the armed forces, the commanders of the unified and specified combatant commands, and the heads of all Defense Agencies and Field Activities of the Department and other elements of the Department specified in paragraphs (1) through (10) of section 111(b) of

this title, written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components to guide the development of forces. Such guidance shall include—

(A) the national security interests and objectives;

(B) the priority military missions of the Department, including the assumed force planning scenarios and constructs;

(C) the force size and shape, force posture, defense capabilities, force readiness, infrastructure, organization, personnel, technological innovation, and other elements of the defense program necessary to support the strategy;

(D) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective; and

(E) a discussion of any changes in the defense strategy and assumptions underpinning the strategy, as required by paragraph (1).

(3) In implementing the guidance under paragraph (2), the Secretary, with the approval of the President and after consultation with the Chairman of the Joint Chiefs of Staff, shall provide, every two years or more frequently as needed, to the Chairman written policy guidance for the preparation and review of contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities. Such guidance shall include guidance on the employment of forces, including specific force levels and specific supporting resource levels projected to be available for the period of time for which such plans are to be effective.

(4) Not later than February 15 in any calendar year in which any written guidance is required pursuant to paragraph (2) or (3), the Secretary shall provide to the congressional defense committees a detailed classified briefing summarizing such guidance developed pursuant to such paragraphs.

(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.

(i)(1) The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries.

(2) Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the period covered by the future-years defense pro-

gram submitted to Congress during that year pursuant to section 221 of this title;

(C) include a description of the means by which the Department of Defense will maintain the capability to reconstitute or expand the defense capabilities and programs of the armed forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States;

(D) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(E) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.

(j)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to congressional defense committees<sup>1</sup> a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(B) The amount of direct and indirect support for the stationing of United States forces provided by each host nation.

(2) In this subsection, the term “United States”, when used in a geographic sense, includes the territories and possessions of the United States.

(k) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

[*(l)* Repealed. Pub. L. 115–91, div. A, title X, § 1051(a)(1)(B), Dec. 12, 2017, 131 Stat. 1560.]

(m) INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will

involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

(1) What clear and distinct objectives guide the activities of United States forces in the operation.

(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 517, § 133; amended Pub. L. 96–513, title V, § 511(3), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–252, title XI, § 1105, Sept. 8, 1982, 96 Stat. 739; Pub. L. 97–295, § 1(1), Oct. 12, 1982, 96 Stat. 1287; renumbered § 113 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 102, 110(b)(2), (d)(2), title III, § 301(b)(2), title VI, § 603(b), Oct. 1, 1986, 100 Stat. 994, 996, 1002, 1022, 1075; Pub. L. 100–26, § 7(d)(1), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title XII, § 1214, Dec. 4, 1987, 101 Stat. 1157; Pub. L. 100–370, § 1(o)(1), July 19, 1988, 102 Stat. 850; Pub. L. 100–456, div. A, title VII, § 731, title XI, § 1101, Sept. 29, 1988, 102 Stat. 2003, 2042; Pub. L. 101–189, div. A, title XVI, § 1622(c)(1), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 101–510, div. A, title XIII, § 1322(a)(1), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–190, div. A, title III, § 341, Dec. 5, 1991, 105 Stat. 1343; Pub. L. 103–337, div. A, title X, § 1070(a)(1), title XVI, § 1671(c)(2), Oct. 5, 1994, 108 Stat. 2855, 3014; Pub. L. 104–106, div. A, title XV, §§ 1501(a)(8)(B), 1502(a)(3), 1503(a)(1), Feb. 10, 1996, 110 Stat. 495, 502, 510; Pub. L. 104–201, div. A, title XII, § 1255(c), Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105–85, div. A, title IX, § 903, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 105–261, div. A, title IX, § 915(a), title XII, § 1212(b), Oct. 17, 1998, 112 Stat. 2101, 2152; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 110–181, div. A, title IX, § 903(a), title XVIII, § 1815(e), Jan. 28, 2008, 122 Stat. 273, 500; Pub. L. 111–383, div. A, title V, § 514(b), Jan. 7, 2011, 124 Stat. 4213; Pub. L. 112–81, div. A, title IX, § 933(a), title X, § 1064(1), Dec. 31, 2011, 125 Stat. 1543, 1586; Pub. L. 112–239, div. A, title X, § 1076(f)(1), Jan. 2, 2013, 126 Stat. 1951; Pub. L. 113–291, div. A, title X, § 1071(c)(1), (2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–92, div. A, title X, § 1060(a), Nov. 25, 2015, 129 Stat. 987; Pub. L. 114–328, div. A, title IX, § 941(a), Dec. 23, 2016, 130 Stat. 2365; Pub. L. 115–91, div. A, title X, §§ 1051(a)(1), 1081(a)(1), Dec. 12, 2017, 131 Stat. 1560, 1594.)

HISTORICAL AND REVISION NOTES  
1962 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
133(a) .....	5:171(a) (last 10 words).	July 26, 1947, ch. 343, § 201(a) (last 10 words), 202(a),(b); restated Aug. 10, 1949, ch. 412, § 4 (last 10 words of 1st par.), 5 (1st and 2d pars.), 63 Stat. 579, 580.
133(b) .....	5:171a(a).	
133(c) .....	5:171a(b).	
133(d) .....	5:171a(d).	
	5:171a-1.	
	5:171a(f).	
	5:171n(a) (as applicable to 5:171a(f)).	
	[Uncodified: 1953 Reorg. Plan No. 6, § 5, eff. June 30, 1953, 67 Stat. 639].	
	5:171n(a).	July 26, 1947, ch. 343, § 202(d); added Apr. 2, 1949, ch. 47, § 1; restated Aug. 10, 1949, ch. 412, § 5 (9th par.); restated Aug. 6, 1958, Pub. L. 85–599, § 3(b), 72 Stat. 516.

<sup>1</sup> So in original. Probably should be “the congressional defense committees”.

HISTORICAL AND REVISION NOTES—CONTINUED  
1962 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
		July 26, 1947, ch. 343, § 202(f); added Aug. 10, 1949, ch. 412, § 5 (11th par.), 63 Stat. 581. July 26, 1947, ch. 343, § 308(a) (as applicable to § 202(f)), 61 Stat. 509. July 9, 1952, ch. 608, § 257(e), 66 Stat. 497; Sept. 3, 1954, ch. 1257, § 702(c), 68 Stat. 1189. 1953 Reorg. Plan No. 6, § 5, eff. June 30, 1953, 67 Stat. 639.

In subsection (a), the last sentence is substituted for 5 U.S.C. 171a(a) (proviso).

In subsection (b), the words “this title and section 401 of title 50” are substituted for 5 U.S.C. 171a(b) (13th through 30th words of last sentence), since those words merely described the coverage of this title and section 401 of title 50.

In subsection (c), the words “during the period covered by the report” are inserted for clarity. The following substitutions are made: “under section 125 of this title” for “pursuant to the provisions of this Act” since 125 of this title relates to the duty of the Secretary of Defense to take action to save public funds and to eliminate duplication in the Department of Defense; and the last 22 words of clause (3) for 5 U.S.C. 171a-1 (last 13 words).

In subsection (d), section 5 of 1953 Reorganization Plan No. 6 is omitted as covered by 5 U.S.C. 171a(f).

1982 ACT

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
133(e) .....	10:133 (note).	Oct. 7, 1975, Pub. L. 94-106, § 812, 89 Stat. 540.

The words “prepare and” are omitted as surplus.

1988 ACT

Subsection (k) is based on Pub. L. 100-202, § 101(b) [title VIII, § 8042], 101 Stat. 1329-69.

Section 8042 of the FY88 Defense Appropriations Act (Public Law 100-202) established a requirement for the Secretary of Defense to submit an annual report on the cost of stationing United States forces overseas. Under that section, the annual report is to be sent to the Committees on Appropriations of the two Houses. In codifying that section as section 113(k) of title 10, the committee added the two Armed Services Committees as committees to be sent the annual report. This minor change from the source law does not change the nature of the report to be submitted.

The committee notes that the source section does not specify the period of time to be covered by the report. In the absence of statutory language specifying the period to be covered by the report, it would seem reasonable to conclude that the report should cover the previous fiscal year. The committee notes, however, that the report of the Senate Appropriations Committee on its FY88 defense appropriations bill (S. Rpt. 100-235) states that this new annual report “should cover the budget years and the 2 previous fiscal years” (page 54). The committee believes that such a requirement may be unnecessarily burdensome and in any case, if such a requirement is intended, should be stated in the statute. In the absence of clear intent, the provision is proposed to be codified without specifying the period of time to be covered by the annual report.

In codifying this provision, the committee also changed the term “United States troops” in the source law to “United States forces” for consistency in usage in title 10 and as being preferable usage. No change in

meaning is intended. The committee also changed “overseas” to “outside the United States” and defined “United States” for this purpose to include the territories and possessions of the United States. The committee was concerned that the term “overseas” read literally could include Hawaii or Guam, an interpretation clearly not intended in enacting section 8042. The committee notes that the Senate report referred to above states “For the purposes of this report [meaning the new DOD annual report], U.S. forces stationed overseas are considered to be those outside of the United States and its territories.” The committee extrapolates from this statement that provisions in the report requirement relating to expenditures “overseas” and costs incurred “overseas” are also to be construed as relating to matters outside the United States and its territories and has prepared the codified provision accordingly.

AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91, § 1051(a)(1)(A), redesignated par. (1) as subsec. (c) and subpars. (A) to (C) of former par. (1) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: “At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on any reserve component matter that the Reserve Forces Policy Board considers appropriate to include in the report.”

Subsec. (j)(1). Pub. L. 115-91, § 1081(a)(1), substituted “congressional defense committees” for “the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives” in introductory provisions.

Subsec. (l). Pub. L. 115-91, § 1051(a)(1)(B), struck out subsec. (l) which listed items to be included in the Secretary’s annual report to Congress under subsec. (c).

2016—Subsec. (g). Pub. L. 114-328 amended subsec. (g) generally. Prior to amendment, subsec. (g) required Secretary of Defense to provide annually to Department of Defense heads written policy guidance for preparation and review of program recommendations and budget proposals, to provide to the Chairman of the Joint Chiefs of Staff written policy guidance for contingency plans for homeland defense and for military support to civil authorities, and to include in budget materials submitted to Congress summaries of the guidance developed and summaries of any plans developed in accordance with that guidance.

2015—Subsec. (g)(3). Pub. L. 114-92 added par. (3).

2014—Subsec. (b). Pub. L. 113-291, § 1071(c)(1), substituted “(50 U.S.C. 3002)” for “(50 U.S.C. 401)”.

Subsec. (e)(2). Pub. L. 113-291, § 1071(c)(2), substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Subsec. (c)(2). Pub. L. 112-239 struck out “on” after “Board on”.

2011—Subsec. (c)(2). Pub. L. 111-383 substituted “on any reserve component matter” for “the reserve programs of the Department of Defense and on any other matters”.

Subsec. (j)(1)(A) to (C). Pub. L. 112-81, § 1064(1)(A), added subpar. (B), redesignated former subpar. (B) as (A), and struck out former subpars. (A) and (C) which read as follows:

“(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

“(C) The effect of such expenditures outside the United States on the balance of payments of the United States.”

Subsec. (j)(2), (3). Pub. L. 112-81, § 1064(1)(B), (C), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.”

Subsec. (l). Pub. L. 112-81, § 933(a), amended subsec. (l) generally. Prior to amendment, subsec. (l) related to



contents of the Secretary's annual report to Congress under subsec. (c).

2008—Subsec. (a). Pub. L. 110-181, §903(a), substituted “seven” for “10”.

Subsec. (g)(2). Pub. L. 110-181, §1815(e), substituted “contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities” for “contingency plans”.

1999—Subsec. (j)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

1998—Subsec. (l). Pub. L. 105-261, §915(a), added subsec. (l).

Subsec. (m). Pub. L. 105-261, §1212(b), added subsec. (m).

1997—Subsec. (g)(2). Pub. L. 105-85 struck out “annually” after “Staff, shall provide” and inserted “be provided every two years or more frequently as needed and shall” after “Such guidance shall”.

1996—Subsec. (c). Pub. L. 104-201, §1255(c)(2)–(5), inserted “(1)” after “(c)”, redesignated former pars. (1), (2), and (4) as subpars. (A), (B), and (C), respectively, inserted “and” at end of subpar. (B), and added par. (2).

Subsec. (c)(3). Pub. L. 104-201, §1255(c)(1), struck out par. (3) which read as follows: “a report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense, including a review of the effectiveness of chapters 51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers; and”.

Pub. L. 104-106, §1501(a)(8)(B), made technical correction to directory language of Pub. L. 103-337, §1671(c)(2). See 1994 Amendment note below.

Subsec. (i)(2)(B). Pub. L. 104-106, §1503(a)(1), substituted “the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221” for “the five years covered by the five-year defense program submitted to Congress during that year pursuant to section 114(g)”.

Subsec. (j)(1). Pub. L. 104-106, §1502(a)(3), substituted “Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the” for “Committees on Armed Services and Committees on Appropriations of the Senate and”.

1994—Subsec. (c)(3). Pub. L. 103-337, §1671(c)(2), as amended by Pub. L. 104-106, §1501(a)(8)(B), which directed the substitution of “1219 and 1401 through 1411 of this title” for “51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers”, effective Oct. 1, 1996, could not be executed because of the intervening amendment by Pub. L. 104-201, §1255(c)(1). See 1996 Amendment note above.

Subsec. (e)(2). Pub. L. 103-337, §1070(a)(1), substituted “section 108” for “section 104”.

1991—Subsec. (i)(2)(C) to (E). Pub. L. 102-190 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

1990—Subsecs. (i) to (l). Pub. L. 101-510 redesignated subsecs. (j) to (l) as (i) to (k), respectively, and struck out former subsec. (i) which read as follows: “The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.”

1989—Subsec. (j)(2)(B). Pub. L. 101-189 substituted “five-year defense program” for “Five-Year Defense Program”.

1988—Subsec. (j). Pub. L. 100-456, §731, designated existing provisions as par. (1), struck out provision re-

quiring that each report be transmitted in both a classified and an unclassified form, and added pars. (2) and (3).

Subsec. (k). Pub. L. 100-370 added subsec. (k).

Subsec. (l). Pub. L. 100-456, §1101, added subsec. (l).

1987—Subsec. (e)(2). Pub. L. 100-26 inserted “(50 U.S.C. 404a)” after “National Security Act of 1947”.

Subsec. (j). Pub. L. 100-180 added subsec. (j).

1986—Pub. L. 99-433, §110(d)(2), struck out “: appointment; powers and duties; delegation by” at end of section catchline.

Subsecs. (a) to (e). Pub. L. 99-443, §101(a)(2), redesignated subsecs. (a) to (e) of section 133 of this title as subsecs. (a) to (e) of this section.

Pub. L. 99-433, §301(b)(2), substituted “sections 125 and 191” for “section 125” in subsec. (c)(2).

Pub. L. 99-433, §603(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on—

“(1) the foreign policy and military force structure for the next fiscal year;

“(2) the relationship of that policy and structure to each other; and

“(3) the justification for the policy and structure.”

Subsecs. (f) to (h). Pub. L. 99-433, §102, added subsecs. (f) to (h).

Subsec. (i). Pub. L. 99-433, §§101(a)(2), 110(b)(2), successively redesignated subsec. (h) of section 138 of this title as subsec. (h) of section 114 of this title and then as subsec. (i) of this section.

1982—Subsec. (e). Pub. L. 97-295 added subsec. (e).

Subsec. (i) [formerly §138(h)]. Pub. L. 97-252, §1105, added subsec. (h). See 1986 Amendment note above.

1980—Subsec. (b). Pub. L. 96-513 substituted “section 2 of the National Security Act of 1947 (50 U.S.C. 401)” for “section 401 of title 50”.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1051(z), Dec. 12, 2017, 131 Stat. 1568, provided that: “Except as provided in subsections (u), (v), and (w) [amending section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title] the amendments made by this section [see Tables for classification] shall take effect on the later of—

“(1) the date of the enactment of this Act [Dec. 12, 2017]; or

“(2) November 25, 2017.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(f)(3), Feb. 10, 1996, 110 Stat. 501, provided that: “The amendments made by this section [see Tables for classification] shall take effect as if included in the Reserve Officer Personnel Management Act [Pub. L. 103-337, div. A, title XVI] as enacted on October 5, 1994.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(2) of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (i) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### DELEGATION OF FUNCTIONS

Functions of President under various sections delegated to Secretary of Defense, see Ex. Ord. No. 10621,

July 1, 1955, 20 F.R. 4759, as amended by Ex. Ord. No. 11294, Aug. 4, 1966, 31 F.R. 10601; see Ex. Ord. No. 10661, Feb. 27, 1956, 21 F.R. 1315; see Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841; all set out as notes under section 301 of Title 3, The President.

#### EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Defense, see Parts 1, 2, and 5 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

#### ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, listed in a table under section 3345 of Title 5, Government Organization and Employees.

#### IMPROVEMENT OF UPDATE PROCESS FOR POPULATING MISSION DATA FILES USED IN ADVANCED COMBAT AIRCRAFT

Pub. L. 115-91, div. A, title II, §224, Dec. 12, 2017, 131 Stat. 1334, provided that:

“(a) IMPROVEMENTS TO UPDATE PROCESS.—

“(1) IN GENERAL.—The Secretary of Defense shall take such actions as may be necessary to improve the process used to update the mission data files used in advanced combat aircraft of the United States so that such updates can occur more quickly.

“(2) REQUIREMENTS.—In improving the process under paragraph (1), the Secretary shall ensure the following:

“(A) That under such process, updates to the mission data files are developed, operationally tested, and loaded onto systems of advanced combat aircraft while in theaters of operation in a time-sensitive manner to allow for the distinguishing of threats, including distinguishing friends from foes, loading and delivery of weapon suites, and coordination with allied and coalition armed forces.

“(B) When updates are made to the mission data files, all areas of responsibility (AoRs) are included.

“(C) The process includes best practices relating to such mission data files that have been identified by industry and allies of the United States.

“(D) The process improves the exchange of information between weapons systems of the United States and weapon systems of allies and partners of the United States, with respect to such mission data files.

“(b) CONSULTATION AND PILOT PROGRAMS.—In carrying out subsection (a), the Secretary shall consult the innovation organizations resident in the Department of Defense and may consider carrying out a pilot program under another provision of this Act [see Tables for classification].

“(c) REPORT.—Not later than March 31, 2018, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the actions taken by the Secretary under subsection (a)(1) and how the process described in such subsection has been improved.”

#### TERMINATION OF CERTAIN ADDITIONAL REPORTS

Pub. L. 115-91, div. A, title X, §1051(x), Dec. 12, 2017, 131 Stat. 1567, provided that: “Effective on December 31, 2021, the reports required under the following provisions of title 10, United States Code, shall no longer be required to be submitted to Congress:

“(1) Section 113(c)(1).

“(2) Section 113(e).

“(3) Section 116.

“(4) Section 2432.”

#### DEPARTMENT OF DEFENSE ENGAGEMENT WITH COVERED NON-FEDERAL ENTITIES

Pub. L. 115-91, div. A, title X, §1088, Dec. 12, 2017, 131 Stat. 1604, provided that:

“(a) REVIEW OF CURRENT GUIDANCE.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense and the Secretary of State shall jointly conduct a review of the guidance of the Department of Defense applicable to Department of Defense engagements with covered non-Federal entities.

“(b) ADDITIONAL GUIDANCE.—If the Secretary of Defense and the Secretary of State determine pursuant to the review under subsection (a) that additional guidance is required in connection with Department of Defense engagements with covered non-Federal entities, the Secretary of Defense, with the concurrence of the Secretary of State, shall, by not later than 180 days after the date of the enactment of this Act, issue such additional guidance as the Secretaries consider appropriate in light of the review. Any such additional guidance shall be consistent with—

“(1) applicable law, as in effect on the date of the enactment of this Act;

“(2) Department of Defense guidance with respect to solicitation and preferential treatment, as in effect on the date of the enactment of this Act, including such guidance specified in the Department of Defense Joint Ethics Regulations; and

“(3) the principle that the Department of State and the United States Agency for International Development are the principal United States agencies with primary responsibility for providing and coordinating humanitarian and economic assistance.

“(c) BRIEFING.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly provide to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives a briefing on the findings of the review required under subsection (a).

“(d) COVERED NON-FEDERAL ENTITY DEFINED.—In this section, the term ‘covered non-Federal entity’ means an organization that—

“(1) is based in the United States;

“(2) has an independent board of directors and is subject to independent financial audits;

“(3) is substantially privately-funded;

“(4) is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)] and is exempt from taxation under section 501(a) of such Code [26 U.S.C. 501(a)];

“(5) provides international assistance; and

“(6) has a stated mission of supporting United States military missions abroad.”

#### NOTICE TO CONGRESS OF TERMS OF DEPARTMENT OF DEFENSE SETTLEMENT AGREEMENTS

Pub. L. 115-91, div. A, title X, §1096, Dec. 12, 2017, 131 Stat. 1614, provided that:

“(a) REQUEST OF SETTLEMENT AGREEMENTS.—At the request of the Chairman, in coordination with the Ranking Member, of the Committee on Armed Services of the Senate or the House of Representatives or the Chairman, in coordination with the Ranking Member, of the Committee on Appropriations of the Senate or the House of Representatives, the Secretary of Defense shall make available (in an appropriate manner with respect to classified or other protected information) to the Chairman and Ranking Member of the requesting committee a settlement agreement (including a consent decree) in any civil action in a court of competent jurisdiction involving the Department of Defense, a military department, or a Defense Agency.

“(b) PROVISION OF SETTLEMENT AGREEMENTS.—The Secretary shall take all necessary steps to ensure the settlement agreement is provided to the Chairman and Ranking Member of the requesting committee, including by making any necessary requests to a court with competent jurisdiction over the settlement.”

#### STRATEGY TO COUNTER THREATS BY THE RUSSIAN FEDERATION

Pub. L. 115-91, div. A, title XII, §1239, Dec. 12, 2017, 131 Stat. 1666, provided that:

“(a) STRATEGY REQUIRED.—The Secretary of Defense, in coordination with the Secretary of State and in consultation with each of the Secretaries of the military departments, the Joint Chiefs of Staff, and the commanders of each of the regional and functional combatant commands, shall develop and implement a comprehensive strategy to counter threats by the Russian Federation.

“(b) REPORT REQUIRED.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall submit to the appropriate congressional committees a report on the strategy required by subsection (a).

“(2) ELEMENTS.—The report required by this subsection shall include the following elements:

“(A) An evaluation of strategic objectives and motivations of the Russian Federation.

“(B) A detailed description of Russian threats to the national security of the United States, including threats that may pose challenges below the threshold of armed conflict.

“(C) A discussion of how the strategy complements the National Defense Strategy and the National Military Strategy.

“(D) A discussion of the ends, ways, and means inherent to the strategy.

“(E) A discussion of the strategy’s objectives with respect to deterrence, escalation control, and conflict resolution.

“(F) A description of the military activities across geographic regions and military functions and domains that are inherent to the strategy.

“(G) A description of the posture, forward presence, and readiness requirements inherent to the strategy.

“(H) A description of the roles of the United States Armed Forces in implementing the strategy, including—

“(i) the role of United States nuclear capabilities;

“(ii) the role of United States space capabilities;

“(iii) the role of United States cyber capabilities;

“(iv) the role of United States conventional ground forces;

“(v) the role of United States naval forces;

“(vi) the role of United States air forces; and

“(vii) the role of United States special operations forces.

“(I) An assessment of the force requirements needed to implement and sustain the strategy.

“(J) A description of the logistical requirements needed to implement and sustain the strategy.

“(K) An assessment of the technological research and development requirements needed to implement and sustain the strategy.

“(L) An assessment of the training and exercise requirements needed to implement and sustain the strategy.

“(M) An assessment of the budgetary resource requirements needed to implement and sustain the strategy through December 31, 2030.

“(N) An analysis of the adequacy of current authorities and command structures for countering unconventional warfare.

“(O) Recommendations for improving the counter-unconventional warfare capabilities, authorities, and command structures of the Department of Defense.

“(P) A discussion of how the strategy provides a framework for future planning and investments in regional defense initiatives, including the European Deterrence Initiative.

“(Q) A plan to increase conventional precision strike weapon stockpiles in the United States European Command’s areas of responsibility, which shall include necessary increases in the quantities of such stockpiles that the Secretary of Defense de-

termines will enhance deterrence and warfighting capability of the North Atlantic Treaty Organization forces.

“(R) A plan to counter the military capabilities of the Russian Federation, which, in addition to elements the Secretary of Defense determines to be appropriate, shall include recommendations for—

“(i) improving the capability of United States Armed Forces to operate in a Global Positioning System (GPS)-denied or GPS-degraded environment;

“(ii) improving the capability of United States Armed Forces to counter Russian unmanned aircraft systems, electronic warfare, and long-range precision strike capabilities; and

“(iii) countering unconventional capabilities and hybrid threats from the Russian Federation.

“(3) FORM.—The report required by this subsection shall be submitted in unclassified form but may contain a classified annex.”

#### CULTURAL HERITAGE PROTECTION COORDINATOR

Pub. L. 115–91, div. A, title XII, § 1279C, Dec. 12, 2017, 131 Stat. 1702, provided that: “Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall designate an employee of the Department of Defense to serve concurrently as the Coordinator for Cultural Heritage Protection, who shall be responsible for—

“(1) coordinating the existing obligations of the Department of Defense for the protection of cultural heritage, including the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and other obligations for the protection of cultural heritage; and

“(2) coordinating with the Cultural Heritage Coordinating Committee convened by the Secretary of State for the national security interests of the United States, as appropriate.”

#### EXCEPTION TO LIMITATION AGAINST APPOINTMENT OF PERSONS AS SECRETARY OF DEFENSE WITHIN SEVEN YEARS OF RELIEF FROM ACTIVE DUTY AS REGULAR COMMISSIONED OFFICERS OF THE ARMED FORCES

Pub. L. 115–2, § 1, Jan. 20, 2017, 131 Stat. 6, provided that:

“(a) IN GENERAL.—Notwithstanding the second sentence of section 113(a) of title 10, United States Code, the first person appointed, by and with the advice and consent of the Senate, as Secretary of Defense after the date of the enactment of this Act [Jan. 20, 2017] may be a person who is, on the date of appointment, within seven years after relief, but not within three years after relief, from active duty as a commissioned officer of a regular component of the Armed Forces.

“(b) LIMITED EXCEPTION.—This section applies only to the first person appointed as Secretary of Defense as described in subsection (a) after the date of the enactment of this Act, and to no other person.”

#### PILOT PROGRAM ON MODERNIZATION AND FIELDING OF ELECTROMAGNETIC SPECTRUM WARFARE SYSTEMS AND ELECTRONIC WARFARE CAPABILITIES

Pub. L. 114–328, div. A, title II, § 234, Dec. 23, 2016, 130 Stat. 2064, provided that:

“(a) PILOT PROGRAM.—

“(1) IN GENERAL.—The Secretary of Defense may carry out a pilot program on the modernization and fielding of electromagnetic spectrum warfare systems and electronic warfare systems.

“(2) SELECTION.—If the Secretary carries out the pilot program under paragraph (1), the Electronic Warfare Executive Committee shall select from the list described in section 240(b)(4) [130 Stat. 2070] a total of 10 electromagnetic spectrum warfare systems and electronic warfare systems across at least two military departments for modernization and fielding under the pilot program.

“(b) TERMINATION.—The pilot program authorized by subsection (a) shall terminate on September 30, 2023.

“(c) FUNDING.—For the purposes of this pilot program, funds authorized to be appropriated for electromagnetic spectrum warfare and electronic warfare may be used for the development and fielding of electromagnetic spectrum warfare systems and electronic warfare capabilities.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘electromagnetic spectrum warfare’ means electronic warfare that encompasses military communications and sensing operations that occur in the electromagnetic operational domain.

“(2) The term ‘electronic warfare’ means military action involving the use of electromagnetic and directed energy to control the electromagnetic spectrum or to attack the enemy.”

IMPROVED DEPARTMENT OF DEFENSE PREVENTION OF AND RESPONSE TO HAZING IN THE ARMED FORCES

Pub. L. 114-328, div. A, title V, §549, Dec. 23, 2016, 130 Stat. 2129, provided that:

“(a) ANTI-HAZING DATABASE.—The Secretary of Defense shall provide for the establishment and use of a comprehensive and consistent data-collection system for the collection of reports, including anonymous reports, of incidents of hazing involving a member of the Armed Forces. The Secretary shall issue department-wide guidance regarding the availability and use of the database, including information on protected classes, such as race and religion, who are often the victims of hazing.

“(b) IMPROVED TRAINING.—Each Secretary of a military department, in consultation with the Chief of Staff of each Armed Force under the jurisdiction of such Secretary, shall seek to improve training to assist members of the Armed Forces [to] better recognize, prevent, and respond to hazing at all command levels.

“(c) ANNUAL REPORTS ON HAZING.—

“(1) REPORT REQUIRED.—Not later than January 31 of each year through January 31, 2021, each Secretary of a military department, in consultation with the Chief of Staff of each Armed Force under the jurisdiction of such Secretary, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of efforts during the previous year—

“(A) to prevent and to respond to incidents of hazing involving members of the Armed Forces;

“(B) to track and encourage reporting, including reporting anonymously, incidents of hazing in the Armed Force; and

“(C) to ensure the consistent implementation of anti-hazing policies.

“(2) ADDITIONAL ELEMENTS.—Each report required by this subsection also shall address the same elements originally addressed in the anti-hazing reports required by section 534 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239; 126 Stat. 1726 [1727]).”

USE OF TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL TO GAIN ACCESS AT DEPARTMENT OF DEFENSE INSTALLATIONS

Pub. L. 114-328, div. A, title X, §1050, Dec. 23, 2016, 130 Stat. 2396, provided that:

“(a) ACCESS TO INSTALLATIONS FOR CREDENTIALLED TRANSPORTATION WORKERS.—During the period that the Secretary is developing and fielding physical access standards, capabilities, processes, and electronic access control systems, the Secretary shall, to the maximum extent practicable, ensure that the Transportation Worker Identification Credential (TWIC) shall be accepted as a valid credential for unescorted access to Department of Defense installations by transportation workers.

“(b) CREDENTIALLED TRANSPORTATION WORKERS WITH SECRET CLEARANCE.—TWIC-carrying transportation workers who also have a current Secret Level Clearance issued by the Department of Defense shall be considered exempt from further vetting when seeking un-

escorted access at Department of Defense facilities. Access security personnel shall verify such person’s security clearance in a timely manner and provide them with unescorted access to complete their freight service.”

NOTIFICATION ON THE PROVISION OF DEFENSE SENSITIVE SUPPORT

Pub. L. 114-328, div. A, title X, §1055, Dec. 23, 2016, 130 Stat. 2399, provided that:

“(a) LIMITATION.—The Secretary of Defense may provide defense sensitive support to a non-Department of Defense Federal department or agency only after the Secretary has determined that such support—

“(1) is consistent with the mission and functions of the Department of Defense; and

“(2) does—

“(A) not significantly interfere with the mission or functions of the Department; or

“(B) interfere with the mission and functions of the Department of Defense but such support is in the national security interest of the United States.

“(b) NOTICE REQUIRED.—

“(1) IN GENERAL.—Except as provided in paragraph (3), before providing defense sensitive support to a non-Department of Defense Federal department or agency, the Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and, when the part of the Department of Defense providing the sensitive support is a member of the intelligence community, the congressional intelligence committees of the Secretary’s intent to provide such support.

“(2) CONTENTS.—Notice provided under paragraph (1) shall include the following:

“(A) A description of the support to be provided.

“(B) A description of how the support is consistent with the mission and functions of the Department.

“(C) A description of how the support—

“(i) does not significantly interfere with the mission or functions of the Department; or

“(ii) significantly interferes with the mission or functions of the Department but is in the national security interest of the United States.

“(3) TIME SENSITIVE SUPPORT.—In the event that the provision of defense sensitive support is time-sensitive, the Secretary—

“(A) may provide notification under paragraph (1) after providing the support; and

“(B) shall provide such notice as soon as practicable after providing such support, but not later than 48 hours after providing the support.

“(c) DEFENSE SENSITIVE SUPPORT DEFINED.—In this section, the term ‘defense sensitive support’ means support provided by the Department of Defense to a non-Department of Defense Federal department or agency that requires special protection from disclosure.”

WOMEN’S MILITARY SERVICE MEMORIALS AND MUSEUMS

Pub. L. 115-91, div. A, title III, §342, Dec. 12, 2017, 131 Stat. 1361, provided that:

“(a) IN GENERAL.—The Secretary of Defense may provide not more than \$5,000,000 in financial support for the acquisition, installation, and maintenance of exhibits, facilities, historical displays, and programs at military service memorials and museums that highlight the role of women in the military. The Secretary may enter into a contract, partnership, or grant with a non-profit organization for the purpose of performing such acquisition, installation, and maintenance.

“(b) PURPOSES.—The contracts, partnerships, or grants shall be limited to serving the purposes of—

“(1) preserving the history of the 3,000,000 women who have served in the United States Armed Forces;

“(2) managing an archive of artifacts, historic memorabilia, and documents related to service-women;

“(3) maintaining a women veterans’ oral history program; and

“(4) conducting other educational programs related to women in service.”

Pub. L. 114-328, div. B, title XXVIII, §2833, Dec. 23, 2016, 130 Stat. 2740, provided that:

“(a) AUTHORIZATION.—The Secretary of Defense may provide not more than \$5,000,000 in financial support for the acquisition, installation, and maintenance of exhibits, facilities, historical displays, and programs at military service memorials and museums that highlight the role of women in the military. The Secretary may enter into a contract with a nonprofit organization for the purpose of performing such acquisition, installation, and maintenance.

“(b) OFFSET.—Of the funds authorized to be appropriated by section 301 [130 Stat. 2072] for operation and maintenance, Army, and available for the National Museum of the United States Army, not more than \$5,000,000 shall be provided, at the discretion of the Secretary of Defense, to carry out activities under subsection (a).”

#### STRATEGIC FRAMEWORK FOR DEPARTMENT OF DEFENSE SECURITY COOPERATION

Pub. L. 114-92, div. A, title XII, §1202, Nov. 25, 2015, 129 Stat. 1036, provided that:

“(a) STRATEGIC FRAMEWORK.—

“(1) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of State, shall develop and issue to the Department of Defense a strategic framework for Department of Defense security cooperation to guide prioritization of resources and activities.

“(2) ELEMENTS.—The strategic framework required by paragraph (1) shall include the following:

“(A) Discussion of the strategic goals of Department of Defense security cooperation programs, overall and by combatant command, and the extent to which these programs—

“(i) support broader strategic priorities of the Department of Defense; and

“(ii) complement and are coordinated with Department of State security assistance programs to achieve United States Government goals globally, regionally, and, if appropriate, within specific programs.

“(B) Identification of the primary objectives, priorities, and desired end-states of Department of Defense security cooperation programs.

“(C) Identification of challenges to achieving the primary objectives, priorities, and desired end-states identified under subparagraph (B), including—

“(i) constraints on Department of Defense resources, authorities, and personnel;

“(ii) partner nation variables and conditions, such as political will, absorptive capacity, corruption, and instability risk, that impact the likelihood of a security cooperation program achieving its primary objectives, priorities, and desired end-states;

“(iii) constraints or limitations due to bureaucratic impediments, interagency processes, or congressional requirements;

“(iv) validation of requirements; and

“(v) assessment, monitoring, and evaluation.

“(D) A methodology for assessing the effectiveness of Department of Defense security cooperation programs in making progress toward achieving the primary objectives, priorities, and desired end-states identified under subparagraph (B), including an identification of key benchmarks for such progress.

“(E) Any other matters the Secretary of Defense determines appropriate.

“(3) FREQUENCY.—The Secretary of Defense shall, at a minimum, update the strategic framework required by paragraph (1) on a biennial basis and shall update or supplement the strategic framework as appropriate to address emerging priorities.

“(b) REPORT.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], and on a biennial basis thereafter, the Secretary of Defense, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report on the strategic framework required by subsection (a).

“(2) FORM.—The report required by paragraph (1) shall be submitted in an unclassified form, but may include a classified annex.

“(3) DEFINITION.—In this subsection, the term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

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

“(c) SUNSET.—This section shall cease to be effective on the date that is 6 years after the date of the enactment of this Act.”

#### ROLE OF SECRETARY OF DEFENSE IN DEVELOPMENT OF GENDER-NEUTRAL OCCUPATIONAL STANDARDS

Pub. L. 113-291, div. A, title V, §524(a), Dec. 19, 2014, 128 Stat. 3361, as amended by Pub. L. 114-92, div. A, title V, §525, Nov. 25, 2015, 129 Stat. 813, provided that: “The Secretary of Defense shall ensure that the gender-neutral occupational standards being developed by the Secretaries of the military departments pursuant to section 543 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 113 note), as amended by section 523 of the National Defense Authorization Act for Fiscal Year 2014 (Public Law 113-66; 127 Stat. 756)—

“(1) accurately predict performance of actual, regular, and recurring duties of a military occupation;

“(2) are applied equitably to measure individual capabilities; and

“(3) measure the combat readiness of combat units, including special operations forces.”

#### FEMALE PERSONAL PROTECTION GEAR

Pub. L. 113-291, div. A, title V, §524(b), Dec. 19, 2014, 128 Stat. 3362, provided that: “The Secretary of Defense shall direct each Secretary of a military department to take immediate steps to ensure that combat equipment distributed to female members of the Armed Forces—

“(1) is properly designed and fitted; and

“(2) meets required standards for wear and survivability.”

#### OFFICE OF NET ASSESSMENT

Pub. L. 113-291, div. A, title IX, §904, Dec. 19, 2014, 128 Stat. 3471, provided that:

“(a) INDEPENDENT OFFICE REQUIRED.—The Secretary of Defense shall establish and maintain an independent organization within the Department of Defense to develop and coordinate net assessments of the standing, trends, and future prospects of the military capabilities and potential of the United States in comparison with the military capabilities and potential of other countries or groups of countries, so as to identify emerging or future threats or opportunities for the United States.

“(b) DIRECT REPORT TO THE SECRETARY OF DEFENSE.—The head of the office established and maintained pursuant to subsection (a) shall report directly to the Secretary of Defense without intervening authority and may communicate views on matters within the responsibility of the office directly to the Secretary without obtaining the approval or concurrence of any other official within the Department of Defense.”

#### CLARIFICATION OF POLICIES ON MANAGEMENT OF SPECIAL USE AIRSPACE OF DEPARTMENT OF DEFENSE

Pub. L. 113-291, div. A, title X, §1076, Dec. 19, 2014, 128 Stat. 3519, provided that:

“(a) ISSUANCE OF GUIDANCE.—Not later than 90 days after the date of the enactment of this Act [Dec. 19, 2014], the Secretary of Defense shall issue guidance to clarify the policies of the Department of Defense with respect to—

“(1) the appropriate management of special use airspace managed by the Department; and

“(2) governing access by non-Department users to such special use airspace.

“(b) BRIEFING.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a briefing on the status of implementing the guidance issued under subsection (a).”

PROVISION OF MILITARY SERVICE RECORDS TO THE SECRETARY OF VETERANS AFFAIRS IN AN ELECTRONIC FORMAT

Pub. L. 113-66, div. A, title V, §525, Dec. 26, 2013, 127 Stat. 757, provided that:

“(a) PROVISION IN ELECTRONIC FORMAT.—In accordance with subsection (b), the Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall make the covered records of each member of the Armed Forces available to the Secretary of Veterans Affairs in an electronic format.

“(b) DEADLINE FOR PROVISION OF RECORDS.—With respect to a member of the Armed Forces who is discharged or released from the Armed Forces on or after January 1, 2014, the Secretary of Defense shall ensure that the covered records of the member are made available to the Secretary of Veterans Affairs not later than 90 days after the date of the member’s discharge or release.

“(c) SHARING OF PROTECTED HEALTH INFORMATION.—For purposes of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 42 U.S.C. 1320d-2 note), making medical records available to the Secretary of Veterans Affairs under subsection (a) shall be treated as a permitted disclosure.

“(d) RECORDS CURRENTLY AVAILABLE TO SECRETARY OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that the covered records of members of the Armed Forces that are available to the Secretary of Veterans Affairs as of the date of the enactment of this Act [Dec. 26, 2013] are made electronically accessible and available as soon as practicable after that date to the Veterans Benefits Administration.

“(e) COVERED RECORDS DEFINED.—In this section, the term ‘covered records’ means, with respect to a member of the Armed Forces—

“(1) service treatment records;

“(2) accompanying personal records;

“(3) relevant unit records; and

“(4) medical records created by reason of treatment or services received pursuant to chapter 55 of title 10, United States Code.”

STRATEGY FOR FUTURE MILITARY INFORMATION OPERATIONS CAPABILITIES

Pub. L. 113-66, div. A, title X, §1096, Dec. 26, 2013, 127 Stat. 880, provided that:

“(a) STRATEGY REQUIRED.—The Secretary of Defense shall develop and implement a strategy for developing and sustaining through fiscal year 2020 information operations capabilities for future contingencies. The Secretary shall submit such strategy to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] by not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013].

“(b) CONTENTS OF STRATEGY.—The strategy required by subsection (a) shall include each of the following:

“(1) A plan for the sustainment of existing capabilities that have been developed during the ten-year pe-

riod prior to the date of the enactment of this Act, including such capabilities developed using funds authorized to be appropriated for overseas contingency operations determined to be of enduring value for continued sustainment.

“(2) A discussion of how the capabilities referred to in paragraph (1) are integrated into policy, doctrine, and operations.

“(3) An assessment of the force structure that is required to sustain operational planning and potential contingency operations, including the integration across the active and reserve components.

“(4) Estimates of the steady-state resources needed to support the force structure referred to in paragraph (3), as well as estimates for resources that might be needed based on selected operational plans, contingency plans, and named operations.

“(5) An assessment of the impact of how new and emerging technologies can be incorporated into policy, doctrine, and operations.

“(6) A description of ongoing research into new capabilities that may be needed to fill any identified gaps and programs that might be required to develop such capabilities.

“(7) Potential policy implications or legal challenges that may prevent the integration of new and emerging technologies into the projected force structure.

“(8) Potential policy implications or challenges to the better leveraging of capabilities from interagency partners.”

PROHIBITION OF RETALIATION AGAINST MEMBERS OF THE ARMED FORCES FOR REPORTING A CRIMINAL OFFENSE

Pub. L. 113-66, div. A, title XVII, §1709(a), (b), Dec. 26, 2013, 127 Stat. 962, as amended by Pub. L. 113-291, div. A, title X, §1071(g)(5), Dec. 19, 2014, 128 Stat. 3511, provided that:

“(a) REGULATIONS ON PROHIBITION OF RETALIATION.—

“(1) REGULATIONS REQUIRED.—The Secretary of Defense shall prescribe regulations, or require the Secretaries of the military departments to prescribe regulations, that prohibit retaliation against an alleged victim or other member of the Armed Forces who reports a criminal offense. The regulations shall prescribe that a violation of the regulations is an offense punishable under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

“(2) DEADLINE.—The regulations required by this subsection shall be prescribed not later than 120 days after the date of the enactment of this Act [Dec. 26, 2013].

“(b) RETALIATION AND PERSONNEL ACTION DESCRIBED.—

“(1) RETALIATION.—For purposes of the regulations required by subsection (a), the Secretary of Defense shall define retaliation to include, at a minimum—

“(A) taking or threatening to take an adverse personnel action, or withholding or threatening to withhold a favorable personnel action, with respect to a member of the Armed Forces because the member reported a criminal offense; and

“(B) ostracism and such acts of maltreatment, as designated by the Secretary of Defense, committed by peers of a member of the Armed Forces or by other persons because the member reported a criminal offense.

“(2) PERSONNEL ACTIONS.—For purposes of paragraph (1)(A), the Secretary of Defense shall define the personnel actions to be covered by the regulations.”

REVIEW AND POLICY REGARDING DEPARTMENT OF DEFENSE INVESTIGATIVE PRACTICES IN RESPONSE TO ALLEGATIONS OF UNIFORM CODE OF MILITARY JUSTICE VIOLATIONS

Pub. L. 113-66, div. A, title XVII, §1732, Dec. 26, 2013, 127 Stat. 975, provided that:

“(a) REVIEW.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall conduct a review of the practices of the military criminal investigative organizations (Army Criminal Investigation Command, Naval Criminal Investigative Service, and Air Force Office of Special Investigation) in response to an allegation that a member of the Armed Forces has committed an offense under the Uniform Code of Military Justice, including the extent to which the military criminal investigative organizations make a recommendation regarding whether an allegation appears founded or unfounded.

“(b) POLICY.—After conducting the review required by subsection (a), the Secretary of Defense shall develop a uniform policy for the Armed Forces, to the extent practicable, regarding the use of case determinations to record the results of the investigation of an alleged violation of the Uniform Code of Military Justice. In developing the policy, the Secretary shall consider the feasibility of adopting case determination methods, such as the uniform crime report, used by nonmilitary law enforcement agencies.”

#### DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL FOR ENTERPRISE RESOURCE PLANNING SYSTEM DATA CONVERSION

Pub. L. 112-239, div. A, title IX, §903, Jan. 2, 2013, 126 Stat. 1866, provided that: “Not later than 90 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall—

“(1) designate a senior official of the Department of Defense as the official with principal responsibility for coordination and management oversight of data conversion for all enterprise resource planning systems of the Department; and

“(2) set forth the responsibilities of that senior official with respect to such data conversion.”

#### ELECTRONIC WARFARE STRATEGY OF THE DEPARTMENT OF DEFENSE

Pub. L. 112-239, div. A, title X, §1061(a), (b), Jan. 2, 2013, 126 Stat. 1939, provided that:

“(a) GUIDANCE REQUIRED.—Not later than January 1, 2013, the Secretary of Defense shall review and update Department of Defense guidance related to electronic warfare to ensure that oversight roles and responsibilities within the Department related to electronic warfare policy and programs are clearly defined. Such guidance shall clarify, as appropriate, the roles and responsibilities related to the integration of electronic warfare matters and cyberspace operations.

“(b) PLAN REQUIRED.—Not later than October 1, 2013, the Commander of the United States Strategic Command shall update and issue guidance regarding the responsibilities of the Command with regard to joint electronic warfare capabilities. Such guidance shall—

“(1) define the role and objectives of the Joint Electromagnetic Spectrum Control Center or any other center established in the Command to provide governance and oversight of electronic warfare matters; and

“(2) include an implementation plan outlining tasks, metrics, and timelines to establish such a center.”

#### UNITED STATES PARTICIPATION IN HEADQUARTERS EUROCORPS

Pub. L. 112-239, div. A, title XII, §1275, Jan. 2, 2013, 126 Stat. 2027, provided that:

“(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the Armed Forces as members of the staff of Headquarters Eurocorps for the purpose of supporting the North Atlantic Treaty Organization (NATO) activities of the NATO Rapid Deployable Corps Eurocorps.

“(b) MEMORANDUM OF UNDERSTANDING.—

“(1) REQUIREMENT.—The participation of members of the Armed Forces as members of the staff of Head-

quarters Eurocorps shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and Headquarters Eurocorps.

“(2) COST-SHARING ARRANGEMENTS.—If Department of Defense facilities, equipment, or funds are used to support Headquarters Eurocorps, the memoranda of understanding under paragraph (1) shall provide details of any cost-sharing arrangement or other funding arrangement.

“(c) LIMITATION ON NUMBER OF MEMBERS PARTICIPATING AS STAFF.—Not more than two members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps, until the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the following:

“(1) A certification by the Secretary of Defense that the participation of more than two members of the Armed Forces in Headquarters Eurocorps is in the national interests of the United States.

“(2) A description of the benefits of the participation of the additional members proposed by the Secretary.

“(3) A description of the plans for the participation of the additional members proposed by the Secretary, including the grades and posts to be filled.

“(4) A description of the costs associated with the participation of the additional members proposed by the Secretary.

“(d) NOTICE ON PARTICIPATION OF NUMBER OF MEMBERS ABOVE CERTAIN CEILING.—Not more than 10 members of the Armed Forces may participate as members of the staff of Headquarters Eurocorps unless the Secretary of Defense submits to the Committees on Armed Services of the Senate and the House of Representatives a notice that the number of members so participating will exceed 10 members.

“(e) AVAILABILITY OF APPROPRIATED FUNDS.—

“(1) AVAILABILITY.—Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

“(A) To pay the United States’ share of the operating expenses of Headquarters Eurocorps.

“(B) To pay the costs of the participation of members of the Armed Forces participating as members of the staff of Headquarters Eurocorps, including the costs of expenses of such participants.

“(2) LIMITATION.—No funds may be used under this section to fund the pay or salaries of members of the Armed Forces who participate as members of the staff of the Headquarters, North Atlantic Treaty Organization (NATO) Rapid Deployable Corps under this section.

“(f) HEADQUARTERS EUROCORPS DEFINED.—In this section, the term ‘Headquarters Eurocorps’ refers to the multinational military headquarters, established on October 1, 1993, which is one of the High Readiness Forces (Land) associated with the Allied Rapid Reaction Corps of NATO.”

#### STRATEGY TO COUNTER IMPROVISED EXPLOSIVE DEVICES

Pub. L. 112-87, title V, §503, Jan. 3, 2012, 125 Stat. 1896, provided that:

“(a) STRATEGY.—

“(1) ESTABLISHMENT.—The Director of National Intelligence and the Secretary of Defense shall establish a coordinated strategy utilizing all available personnel and assets for intelligence collection and analysis to identify and counter network activity and operations in Pakistan and Afghanistan relating to the development and use of improvised explosive devices.

“(2) CONTENTS.—The strategy established under paragraph (1) shall identify—

“(A) the networks that design improvised explosive devices, provide training on improvised explosive device assembly and employment, and smuggle improvised explosive device components into Afghanistan;

“(B) the persons and organizations not directly affiliated with insurgents in Afghanistan who knowingly enable the movement of commercial products and material used in improvised explosive device construction from factories and vendors in Pakistan into Afghanistan;

“(C) the financiers, financial networks, institutions, and funding streams that provide resources to the insurgency in Afghanistan; and

“(D) the links to military, intelligence services, and government officials who are complicit in allowing the insurgent networks in Afghanistan to operate.

“(b) REPORT AND IMPLEMENTATION.—Not later than 120 days after the date of the enactment of this Act [Jan. 3, 2012], the Director of National Intelligence and the Secretary of Defense shall—

“(1) submit to the congressional intelligence committees [Select Committee on Intelligence of the Senate and Permanent Select Committee on Intelligence of the House of Representatives] and the Committees on Armed Services of the House of Representatives and the Senate a report containing the strategy established under subsection (a); and

“(2) implement such strategy.”

#### DESIGNATION OF DEPARTMENT OF DEFENSE SENIOR OFFICIAL WITH PRINCIPAL RESPONSIBILITY FOR AIRSHIP PROGRAMS

Pub. L. 112–81, div. A, title IX, §903, Dec. 31, 2011, 125 Stat. 1532, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011], the Secretary of Defense shall—

“(1) designate a senior official of the Department of Defense as the official with principal responsibility for the airship programs of the Department; and

“(2) set forth the responsibilities of that senior official with respect to such programs.”

#### AUTHORITY TO SUPPORT OPERATIONS AND ACTIVITIES OF THE OFFICE OF SECURITY COOPERATION IN IRAQ

Pub. L. 112–81, div. A, title XII, §1215, Dec. 31, 2011, 125 Stat. 1631, as amended by Pub. L. 112–239, div. A, title XII, §1211(a)–(c), Jan. 2, 2013, 126 Stat. 1982; Pub. L. 113–66, div. A, title XII, §1214(a)–(c), Dec. 26, 2013, 127 Stat. 906; Pub. L. 113–291, div. A, title XII, §1237, Dec. 19, 2014, 128 Stat. 3562; Pub. L. 114–92, div. A, title XII, §1221, Nov. 25, 2015, 129 Stat. 1047; Pub. L. 114–328, div. A, title XII, §1223, Dec. 23, 2016, 130 Stat. 2486; Pub. L. 115–91, div. A, title XII, §1224(a), (b)(1), (c), Dec. 12, 2017, 131 Stat. 1654, provided that:

“(a) AUTHORITY.—The Secretary of Defense may support United States Government transition activities in Iraq by providing funds for the following:

“(1) Operations and activities of the Office of Security Cooperation in Iraq.

“(2) Operations and activities of security assistance teams in Iraq.

“(b) TYPES OF SUPPORT.—The operations and activities for which the Secretary may provide funds under the authority in subsection (a) may include life support, transportation and personal security, and construction and renovation of facilities.

“(c) LIMITATION ON AMOUNT.—The total amount of funds provided under the authority in subsection (a) in fiscal year 2018 may not exceed \$42,000,000.

“(d) SOURCE OF FUNDS.—Funds for purposes of subsection (a) for fiscal year 2018 shall be derived from amounts available for that fiscal year for operation and maintenance for the Air Force.

“(e) COVERAGE OF COSTS OF OSCI IN CONNECTION WITH SALES OF DEFENSE ARTICLES OR DEFENSE SERVICES TO IRAQ.—The President shall ensure that any letter of offer for the sale to Iraq of any defense articles or defense services issued after the date of the enactment of this Act [Dec. 31, 2011] includes, consistent with the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.), charges sufficient to recover the costs of operations and activities of security assistance teams in Iraq in connection with such sale.

“(f) ADDITIONAL AUTHORITY FOR ACTIVITIES OF OSCI.—

“(1) IN GENERAL.—During fiscal year 2018, the Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Office of Security Cooperation in Iraq to conduct activities to support the following:

“(A) Defense institution building to mitigate capability gaps and promote effective and sustainable defense institutions.

“(B) Professionalization, strategic planning and reform, financial management, manpower management, and logistics management of military and other security forces with a national security mission.

“(2) REQUIRED ELEMENTS.—The activities of the Office of Security Cooperation in Iraq conducted under paragraph (1) shall include elements that promote the following:

“(A) Observance of and respect for human rights and fundamental freedoms.

“(B) Military professionalism.

“(C) Respect for legitimate civilian authority within Iraq.

“(g) REPORTS.—

“(1) IN GENERAL.—Not later than September 30, 2015, and every 180 days thereafter until the authority in this section expires, the Secretary of Defense shall, in consultation with the Secretary of State, submit to the appropriate committees of Congress a report on the activities of the Office of Security Cooperation in Iraq.

“(2) ELEMENTS.—Each report under this subsection shall include the following:

“(A) A current description of capability gaps in the security forces of Iraq, including capability gaps relating to intelligence matters, protection of Iraq airspace, and logistics and maintenance, and a current description of the extent, if any, to which the Government of Iraq has requested assistance in addressing such capability gaps.

“(B) A current description of the activities of the Office of Security Cooperation in Iraq and the extent, if any, to which the programs conducted by the Office in conjunction with other United States programs (such as the Foreign Military Financing program, the Foreign Military Sales program, and the assistance provided pursuant to section 1236 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291 [128 Stat. 3558])) will address the capability gaps described pursuant to subparagraph (A).

“(C) A current description of how the activities of the Office of Security Cooperation in Iraq are coordinated with, and complement and enhance, the assistance provided pursuant to section 1236 of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015.

“(D) A current description of end use monitoring programs, and any other programs or procedures, used to improve accountability for equipment provided to the Government of Iraq.

“(E) A current description of the measures of effectiveness used to evaluate the activities of the Office of the Security Cooperation in Iraq, and an analysis of any determinations to expand, alter, or terminate specific activities of the Office based on such evaluations.

“(F) A current evaluation of the effectiveness of the training described in subsection (f)(2) in promoting respect for human rights, military professionalism, and respect for legitimate civilian authority in Iraq.

“(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.”



COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVES  
DATABASE

Pub. L. 111-383, div. A, title I, §124, Jan. 7, 2011, 124 Stat. 4159, provided that:

“(a) COMPREHENSIVE DATABASE.—

“(1) IN GENERAL.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall develop and maintain a comprehensive database containing appropriate information for coordinating, tracking, and archiving each counter-improvised explosive device initiative within the Department of Defense. The database shall, at a minimum, ensure the visibility of each counter-improvised explosive device initiative.

“(2) USE OF INFORMATION.—Using information contained in the database developed under paragraph (1), the Secretary, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

“(A) identify and eliminate redundant counter-improvised explosive device initiatives;

“(B) facilitate the transition of counter-improvised explosive device initiatives from funding under the Joint Improvised Explosive Device Defeat Fund to funding provided by the military departments; and

“(C) notify the appropriate personnel and organizations prior to a counter-improvised explosive device initiative being funded through the Joint Improvised Explosive Device Defeat Fund.

“(3) COORDINATION.—In carrying out paragraph (1), the Secretary shall ensure that the Secretary of each military department coordinates and collaborates on development of the database to ensure its interoperability, completeness, consistency, and effectiveness.

“(b) METRICS.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

“(1) develop appropriate means to measure the effectiveness of counter-improvised explosive device initiatives; and

“(2) prioritize the funding of such initiatives according to such means.

“(c) COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVE DEFINED.—In this section, the term ‘counter-improvised explosive device initiative’ means any project, program, or research activity funded by any component of the Department of Defense that is intended to assist or support efforts to counter, combat, or defeat the use of improvised explosive devices.”

PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF THE  
KOREAN WAR

Pub. L. 111-383, div. A, title V, §574, Jan. 7, 2011, 124 Stat. 4223, provided that:

“(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may establish and conduct a program to commemorate the 60th anniversary of the Korean War (in this section referred to as the ‘commemorative program’). In conducting the commemorative program, the Secretary of Defense shall coordinate and support other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Korean War.

“(b) SCHEDULE.—If the Secretary of Defense establishes the commemorative program, the Secretary shall determine the schedule of major events and priority of efforts for the commemorative program to achieve the commemorative objectives specified in subsection (c). The Secretary of Defense may establish a committee to assist the Secretary in determining the schedule and conducting the commemorative program.

“(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

“(1) To thank and honor veterans of the Korean War, including members of the Armed Forces who were held as prisoners of war or listed as missing in

action, for their service and sacrifice on behalf of the United States.

“(2) To thank and honor the families of veterans of the Korean War for their sacrifices and contributions, especially families who lost a loved one in the Korean War.

“(3) To highlight the service of the Armed Forces during the Korean War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

“(4) To pay tribute to the sacrifices and contributions made on the home front by the people of the United States during the Korean War.

“(5) To provide the people of the United States with a clear understanding and appreciation of the lessons and history of the Korean War.

“(6) To highlight the advances in technology, science, and medicine related to military research conducted during the Korean War.

“(7) To recognize the contributions and sacrifices made by the allies of the United States during the Korean War.

“(d) USE OF THE UNITED STATES OF AMERICA KOREAN WAR COMMEMORATION AND SYMBOLS.—Subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1918)[10 U.S.C. 113 note], as amended by section 1067 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2134) and section 1052 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 764), shall apply to the commemorative program.

“(e) COMMEMORATIVE FUND.—

“(1) ESTABLISHMENT OF NEW ACCOUNT.—If the Secretary of Defense establishes the commemorative program, the Secretary [of] the Treasury shall establish in the Treasury of the United States an account to be known as the ‘Department of Defense Korean War Commemoration Fund’ (in this section referred to as the ‘Fund’).

“(2) ADMINISTRATION AND USE OF FUND.—The Fund shall be available to, and administered by, the Secretary of Defense. The Secretary of Defense shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary of Defense considers to be necessary.

“(3) DEPOSITS.—There shall be deposited into the Fund the following:

“(A) Amounts appropriated to the Fund.

“(B) Proceeds derived from the use by the Secretary of Defense of the exclusive rights described in subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1918).

“(C) Donations made in support of the commemorative program by private and corporate donors.

“(4) AVAILABILITY.—Subject to paragraph (5), amounts in the Fund shall remain available until expended.

“(5) TREATMENT OF UNOBLIGATED FUNDS; TRANSFER.—If unobligated amounts remain in the Fund as of September 30, 2013, the Secretary of the Treasury shall transfer the remaining amounts to the Department of Defense Vietnam War Commemorative Fund established pursuant to section 598(e) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 113 note). The transferred amounts shall be merged with, and available for the same purposes as, other amounts in the Department of Defense Vietnam War Commemorative Fund.

“(f) ACCEPTANCE OF VOLUNTARY SERVICES.—

“(1) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solici-

tation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

“(2) COMPENSATION FOR WORK-RELATED INJURY.—A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries. The person shall also be considered a special governmental employee for purposes of standards of conduct and sections 202, 203, 205, 207, 208, and 209 of title 18, United States Code. A person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of voluntary services under this subsection.

“(3) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary of Defense may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

“(g) REPORT REQUIRED.—If the Secretary of Defense conducts the commemorative program, the Inspector General of the Department of Defense shall submit to Congress, not later than 60 days after the end of the commemorative program, a report containing an accounting of—

“(1) all of the funds deposited into and expended from the Fund;

“(2) any other funds expended under this section; and

“(3) any unobligated funds remaining in the Fund as of September 30, 2013, that are transferred to the Department of Defense Vietnam War Commemorative Fund pursuant to subsection (e)(5).

“(h) LIMITATION ON EXPENDITURES.—Using amounts appropriated to the Department of Defense, the Secretary of Defense may not expend more than \$5,000,000 to carry out the commemorative program.”

#### REPORT ON ORGANIZATIONAL STRUCTURE AND POLICY GUIDANCE OF THE DEPARTMENT OF DEFENSE REGARDING INFORMATION OPERATIONS

Pub. L. 111-383, div. A, title IX, §943, Jan. 7, 2011, 124 Stat. 4341, provided that:

“(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the organizational structure and policy guidance of the Department of Defense with respect to information operations.

“(b) REVIEW.—In preparing the report required by subsection (a), the Secretary shall review the following:

“(1) The extent to which the current definition of ‘information operations’ in Department of Defense Directive 3600.1 is appropriate.

“(2) The location of the office within the Department of the lead official responsible for information operations of the Department, including assessments of the most effective location and the need to designate a principal staff assistant to the Secretary of Defense for information operations.

“(3) Departmental responsibility for the development, coordination, and oversight of Department policy on information operations and for the integration of such operations.

“(4) Departmental responsibility for the planning, execution, and oversight of Department information operations.

“(5) Departmental responsibility for coordination within the Department, and between the Department and other departments and agencies of the Federal Government, regarding Department information operations, and for the resolution of conflicts in the discharge of such operations, including an assessment of

current coordination bodies and decisionmaking processes.

“(6) The roles and responsibilities of the military departments, combat support agencies, the United States Special Operations Command, and the other combatant commands in the development and implementation of information operations.

“(7) The roles and responsibilities of the defense intelligence agencies for support of information operations.

“(8) The role in information operations of the following Department officials:

“(A) The Assistant Secretary of Defense for Public Affairs.

“(B) The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

“(C) The senior official responsible for information processing and networking capabilities.

“(9) The role of related capabilities in the discharge of information operations, including public affairs capabilities, civil-military operations capabilities, defense support of public diplomacy, and intelligence.

“(10) The management structure of computer network operations in the Department for the discharge of information operations, and the policy in support of that component.

“(11) The appropriate use, management, and oversight of contractors in the development and implementation of information operations, including an assessment of current guidance and policy directives pertaining to the uses of contractors for these purposes.

“(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, with a classified annex, if necessary.

“(d) DEPARTMENT OF DEFENSE DIRECTIVE.—Upon the submittal of the report required by subsection (a), the Secretary shall prescribe a revised directive for the Department of Defense on information operations. The directive shall take into account the results of the review conducted for purposes of the report.

“(e) INFORMATION OPERATIONS DEFINED.—In this section, the term ‘information operations’ means the information operations specified in Department of Defense Directive 3600.1, as follows:

“(1) Electronic warfare.

“(2) Computer network operations.

“(3) Psychological operations.

“(4) Military deception.

“(5) Operations security.”

#### BIENNIAL REPORT ON NUCLEAR TRIAD

Pub. L. 111-383, div. A, title X, §1054, Jan. 7, 2011, 124 Stat. 4358, which provided that, not later than March 1 of each even-numbered year, beginning March 1, 2012, the Secretary of Defense was to submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives a report on the nuclear triad, was repealed by Pub. L. 115-91, div. A, title X, §1051(p)(4), Dec. 12, 2017, 131 Stat. 1565.

#### TREATMENT OF SUCCESSOR CONTINGENCY OPERATION TO OPERATION IRAQI FREEDOM

Pub. L. 111-383, div. A, title X, §1077, Jan. 7, 2011, 124 Stat. 4379, provided that: “Any law applicable to Operation Iraqi Freedom shall apply in the same manner and to the same extent to the successor contingency operation known as Operation New Dawn, except as specifically provided in this Act [see Tables for classification], any amendment made by this Act, or any other law enacted after the date of the enactment of this Act [Jan. 7, 2011].”

#### POLICY AND REQUIREMENTS TO ENSURE THE SAFETY OF FACILITIES, INFRASTRUCTURE, AND EQUIPMENT FOR MILITARY OPERATIONS

Pub. L. 111-84, div. A, title VIII, §807, Oct. 28, 2009, 123 Stat. 2404, provided that:

“(a) POLICY.—It shall be the policy of the Department of Defense that facilities, infrastructure, and equip-

ment that are intended for use by military or civilian personnel of the Department in current or future military operations should be inspected for safety and habitability prior to such use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable and consistent with the requirements of military operations and the best interests of the Department of Defense, to minimize the safety and health risk posed to such personnel.

“(b) REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall—

“(1) ensure that each contract or task or delivery order entered into for the construction, installation, repair, maintenance, or operation of facilities for use by military or civilian personnel of the Department complies with the policy established in subsection (a);

“(2) ensure that contracts entered into prior to the date that is 60 days after the date of the enactment of this Act comply with such policy to the maximum extent practicable;

“(3) define the term ‘generally accepted standards’ with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and

“(4) provide such exceptions and limitations as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense.”

#### DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM DEVELOPMENT AND TRANSITION

Pub. L. 111–84, div. A, title IX, §932, Oct. 28, 2009, 123 Stat. 2433, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

“(a) IN GENERAL.—The Secretary of Defense shall establish a Defense Integrated Military Human Resources System development and transition Council to provide advice to the Secretary of Defense and the Secretaries of the military departments on the modernization of the integrated pay and personnel system for each military department and the collection of data generated by each such system into the enterprise information warehouse.

“(b) COUNCIL.—The Council shall include the following members:

“(1) The Deputy Chief Management Officer of the Department of Defense.

“(2) The Director of the Business Transformation Agency.

“(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics, or a designated representative.

“(4) The Under Secretary of Defense for Personnel and Readiness, or a designated representative.

“(5) One representative from each of the Army, Navy, Air Force, and Marine Corps who is a lieutenant general or vice admiral, or a civilian equivalent.

“(6) One representative of the National Guard Bureau who is a lieutenant general or vice admiral, or a civilian equivalent.

“(7) The Assistant Secretary of Defense for Networks and Information Integration, or a designated representative.

“(8) The Director of Operational Test and Evaluation, or a designated representative.

“(9) Such other individuals as may be designated by the Deputy Secretary of Defense, acting in the Deputy Secretary’s capacity as the Chief Management Officer.

“(c) MEETINGS.—The Council shall meet not less than twice a year, or more often as specified by the Deputy Secretary of Defense.

“(d) DUTIES.—The Council shall have the following responsibilities:

“(1) Resolution of significant policy, programmatic, or budgetary issues impeding modernization or deployment of integrated personnel and pay systems for each military department, including issues relating to—

“(A) common interfaces, architectures, and systems engineering;

“(B) ensuring that developmental systems are consistent with current and future enterprise accounting and pay and personnel standards and practices; and

“(C) ensuring that developmental systems are consistent with current and future Department of Defense business enterprise architecture.

“(2) Coordination of implementation of the integrated personnel and pay system within defense organizations to ensure interoperability between all appropriate elements of the system.

“(3) Establishment of metrics to assess the following:

“(A) Business process re-engineering needed for successful deployment of the integrated pay and personnel system.

“(B) Interoperability between legacy, operational, and developmental pay and personnel systems.

“(C) Interface and systems architecture control and standardization.

“(D) Retirement of legacy systems.

“(E) Use of the enterprise information warehouse.

“(F) Any other relevant matters.

“(4) Such other responsibilities as the Secretary determines are appropriate.

“(e) TERMINATION.—This section shall not be in effect after September 30, 2013.

“(f) REPORT.—Not later than March 1, 2010, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on actions taken pursuant to this section.”

[Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, which had deemed references to the Deputy Chief Management Officer of the Department of Defense to be references to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.]

#### ANNUAL REPORT ON MILITARY POWER OF IRAN

Pub. L. 111–84, div. A, title XII, §1245, Oct. 28, 2009, 123 Stat. 2542, as amended by Pub. L. 113–66, div. A, title XII, §1232(a), Dec. 26, 2013, 127 Stat. 920; Pub. L. 113–291, div. A, title XII, §1277, Dec. 19, 2014, 128 Stat. 3592; Pub. L. 114–92, div. A, title XII, §1231(a)–(d), Nov. 25, 2015, 129 Stat. 1057, 1058; Pub. L. 114–328, div. A, title XII, §1225(a), Dec. 23, 2016, 130 Stat. 2487; Pub. L. 115–91, div. A, title XII, §1225(a), Dec. 12, 2017, 131 Stat. 1655, provided that:

“(a) ANNUAL REPORT.—Not later than January 30 of each year, the Secretary of Defense shall submit to Congress a report, in both classified and unclassified form, on the current and future military strategy of Iran.

“(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include a description of the security posture of Iran, including at least the following:

“(1) A description and assessment of Iranian grand strategy, security strategy, and military strategy, including—

“(A) the goals of Iran’s grand strategy, security strategy, and military strategy.

“(B) trends in Iran’s strategy that would be designed to establish Iran as the leading power in the Middle East and to enhance the influence of Iran in other regions of the world;

“(C) Iranian strategy regarding other countries in the region, including other specified countries; and

“(D) Iranian strategy regarding offensive cyber capabilities and defensive cyber capabilities.

“(2) An assessment of the capabilities of Iran’s conventional forces, including—

“(A) the size and capabilities of Iran’s conventional forces;

“(B) an analysis of the effectiveness of Iran’s conventional forces when facing United States forces in the region and other specified countries;

“(C) a description of Iranian military doctrine; and

“(D) an estimate of the funding provided for each branch of Iran’s conventional forces.

“(3) An assessment of Iran’s unconventional forces and related activities, including—

“(A) the size and capability of Iranian special operations units, including the Iranian Revolutionary Guard Corps—Quds Force;

“(B) the types and amount of support, including funding, lethal and non-lethal supplies, and training, provided to groups designated by the United States as foreign terrorist organizations and regional militant groups, including Hezbollah, Hamas, and the Special Groups in Iraq, in particular those forces as having been assessed as to be willing to carry out terrorist operations on behalf of Iran or in response to a military attack by another country on Iran;

“(C) an analysis of the effectiveness of Iran’s unconventional forces when facing United States forces in the region and other specified countries in the region;

“(D) an estimate of the amount of funds spent by Iran to develop and support special operations forces and terrorist groups;

“(E) a description of the structure of Iran’s global network of terrorist and criminal groups and an analysis of the capability of such network of groups and how such network of groups operates to support and reinforce Iran’s grand strategy;

“(F) Iran’s cyber capabilities, including—

“(i) Iran’s ability to use proxies and other actors to mask its cyber operations;

“(ii) Iran’s ability to target United States governmental and nongovernmental entities and activities; and

“(iii) cooperation with or assistance from state and non-state actors in support or enhancement of Iran’s cyber capabilities;

“(G) Iranian ability to manipulate the information environment both domestically and against the interests of the United States and its allies.

“(4) An assessment of Iranian capabilities related to nuclear and missile forces, including—

“(A) a summary of nuclear weapons capabilities and developments in the preceding year;

“(B) a summary of the capabilities of Iran’s ballistic missile forces, including developments in the preceding year, the size of Iran’s ballistic missile forces and Iran’s cruise missile forces, and the locations of missile launch sites;

“(C) a detailed analysis of the effectiveness of Iran’s ballistic missile forces and Iran’s cruise missile forces when facing United States forces in the region and other specified countries; and

“(D) an estimate of the amount of funding expended by Iran since 2004 on programs to develop a capability to build nuclear weapons or to enhance Iran’s ballistic missile forces.

“(5) An assessment of transfers to and from Iran of military equipment, technology, and training from or to non-Iranian sources or destinations, including transfers that pertain to nuclear development, ballistic missiles, and chemical, biological, and advanced conventional weapons, weapon systems, and delivery vehicles.

“(6) An assessment of the use of civilian transportation assets and infrastructure, including commercial aircraft, airports, commercial vessels, and seaports, used to transport illicit military cargo to or from Iran, including military personnel, military goods, weapons, military-related electric parts, and related components.

“(7) An assessment of military-to-military cooperation between Iran and foreign countries [sic], including Cuba, North Korea, Pakistan, Sudan, Syria, Venezuela, and any other country designated by the Secretary of Defense with additional reference to cooperation and collaboration on the development of nuclear, biological, chemical, and advanced conventional weapons, weapon systems, and delivery vehicles.

“(8) An assessment of the extent to which the commercial aviation sector of Iran knowingly provides financial, material, or technological support to the Islamic Revolutionary Guard Corps, the Ministry of Defense and Armed Forces Logistics of Iran, the Bashar al-Assad regime, Hezbollah, Hamas, Kata’ib Hezbollah, or any other foreign terrorist organization.

“(c) DEFINITIONS.—In this section:

“(1) IRAN’S CONVENTIONAL FORCES.—The term ‘Iran’s conventional forces’—

“(A) means military forces of the Islamic Republic of Iran designed to conduct operations on sea, air, or land, other than Iran’s unconventional forces and Iran’s ballistic missile forces and Iran’s cruise missile forces; and

“(B) includes Iran’s Army, Iran’s Air Force, Iran’s Navy, and elements of the Iranian Revolutionary Guard Corps, other than the Iranian Revolutionary Guard Corps—Quds Force.

“(2) IRAN’S UNCONVENTIONAL FORCES.—The term ‘Iran’s unconventional forces’—

“(A) means forces of the Islamic Republic of Iran that carry out missions typically associated with special operations forces; and

“(B) includes—

“(i) the Iranian Revolutionary Guard Corps—Quds Force; and

“(ii) any organization that—

“(I) has been designated a terrorist organization by the United States;

“(II) receives assistance from Iran; and

“(III)(aa) is assessed as being willing in some or all cases of carrying out attacks on behalf of Iran; or

“(bb) is assessed as likely to carry out attacks in response to a military attack by another country on Iran.

“(3) IRAN’S BALLISTIC MISSILE FORCES.—The term ‘Iran’s ballistic missile forces’ means those elements of the military forces of Iran that employ ballistic missiles.

“(4) IRAN’S CRUISE MISSILE FORCES.—The term ‘Iran’s cruise missile forces’ means those elements of the military forces of Iran that employ cruise missiles capable of flights less than 500 kilometers.

“(5) SPECIFIED COUNTRIES.—The term ‘specified countries’ means the countries in the same geographic region as Iran, including Israel, Lebanon, Syria, Jordan, Iraq, Afghanistan, Saudi Arabia, Turkey, Bahrain, Kuwait, the United Arab Emirates, Armenia, and Azerbaijan.

“(d) TERMINATION.—The requirement to submit the report required under subsection (a) shall terminate on December 31, 2025.”

[Pub. L. 115–91, div. A, title XII, §1225(b), Dec. 12, 2017, 131 Stat. 1655, provided that: “The amendments made by this section [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on the date of the enactment of this Act [Dec. 12, 2017], and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84] after that date.”]

[Pub. L. 114–328, div. A, title XII, §1225(b), Dec. 23, 2016, 130 Stat. 2487, provided that: “The amendment made by subsection (a) [amending section 1245 of Pub. L. 111–84, set out above] shall take effect on January 1, 2018, and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111–84] on or after that date.”]

[Pub. L. 114-92, div. A, title XII, § 1231(e), Nov. 25, 2015, 129 Stat. 1058, provided that: “The amendments made by this section [amending section 1245 of Pub. L. 111-84, set out above] shall take effect on the date of the enactment of this Act [Nov. 25, 2015], and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111-84], as so amended, after that date.”]

[Pub. L. 113-66, div. A, title XII, § 1232(b), Dec. 26, 2013, 127 Stat. 920, provided that: “The amendments made by this section [amending section 1245 of Pub. L. 111-84, set out above] shall take effect on the date of the enactment of this Act [Dec. 26, 2013] and shall apply with respect to reports required to be submitted under section 1245 of the National Defense Authorization Act for Fiscal Year 2010 [Pub. L. 111-84], as so amended, on or after that date.”]

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1245 of Pub. L. 111-84, set out above, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.]

#### REQUIREMENT FOR COMMON GROUND STATIONS AND PAYLOADS FOR MANNED AND UNMANNED AERIAL VEHICLE SYSTEMS

Pub. L. 110-417, [div. A], title I, § 144, Oct. 14, 2008, 122 Stat. 4382, provided that:

“(a) POLICY AND ACQUISITION STRATEGY REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall establish a policy and an acquisition strategy for intelligence, surveillance, and reconnaissance payloads and ground stations for manned and unmanned aerial vehicle systems. The policy and acquisition strategy shall be applicable throughout the Department of Defense and shall achieve integrated research, development, test, and evaluation, and procurement commonality.

“(b) OBJECTIVES.—The policy and acquisition strategy required by subsection (a) shall have the following objectives:

“(1) Procurement of common payloads by vehicle class, including—

“(A) signals intelligence;

“(B) electro optical;

“(C) synthetic aperture radar;

“(D) ground moving target indicator;

“(E) conventional explosive detection;

“(F) foliage penetrating radar;

“(G) laser designator;

“(H) chemical, biological, radiological, nuclear, [or] explosive detection; and

“(I) national airspace operations avionics or sensors, or both.

“(2) Commonality of ground system architecture by vehicle class.

“(3) Common management of vehicle and payloads procurement.

“(4) Ground station interoperability standardization.

“(5) Maximum use of commercial standard hardware and interfaces.

“(6) Open architecture software.

“(7) Acquisition of technical data rights in accordance with section 2320 of title 10, United States Code.

“(8) Acquisition of vehicles, payloads, and ground stations through competitive procurement.

“(9) Common standards for exchange of data and metadata.

“(c) AFFECTED SYSTEMS.—For the purposes of this section, the Secretary shall establish manned and unmanned aerial vehicle classes for all intelligence, surveillance, and reconnaissance programs of record based on factors such as vehicle weight, payload capacity, and mission.

“(d) REPORT.—Not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representa-

tives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report containing—

“(1) the policy required by subsection (a); and

“(2) the acquisition strategy required by subsection (a).”

#### REPORT ON COMMAND AND CONTROL STRUCTURE FOR MILITARY FORCES OPERATING IN AFGHANISTAN

Pub. L. 110-417, [div. A], title XII, § 1216, Oct. 14, 2008, 122 Stat. 4633, as amended by Pub. L. 111-84, div. A, title XII, § 1229, Oct. 28, 2009, 123 Stat. 2528, provided that:

“(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Oct. 14, 2008], or December 1, 2008, whichever occurs later, the Secretary of Defense shall submit to the appropriate congressional committees a report on the command and control structure for military forces operating in Afghanistan.

“(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

“(1) A detailed description of efforts by the Secretary of Defense, in coordination with senior leaders of NATO ISAF forces, including the commander of NATO ISAF forces, to modify the chain of command structure for military forces operating in Afghanistan to better coordinate and de-conflict military operations and achieve unity of command whenever possible in Afghanistan, and the results of such efforts, including—

“(A) any United States or NATO ISAF plan for improving the command and control structure for military forces operating in Afghanistan; and

“(B) any efforts to establish a headquarters in Afghanistan that is led by a commander—

“(i) with command authority over NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom and charged with closely coordinating the efforts of such forces; and

“(ii) responsible for coordinating other United States and international security efforts in Afghanistan.

“(2) A description of how rules of engagement are determined and managed for United States forces operating under NATO ISAF or Operation Enduring Freedom, and a description of any key differences between rules of engagement for NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom.

“(3) An assessment of how any modifications to the command and control structure for military forces operating in Afghanistan would impact coordination of military and civilian efforts in Afghanistan.

“(c) UPDATE OF REPORT.—The Secretary of Defense shall submit to the appropriate congressional committees an update of the report required under subsection (a) as warranted by any modifications to the command and control structure for military forces operating in Afghanistan as described in the report.

“(d) FORM.—The report required under subsection (a) and any update of the report required under subsection (c) shall be submitted in an unclassified form, but may include a classified annex, if necessary. Any update of the report required under subsection (c) may be included in the report required under section 1230 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 385).

“(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

“(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.”

#### PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE VIETNAM WAR

Pub. L. 110-181, div. A, title V, § 598, Jan. 28, 2008, 122 Stat. 141, provided that:

“(a) **COMMEMORATIVE PROGRAM AUTHORIZED.**—The Secretary of Defense may conduct a program to commemorate the 50th anniversary of the Vietnam War. In conducting the commemorative program, the Secretary shall coordinate, support, and facilitate other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Vietnam War.

“(b) **SCHEDULE.**—The Secretary of Defense shall determine the schedule of major events and priority of efforts for the commemorative program in order to ensure achievement of the objectives specified in subsection (c).

“(c) **COMMEMORATIVE ACTIVITIES AND OBJECTIVES.**—The commemorative program may include activities and ceremonies to achieve the following objectives:

“(1) To thank and honor veterans of the Vietnam War, including personnel who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States and to thank and honor the families of these veterans.

“(2) To highlight the service of the Armed Forces during the Vietnam War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

“(3) To pay tribute to the contributions made on the home front by the people of the United States during the Vietnam War.

“(4) To highlight the advances in technology, science, and medicine related to military research conducted during the Vietnam War.

“(5) To recognize the contributions and sacrifices made by the allies of the United States during the Vietnam War.

“(d) **NAMES AND SYMBOLS.**—The Secretary of Defense shall have the sole and exclusive right to use the name ‘The United States of America Vietnam War Commemoration’, and such seal, emblems, and badges incorporating such name as the Secretary may lawfully adopt. Nothing in this section may be construed to supersede rights that are established or vested before the date of the enactment of this Act [Jan. 28, 2008].

“(e) **COMMEMORATIVE FUND.**—

“(1) **ESTABLISHMENT AND ADMINISTRATION.**—If the Secretary establishes the commemorative program under subsection (a), the Secretary the Treasury shall establish in the Treasury of the United States an account to be known as the ‘Department of Defense Vietnam War Commemoration Fund’ (in this section referred to as the ‘Fund’). The Fund shall be administered by the Secretary of Defense.

“(2) **USE OF FUND.**—The Secretary shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary considers to be necessary.

“(3) **DEPOSITS.**—There shall be deposited into the Fund—

“(A) amounts appropriated to the Fund;

“(B) proceeds derived from the Secretary’s use of the exclusive rights described in subsection (d);

“(C) donations made in support of the commemorative program by private and corporate donors; and

“(D) funds transferred to the Fund by the Secretary from funds appropriated for fiscal year 2008 and subsequent years for the Department of Defense.

“(4) **AVAILABILITY.**—Subject to subsection (g)(2), amounts deposited under paragraph (3) shall constitute the assets of the Fund and remain available until expended.

“(5) **BUDGET REQUEST.**—The Secretary of Defense may establish a separate budget line for the commemorative program. In the budget justification materials submitted by the Secretary in support of the budget of the President for any fiscal year for which the Secretary establishes the separate budget line, the Secretary shall—

“(A) identify and explain any amounts expended for the commemorative program in the fiscal year preceding the budget request;

“(B) identify and explain the amounts being requested to support the commemorative program for the fiscal year of the budget request; and

“(C) present a summary of the fiscal status of the Fund.

“(f) **ACCEPTANCE OF VOLUNTARY SERVICES.**—

“(1) **AUTHORITY TO ACCEPT SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

“(2) **REIMBURSEMENT OF INCIDENTAL EXPENSES.**—The Secretary may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary shall determine which expenses are eligible for reimbursement under this paragraph.

“(g) **FINAL REPORT.**—

“(1) **REPORT REQUIRED.**—Not later than 60 days after the end of the commemorative program, if established by the Secretary of Defense under subsection (a), the Secretary shall submit to Congress a report containing an accounting of—

“(A) all of the funds deposited into and expended from the Fund;

“(B) any other funds expended under this section; and

“(C) any unobligated funds remaining in the Fund.

“(2) **TREATMENT OF UNOBLIGATED FUNDS.**—Unobligated amounts remaining in the Fund as of the end of the commemorative period specified in subsection (b) shall be held in the Fund until transferred by law.

“(h) **LIMITATION ON EXPENDITURES.**—Total expenditures from the Fund, using amounts appropriated to the Department of Defense, may not exceed \$5,000,000 for fiscal year 2008 or for any subsequent fiscal year to carry out the commemorative program.

“(i) **FUNDING.**—Of the amount authorized to be appropriated pursuant to section 301(5) [122 Stat. 53] for Defense-wide activities, \$1,000,000 shall be available for deposit in the Fund for fiscal year 2008 if the Fund is established under subsection (e).”

Proc. No. 8829, May 25, 2012, 77 F.R. 32875, provided:

As we observe the 50th anniversary of the Vietnam War, we reflect with solemn reverence upon the valor of a generation that served with honor. We pay tribute to the more than 3 million servicemen and women who left their families to serve bravely, a world away from everything they knew and everyone they loved. From Ia Drang to Khe Sanh, from Hue to Saigon and countless villages in between, they pushed through jungles and rice paddies, heat and monsoon, fighting heroically to protect the ideals we hold dear as Americans. Through more than a decade of combat, over air, land, and sea, these proud Americans upheld the highest traditions of our Armed Forces.

As a grateful Nation, we honor more than 58,000 patriots—their names etched in black granite—who sacrificed all they had and all they would ever know. We draw inspiration from the heroes who suffered unspeakably as prisoners of war, yet who returned home with their heads held high. We pledge to keep faith with those who were wounded and still carry the scars of war, seen and unseen. With more than 1,600 of our service members still among the missing, we pledge as a Nation to do everything in our power to bring these patriots home. In the reflection of The Wall, we see the military family members and veterans who carry a pain that may never fade. May they find peace in knowing their loved ones endure, not only in medals and

memories, but in the hearts of all Americans, who are forever grateful for their service, valor, and sacrifice.

In recognition of a chapter in our Nation's history that must never be forgotten, let us renew our sacred commitment to those who answered our country's call in Vietnam and those who awaited their safe return. Beginning on Memorial Day 2012, the Federal Government will partner with local governments, private organizations, and communities across America to participate in the Commemoration of the 50th Anniversary of the Vietnam War—a 13-year program to honor and give thanks to a generation of proud Americans who saw our country through one of the most challenging missions we have ever faced. While no words will ever be fully worthy of their service, nor any honor truly befitting their sacrifice, let us remember that it is never too late to pay tribute to the men and women who answered the call of duty with courage and valor. Let us renew our commitment to the fullest possible accounting for those who have not returned. Throughout this Commemoration, let us strive to live up to their example by showing our Vietnam veterans, their families, and all who have served the fullest respect and support of a grateful Nation.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 28, 2012, through November 11, 2025, as the Commemoration of the 50th Anniversary of the Vietnam War. I call upon Federal, State, and local officials to honor our Vietnam veterans, our fallen, our wounded, those unaccounted for, our former prisoners of war, their families, and all who served with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of May, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirtieth.

BARACK OBAMA.

#### ACCESS TO MILITARY INSTALLATIONS

Pub. L. 114-328, div. A, title III, § 346, Dec. 23, 2016, 130 Stat. 2085, as amended by Pub. L. 115-91, div. B, title XXVIII, § 2819, Dec. 12, 2017, 131 Stat. 1853, provided that:

“(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall establish policies under which covered drivers may be authorized to access military installations.

“(b) ELEMENTS.—The policies established under subsection (a)—

“(1) shall include the terms and conditions under which a covered driver may be authorized to access a military installation;

“(2) may require a transportation company or transportation network company and a covered driver to enter into a written agreement with the Department of Defense as a precondition for obtaining authorization to access a military installation;

“(3) shall be consistent across military installations, to the extent practicable;

“(4) shall be designed to promote the expeditious entry of covered drivers onto military installations for purposes of providing commercial transportation services;

“(5) shall place appropriate restrictions on entry into sensitive areas of military installations;

“(6) shall be designed, to the extent practicable, to give covered drivers access to barracks areas, housing areas, temporary lodging facilities, hospitals, and community support facilities;

“(7) shall require transportation companies and transportation network companies—

“(A) to track, in real-time, the location of the entry and exit of covered drivers onto and off of military installations; and

“(B) to provide, on demand, the information described in subparagraph (A) to appropriate personnel and agencies of the Department; and

“(8) shall take into account force protection requirements and ensure the protection and safety of members of the Armed Forces, civilian employees of the Department of Defense, and the families of such members and employees.

“(c) CONFIDENTIALITY OF INFORMATION.—The Secretary shall ensure that any information provided to the Department by a transportation company or transportation network company under subsection (b)(7)—

“(1) is treated as confidential and proprietary information of the company that is exempt from public disclosure pursuant to section 552 of title 5, United States Code (commonly known as the ‘Freedom of Information Act’); and

“(2) except as provided in subsection (b)(7), is not disclosed to any person or entity without the express written consent of the company unless disclosure of such information is required by a court order.

“(d) DEFINITIONS.—In this section:

“(1) TRANSPORTATION COMPANY.—The term ‘transportation company’ means a corporation, partnership, sole proprietorship, or other entity outside of the Department of Defense that provides a commercial transportation service to a rider.

“(2) TRANSPORTATION NETWORK COMPANY.—The term ‘transportation network company’—

“(A) means a corporation, partnership, sole proprietorship, or other entity, that uses a digital network to connect riders to covered drivers in order for the driver to transport the rider using a vehicle owned, leased, or otherwise authorized for use by the driver to a point chosen by the rider; and

“(B) does not include a shared-expense carpool or vanpool arrangement that is not intended to generate profit for the driver.

“(3) COVERED DRIVER.—The term ‘covered driver’—

“(A) means an individual—

“(i) who is an employee of a transportation company or transportation network company or who is affiliated with a transportation company or transportation network company; and

“(ii) who provides a commercial transportation service to a rider; and

“(B) includes a vehicle operated by such individual for the purpose of providing such service.”

[Pub. L. 115-91, div. B, title XXVIII, § 2819(4)(C), Dec. 12, 2017, 131 Stat. 1853, which directed the insertion of “or transportation network company” after “transportation company” in section 346(d)(3)(A)(i) of Pub. L. 114-328, set out above, was not executed in light of the amendment made by section 2819(2) of Pub. L. 115-91, which directed the same insertion wherever appearing in subsec. (d).]

Pub. L. 112-239, div. B, title XXVIII, § 2812, Jan. 2, 2013, 126 Stat. 2150, provided that:

“(a) PROCEDURAL REQUIREMENTS FOR IDENTIFICATION VERIFICATION.—Not later than 180 days after the date of the enactment of this Act [Jan. 2, 2013], the Secretary of Defense shall publish procedural requirements regarding access to military installations in the United States by individuals, including individuals performing work under a contract awarded by the Department of Defense. The procedural requirements may vary between military installations, or parts of installations, depending on the nature of the installation, the nature of the access granted, and the level of security required.

“(b) ISSUES ADDRESSED.—The procedures required by subsection (a) shall address, at a minimum, the following:

“(1) The forms of identification to be required to permit entry.

“(2) The measures to be used to verify the authenticity of such identification and identify individuals who seek unauthorized access to a military installation through the use of fraudulent identification or other means.

“(3) The measures to be used to notify Department of Defense security personnel of any attempt to gain unauthorized access to a military installation.”

Pub. L. 110–181, div. A, title X, § 1069, Jan. 28, 2008, 122 Stat. 326, as amended by Pub. L. 110–417, [div. A], title X, § 1059, Oct. 14, 2008, 122 Stat. 4611; Pub. L. 111–84, div. A, title X, § 1073(c)(11), Oct. 28, 2009, 123 Stat. 2475, provided that:

“(a) DEVELOPMENT OF STANDARDS.—

“(1) ACCESS STANDARDS FOR VISITORS.—The Secretary of Defense shall develop access standards applicable to all military installations in the United States. The standards shall require screening standards appropriate to the type of installation involved, the security level, category of individuals authorized to visit the installation, and level of access to be granted, including—

“(A) protocols to determine the fitness of the individual to enter an installation; and

“(B) standards and methods for verifying the identity of the individual.

“(2) ADDITIONAL CRITERIA.—The standards required under paragraph (1) may—

“(A) provide for expedited access to a military installation for Department of Defense personnel and employees and family members of personnel who reside on the installation;

“(B) provide for closer scrutiny of categories of individuals determined by the Secretary of Defense to pose a higher potential security risk; and

“(C) in the case of an installation that the Secretary determines contains particularly sensitive facilities, provide additional screening requirements, as well as physical and other security measures for the installation.

“(b) USE OF TECHNOLOGY.—The Secretary of Defense is encouraged to procure and field existing identification screening technology and to develop additional technology only to the extent necessary to assist commanders of military installations in implementing the standards developed under this section at points of entry for such installations.

“(c) DEADLINES.—

“(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary of Defense shall develop the standards required under this section by not later than February 1, 2009, and implement such standards by not later than October 1, 2010.

“(2) SUBMISSION TO CONGRESS.—Not later than August 1, 2009, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the standards developed pursuant to paragraph (1).”

[Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(11) to section 1059 of Pub. L. 110–417, included in the credit set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.]

#### PROTECTION OF CERTAIN INDIVIDUALS

Pub. L. 110–181, div. A, title X, § 1074, Jan. 28, 2008, 122 Stat. 330, as amended by Pub. L. 113–66, div. A, title X, § 1084(b)(2)(A), Dec. 26, 2013, 127 Stat. 872; Pub. L. 113–291, div. A, title X, § 1046, Dec. 19, 2014, 128 Stat. 3494, which provided for protection of Department of Defense leadership and certain additional individuals within the military, Department of Defense, and certain foreign government representatives, was repealed by Pub. L. 114–328, div. A, title IX, § 952(c)(3), Dec. 23, 2016, 130 Stat. 2375. See section 714 of this title.

#### AUTHORITY TO PROVIDE AUTOMATIC IDENTIFICATION SYSTEM DATA ON MARITIME SHIPPING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Pub. L. 110–181, div. A, title XII, § 1208, Jan. 28, 2008, 122 Stat. 367, provided that:

“(a) AUTHORITY TO PROVIDE DATA.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Secretary of a military de-

partment or a commander of a combatant command to exchange or furnish automatic identification system data broadcast by merchant or private ships and collected by the United States to a foreign country or international organization pursuant to an agreement for the exchange or production of such data. Such data may be transferred pursuant to this section without cost to the recipient country or international organization.

“(b) DEFINITIONS.—In this section:

“(1) AUTOMATIC IDENTIFICATION SYSTEM.—The term ‘automatic identification system’ means a system that is used to satisfy the requirements of the Automatic Identification System under the International Convention for the Safety of Life at Sea, signed at London on November 1, 1974 (TIAS 9700) [see 33 U.S.C. 1602 and notes thereunder].

“(2) GEOGRAPHIC COMBATANT COMMANDER.—The term ‘commander of a combatant command’ means a commander of a combatant command (as such term is defined in section 161(c) of title 10, United States Code) with a geographic area of responsibility.”

#### REPORT ON SUPPORT FROM IRAN FOR ATTACKS AGAINST COALITION FORCES IN IRAQ

Pub. L. 110–181, div. A, title XII, § 1225, Jan. 28, 2008, 122 Stat. 375, which required the Secretary of Defense, in coordination with the Director of National Intelligence, to submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives reports describing and assessing any support provided to anti-coalition forces in Iraq by Iran or its agents, the strategy and ambitions in Iraq of Iran, and any strategy or efforts by the United States to counter the activities of agents of Iran in Iraq, was repealed by Pub. L. 111–383, div. A, title XII, § 1233(f)(2), Jan. 7, 2011, 124 Stat. 4397.

#### REQUIREMENT FOR SECRETARY OF DEFENSE TO PREPARE PLAN FOR RESPONSE TO NATURAL DISASTERS AND TERRORIST EVENTS

Pub. L. 110–181, div. A, title XVIII, § 1814, Jan. 28, 2008, 122 Stat. 498, provided that:

“(a) REQUIREMENT FOR PLAN.—

“(1) IN GENERAL.—Not later than June 1, 2008, the Secretary of Defense, in consultation with the Secretary of Homeland Security, the Chairman of the Joint Chiefs of Staff, the commander of the United States Northern Command, and the Chief of the National Guard Bureau, shall prepare and submit to Congress a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and other man-made disasters as identified in the national planning scenarios described in subsection (e).

“(2) UPDATE.—Not later than June 1, 2010, the Secretary, in consultation with the persons consulted under paragraph (1), shall submit to Congress an update of the plan required under paragraph (1).

“(b) INFORMATION TO BE PROVIDED TO SECRETARY.—To assist the Secretary of Defense in preparing the plan, the National Guard Bureau, pursuant to its purpose as channel of communications as set forth in section 10501(b) of title 10, United States Code, shall provide to the Secretary information gathered from Governors, adjutants general of States, and other State civil authorities responsible for homeland preparation and response to natural and man-made disasters.

“(c) TWO VERSIONS.—The plan shall set forth two versions of response, one using only members of the National Guard, and one using both members of the National Guard and members of the regular components of the Armed Forces.

“(d) MATTERS COVERED.—The plan shall cover, at a minimum, the following:

“(1) Protocols for the Department of Defense, the National Guard Bureau, and the Governors of the several States to carry out operations in coordination



with each other and to ensure that Governors and local communities are properly informed and remain in control in their respective States and communities.

“(2) An identification of operational procedures, command structures, and lines of communication to ensure a coordinated, efficient response to contingencies.

“(3) An identification of the training and equipment needed for both National Guard personnel and members of the Armed Forces on active duty to provide military assistance to civil authorities and for other domestic operations to respond to hazards identified in the national planning scenarios.

“(e) NATIONAL PLANNING SCENARIOS.—The plan shall provide for response to the following hazards:

“(1) Nuclear detonation, biological attack, biological disease outbreak/pandemic flu, the plague, chemical attack-blister agent, chemical attack-toxic industrial chemicals, chemical attack-nerve agent, chemical attack-chlorine tank explosion, major hurricane, major earthquake, radiological attack-radiological dispersal device, explosives attack-bombing using improvised explosive device, biological attack-food contamination, biological attack-foreign animal disease and cyber attack.

“(2) Any other hazards identified in a national planning scenario developed by the Homeland Security Council.”

#### DETERMINATION OF DEPARTMENT OF DEFENSE CIVIL SUPPORT REQUIREMENTS

Pub. L. 110-181, div. A, title XVIII, §1815(a)-(d), Jan. 28, 2008, 122 Stat. 499, provided that:

“(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine the military-unique capabilities needed to be provided by the Department of Defense to support civil authorities in an incident of national significance or a catastrophic incident.

“(b) PLAN FOR FUNDING CAPABILITIES.—

“(1) PLAN.—The Secretary of Defense shall develop and implement a plan, in coordination with the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff, for providing the funds and resources necessary to develop and maintain the following:

“(A) The military-unique capabilities determined under subsection (a).

“(B) Any additional capabilities determined by the Secretary to be necessary to support the use of the active components and the reserve components of the Armed Forces for homeland defense missions, domestic emergency responses, and providing military support to civil authorities.

“(2) TERM OF PLAN.—The plan required under paragraph (1) shall cover at least five years.

“(c) BUDGET.—The Secretary of Defense shall include in the materials accompanying the budget submitted for each fiscal year a request for funds necessary to carry out the plan required under subsection (b) during the fiscal year covered by the budget. The defense budget materials shall delineate and explain the budget treatment of the plan for each component of each military department, each combatant command, and each affected Defense Agency.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘military-unique capabilities’ means those capabilities that, in the view of the Secretary of Defense—

“(A) cannot be provided by other Federal, State, or local civilian agencies; and

“(B) are essential to provide support to civil authorities in an incident of national significance or a catastrophic incident.

“(2) The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.”

#### MILITARY SEVERELY INJURED CENTER

Pub. L. 109-364, div. A, title V, §564, Oct. 17, 2006, 120 Stat. 2222, provided that:

“(a) CENTER REQUIRED.—In support of the comprehensive policy on the provision of assistance to severely wounded or injured servicemembers required by section 563 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3269; 10 U.S.C. 113 note), the Secretary of Defense shall establish within the Department of Defense a center to augment and support the programs and activities of the military departments for the provision of such assistance, including the programs of the military departments referred to in subsection (c).

“(b) DESIGNATION.—The center established under subsection (a) shall be known as the ‘Military Severely Injured Center’ (in this section referred to as the ‘Center’).

“(c) PROGRAMS OF THE MILITARY DEPARTMENTS.—The programs of the military departments referred to in this subsection are the following:

“(1) The Army Wounded Warrior Support Program.

“(2) The Navy Safe Harbor Program.

“(3) The Palace HART Program of the Air Force.

“(4) The Marine for Life Injured Support Program of the Marine Corps.

“(d) ACTIVITIES OF CENTER.—

“(1) IN GENERAL.—The Center shall carry out such programs and activities to augment and support the programs and activities of the military departments for the provision of assistance to severely wounded or injured servicemembers and their families as the Secretary of Defense, in consultation with the Secretaries of the military departments and the heads of other appropriate departments and agencies of the Federal Government (including the Secretary of Labor and the Secretary of Veterans Affairs), determines appropriate.

“(2) DATABASE.—The activities of the Center under this subsection shall include the establishment and maintenance of a central database. The database shall be transparent and shall be accessible for use by all of the programs of the military departments referred to in subsection (c).

“(e) RESOURCES.—The Secretary of Defense shall allocate to the Center such personnel and other resources as the Secretary of Defense, in consultation with the Secretaries of the military departments, considers appropriate in order to permit the Center to carry out effectively the programs and activities assigned to the Center under subsection (d).”

#### QUARTERLY REPORTS ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES

Pub. L. 109-364, div. A, title XIV, §1402, Oct. 17, 2006, 120 Stat. 2433, which required the Secretary of Defense to submit quarterly reports on incidents involving the detonation or discovery of an improvised explosive device that involved United States or allied forces in Iraq and Afghanistan and on certain efforts of the Department of Defense to counter the threat of improvised explosive devices, was repealed by Pub. L. 112-81, div. A, title X, §1062(d)(5), Dec. 31, 2011, 125 Stat. 1585.

#### DATABASE OF EMERGENCY RESPONSE CAPABILITIES

Pub. L. 109-364, div. A, title XIV, §1406, Oct. 17, 2006, 120 Stat. 2436, provided that: “The Secretary of Defense shall maintain a database of emergency response capabilities that includes the following:

“(1) The types of emergency response capabilities that each State’s National Guard, as reported by the States, may be able to provide in response to a domestic natural or manmade disaster, both to their home States and under State-to-State mutual assistance agreements.

“(2) The types of emergency response capabilities that the Department of Defense may be able to provide in support of the National Response Plan’s

Emergency Support Functions, and identification of the units that provide these capabilities.”

REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES

Pub. L. 109-163, div. A, title III, §354, Jan. 6, 2006, 119 Stat. 3204, provided that:

“(a) REPORT CONTAINING ASSESSMENT AND RESPONSE PLAN.—Not later than April 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

“(1) an assessment of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

“(2) a plan for the implementation of measures to prevent such trespass.

“(b) PREPARATION AND ELEMENTS OF ASSESSMENT.—The assessment required by subsection (a)(1) shall be prepared by the Secretary of Defense. The assessment shall include the following:

“(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

“(2) A description of the types of range activities affected by such trespass.

“(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

“(4) An evaluation of the nature and extent of such trespass and means of travel.

“(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

“(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

“(c) PREPARATION AND ELEMENTS OF PLAN.—The plan required by subsection (a)(2) shall be prepared jointly by the Secretary of Defense and the Secretary of Homeland Security. The plan shall include the following:

“(1) The types of measures to be implemented to improve prevention of trespass of undocumented immigrants upon operational ranges, including the specific physical methods, such as barriers and increased patrols or monitoring, to be implemented and any legal or other policy changes recommended by the Secretaries.

“(2) The costs of, and timeline for, implementation of the plan.

“(d) IMPLEMENTATION REPORTS.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the period covered by the report, in implementing measures recommended in the plan required by subsection (a)(2) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

“(e) DEFINITIONS.—In this section, the terms ‘operational range’ and ‘range activities’ have the meaning given those terms in section 101(e) of title 10, United States Code.”

REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW

Pub. L. 109-163, div. A, title V, §554, Jan. 6, 2006, 119 Stat. 3264, provided that:

“(a) REQUIREMENT FOR REPORTS.—

“(1) IN GENERAL.—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report of any conviction of such member by any law enforce-

ment authority of the United States for a violation of a criminal law of the United States, whether or not the member is on active duty at the time of the conduct that provides the basis for the conviction. The regulations shall apply uniformly throughout the military departments.

“(2) COVERED MEMBERS.—In this section, the term ‘covered member of the Armed Forces’ means a member of the Army, Navy, Air Force, or Marine Corps who is on the active-duty list or the reserve active-status list and who is—

“(A) an officer; or

“(B) an enlisted member in a pay grade above pay grade E-6.

“(b) LAW ENFORCEMENT AUTHORITY OF THE UNITED STATES.—For purposes of this section, a law enforcement authority of the United States includes—

“(1) a military or other Federal law enforcement authority;

“(2) a State or local law enforcement authority; and

“(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

“(c) CRIMINAL LAW OF THE UNITED STATES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

“(A) any military or other Federal criminal law;

“(B) any State, county, municipal, or local criminal law or ordinance; and

“(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

“(2) EXCEPTION.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as determined by the Secretary for purposes of such regulations).

“(d) TIMELINESS OF REPORTS.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

“(e) FORWARDING OF INFORMATION.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to a conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

“(f) CONVICTIONS.—In this section, the term ‘conviction’ includes any plea of guilty or nolo contendere.

“(g) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a), including the requirement in subsection (e), shall go into effect not later than the end of the 180-day period beginning on the date of the enactment of this Act [Jan. 6, 2006].

“(h) APPLICABILITY OF REQUIREMENT.—The requirement under the regulations required by subsection (a) that a covered member of the Armed Forces submit notice of a conviction shall apply only to a conviction that becomes final after the date of the enactment of this Act [Jan. 6, 2006].”

POLICY AND PROCEDURES ON ASSISTANCE TO SEVERELY WOUNDED OR INJURED SERVICE MEMBERS

Pub. L. 109-163, div. A, title V, §563, Jan. 6, 2006, 119 Stat. 3269, provided that:

“(a) COMPREHENSIVE POLICY.—

“(1) POLICY REQUIRED.—Not later than June 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of assistance to members of the Armed Forces

who incur severe wounds or injuries in the line of duty (in this section referred to as 'severely wounded or injured servicemembers').

“(2) CONSULTATION.—The Secretary shall develop the policy required by paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Labor.

“(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy required by paragraph (1) shall be based on—

“(A) the experience and best practices of the military departments, including the Army Wounded Warrior Program, the Marine Corps Marine for Life Injured Support Program, the Air Force Palace HART program, and the Navy Wounded Marines and Sailors Initiative;

“(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of severely wounded or injured servicemembers; and

“(C) such other matters as the Secretary of Defense considers appropriate.

“(4) PROCEDURES AND STANDARDS.—The policy shall include guidelines to be followed by the military departments in the provision of assistance to severely wounded or injured servicemembers. The procedures and standards shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department. The procedures and standards shall establish a minimum level of support and shall specify the duration of programs.

“(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

“(1) Coordination with the Severely Injured Joint Support Operations Center of the Department of Defense.

“(2) Promotion of a seamless transition to civilian life for severely wounded or injured servicemembers who are or are likely to be separated on account of their wound or injury.

“(3) Identification and resolution of special problems or issues related to the transition to civilian life of severely wounded or injured servicemembers who are members of the reserve components.

“(4) The qualifications, assignment, training, duties, supervision, and accountability for the performance of responsibilities for the personnel providing assistance to severely wounded or injured servicemembers.

“(5) Centralized, short-term and long-term case-management procedures for assistance to severely wounded or injured servicemembers by each military department, including rapid access for severely wounded or injured servicemembers to case managers and counselors.

“(6) The provision, through a computer accessible Internet website and other means and at no cost to severely wounded or injured servicemembers, of personalized, integrated information on the benefits and financial assistance available to such members from the Federal Government.

“(7) The provision of information to severely wounded or injured servicemembers on mechanisms for registering complaints about, or requests for, additional assistance.

“(8) Participation of family members.

“(9) Liaison with the Department of Veterans Affairs and the Department of Labor in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for severely wounded or injured servicemembers.

“(10) Data collection regarding the incidence and quality of assistance provided to severely wounded or injured servicemembers, including surveys of such servicemembers and military and civilian personnel whose assigned duties include assistance to severely wounded or injured servicemembers.

“(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than September 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of assistance to severely wounded or injured servicemembers in order to conform such policies and procedures to the policy prescribed under subsection (a).”

#### PRESERVATION OF RECORDS PERTAINING TO RADIOACTIVE FALLOUT FROM NUCLEAR WEAPONS TESTING

Pub. L. 109-163, div. A, title X, §1055, Jan. 6, 2006, 119 Stat. 3438, provided that:

“(a) PROHIBITION OF DESTRUCTION OF CERTAIN RECORDS.—The Secretary of Defense may not destroy any official record in the custody or control of the Department of Defense that contains information relating to radioactive fallout from nuclear weapons testing.

“(b) PRESERVATION AND PUBLICATION OF INFORMATION.—The Secretary of Defense shall identify, preserve, and make available any unclassified information contained in official records referred to in subsection (a).”

#### SAFE DELIVERY OF MAIL IN MILITARY MAIL SYSTEM

Pub. L. 109-163, div. A, title X, §1071, Jan. 6, 2006, 119 Stat. 3446, provided that:

“(a) PLAN FOR SAFE DELIVERY OF MILITARY MAIL.—

“(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan to ensure that the mail within the military mail system is safe for delivery. The plan shall provide for the screening of all mail within the military mail system in order to detect the presence of biological, chemical, or radiological weapons, agents, or pathogens or explosive devices before mail within the military mail system is delivered to its intended recipients.

“(2) FUNDING.—The budget justification materials submitted to Congress with the budget of the President for fiscal year 2007 and each fiscal year thereafter shall include a description of the amounts required in such fiscal year to carry out the plan.

“(b) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

“(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary shall submit to Congress a report on the safety of mail within the military mail system for delivery.

“(2) ELEMENTS.—The report shall include the following:

“(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within the military mail system is safe for delivery.

“(B) The plan required by subsection (a).

“(C) An estimate of the time and resources required to implement the plan.

“(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to the military mail system to ensure that mail within the military mail system is safe for delivery.

“(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

“(c) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

“(1) IN GENERAL.—In this section, the term ‘mail within the military mail system’ means—

“(A) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

“(B) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces.

“(2) INCLUSIONS AND EXCEPTION.—The term includes any official mail posted by the Department of De-

fense. The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before such posting.”

#### WAR-RELATED REPORTING REQUIREMENTS

Pub. L. 109-163, div. A, title XII, §1221, Jan. 6, 2006, 119 Stat. 3462, as amended by Pub. L. 109-364, div. A, title XV, §1518, Oct. 17, 2006, 120 Stat. 2443; Pub. L. 111-84, div. A, title XII, §1233, Oct. 28, 2009, 123 Stat. 2531; Pub. L. 115-91, div. A, title XII, §1266, Dec. 12, 2017, 131 Stat. 1691, provided that:

“(a) REPORT REQUIRED FOR OPERATION IRAQI FREEDOM, OPERATION ENDURING FREEDOM, AND OPERATION NOBLE EAGLE.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], in accordance with this section, a report on procurement and equipment maintenance costs for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle and on facility infrastructure costs associated with each of Operation Iraqi Freedom and Operation Enduring Freedom. The report shall include the following:

“(1) PROCUREMENT.—A specification of costs of procurement funding requested since fiscal year 2003, together with end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

“(2) EQUIPMENT MAINTENANCE.—A cost comparison of the requirements for equipment maintenance expenditures during peacetime and for such requirements during wartime, as shown by the requirements in each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. The cost comparison shall include—

“(A) a description of the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the time of the report; and

“(B) an examination of the extent to which war operations have precluded maintenance from being performed because equipment was unavailable.

“(3) OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM INFRASTRUCTURE.—A specification of the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operation Iraq Freedom and Operation Enduring Freedom are supported.

“(b) SUBMISSION REQUIREMENTS.—The report under subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006]. The Secretary of Defense shall submit an updated report on procurement, equipment maintenance, and military construction costs, as specified in subsection (a), concurrently with any request made to Congress after the date of the enactment of this Act for war-related funding.

“(c) QUARTERLY SUBMITTAL TO CONGRESS AND GAO OF CERTAIN REPORTS ON COSTS.—Not later than 45 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Comptroller General of the United States the Department of Defense Supplemental and Cost of War Execution report for such fiscal year quarter.”

#### ANNUAL REPORT ON DEPARTMENT OF DEFENSE COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS

Pub. L. 109-163, div. A, title XII, §1224, Jan. 6, 2006, 119 Stat. 3463, which provided that, no later than April 30 of each year, the Secretary of Defense was to submit a report to certain congressional committees on Department of Defense costs during the preceding fiscal year to carry out United Nations resolutions, was repealed

by Pub. L. 115-91, div. A, title X, §1051(k)(3), Dec. 12, 2017, 131 Stat. 1564.

#### REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO GLOBAL POSTURE REVIEW

Pub. L. 109-163, div. A, title XII, §1233, Jan. 6, 2006, 119 Stat. 3469, provided that:

“(a) CRITERIA.—As part of the Integrated Global Presence and Basing Strategy (IGPBS) developed by the Department of Defense that is referred to as the ‘Global Posture Review’, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop criteria for assessing, with respect to each type of facility specified in subsection (c) that is to be located in a foreign country, the following factors:

“(1) The effect of any new basing arrangements on the strategic mobility requirements of the Department of Defense.

“(2) The ability of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed to meet mobility response times required by operational planners.

“(3) The cost of deploying units to areas referred to in paragraph (2) on a rotational basis (rather than on a permanent basing basis).

“(4) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

“(5) Whether the relative speed and complexity of conducting negotiations with a particular country is a discriminator in the decision to deploy forces within the country.

“(6) The appropriate and available funding mechanisms for the establishment, operation, and sustainment of specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

“(7) The effect on military quality of life of the unaccompanied deployment of units to new facilities in overseas locations.

“(8) Other criteria as Secretary of Defense determines appropriate.

“(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in each of paragraphs (1) through (5) of subsection (a).

“(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.—The Secretary of Defense shall develop a description of minimal infrastructure requirements for each of the following types of facilities:

“(1) Facilities categorized as Main Operating Bases.

“(2) Facilities categorized as Forward Operating Bases.

“(3) Facilities categorized as Cooperative Security Locations.

“(d) NOTIFICATION REQUIRED.—Not later than 30 days after an agreement is entered into between the United States and a foreign country to support the deployment of elements of the United States Armed Forces in that country, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a written notification of such agreement. The notification under this subsection shall include the terms of the agreement, any costs to the United States resulting from the agreement, and a timeline to carry out the terms of the agreement.

“(e) ANNUAL BUDGET ELEMENT.—The Secretary of Defense shall submit to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for the establishment, operation, and sustainment of individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

“(f) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c).”

PROCESSING OF FORENSIC EVIDENCE COLLECTION KITS  
AND ACQUISITION OF SUFFICIENT STOCKS OF SUCH KITS

Pub. L. 108-375, div. A, title V, §573, Oct. 28, 2004, 118 Stat. 1921, provided that:

“(a) ELIMINATION OF BACKLOG, ETC.—The Secretary of Defense shall take such steps as may be necessary to ensure that—

“(1) the United States Army Criminal Investigation Laboratory has the personnel and resources to effectively process forensic evidence used by the Department of Defense within 60 days of receipt by the laboratory of such evidence;

“(2) consistent policies are established among the Armed Forces to reduce the time period between the collection of forensic evidence and the receipt and processing of such evidence by United States Army Criminal Investigation Laboratory; and

“(3) there is an adequate supply of forensic evidence collection kits—

“(A) for all United States military installations, including the military service academies; and

“(B) for units of the Armed Forces deployed in theaters of operation.

“(b) TRAINING.—The Secretary shall take such measures as the Secretary considers appropriate to ensure that personnel are appropriately trained—

“(1) in the use of forensic evidence collection kits; and

“(2) in the prescribed procedures to ensure protection of the chain of custody of such kits once used.”

POLICY FOR TIMELY NOTIFICATION OF NEXT OF KIN OF  
MEMBERS SERIOUSLY ILL OR INJURED IN COMBAT ZONES

Pub. L. 108-375, div. A, title VII, §724, Oct. 28, 2004, 118 Stat. 1990, provided that:

“(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe the policy of the Department of Defense for providing, in the case of the serious illness or injury of a member of the Armed Forces in a combat zone, timely notification to the next of kin of the member regarding the illness or injury, including information on the condition of the member and the location at which the member is receiving treatment. In prescribing the policy, the Secretary shall ensure respect for the expressed desires of individual members of the Armed Forces regarding the notification of next of kin and shall include standards of timeliness for both the initial notification of next of kin under the policy and subsequent updates regarding the condition and location of the member.

“(b) SUBMISSION OF POLICY.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall submit to Congress a copy of the policy.”

SECRETARY OF DEFENSE CRITERIA FOR AND GUIDANCE  
ON IDENTIFICATION AND INTERNAL TRANSMISSION OF  
CRITICAL INFORMATION

Pub. L. 108-375, div. A, title IX, §932, Oct. 28, 2004, 118 Stat. 2031, provided that:

“(a) CRITERIA FOR CRITICAL INFORMATION.—(1) The Secretary of Defense shall establish criteria for determining categories of critical information that should be made known expeditiously to senior civilian and military officials in the Department of Defense. Those categories should be limited to matters of extraordinary significance and strategic impact to which rapid access by those officials is essential to the successful accomplishment of the national security strategy or a major military mission. The Secretary may from time to time modify the list to suit the current strategic situation.

“(2) The Secretary shall provide the criteria established under paragraph (1) to the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, the commanders of the unified and specified commands, the commanders of deployed forces, and such other elements of the Department of Defense as the Secretary considers necessary.

“(b) MATTERS TO BE INCLUDED.—The criteria established under subsection (a) shall include, at a minimum, requirement for identification of the following:

“(1) Any incident that may result in a contingency operation, based on the incident's nature, gravity, or potential for significant adverse consequences to United States citizens, military personnel, interests, or assets, including an incident that could result in significant adverse publicity having a major strategic impact.

“(2) Any event, development, or situation that could be reasonably assumed to escalate into an incident described in paragraph (1).

“(3) Any deficiency or error in policy, standards, or training that could be reasonably assumed to have the effects described in paragraph (1).

“(c) REQUIREMENTS FOR TRANSMISSION OF CRITICAL INFORMATION.—The criteria under subsection (a) shall include such requirements for transmission of such critical information to such senior civilian and military officials of the Department of Defense as the Secretary of Defense considers appropriate.

“(d) TIME FOR ISSUANCE OF CRITERIA.—The Secretary of Defense shall establish the criteria required by subsection (a) not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004].”

PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF  
WORLD WAR II

Pub. L. 108-375, div. A, title X, §1032, Oct. 28, 2004, 118 Stat. 2045, authorized the Secretary of Defense to conduct a program during fiscal year 2005 to commemorate the 60th anniversary of World War II.

PRESERVATION OF SEARCH AND RESCUE CAPABILITIES  
OF THE FEDERAL GOVERNMENT

Pub. L. 108-375, div. A, title X, §1085, Oct. 28, 2004, 118 Stat. 2065, as amended by Pub. L. 110-181, div. A, title III, §360(c), Jan. 28, 2008, 122 Stat. 78; Pub. L. 111-383, div. A, title X, §1075(i)(2), Jan. 7, 2011, 124 Stat. 4378, provided that: “The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary, after reviewing the search and rescue capabilities report prepared by the Secretary of the Air Force under section 360(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 77), first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

“(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

“(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.”

SUNKEN MILITARY CRAFT

Pub. L. 108-375, div. A, title XIV, Oct. 28, 2004, 118 Stat. 2094, provided that:

“SEC. 1401. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

“Right, title, and interest of the United States in and to any United States sunken military craft—

“(1) shall not be extinguished except by an express divestiture of title by the United States; and

“(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

“SEC. 1402. PROHIBITIONS.

“(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt

to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

“(1) as authorized by a permit under this title;

“(2) as authorized by regulations issued under this title; or

“(3) as otherwise authorized by law.

“(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

“(1) this section; or

“(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

“(c) LIMITATIONS ON APPLICATION.—

“(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the direction of, the United States.

“(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

“(A) generally recognized principles of international law;

“(B) an agreement between the United States and the foreign country of which the person is a citizen; or

“(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

“(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

#### “SEC. 1403. PERMITS.

“(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

“(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

“(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act [Oct. 28, 2004] of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

“(d) APPLICATION TO FOREIGN CRAFT.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

#### “SEC. 1404. PENALTIES.

“(a) IN GENERAL.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

“(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section, after notice and an opportunity for a hearing, of not more than \$100,000 for each violation.

“(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

“(d) IN REM LIABILITY.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

“(e) OTHER RELIEF.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

“(f) LIMITATIONS.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

“(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

“(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

#### “SEC. 1405. LIABILITY FOR DAMAGES.

“(a) IN GENERAL.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

“(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

“(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

“(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

#### “SEC. 1406. RELATIONSHIP TO OTHER LAWS.

“(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

“(1) any activity that is not directed at a sunken military craft; or

“(2) the traditional high seas freedoms of navigation, including—

“(A) the laying of submarine cables and pipelines;

“(B) operation of vessels;

“(C) fishing; or

“(D) other internationally lawful uses of the sea related to such freedoms.

“(b) INTERNATIONAL LAW.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

“(c) LAW OF FINDS.—The law of finds shall not apply to—

“(1) any United States sunken military craft, wherever located; or

“(2) any foreign sunken military craft located in United States waters.

“(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to—

“(1) any United States sunken military craft without the express permission of the United States; or

“(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

“(e) LAW OF CAPTURE OR PRIZE.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

“(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes

([former] 46 U.S.C. App. 181 et seq.) [see chapter 305 of Title 46, Shipping] or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; [former] 46 U.S.C. App. 192) [now 46 U.S.C. 30706], shall limit the liability of any person under this section.

“(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

“(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

“(i) CRIMINAL LAW.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

“SEC. 1407. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

“The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

“SEC. 1408. DEFINITIONS.

“In this title:

“(1) ASSOCIATED CONTENTS.—The term ‘associated contents’ means—

“(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

“(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

“(2) SECRETARY CONCERNED.—The term ‘Secretary concerned’ means—

“(A) subject to subparagraph (B), the Secretary of a military department; and

“(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

“(3) SUNKEN MILITARY CRAFT.—The term ‘sunken military craft’ means all or any portion of—

“(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

“(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

“(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

“(4) UNITED STATES CONTIGUOUS ZONE.—The term ‘United States contiguous zone’ means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999 [43 U.S.C. 1331 note].

“(5) UNITED STATES INTERNAL WATERS.—The term ‘United States internal waters’ means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

“(6) UNITED STATES TERRITORIAL SEA.—The term ‘United States territorial sea’ means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988 [43 U.S.C. 1331 note].

“(7) UNITED STATES WATERS.—The term ‘United States waters’ means United States internal waters, the United States territorial sea, and the United States contiguous zone.”

REPORTS ON WEAPONS AND AMMUNITION OBTAINED BY IRAQ

Pub. L. 108-177, title III, §358, Dec. 13, 2003, 117 Stat. 2621, directed the Director of the Defense Intelligence

Agency, not later than one year after Dec. 13, 2003, to submit preliminary and final reports to committees of Congress on information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in 1990.

Pub. L. 108-136, div. A, title XII, §1204, Nov. 24, 2003, 117 Stat. 1649, directed the Secretary of Defense, not later than one year after Nov. 24, 2003, to submit to committees of Congress a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

STUDIES OF FLEET PLATFORM ARCHITECTURES FOR THE NAVY

Pub. L. 108-136, div. A, title II, §216, Nov. 24, 2003, 117 Stat. 1418, directed the Secretary of Defense to provide for the performance of two independent studies of alternative future fleet platform architectures for the Navy and to forward the results of each study to congressional defense committees not later than Jan. 15, 2005.

REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES AND PLAN TO ADDRESS ENCROACHMENT

Pub. L. 108-136, div. A, title III, §320, Nov. 24, 2003, 117 Stat. 1435, provided that:

“(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the impact, if any, of the following types of encroachment issues affecting military installations and operational ranges:

“(1) Civilian community encroachment on those military installations and ranges whose operational training activities, research, development, test, and evaluation activities, or other operational, test and evaluation, maintenance, storage, disposal, or other support functions require, or in the future reasonably may require, safety or operational buffer areas. The requirement for such a buffer area may be due to a variety of factors, including air operations, ordnance operations and storage, or other activities that generate or might generate noise, electro-magnetic interference, ordnance arcs, or environmental impacts that require or may require safety or operational buffer areas.

“(2) Compliance by the Department of Defense with State Implementation Plans for Air Quality under section 110 of the Clean Air Act (42 U.S.C. 7410).

“(3) Compliance by the Department of Defense with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

“(b) MATTERS TO BE INCLUDED WITH RESPECT TO CIVILIAN COMMUNITY ENCROACHMENTS.—With respect to paragraph (1) of subsection (a), the study shall include the following:

“(1) A list of all military installations described in subsection (a)(1) at which civilian community encroachment is occurring.

“(2) A description and analysis of the types and degree of such civilian community encroachment at each military installation included on the list.

“(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such civilian community encroachment on operational training activities, research, development, test, and evaluation activities, and other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions performed by military installations included on the list. The analysis shall include the following:

“(A) A review of training and test ranges at military installations, including laboratories and technical centers of the military departments, included on the list.

“(B) A description and explanation of the trends of such encroachment, as well as consideration of potential future readiness problems resulting from unabated encroachment.

“(4) An estimate of the costs associated with current and anticipated partnerships between the Department of Defense and non-Federal entities to create buffer zones to preclude further development around military installations included on the list, and the costs associated with the conveyance of surplus property around such military installations for purposes of creating buffer zones.

“(5) Options and recommendations for possible legislative or budgetary changes necessary to mitigate current and anticipated future civilian community encroachment problems.

“(c) MATTERS TO BE INCLUDED WITH RESPECT TO COMPLIANCE WITH SPECIFIED LAWS.—With respect to paragraphs (2) and (3) of subsection (a), the study shall include the following:

“(1) A list of all military installations and other locations at which the Armed Forces are encountering problems related to compliance with the laws specified in such paragraphs.

“(2) A description and analysis of the types and degree of compliance problems encountered.

“(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such compliance problems on the following functions performed at military installations:

“(A) Operational training activities.

“(B) Research, development, test, and evaluation activities.

“(C) Other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions.

“(4) A description and explanation of the trends of such compliance problems, as well as consideration of potential future readiness problems resulting from such compliance problems.

“(d) PLAN TO RESPOND TO ENCROACHMENT ISSUES.—On the basis of the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c), the Secretary of Defense shall prepare a plan to respond to the encroachment issues described in subsection (a) affecting military installations and operational ranges.

“(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following reports regarding the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c):

“(1) Not later than January 31, 2004, an interim report describing the progress made in conducting the study and containing the information collected under the study as of that date.

“(2) Not later than January 31, 2006, a report containing the results of the study and the encroachment response plan required by subsection (d).

“(3) Not later than January 31, 2007, and each January 31 thereafter through January 31, 2010, a report describing the progress made in implementing the encroachment response plan.”

#### HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM

Pub. L. 108-136, div. A, title III, § 337, Nov. 24, 2003, 117 Stat. 1445, provided that:

“(a) PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program under which the Secretary concerned shall create, or continue the implementation of, high-performing organizations through the conduct of a Business Process Reengineering initiative at selected military installations and facilities under the jurisdiction of the Secretary concerned.

“(b) EFFECT OF PARTICIPATION IN PILOT PROGRAM.—(1) During the period of an organization’s participation in

the pilot program, including the periods referred to in paragraphs (2) and (3) of subsection (f), the Secretary concerned may not require the organization to undergo any Office of Management and Budget Circular A-76 competition or other public-private competition involving any function of the organization covered by the Business Process Reengineering initiative. The organization may elect to undergo such a competition as part of the initiative.

“(2) Civilian employee or military personnel positions of the participating organization that are part of the Business Process Reengineering initiative shall be counted toward any numerical goals, target, or quota that the Secretary concerned is required or requested to meet during the term of the pilot program regarding the number of positions to be covered by public-private competitions.

“(c) ELIGIBLE ORGANIZATIONS.—Subject to subsection (d), the Secretary concerned may select two types of organizations to participate in the pilot program:

“(1) Organizations that underwent a Business Process Reengineering initiative within the preceding five years, achieved major performance enhancements under the initiative, and will be able to sustain previous or achieve new performance goals through the continuation of its existing or completed Business Process Reengineering plan.

“(2) Organizations that have not undergone or have not successfully completed a Business Process Reengineering initiative, but which propose to achieve, and reasonably could reach, enhanced performance goals through implementation of a Business Process Reengineering initiative.

“(d) ADDITIONAL ELIGIBILITY REQUIREMENTS.—(1) To be eligible for selection to participate in the pilot program under subsection (c)(1), an organization described in such subsection shall demonstrate, to the satisfaction of the Secretary concerned, the completion of a total organizational assessment that resulted in enhanced performance measures at least comparable to those performance measures that might be achieved through competitive sourcing.

“(2) To be eligible for selection to participate in the pilot program under subsection (c)(2), an organization described in such subsection shall identify, to the satisfaction of the Secretary concerned—

“(A) functions, processes, and measures to be studied under the Business Process Reengineering initiative;

“(B) adequate resources to carry out the Business Process Reengineering initiative; and

“(C) labor-management agreements in place to ensure effective implementation of the Business Process Reengineering initiative.

“(e) LIMITATION ON NUMBER OF PARTICIPANTS.—Total participants in the pilot program is limited to eight military installations and facilities, with some participants to be drawn from organizations described in subsection (c)(1) and some participants to be drawn from organizations described in subsection (c)(2).

“(f) IMPLEMENTATION AND DURATION.—(1) The implementation and management of a Business Process Reengineering initiative under the pilot program shall be the responsibility of the commander of the military installation or facility at which the Business Process Reengineering initiative is carried out.

“(2) An organization selected to participate in the pilot program shall be given a reasonable initial period, to be determined by the Secretary concerned, in which the organization must implement the Business Process Reengineering initiative. At the end of this period, the Secretary concerned shall determine whether the organization has achieved initial progress toward designation as a high-performing organization. In the absence of such progress, the Secretary concerned shall terminate the organization’s participation in the pilot program.

“(3) If an organization successfully completes implementation of the Business Process Reengineering initiative under paragraph (2), the Secretary concerned



shall designate the organization as a high-performing organization and grant the organization an additional five-year period in which to achieve projected or planned efficiencies and savings under the pilot program.

“(g) **REVIEWS AND REPORTS.**—The Secretary concerned shall conduct annual performance reviews of the participating organizations or functions under the jurisdiction of the Secretary concerned. Reviews and reports shall evaluate organizational performance measures or functional performance measures and determine whether organizations are performing satisfactorily for purposes of continuing participation in the pilot program.

“(h) **PERFORMANCE MEASURES.**—Performance measures utilized in the pilot program should include the following, which shall be measured against organizational baselines determined before participation in the pilot program:

“(1) Costs, savings, and overall financial performance of the organization.

“(2) Organic knowledge, skills or expertise.

“(3) Efficiency and effectiveness of key functions or processes.

“(4) Efficiency and effectiveness of the overall organization.

“(5) General customer satisfaction.

“(i) **DEFINITIONS.**—In this section[.]

“(1) The term ‘Business Process Reengineering’ refers to an organization’s complete and thorough analysis and reengineering of mission and support functions and processes to achieve improvements in performance, including a fundamental reshaping of the way work is done to better support an organization’s mission and reduce costs.

“(2) The term ‘high-performing organization’ means an organization whose performance exceeds that of comparable providers, whether public or private.

“(3) The term ‘Secretary concerned’ means the Secretary of a military department and the Secretary of Defense, with respect to matters concerning the Defense Agencies.”

#### ASSESSMENT BY SECRETARY OF DEFENSE

Pub. L. 108-136, div. A, title V, §517(b), Nov. 24, 2003, 117 Stat. 1461, directed the Secretary of Defense to submit to committees of Congress, not later than one year after Nov. 24, 2003, a description of the effects on reserve component recruitment and retention that have resulted from calls and orders to active duty and the tempo of such service, an assessment of the process for calling and ordering reserve members to active duty, preparing such members for active duty, processing such members into the force, and deploying such members, and a description of changes in the Armed Forces envisioned by the Secretary of Defense.

#### POLICY ON PUBLIC IDENTIFICATION OF CASUALTIES

Pub. L. 108-136, div. A, title V, §546, Nov. 24, 2003, 117 Stat. 1479, provided that:

“(a) **REQUIREMENT FOR POLICY.**—Not later than 180 days after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall prescribe the policy of the Department of Defense on public release of the name or other personally identifying information of any member of the Army, Navy, Air Force, or Marine Corps who while on active duty or performing inactive-duty training is killed or injured, whose duty status becomes unknown, or who is otherwise considered to be a casualty.

“(b) **GUIDANCE ON TIMING OF RELEASE.**—The policy under subsection (a) shall include guidance for ensuring that any public release of information on a member under the policy occurs only after the lapse of an appropriate period following notification of the next-of-kin regarding the casualty status of such member.”

#### PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY

Pub. L. 110-181, div. A, title II, §243, Jan. 28, 2008, 122 Stat. 51, provided that:

“(a) **RESEARCH, DEVELOPMENT, AND TESTING PLAN.**—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a research, development, and testing plan for prompt global strike program objectives for fiscal years 2008 through 2013.

“(b) **PLAN FOR OBLIGATION AND EXPENDITURE OF FUNDS.**—

“(1) **IN GENERAL.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for obligation and expenditure of funds available for prompt global strike for fiscal year 2008. The plan shall include correlations between each technology application being developed in fiscal year 2008 and the prompt global strike alternative or alternatives toward which the technology application applies.

“(2) **LIMITATION.**—The Under Secretary shall not implement the plan required by paragraph (1) until at least 10 days after the plan is submitted as required by that paragraph.”

Pub. L. 108-136, div. A, title X, §1032, Nov. 24, 2003, 117 Stat. 1605, as amended by Pub. L. 110-181, div. A, title X, §1043, Jan. 28, 2008, 122 Stat. 311, provided that:

“(a) **INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.**—The Secretary of Defense shall establish an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.

“(b) **ANNUAL REPORTS.**—(1) Not later than April 1 of each of 2004, 2005, and 2006, and each of 2007, 2008, and 2009, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on the plan established under subsection (a).

“(2) Each report under paragraph (1) shall include the following:

“(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which those assets might be used.

“(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including bombers, intercontinental ballistic missiles, and submarine-launched ballistic missiles.

“(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.

“(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.

“(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.

“(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.

“(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.

“(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.

“(I) An estimated schedule for achieving the desired prompt global strike capabilities.

“(J) The estimated cost of achieving the desired prompt global strike capabilities.

“(K) A description of ongoing and future studies necessary for updating the plan appropriately.”

#### REPORTS ON MILITARY OPERATIONS AND RECONSTRUCTION ACTIVITIES IN IRAQ AND AFGHANISTAN

Pub. L. 109-13, div. A, title I, §1024(c), May 11, 2005, 119 Stat. 253, provided that:

“(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2)

shall include, in addition to the matters specified in the applicable provision of law, the following:

“(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

“(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

“(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

“(2) The provisions of law referred to in this paragraph are as follows:

“(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108-106; 117 Stat. 1219; 10 U.S.C. 113 note).

“(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 1008; 10 U.S.C. 113 note).”

Pub. L. 108-287, title IX, §9010, Aug. 5, 2004, 118 Stat. 1008, as amended by Pub. L. 108-324, div. B, §306, Oct. 13, 2004, 118 Stat. 1243, provided that:

“(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

“(b) Each report shall include the following information:

“(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

“(2) An assessment of the progress made toward preventing attacks on United States personnel.

“(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

“(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

“(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

“(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

“(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12302 of title 10, United States Code.

“(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12302 of title 10, United States Code, the following information:

“(A) The unit.

“(B) The projected date of return of the unit to its home station.

“(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.”

Pub. L. 108-106, title I, §1120, Nov. 6, 2003, 117 Stat. 1219, provided that:

“(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

“(b) Each report shall include the following information:

“(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

“(2) An assessment of the progress made toward preventing attacks on United States personnel.

“(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

“(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

“(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

“(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

“(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

“(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

“(A) The unit.

“(B) The projected date of return of the unit to its home station.

“(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.”

#### UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES

Pub. L. 107-314, div. A, title II, §233, Dec. 2, 2002, 116 Stat. 2490, provided that:

“(a) REQUIREMENT FOR SYSTEM.—The Secretary of Defense shall implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense. The Secretary shall implement such system as soon as practicable, and shall establish the objective that such system be implemented not later than September 30, 2006.

“(b) SYSTEM FEATURES.—The system required by subsection (a) shall be designed to achieve, at a minimum, the following functional objectives:

“(1) Enable managers within the Department of Defense to compare the costs of carrying out test and evaluation activities in the various facilities of the military departments.

“(2) Enable the Secretary of Defense—

“(A) to make prudent investment decisions; and

“(B) to reduce the extent to which unnecessary costs of owning and operating test and evaluation

facilities of the Department of Defense are incurred.

“(3) Enable the Department of Defense to track the total cost of test and evaluation activities.

“(4) Comply with the financial management architecture established by the Secretary.”

TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY

Pub. L. 107-314, div. A, title III, §366, Dec. 2, 2002, 116 Stat. 2522, as amended by Pub. L. 109-364, div. A, title III, §348, Oct. 17, 2006, 120 Stat. 2159; Pub. L. 110-181, div. A, title X, §1063(c)(2), Jan. 28, 2008, 122 Stat. 322; Pub. L. 111-383, div. A, title X, §1075(g)(2), Jan. 7, 2011, 124 Stat. 4376; Pub. L. 112-239, div. A, title III, §311, Jan. 2, 2013, 126 Stat. 1691, provided that:

“(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address training constraints caused by limitations on the use of military lands, marine areas, and airspace that are available in the United States and overseas for training of the Armed Forces.

“(2) As part of the preparation of the plan, the Secretary of Defense shall conduct the following:

“(A) An assessment of current and future training range requirements of the Armed Forces.

“(B) An evaluation of the adequacy of current Department of Defense resources (including virtual and constructive training assets as well as military lands, marine areas, and airspace available in the United States and overseas) to meet those current and future training range requirements.

“(3) The plan shall include the following:

“(A) Proposals to enhance training range capabilities and address any shortfalls in current Department of Defense resources identified pursuant to the assessment and evaluation conducted under paragraph (2).

“(B) Goals and milestones for tracking planned actions and measuring progress.

“(C) Projected funding requirements for implementing planned actions.

“(D) Designation of an office in the Office of the Secretary of Defense and in each of the military departments that will have lead responsibility for overseeing implementation of the plan.

“(4) At the same time as the President submits to Congress the budget for fiscal year 2004, the Secretary of Defense shall submit to Congress a report describing the progress made in implementing this subsection, including—

“(A) the plan developed under paragraph (1);

“(B) the results of the assessment and evaluation conducted under paragraph (2); and

“(C) any recommendations that the Secretary may have for legislative or regulatory changes to address training constraints identified pursuant to this section.

“(5) At the same time as the President submits to Congress the budget for each fiscal year through fiscal year 2018, the Secretary shall submit to Congress a report describing the progress made in implementing the plan and any additional actions taken, or to be taken, to address training constraints caused by limitations on the use of military lands, marine areas, and airspace.

“(b) READINESS REPORTING IMPROVEMENT.—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System to reflect the readiness impact that training constraints caused by limitations on the use of military lands, marine areas, and airspace have on specific units of the Armed Forces.

“(c) TRAINING RANGE INVENTORY.—(1) The Secretary of Defense shall develop and maintain a training range inventory for each of the Armed Forces—

“(A) to identify all available operational training ranges;

“(B) to identify all training capacities and capabilities available at each training range; and

“(C) to identify training constraints caused by limitations on the use of military lands, marine areas, and airspace at each training range.

“(2) The Secretary of Defense shall submit an initial inventory to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an updated inventory to Congress at the same time as the President submits the budget for each fiscal year through fiscal year 2018.

“(d) GAO EVALUATION.—The Secretary of Defense shall transmit copies of each report required by subsections (a) and (b) to the Comptroller General. Within 90 days of receiving a report, the Comptroller General shall submit to Congress an evaluation of the report.

“(e) ARMED FORCES DEFINED.—In this section, the term ‘Armed Forces’ means the Army, Navy, Air Force, and Marine Corps.”

DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE

Pub. L. 107-314, div. A, title X, §1004, Dec. 2, 2002, 116 Stat. 2629, which required Secretary of Defense to develop a financial management enterprise architecture for all budgetary, accounting, finance, enterprise resource planning, and mixed information systems of the Department of Defense by May 1, 2003, was repealed by Pub. L. 108-375, div. A, title III, §332(f), Oct. 28, 2004, 118 Stat. 1856.

RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS

Pub. L. 107-107, div. A, title X, §1008, Dec. 28, 2001, 115 Stat. 1204, as amended by Pub. L. 112-81, div. A, title X, §1052, Dec. 31, 2011, 125 Stat. 1582; Pub. L. 113-188, title IV, §401(b), Nov. 26, 2014, 128 Stat. 2019; Pub. L. 115-91, div. A, title X, §§1002(h), 1051(i)(2), Dec. 12, 2017, 131 Stat. 1542, 1563, provided that:

“(a), (b) Repealed. Pub. L. 113-188, title IV, §401(b)(1), Nov. 26, 2014, 128 Stat. 2019.]

“(c) INFORMATION TO AUDITORS.—Not later than the date that is 180 days prior to the date set by the Office of Management and Budget for the submission of financial statements of each year [sic], the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official’s department for the fiscal year ending during the preceding month that official’s preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

“(d) to (f) Repealed. Pub. L. 115-91, div. A, title X, §1002(h), Dec. 12, 2017, 131 Stat. 1542.]”

ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM

Pub. L. 107-314, div. A, title X, §1043, Dec. 2, 2002, 116 Stat. 2646, provided that:

“(a) REPORTS REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (d) an annual report on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report, which shall include a definition of the military operations carried out as part of Operation Enduring Freedom, shall be submitted not later than June 15, 2003. Subsequent reports shall be submitted not later than June 15 each year, and the final report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

“(2) Each report under this section shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, the Director of Central Intelligence, and such other officials as the Secretary considers appropriate.

“(3) Each such report shall be submitted in both a classified form and an unclassified form, as necessary.

“(b) SPECIAL MATTERS TO BE INCLUDED.—Each report under this section shall include the following:

“(1) A discussion of the command, control, coordination, and support relationship between United States special operations forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

“(2) Recommendations to improve operational readiness and effectiveness of these forces and elements.

“(c) OTHER MATTERS TO BE INCLUDED.—Each report under this section shall include a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters with respect to Operation Enduring Freedom:

“(1) The political and military objectives of the United States.

“(2) The military strategy of the United States to achieve those political and military objectives.

“(3) The concept of operations, including any new operational concepts, for the operation.

“(4) The benefits and disadvantages of operating with local opposition forces.

“(5) The benefits and disadvantages of operating in a coalition with the military forces of allied and friendly nations.

“(6) The cooperation of nations in the region for overflight, basing, command and control, and logistic and other support.

“(7) The conduct of relief operations both during and after the period of hostilities.

“(8) The conduct of close air support (CAS), particularly with respect to the timeliness, efficiency, and effectiveness of such support.

“(9) The use of unmanned aerial vehicles for intelligence, surveillance, reconnaissance, and combat support to operational forces.

“(10) The use and performance of United States and coalition military equipment, weapon systems, and munitions.

“(11) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

“(12) The importance and effectiveness of the International Security Assistance Force.

“(13) The importance and effectiveness of United States civil affairs forces.

“(14) The anticipated duration of the United States military presence in Afghanistan.

“(15) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

“(d) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

“(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

“(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as

a note under section 3001 of Title 50, War and National Defense.]

COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS

Pub. L. 107-314, div. A, title XIV, §1402, Dec. 2, 2002, 116 Stat. 2675, provided that:

“(a) COMPREHENSIVE PLAN.—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, including attacks involving the use or threat of use of weapons of mass destruction.

“(b) PREPAREDNESS STRATEGY.—The plan under subsection (a) shall include a preparedness strategy that includes each of the following:

“(1) Identification of long-term goals and objectives for improving the preparedness of military installations for preventing and responding to terrorist attacks.

“(2) Identification of budget and other resource requirements necessary to achieve those goals and objectives.

“(3) Identification of factors beyond the control of the Secretary that could impede the achievement of those goals and objectives.

“(4) A discussion of the extent to which local, regional, or national military response capabilities are to be developed, integrated, and used.

“(5) A discussion of how the Secretary will coordinate the capabilities referred to in paragraph (4) with local, regional, or national civilian and other military capabilities.

“(c) PERFORMANCE PLAN.—The plan under subsection (a) shall include a performance plan that includes each of the following:

“(1) A reasonable schedule, with milestones, for achieving the goals and objectives of the strategy under subsection (b).

“(2) Performance criteria for measuring progress in achieving those goals and objectives.

“(3) A description of the process, together with a discussion of the resources, necessary to achieve those goals and objectives.

“(4) A description of the process for evaluating results in achieving those goals and objectives.

“(d) SUBMITTAL TO CONGRESS.—The Secretary shall submit the comprehensive plan developed under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002].

“(e) COMPTROLLER GENERAL REVIEW AND REPORT.—Not later than 60 days after the date on which the Secretary submits the comprehensive plan under subsection (a), the Comptroller General shall review the plan and submit to the committees referred to in subsection (d) the Comptroller General's assessment of the plan.

“(f) ANNUAL REPORT.—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan developed under subsection (a) with the materials that the Secretary submits to Congress in support of the budget submitted by the President that year pursuant to section 1105(a) of title 31, United States Code.

“(2) Each such report shall include—

“(A) a discussion of any revision that the Secretary has made in the comprehensive plan developed under subsection (a) since the last report under this subsection or, in the case of the first such report, since the plan was submitted under subsection (d); and

“(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

“(3) If the Secretary includes in the report for 2004 or 2005 under this subsection a declaration that the goals and objectives of the preparedness strategy set forth in

the comprehensive plan have been achieved, no further report is required under this subsection.”

**POLICY CONCERNING RIGHTS OF INDIVIDUALS WHOSE NAMES HAVE BEEN ENTERED INTO DEPARTMENT OF DEFENSE OFFICIAL CRIMINAL INVESTIGATIVE REPORTS**

Pub. L. 106-398, §1 [[div. A], title V, §552], Oct. 30, 2000, 114 Stat. 1654, 1654A-125, provided that:

“(a) **POLICY REQUIREMENT.**—The Secretary of Defense shall establish a policy creating a uniform process within the Department of Defense that—

“(1) affords any individual who, in connection with the investigation of a reported crime, is designated (by name or by any other identifying information) as a suspect in the case in any official investigative report, or in a central index for potential retrieval and analysis by law enforcement organizations, an opportunity to obtain a review of that designation; and

“(2) requires the expungement of the name and other identifying information of any such individual from such report or index in any case in which it is determined the entry of such identifying information on that individual was made contrary to Department of Defense requirements.

“(b) **EFFECTIVE DATE.**—The policy required by subsection (a) shall be established not later than 120 days after the date of the enactment of this Act [Oct. 30, 2000].”

**TEST OF ABILITY OF RESERVE COMPONENT INTELLIGENCE UNITS AND PERSONNEL TO MEET CURRENT AND EMERGING DEFENSE INTELLIGENCE NEEDS**

Pub. L. 106-398, §1 [[div. A], title V, §576], Oct. 30, 2000, 114 Stat. 1654, 1654A-138, directed the Secretary of Defense to conduct a three-year test program to determine the most effective peacetime structure and operational employment of reserve component intelligence assets and to establish a means to coordinate and transition the peacetime intelligence support network into use for meeting wartime needs, and to submit to Congress interim and final reports on such program not later than Dec. 1, 2004.

**STUDY ON CIVILIAN PERSONNEL SERVICES**

Pub. L. 106-398, §1 [[div. A], title XI, §1105], Oct. 30, 2000, 114 Stat. 1654, 1654A-311, directed the Secretary of Defense to conduct a study to assess the manner in which personnel services were provided for civilian personnel in the Department of Defense and to submit a report on such study to committees of Congress not later than Jan. 1, 2002.

**PILOT PROGRAM FOR REENGINEERING EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESS**

Pub. L. 106-398, §1 [[div. A], title XI, §1111], Oct. 30, 2000, 114 Stat. 1654, 1654A-312, directed the Secretary of Defense to carry out a three-year pilot program to improve processes for the resolution of equal employment opportunity complaints by civilian employees of the Department of Defense, and directed the Comptroller General to submit to Congress a report on such program not later than 90 days following the end of the first and last full or partial fiscal years during which such program had been implemented.

**WORK SAFETY DEMONSTRATION PROGRAM**

Pub. L. 106-398, §1 [[div. A], title XI, §1112], Oct. 30, 2000, 114 Stat. 1654, 1654A-313, as amended by Pub. L. 107-314, div. A, title III, §363, Dec. 2, 2002, 116 Stat. 2520, directed the Secretary of Defense to carry out a defense employees work safety demonstration program under which work safety models used by employers in the private sector would be adopted and any improvement to work safety records would be assessed, directed that such program would terminate on Sept. 30, 2003, and required the Secretary to submit interim and final reports on such program to committees of Congress not later than Dec. 1, 2003.

**GAO STUDY ON BENEFITS AND COSTS OF UNITED STATES MILITARY ENGAGEMENT IN EUROPE**

Pub. L. 106-398, §1 [[div. A], title XII, §1223], Oct. 30, 2000, 114 Stat. 1654, 1654A-328, directed the Comptroller General to conduct a study assessing the benefits and costs to the United States and United States national security interests of the engagement of United States forces in Europe and of United States military strategies used to shape the international security environment in Europe and to submit to committees of Congress a report on the results of such study not later than Dec. 1, 2001.

**ESTABLISHMENT OF LOGISTICS STANDARDS FOR SUSTAINED MILITARY OPERATIONS**

Pub. L. 106-65, div. A, title III, §366, Oct. 5, 1999, 113 Stat. 578, as amended by Pub. L. 115-91, div. A, title X, §1051(h), Dec. 12, 2017, 131 Stat. 1563, provided that:

“(a) **ESTABLISHMENT OF STANDARDS.**—The Secretary of each military department shall establish, for deployable units of each of the Armed Forces under the jurisdiction of the Secretary, standards regarding—

“(1) the level of spare parts that the units must have on hand; and

“(2) similar logistics and sustainment needs of the units.

“(b) **BASIS FOR STANDARDS.**—The standards to be established for a unit under subsection (a) shall be based upon the following:

“(1) The unit’s wartime mission, as reflected in the war-fighting plans of the relevant combatant commanders.

“(2) An assessment of the likely requirement for sustained operations under each such war-fighting plan.

“(3) An assessment of the likely requirement for that unit to conduct sustained operations in an austere environment, while drawing exclusively on its own internal logistics capabilities.

“(c) **SUFFICIENCY CAPABILITIES.**—The standards to be established by the Secretary of a military department under subsection (a) shall reflect those spare parts and similar logistics capabilities that the Secretary considers sufficient for the units of each of the Armed Forces under the Secretary’s jurisdiction to successfully execute their missions under the conditions described in subsection (b).

“(d) **RELATION TO READINESS REPORTING SYSTEM.**—The standards established under subsection (a) shall be taken into account in designing the comprehensive readiness reporting system for the Department of Defense required by section 117 of title 10, United States Code, and shall be an element in determining a unit’s readiness status.

“(e) **RELATION TO ANNUAL FUNDING NEEDS.**—The Secretary of Defense shall consider the standards established under subsection (a) in establishing the annual funding requirements for the Department of Defense.”

**USE OF SMART CARD TECHNOLOGY IN THE DEPARTMENT OF DEFENSE**

Pub. L. 106-65, div. A, title III, §373(a)–(g), Oct. 5, 1999, 113 Stat. 580, 581, provided that:

“(a) **DEPARTMENT OF NAVY AS LEAD AGENCY.**—The Department of the Navy shall serve as the lead agency for the development and implementation of a Smart Card program for the Department of Defense.

“(b) **COOPERATION OF OTHER MILITARY DEPARTMENTS.**—The Department of the Army and the Department of the Air Force shall each establish a project office and cooperate with the Department of the Navy to develop implementation plans for exploiting the capability of Smart Card technology as a means for enhancing readiness and improving business processes throughout the military departments.

“(c) **SENIOR COORDINATING GROUP.**—(1) Not later than November 30, 1999, the Secretary of Defense shall establish a senior coordinating group to develop and implement—

“(A) Department-wide interoperability standards for use of Smart Card technology; and

“(B) a plan to exploit Smart Card technology as a means for enhancing readiness and improving business processes.

“(2) The senior coordinating group shall be chaired by a representative of the Secretary of the Navy and shall include senior representatives from each of the Armed Forces and such other persons as the Secretary of Defense considers appropriate.

“(3) Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing a detailed discussion of the progress made by the senior coordinating group in carrying out its duties.

“(d) ROLE OF DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICE.—The senior coordinating group established under subsection (c) shall report to and receive guidance from the Department of Defense Chief Information Office.

“(e) INCREASED USE TARGETED TO CERTAIN NAVAL REGIONS.—Not later than November 30, 1999, the Secretary of the Navy shall establish a business plan to implement the use of Smart Cards in one major Naval region of the continental United States that is in the area of operations of the United States Atlantic Command and one major Naval region of the continental United States that is in the area of operations of the United States Pacific Command. The regions selected shall include a major fleet concentration area. The implementation of the use of Smart Cards in each region shall cover the Navy and Marine Corps bases and all non-deployed units in the region. The Secretary of the Navy shall submit the business plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(f) FUNDING FOR INCREASED USE OF SMART CARDS.—Of the funds authorized to be appropriated for the Navy by section 102(a)(4) [113 Stat. 530] or 301(2) [113 Stat. 557], the Secretary of the Navy—

“(1) shall allocate such amounts as may be necessary, but not to exceed \$30,000,000, to ensure that significant progress is made toward complete implementation of the use of Smart Card technology in the Department of the Navy; and

“(2) may allocate additional amounts for the conversion of paper-based records to electronic media for records systems that have been modified to use Smart Card technology.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘Smart Card’ means a credit card-size device, normally for carrying and use by personnel, that contains one or more integrated circuits and may also employ one or more of the following technologies:

“(A) Magnetic stripe.

“(B) Bar codes, linear or two-dimensional.

“(C) Non-contact and radio frequency transmitters.

“(D) Biometric information.

“(E) Encryption and authentication.

“(F) Photo identification.

“(2) The term ‘Smart Card technology’ means a Smart Card together with all of the associated information technology hardware and software that comprise the system for support and operation.”

#### SECRETARY OF DEFENSE REVIEW OF ARMY TECHNICIAN COSTING PROCESS

Pub. L. 106-65, div. A, title V, §526, Oct. 5, 1999, 113 Stat. 600, required Secretary of Defense to review process used by the Army to develop estimates of annual authorizations and appropriations required for civilian personnel of Department of the Army generally and for National Guard and Army Reserve technicians in particular and to report on results of review to the Committees on Armed Services of the Senate and House of Representatives not later than Mar. 31, 2000.

#### SURVEY OF MEMBERS LEAVING MILITARY SERVICE ON ATTITUDES TOWARD MILITARY SERVICE

Pub. L. 106-65, div. A, title V, §581, Oct. 5, 1999, 113 Stat. 633, directed the Secretary of Defense to develop and implement a survey on attitudes toward military service to be completed by all members of the Armed Forces who had been voluntarily discharged or separated or transferred from a regular to a reserve component between Jan. 1, 2000, and June 30, 2000, and to submit a report to Congress on the results of such survey not later than Oct. 1, 2000.

#### ANNUAL REPORT ON UNITED STATES MILITARY ACTIVITIES IN COLOMBIA

Pub. L. 106-65, div. A, title X, §1025, Oct. 5, 1999, 113 Stat. 748, which required the Secretary of Defense to submit an annual report regarding the deployments and assignments of the United States Armed Forces in Colombia, was repealed by Pub. L. 112-81, div. A, title X, §1062(j)(2), Dec. 31, 2011, 125 Stat. 1585.

#### REPORT ON NATO DEFENSE CAPABILITIES INITIATIVE

Pub. L. 106-65, div. A, title X, §1039, Oct. 5, 1999, 113 Stat. 756, as amended by Pub. L. 108-136, div. A, title X, §1031(h)(3), Nov. 24, 2003, 117 Stat. 1605, provided findings of Congress relating to the Defense Capabilities Initiative.

#### COMMEMORATION OF THE VICTORY OF FREEDOM IN THE COLD WAR

Pub. L. 106-65, div. A, title X, §1053, Oct. 5, 1999, 113 Stat. 764, as amended by Pub. L. 107-107, div. A, title X, §1048(g)(7), Dec. 28, 2001, 115 Stat. 1228, established a commission to review and make recommendations regarding the celebration of victory in the Cold War, directed the President to transmit to Congress a report on the content of a Presidential proclamation and a plan for appropriate ceremonies and activities, and authorized funds.

#### ANNUAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 106-65, div. A, title XII, §1202, Oct. 5, 1999, 113 Stat. 781, as amended by Pub. L. 107-107, div. A, title XII, §1221, Dec. 28, 2001, 115 Stat. 1252; Pub. L. 110-181, div. A, title XII, §1263, Jan. 28, 2008, 122 Stat. 407; Pub. L. 111-84, div. A, title XII, §1246(a)-(c), Oct. 28, 2009, 123 Stat. 2544, 2545; Pub. L. 112-81, div. A, title X, §1066(e)(1), title XII, §1238(a), Dec. 31, 2011, 125 Stat. 1589, 1642; Pub. L. 112-239, div. A, title XII, §1271, Jan. 2, 2013, 126 Stat. 2022; Pub. L. 113-66, div. A, title XII, §1242, Dec. 26, 2013, 127 Stat. 920; Pub. L. 113-291, div. A, title XII, §1252(a), Dec. 19, 2014, 128 Stat. 3571; Pub. L. 114-328, div. A, title XII, §1271(a), (b), Dec. 23, 2016, 130 Stat. 2538; Pub. L. 115-91, div. A, title XII, §1261, Dec. 12, 2017, 131 Stat. 1688, provided that:

“(a) ANNUAL REPORT.—Not later than January 31 of each year through January 31, 2021, the Secretary of Defense shall submit to the specified congressional committees a report, in both classified and unclassified form, on military and security developments involving the People's Republic of China. The report shall address the current and probable future course of military-technological development of the People's Liberation Army and the tenets and probable development of Chinese security strategy and military strategy, and of military organizations and operational concepts, through the next 20 years. The report shall also address United States-China engagement and cooperation on security matters during the period covered by the report, including through United States-China military-to-military contacts, and the United States strategy for such engagement and cooperation in the future.

“(b) MATTERS TO BE INCLUDED.—Each report under this section shall include analyses and forecasts of the following:

“(1) The goals and factors shaping Chinese security strategy and military strategy.

“(2) Trends in Chinese security and military behavior that would be designed to achieve, or that are inconsistent with, the goals described in paragraph (1).

“(3) The security situation in the Taiwan Strait.

“(4) Chinese strategy regarding Taiwan.

“(5) The size, location, and capabilities of Chinese strategic, land, sea, and air forces, including detailed analysis of those forces facing Taiwan.

“(6) Developments in Chinese military doctrine and training.

“(7) Efforts, including technology transfers and espionage, by the People’s Republic of China to develop, acquire, or gain access to information, communication, space and other advanced technologies that would enhance military capabilities or otherwise undermine the Department of Defense’s capability to conduct information assurance. Such analyses shall include an assessment of the damage inflicted on the Department of Defense by reason thereof.

“(8) An assessment of any challenges during the preceding year to the deterrent forces of the Republic of China on Taiwan, consistent with the commitments made by the United States in the Taiwan Relations Act (Public Law 96-8) [22 U.S.C. 3301 et seq.].

“(9) Developments in China’s asymmetric capabilities, including its strategy and efforts to develop and deploy cyberwarfare and electronic warfare capabilities, details on the number of malicious cyber incidents originating from China against Department of Defense infrastructure, and associated activities originating or suspected of originating from China.

“(10) The strategy and capabilities of Chinese space and counterspace programs, including trends, global and regional activities, the involvement of military and civilian organizations, including state-owned enterprises, academic institutions, and commercial entities, and efforts to develop, acquire, or gain access to advanced technologies that would enhance Chinese military capabilities.

“(11) Developments in China’s nuclear program, including the size and state of China’s stockpile, its nuclear strategy and associated doctrines, its civil and military production capacities, and projections of its future arsenals.

“(12) A description of China’s anti-access and area denial capabilities.

“(13) A description of China’s command, control, communications, computers, intelligence, surveillance, and reconnaissance modernization program and its applications for China’s precision guided weapons.

“(14) A description of the roles and activities of the People’s Liberation Army Navy and those of China’s paramilitary and maritime law enforcement vessels, including their capabilities, organizational affiliations, roles within China’s overall maritime strategy, activities affecting United States allies and partners, and responses to United States naval activities.

“(15) In consultation with the Secretary of Energy and the Secretary of State, developments regarding United States-China engagement and cooperation on security matters.

“(16) The current state of United States military-to-military contacts with the People’s Liberation Army, which shall include the following:

“(A) A comprehensive and coordinated strategy for such military-to-military contacts and updates to the strategy.

“(B) A summary of all such military-to-military contacts during the period covered by the report, including a summary of topics discussed and questions asked by the Chinese participants in those contacts.

“(C) A description of such military-to-military contacts scheduled for the 12-month period following the period covered by the report and the plan for future contacts.

“(D) The Secretary’s assessment of the benefits the Chinese expect to gain from such military-to-military contacts.

“(E) The Secretary’s assessment of the benefits the Department of Defense expects to gain from such military-to-military contacts, and any concerns regarding such contacts.

“(F) The Secretary’s assessment of how such military-to-military contacts fit into the larger security relationship between the United States and the People’s Republic of China.

“(G) The Secretary’s certification whether or not any military-to-military exchange or contact was conducted during the period covered by the report in violation of section 1201(a) [10 U.S.C. 311 note].

“(17) Other military and security developments involving the People’s Republic of China that the Secretary of Defense considers relevant to United States national security.

“(18) A description of Chinese military-to-military relationships with other countries, including the size and activity of military attache offices around the world and military education programs conducted in China for other countries or in other countries for the Chinese.

“(19) A description of any significant sale or transfer of military hardware, expertise, and technology to or from the People’s Republic of China, including a forecast of possible future sales and transfers, a description of the implications of those sales and transfers for the security of the United States and its partners and allies in Asia, and a description of any significant assistance to and from any selling state with military-related research and development programs in China.

“(20) The status of the 5th generation fighter program of the People’s Republic of China, including an assessment of each individual aircraft type, estimated initial and full operational capability dates, and the ability of such aircraft to provide air superiority.

“(21) A summary of the order of battle of the People’s Liberation Army, including anti-ship ballistic missiles, theater ballistic missiles, and land attack cruise missile inventory.

“(22) A description of the People’s Republic of China’s military and nonmilitary activities in the South China Sea.

“(23) Any Chinese laws, regulations, or policies that could jeopardize the economic security of the United States.

“(c) SPECIFIED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ‘specified congressional committees’ means the following:

“(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

“(2) The Committee on Armed Services and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

“(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People’s Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

“(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People’s Republic of China:

“(A) The extent in each selling state of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People’s Republic of China.

“(B) An itemization of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People’s Republic of China that have taken place since 1995, with a par-

ticular focus on command, control, communications, and intelligence systems.

“(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

“(D) The extent to which arms sales by any selling state to the People’s Republic of China are a source of funds for military research and development or procurement programs in the selling state.

“(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

“(A) an assessment of the military effects of such sales or transfers to entities in the People’s Republic of China;

“(B) an assessment of the ability of the People’s Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

“(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.”

[Pub. L. 114–328, div. A, title XII, §1271(c), Dec. 23, 2016, 130 Stat. 2538, provided that: “The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above] take effect on the date of the enactment of this Act [Dec. 23, 2016] and apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65] on or after that date.”]

[Pub. L. 113–291, div. A, title XII, §1252(b), Dec. 19, 2014, 128 Stat. 3571, provided that: “The amendment made by this section [amending section 1202 of Pub. L. 106–65, set out above] takes effect on the date of the enactment of this Act [Dec. 19, 2014] and applies with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65] on or after that date.”]

[Pub. L. 112–81, div. A, title XII, §1238(b), Dec. 31, 2011, 125 Stat. 1642, provided that: “The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above] shall take effect on the date of the enactment of this Act [Dec. 31, 2011], and shall apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65], as so amended, on or after that date.”]

[Pub. L. 111–84, div. A, title XII, §1246(e), Oct. 28, 2009, 123 Stat. 2545, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out above, and provisions set out as a note under section 311 of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65, set out above], as so amended, on or after that date.

“(2) STRATEGY AND UPDATES FOR MILITARY-TO-MILITARY CONTACTS WITH PEOPLE’S LIBERATION ARMY.—The requirement to include the strategy described in paragraph (1)(A) of section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000, as so amended, in the report required to be submitted under section 1202(a) of such Act, as so amended, shall apply with respect to the first report required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act. The requirement to include updates to such strategy shall apply with respect to each subsequent report required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act.”]

#### NUCLEAR MISSION MANAGEMENT PLAN

Pub. L. 106–65, div. C, title XXXI, §3163(d), Oct. 5, 1999, 113 Stat. 945, provided that:

“(1) The Secretary of Defense shall develop and implement a plan to ensure the continued reliability of the capability of the Department of Defense to carry out its nuclear deterrent mission.

“(2) The plan shall do the following:

“(A) Articulate the current policy of the United States on the role of nuclear weapons and nuclear deterrence in the conduct of defense and foreign relations matters.

“(B) Establish stockpile viability and capability requirements with respect to that mission, including the number and variety of warheads required.

“(C) Establish requirements relating to the contractor industrial base, support infrastructure, and surveillance, testing, assessment, and certification of nuclear weapons necessary to support that mission.

“(3) The plan shall take into account the following:

“(A) Requirements for the critical skills, readiness, training, exercise, and testing of personnel necessary to meet that mission.

“(B) The relevant programs and plans of the military departments and the Defense Agencies with respect to readiness, sustainment (including research and development), and modernization of the strategic deterrent forces.”

#### REPORT ON SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS ASSISTANCE FOR MEMBERS OF ARMED FORCES

Pub. L. 105–262, title VIII, §8119, Oct. 17, 1998, 112 Stat. 2331, as amended by Pub. L. 110–234, title IV, §4002(b)(1)(B), (D), (E), (2)(K), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (D), (E), (2)(K), June 18, 2008, 122 Stat. 1664, 1857, 1858, directed the Secretary of Defense to submit to committees of Congress, at the same time that materials relating to Department of Defense funding for fiscal year 2001 were to be submitted, a report on supplemental nutrition assistance program benefits assistance for members of the Armed Forces.

#### DEFENSE REFORM INITIATIVE ENTERPRISE PILOT PROGRAM FOR MILITARY MANPOWER AND PERSONNEL INFORMATION

Pub. L. 106–65, div. A, title IX, §924, Oct. 5, 1999, 113 Stat. 726, provided that:

“(a) EXECUTIVE AGENT.—The Secretary of Defense may designate the Secretary of the Navy as the Department of Defense executive agent for carrying out the pilot program described in subsection (c).

“(b) IMPLEMENTING OFFICE.—If the Secretary of Defense makes the designation referred to in subsection (a), the Secretary of the Navy, in carrying out that pilot program, shall act through the head of the Systems Executive Office for Manpower and Personnel of the Department of the Navy, who shall act in coordination with the Under Secretary of Defense for Personnel and Readiness and the Chief Information Officer of the Department of Defense.

“(c) PILOT PROGRAM.—The pilot program referred to in subsection (a) is the defense reform initiative enterprise pilot program for military manpower and personnel information established pursuant to section 8147 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2341; 10 U.S.C. 113 note).”

Pub. L. 105–262, title VIII, §8147, Oct. 17, 1998, 112 Stat. 2341, provided that: “The Secretary of Defense shall establish, through a revised Defense Integrated Military Human Resources System (DIMHRS), a defense reform initiative enterprise pilot program for military manpower and personnel information: *Provided*, That this pilot program should include all functions and systems currently included in DIMHRS and shall be expanded to include all appropriate systems within the enterprise of personnel, manpower, training, and compensation: *Provided further*, That in establishing a revised DIMHRS enterprise program for manpower and personnel information superiority the functions of this program shall include, but not be limited to: (1) an analysis and deter-



mination of the number and kinds of information systems necessary to support manpower and personnel within the Department of Defense; and (2) the establishment of programs to develop and implement information systems in support of manpower and personnel to include an enterprise level strategic approach, performance and results based management, business process improvement and other non-material solutions, the use of commercial or government off-the-shelf technology, the use of modular contracting as defined by Public Law 104-106 [see 41 U.S.C. 2308], and the integration and consolidation of existing manpower and personnel information systems: *Provided further*, That the Secretary of Defense shall re-instate fulfillment standards designated as ADS-97-03-GD, dated January, 1997: *Provided further*, That the requirements of this section should be implemented not later than 6 months after the date of the enactment of this Act [Oct. 17, 1998].”

OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF  
AUTOMATED IDENTIFICATION TECHNOLOGY

Pub. L. 105-261, div. A, title III, §344, Oct. 17, 1998, 112 Stat. 1977, as amended by Pub. L. 106-65, div. A, title III, §373(h), title X, §1067(3), Oct. 5, 1999, 113 Stat. 581, 774, directed the Secretary of the Navy to allocate up to \$25,000,000 of fiscal year 1999 funds for the purpose of making progress toward the issuance and use of Smart Cards throughout the Navy and the Marine Corps and to equip with Smart Card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group in each of the United States Atlantic and Pacific Commands not later than June 30, 1999, and directed the Secretary of Defense, not later than Mar. 31, 1999, to submit to congressional defense committees a plan for the use of Smart Card technology by each military department.

PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING  
FEES CHARGED FOR USE OF DOMESTIC MILITARY AIR-  
FIELDS BY CIVIL AIRCRAFT

Pub. L. 105-261, div. A, title III, §377, Oct. 17, 1998, 112 Stat. 1993, as amended by Pub. L. 106-398, §1 [div. A], title III, §387, Oct. 30, 2000, 114 Stat. 1654, 1654A-88, provided that:

“(a) PILOT PROGRAM AUTHORIZED.—The Secretary of each military department may carry out a pilot program to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields of that department.

“(b) LANDING FEE DEFINED.—In this section, the term ‘landing fee’ means any fee that is established under or in accordance with regulations of the military department concerned (whether prescribed in a fee schedule or imposed under a joint-use agreement) to recover costs incurred for use by civil aircraft of an airfield of the military department in the United States or in a territory or possession of the United States.

“(c) USE OF PROCEEDS.—Amounts received in payment of landing fees for use of a military airfield in a fiscal year of the pilot program shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of the military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

“(d) REPORT.—Not later than March 31, 2003, the Secretary of Defense shall submit to Congress a report on the pilot programs carried out under this section by the Secretaries of the military departments. The report shall specify the amounts of fees received and retained by each military department under its pilot program as of December 31, 2002.”

“(e) DURATION OF PILOT PROGRAM.—The pilot program under this section may not be carried out after September 30, 2010.”

REPORT ON TERMINOLOGY FOR ANNUAL REPORT  
REQUIREMENT

Pub. L. 105-261, div. A, title IX, §915(b), Oct. 17, 1998, 112 Stat. 2102, directed the Secretary of Defense, not

later than 90 days after Oct. 17, 1998, to submit to committees of Congress a report setting forth the definitions of the terms “support” and “mission” to use for purposes of the report requirement under subsec. (l) of this section.

PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE  
WITHIN DEPARTMENT OF DEFENSE

Pub. L. 105-85, div. A, title III, §392, Nov. 18, 1997, 111 Stat. 1717, as amended by Pub. L. 105-261, div. A, title III, §374, Oct. 17, 1998, 112 Stat. 1992, provided that: “The Secretary of Defense shall maintain a specific coordinated program for the investigation of evidence of fraud, waste, and abuse within the Department of Defense, particularly fraud, waste, and abuse regarding finance and accounting matters and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 2461 note).”

COMMISSION ON MILITARY TRAINING AND GENDER-  
RELATED ISSUES

Pub. L. 105-85, div. A, title V, subtitle F, Nov. 18, 1997, 111 Stat. 1750, as amended by Pub. L. 105-261, div. A, title V, §524, Oct. 17, 1998, 112 Stat. 2014; Pub. L. 106-65, div. A, title X, §1066(c)(2), Oct. 5, 1999, 113 Stat. 773, established a Commission on Military Training and Gender-Related Issues to review requirements and restrictions regarding cross-gender relationships of members of the Armed Forces, to review the basic training programs of the Army, Navy, Air Force, and Marine Corps, and to make recommendations on improvements to those programs, requirements, and restrictions, and further provided for composition, powers, and duties of Commission, administrative matters, funding, an interim report to Congress not later than Oct. 15, 1998, and a final report to Congress not later than Mar. 15, 1999, and for termination of Commission 60 days after submission of final report.

COORDINATION OF DEPARTMENT OF DEFENSE CRIMINAL  
INVESTIGATIONS AND AUDITS

Pub. L. 105-85, div. A, title IX, §907, Nov. 18, 1997, 111 Stat. 1856, provided that:

“(a) MILITARY DEPARTMENT CRIMINAL INVESTIGATIVE ORGANIZATIONS.—(1) The heads of the military department criminal investigative organizations shall take such action as may be practicable to conserve the limited resources available to the military department criminal investigative organizations by sharing personnel, expertise, infrastructure, training, equipment, software, and other resources.

“(2) The heads of the military department criminal investigative organizations shall meet on a regular basis to determine the manner in which and the extent to which the military department criminal investigative organizations will be able to share resources.

“(b) DEFENSE AUDITING ORGANIZATIONS.—(1) The heads of the defense auditing organizations shall take such action as may be practicable to conserve the limited resources available to the defense auditing organizations by sharing personnel, expertise, infrastructure, training, equipment, software, and other resources.

“(2) The heads of the defense auditing organizations shall meet on a regular basis to determine the manner in which and the extent to which the defense auditing organizations will be able to share resources.

“(c) IMPLEMENTATION PLAN.—Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a plan designed to maximize the resources available to the military department criminal investigative organizations and the defense auditing organizations, as required by this section.

“(d) DEFINITIONS.—For purposes of this section:

“(1) The term ‘military department criminal investigative organizations’ means—

“(A) the Army Criminal Investigation Command;

“(B) the Naval Criminal Investigative Service; and

“(C) the Air Force Office of Special Investigations.

“(2) The term ‘defense auditing organizations’ means—

“(A) the Office of the Inspector General of the Department of Defense;

“(B) the Defense Contract Audit Agency;

“(C) the Army Audit Agency;

“(D) the Naval Audit Service; and

“(E) the Air Force Audit Agency.”

PROVISION OF ADEQUATE TROOP PROTECTION EQUIPMENT FOR ARMED FORCES PERSONNEL ENGAGED IN PEACE OPERATIONS; REPORT ON ANTITERRORISM ACTIVITIES AND PROTECTION OF PERSONNEL

Pub. L. 105–85, div. A, title X, §1052, Nov. 18, 1997, 111 Stat. 1889, provided that:

“(a) PROTECTION OF PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that units of the Armed Forces engaged in a peace operation are provided adequate troop protection equipment for that operation.

“(b) SPECIFIC ACTIONS.—In taking actions under subsection (a), the Secretary shall—

“(1) identify the additional troop protection equipment, if any, required to equip a division (or the equivalent of a division) with adequate troop protection equipment for peace operations; and

“(2) establish procedures to facilitate the exchange or transfer of troop protection equipment among units of the Armed Forces.

“(c) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall designate an official within the Department of Defense to be responsible for—

“(1) ensuring the appropriate allocation of troop protection equipment among the units of the Armed Forces engaged in peace operations; and

“(2) monitoring the availability, status or condition, and location of such equipment.

“(d) TROOP PROTECTION EQUIPMENT DEFINED.—In this section, the term ‘troop protection equipment’ means the equipment required by units of the Armed Forces to defend against any hostile threat that is likely during a peace operation, including an attack by a hostile crowd, small arms fire, mines, and a terrorist bombing attack.

“(e) REPORT ON ANTITERRORISM ACTIVITIES OF THE DEPARTMENT OF DEFENSE AND PROTECTION OF PERSONNEL.—Not later than 120 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of Defense shall submit to Congress a report, in classified and unclassified form, on antiterrorism activities of the Department of Defense and the actions taken by the Secretary under subsections (a), (b), and (c). The report shall include the following:

“(1) A description of the programs designed to carry out antiterrorism activities of the Department of Defense, any deficiencies in those programs, and any actions taken by the Secretary to improve implementation of such programs.

“(2) An assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces overseas against terrorist attack, including any modifications to such policies or practices that are proposed or implemented as a result of the assessment.

“(3) An assessment of the procedures of the Department of Defense for determining accountability, if any, in the command structure of the Armed Forces in instances in which a terrorist attack results in the loss of life at an overseas military installation or facility.

“(4) A detailed description of the roles of the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the combatant commanders in providing guidance and support with respect to the protection of members of the Armed Forces deployed

overseas against terrorist attack (both before and after the November 1995 bombing in Riyadh, Saudi Arabia) and how these roles have changed since the June 25, 1996, terrorist bombing at Khobar Towers in Dhahran, Saudi Arabia.

“(5) A description of the actions taken by the Secretary of Defense under subsections (a), (b), and (c) to provide adequate troop protection equipment for units of the Armed Forces engaged in a peace operation.”

STUDY OF INVESTIGATIVE PRACTICES OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS RELATING TO SEX CRIMES

Pub. L. 105–85, div. A, title X, §1072, Nov. 18, 1997, 111 Stat. 1898, required the Secretary of Defense to provide for a study to be conducted by the National Academy of Public Administration of the policies, procedures, and practices of the military criminal investigative organizations for the conduct of investigations of complaints of sex crimes and other criminal sexual misconduct arising in the Armed Forces, required the Academy to submit a report to the Secretary not later than one year after Nov. 18, 1997, and directed the Secretary to submit the report and comments on the report to Congress not later than 30 days afterwards.

PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR

Pub. L. 105–85, div. A, title X, §1083, Nov. 18, 1997, 111 Stat. 1918, as amended by Pub. L. 105–129, §1(b)(1), Dec. 1, 1997, 111 Stat. 2551; Pub. L. 105–261, div. A, title X, §1067(a), (c), Oct. 17, 1998, 112 Stat. 2134; Pub. L. 106–65, div. A, title X, §1052(a), (b)(1), (c), Oct. 5, 1999, 113 Stat. 764; Pub. L. 107–107, div. A, title X, §1048(g)(6), (i)(1), Dec. 28, 2001, 115 Stat. 1228, 1229; Pub. L. 107–314, div. A, title X, §1069, Dec. 2, 2002, 116 Stat. 2660, authorized the Secretary of Defense to conduct a program to commemorate the 50th anniversary of the Korean War during fiscal years 2000 through 2004, provided that up to \$10,000,000 of funds appropriated for the Army for such fiscal years be made available for the program, and directed the Secretary to submit to Congress a report containing an accounting not later than 60 days after completion of all activities and ceremonies.

ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES

Pub. L. 105–85, div. A, title XIII, §1309, Nov. 18, 1997, 111 Stat. 1956, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

“(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

“(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

“(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

“(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called ‘Ottawa process’) designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

“(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because

the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed antitank mine systems which could be used to deter an armored assault against United States forces.

“(7) The President also announced a change in United States policy whereby the United States—

“(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

“(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

“(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

“(D) would increase its current humanitarian demining activities around the world.

“(8) The President’s decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

“(9) Under existing law (as provided in section 580 of Public Law 104-107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

“(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

“(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report concerning antipersonnel landmines. Each such report shall include the Secretary’s description of the following:

“(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

“(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

“(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

“(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

“(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President’s September 17, 1997, declaration on United States antipersonnel landmine policy.

“(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

“(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

“(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

“(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1309(c) of Pub. L. 105-85, set out above, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.]

#### HATE CRIMES IN THE MILITARY

Pub. L. 104-201, div. A, title V, §571(a), (b), Sept. 23, 1996, 110 Stat. 2532, provided that:

“(a) HUMAN RELATIONS TRAINING.—(1) The Secretary of Defense shall ensure that the Secretary of each military department conducts ongoing programs for human relations training for all members of the Armed Forces under the jurisdiction of the Secretary. Matters to be covered by such training include race relations, equal opportunity, opposition to gender discrimination, and sensitivity to ‘hate group’ activity. Such training shall be provided during basic training (or other initial military training) and on a regular basis thereafter.

“(2) The Secretary of Defense shall also ensure that unit commanders are aware of their responsibilities in ensuring that impermissible activity based upon discriminatory motives does not occur in units under their command.

“(b) INFORMATION TO BE PROVIDED TO PROSPECTIVE RECRUITS.—The Secretary of Defense shall ensure that each individual preparing to enter an officer accession program or to execute an original enlistment agreement is provided information concerning the meaning of the oath of office or oath of enlistment for service in the Armed Forces in terms of the equal protection and civil liberties guarantees of the Constitution, and each such individual shall be informed that if supporting those guarantees is not possible personally for that individual, then that individual should decline to enter the Armed Forces.”

#### ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH

Pub. L. 104-201, div. A, title X, §1041, Sept. 23, 1996, 110 Stat. 2640, required the Secretary of Defense to submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch not later than Mar. 1 of each year and provided for the termination of the requirement with respect to each operation upon the termination of United States involvement in that operation.

#### ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS

Pub. L. 104-201, div. A, title X, §1042, Sept. 23, 1996, 110 Stat. 2642, as amended by Pub. L. 106-65, div. A, title X, §1067(5), Oct. 5, 1999, 113 Stat. 774, directed Secretary of Defense to submit to Committees on Armed Services of the Senate and the House of Representatives a report on emerging operational concepts not later than March 1 of each year through 2000, prior to repeal by Pub. L. 106-65, div. A, title II, §241(b), Oct. 5, 1999, 113 Stat. 550.

#### GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES

Pub. L. 104-201, div. A, title X, §1065, Sept. 23, 1996, 110 Stat. 2653, as amended by Pub. L. 108-136, div. A, title X, §1031(f)(2), Nov. 24, 2003, 117 Stat. 1604; Pub. L. 109-163, div. A, title IX, §903(c)(2), Jan. 6, 2006, 119 Stat. 3399, which related to participation by a European or Eurasian nation in Marshall Center programs and exemptions for members of Marshall Center Board of Visitors from certain requirements, was repealed by Pub. L. 114-328, div. A, title XII, §1241(e)(5)(B), Dec. 23, 2016, 130 Stat. 2507. See section 342(h)(1), (2) of this title.

Pub. L. 103-337, div. A, title XIII, §1306, Oct. 5, 1994, 108 Stat. 2892, as amended by Pub. L. 108-136, div. A,

title XII, §1223, Nov. 24, 2003, 117 Stat. 1652; Pub. L. 109-163, div. A, title IX, §903(c)(1), Jan. 6, 2006, 119 Stat. 3399, which related to waiver of reimbursement of costs of educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union, was repealed by Pub. L. 114-328, div. A, title XII, §1241(e)(5)(C), Dec. 23, 2016, 130 Stat. 2507. See section 342(h)(3) of this title.

PARTICIPATION OF MEMBERS, DEPENDENTS, AND OTHER PERSONS IN CRIME PREVENTION EFFORTS AT INSTALLATIONS

Pub. L. 104-201, div. A, title X, §1070, Sept. 23, 1996, 110 Stat. 2656, provided that:

“(a) CRIME PREVENTION PLAN.—The Secretary of Defense shall prepare and implement an incentive-based plan to encourage members of the Armed Forces, dependents of members, civilian employees of the Department of Defense, and employees of defense contractors performing work at military installations to report to an appropriate military law enforcement agency any crime or criminal activity that the person reasonably believes occurred on a military installation or involves a member of the Armed Forces.

“(b) INCENTIVES TO REPORT CRIMINAL ACTIVITY.—The Secretary of Defense shall include in the plan developed under subsection (a) incentives for members and other persons described in such subsection to provide information to appropriate military law enforcement agencies regarding any crime or criminal activity occurring on a military installation or involving a member of the Armed Forces.

“(c) REPORT REGARDING IMPLEMENTATION.—Not later than February 1, 1997, the Secretary shall submit to Congress a report describing the plan being developed under subsection (a).”

ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES

Pub. L. 104-193, title III, §363(a), Aug. 22, 1996, 110 Stat. 2247, as amended by Pub. L. 107-296, title XVII, §1704(e)(1)(A), Nov. 25, 2002, 116 Stat. 2315, provided that:

“(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Homeland Security, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

“(2) TYPE OF ADDRESS.—

“(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

“(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

“(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

“(ii) with respect to whom the Secretary concerned makes a determination that the member’s residential address should not be disclosed due to national security or safety concerns.

“(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

“(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act [42 U.S.C. 653].”

REVIEW OF C<sup>4</sup>I BY NATIONAL RESEARCH COUNCIL

Pub. L. 104-106, div. A, title II, §262, Feb. 10, 1996, 110 Stat. 236, directed the Secretary of Defense, not later

than 90 days after Feb. 10, 1996, to request the National Research Council of the National Academy of Sciences to conduct a two-year review of current and planned service and defense-wide programs for command, control, communications, computers, and intelligence, and required the Secretary to provide that the Council submit interim reports and a final report on the review to the Department of Defense and committees of Congress.

STRATEGY AND REPORT ON AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 104-106, div. A, title III, §366, Feb. 10, 1996, 110 Stat. 275, directed the Secretary of Defense to develop a strategy for the development or modernization of automated information systems for the Department of Defense and to submit to Congress a report on the development of such strategy not later than Apr. 15, 1996.

REPORT CONCERNING APPROPRIATE FORUM FOR JUDICIAL REVIEW OF DEPARTMENT OF DEFENSE PERSONNEL ACTIONS

Pub. L. 104-106, div. A, title V, §551, Feb. 10, 1996, 110 Stat. 318, directed the Secretary of Defense to establish an advisory committee to consider issues relating to the appropriate forum for judicial review of Department of Defense administrative personnel actions, required the committee to submit a report to the Secretary of Defense not later than Dec. 15, 1996, required the Secretary to transmit the committee’s report to Congress not later than Jan. 1, 1997, and provided for the termination of the committee 30 days after the date of the submission of its report to Congress.

REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 103-337, div. A, title III, §381, Oct. 5, 1994, 108 Stat. 2738, provided that:

“(a) DETERMINATION REQUIRED.—(1) Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall—

“(A) determine whether each automated information system described in paragraph (2) meets the requirements set forth in subsection (b); and

“(B) take appropriate action to end the modernization or development by the Department of Defense of any such system that the Secretary determines does not meet such requirements.

“(2) An automated information system referred to in paragraph (1) is an automated information system—

“(A) that is undergoing modernization or development by the Department of Defense;

“(B) that exceeds \$50,000,000 in value; and

“(C) that is not a migration system, as determined by the Enterprise Integration Executive Board of the Department of Defense.

“(b) REQUIREMENTS.—The use of an automated information system by the Department of Defense shall—

“(1) contribute to the achievement of Department of Defense strategies for the use of automated information systems;

“(2) as determined by the Secretary, provide an acceptable benefit from the investment in the system or make a substantial contribution to the performance of the defense mission for which the system is used;

“(3) comply with Department of Defense directives applicable to life cycle management of automated information systems; and

“(4) be based on guidance developed under subsection (c).

“(c) GUIDANCE FOR USE.—The Secretary of Defense shall develop guidance for the use of automated information systems by the Department of Defense. In developing the guidance, the Secretary shall consider the following:

“(1) Directives of the Office of Management and Budget applicable to returns of investment for such systems.

“(2) A sound, functional economic analysis.

“(3) Established objectives for the Department of Defense information infrastructure.

“(4) Migratory assessment criteria, including criteria under guidance provided by the Defense Information Systems Agency.

“(d) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) for an automated information system if the Secretary determines that the purpose for which the system is being modernized or developed is of compelling military importance.

“(2) If the Secretary exercises the waiver authority provided in paragraph (1), the Secretary shall include the following in the next report required by subsection (f):

“(A) The reasons for the failure of the automated information system to meet all of the requirements of subsection (b).

“(B) A determination of whether the system is expected to meet such requirements in the future, and if so, the date by which the system is expected to meet the requirements.

“(e) PERFORMANCE MEASURES AND MANAGEMENT CONTROLS.—(1) The Secretary of Defense shall establish performance measures and management controls for the supervision and management of the activities described in paragraph (2). The performance measures and management controls shall be adequate to ensure, to the maximum extent practicable, that the Department of Defense receives the maximum benefit possible from the development, modernization, operation, and maintenance of automated information systems.

“(2) The activities referred to in paragraph (1) are the following:

“(A) Accelerated implementation of migration systems.

“(B) Establishment of data standards.

“(C) Process improvement.

“(f) REPORTS.—Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the establishment and implementation of the performance measures and management controls referred to in subsection (e)(1). Each such report shall also specify—

“(1) the automated information systems that, as determined under subsection (a), meet the requirements of subsection (b);

“(2) the automated information systems that, as determined under subsection (a), do not meet the requirements of subsection (b) and the action taken by the Secretary to end the use of such systems; and

“(3) the automated information systems that, as determined by the Enterprise Integration Executive Board, are migration systems.

“(g) REVIEW BY COMPTROLLER GENERAL.—Not later than April 30, 1995, the Comptroller General of the United States shall submit to Congress a report that contains an evaluation of the following:

“(1) The progress made by the Department of Defense in achieving the goals of the corporate information management program of the Department.

“(2) The progress made by the Secretary of Defense in establishing the performance measures and management controls referred to in subsection (e)(1).

“(3) The progress made by the Department of Defense in using automated information systems that meet the requirements of subsection (b).

“(4) The report required by subsection (f) to be submitted in 1995.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘automated information system’ means an automated information system of the Department of Defense described in the exhibits designated as ‘IT-43’ in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code.

“(2) The term ‘migration system’ has the meaning given such term in the document entitled ‘Department of Defense Strategy for Acceleration of Migration Systems and Data Standards’ attached to the

memorandum of the Department of Defense dated October 13, 1993 (relating to accelerated implementation of migration systems, data standards, and process improvement).”

Pub. L. 104-201, div. A, title VIII, § 830, Sept. 23, 1996, 110 Stat. 2614, as amended by Pub. L. 104-208, div. A, title I, § 101(f) [title VIII, § 808(c)], Sept. 30, 1996, 110 Stat. 3009-314, 3009-394, provided that Secretary of Defense was to include in report submitted in 1997 under section 381(f) of Pub. L. 103-337 [set out above] a discussion of progress made in implementing div. E of Pub. L. 104-106 [§§ 5001-5703, see Tables for classification] and strategy for development or modernization of automated information systems for Department of Defense, and plans of Department of Defense for establishing an integrated framework for management of information resources within the Department, and provided further specifications of the elements to be included in the discussion.

#### ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER

Pub. L. 103-337, div. A, title V, § 533, Oct. 5, 1994, 108 Stat. 2760, which provided that the Secretary of Defense was to submit to Congress an annual report on trends in recruiting, retention, and personnel readiness, was repealed by Pub. L. 115-91, div. A, title X, § 1051(g), Dec. 12, 2017, 131 Stat. 1563.

#### VICTIMS’ ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE

Pub. L. 103-337, div. A, title V, § 534, Oct. 5, 1994, 108 Stat. 2761, provided that:

“(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims’ advocates program.

“(2) Programs referred to in paragraph (1) are the following:

“(A) Victim and witness assistance programs.

“(B) Family advocacy programs.

“(C) Equal opportunity programs.

“(3) In the case of the Department of the Navy, separate victims’ advocates programs shall be established for the Navy and the Marine Corps.

“(b) PURPOSE.—A victims’ advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

“(1) Crime.

“(2) Intrafamilial sexual, physical, or emotional abuse.

“(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

“(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.

“(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims’ advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

“(d) ASSISTANCE.—(1) Under a victims’ advocates program established under subsection (a), individuals

working in the program shall principally serve the interests of a victim by initiating action to provide (A) information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

“(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

“(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims’ advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

“(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act [Oct. 5, 1994].

“(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section.”

#### ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR

Pub. L. 103-337, div. A, title X, §1031, Oct. 5, 1994, 108 Stat. 2838, provided that:

“(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

“(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

“(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

“(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

“(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

“(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

“(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

“(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

“(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official’s efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

“(e) DEFINITIONS.—For purposes of this section:

“(1) The term ‘unaccounted-for Korean conflict POW/MIA’ means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

“(2) The term ‘unaccounted-for Cold War POW/MIA’ means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

“(3) The term ‘Korean conflict’ has the meaning given such term in section 101(9) of title 38, United States Code.”

#### PLAN REQUIRING DISBURSING OFFICIALS OF DEPARTMENT OF DEFENSE TO MATCH DISBURSEMENTS TO PARTICULAR OBLIGATIONS

Pub. L. 113-76, div. C, title VIII, §8067, Jan. 17, 2014, 128 Stat. 121, provided that: “Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2014.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 113-6, div. C, title VIII, §8067, Mar. 26, 2013, 127 Stat. 313.

Pub. L. 112-74, div. A, title VIII, §8068, Dec. 23, 2011, 125 Stat. 822.

Pub. L. 112-10, div. A, title VIII, §8070, Apr. 15, 2011, 125 Stat. 73.

Pub. L. 111-118, div. A, title VIII, §8073, Dec. 19, 2009, 123 Stat. 3445.

Pub. L. 110-329, div. C, title VIII, §8073, Sept. 30, 2008, 122 Stat. 3637.

Pub. L. 110-116, div. A, title VIII, §8076, Nov. 13, 2007, 121 Stat. 1332.

Pub. L. 109-289, div. A, title VIII, §8074, Sept. 29, 2006, 120 Stat. 1291.

Pub. L. 109-148, div. A, title VIII, §8083, Dec. 30, 2005, 119 Stat. 2717.

Pub. L. 108-287, title VIII, §8091, Aug. 5, 2004, 118 Stat. 992.

Pub. L. 108-87, title VIII, §8092, Sept. 30, 2003, 117 Stat. 1094.

Pub. L. 107-248, title VIII, §8098, Oct. 23, 2002, 116 Stat. 1559.

Pub. L. 107-117, div. A, title VIII, §8118, Jan. 10, 2002, 115 Stat. 2273.

Pub. L. 106-259, title VIII, §8137, Aug. 9, 2000, 114 Stat. 704.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8106], Sept. 30, 1996, 110 Stat. 3009-71, 3009-111, as amended by Pub. L. 105-56, title VIII, §8113, Oct. 8, 1997, 111 Stat. 1245; Pub. L. 105-277, div. C, title I, §143, Oct. 21, 1998, 112 Stat. 2681-609; Pub. L. 106-79, title VIII, §8135, Oct. 25, 1999, 113 Stat. 1268, provided that:

“(a) The Secretary of Defense shall require each disbursement by the Department of Defense in an amount in excess of \$500,000 be matched to a particular obligation before the disbursement is made.

“(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under section (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such section to that disbursement.”

[Section 8113 of Pub. L. 105-56 provided that the amendment made by that section [amending section 101(b) [title VIII, §8106] of Pub. L. 104-208] set out above, is effective June 30, 1998.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-61, title VIII, §8102, Dec. 1, 1995, 109 Stat. 672.

Pub. L. 103-335, title VIII, §8137, Sept. 30, 1994, 108 Stat. 2654.

#### NOTICE TO CONGRESS OF PROPOSED CHANGES IN COMBAT ASSIGNMENTS TO WHICH FEMALE MEMBERS MAY BE ASSIGNED

Pub. L. 103-160, div. A, title V, §542, Nov. 30, 1993, 107 Stat. 1659, as amended by Pub. L. 106-398, §1 [[div. A],

title V, §573(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-136; Pub. L. 107-107, div. A, title V, §591, Dec. 28, 2001, 115 Stat. 1125, which generally required the Secretary of Defense to transmit to the Committees on Armed Services of the Senate and House of Representatives notice of a proposed change in military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit, class of combat vessel, or type of combat platform that was not open to such assignments, and also required the Secretary to submit to Congress a report providing notice of certain proposed changes to the ground combat exclusion policy, was repealed and restated as section 652 of this title by Pub. L. 109-163, div. A, title V, §541(a)(1), (c), Jan. 6, 2006, 119 Stat. 3251, 3253.

GENDER-NEUTRAL OCCUPATIONAL PERFORMANCE  
STANDARDS

Pub. L. 103-160, div. A, title V, §543, Nov. 30, 1993, 107 Stat. 1660, as amended by Pub. L. 113-66, div. A, title V, §523, Dec. 26, 2013, 127 Stat. 756, provided that:

“(a) GENDER NEUTRALITY REQUIREMENT.—In the case of any military career designator that is open to both male and female members of the Armed Forces, the Secretary of Defense—

“(1) shall ensure that qualification of members of the Armed Forces for, and continuance of members of the Armed Forces in, that occupational career field is evaluated on the basis of an occupational standard, without differential standards or evaluation on the basis of gender;

“(2) may not use any gender quota, goal, or ceiling except as specifically authorized by law; and

“(3) may not change an occupational performance standard for the purpose of increasing or decreasing the number of women in that occupational career field.

“(b) REQUIREMENTS RELATING TO USE OF SPECIFIC PHYSICAL REQUIREMENTS.—(1) For any military career designator for which the Secretary of Defense determines that specific physical requirements for muscular strength and endurance and cardiovascular capacity are essential to the performance of duties, the Secretary shall prescribe specific physical requirements as part of the gender-neutral occupational standard for members in that career designator and shall ensure (in the case of a career designator that is open to both male and female members of the Armed Forces) that those requirements are applied on a gender-neutral basis.

“(2) Whenever the Secretary establishes or revises a physical requirement for a military career designator, a member serving in that military career designator when the new requirement becomes effective, who is otherwise considered to be a satisfactory performer, shall be provided a reasonable period, as determined under regulations prescribed by the Secretary, to meet the standard established by the new requirement. During that period, the new physical requirement may not be used to disqualify the member from continued service in that military career designator.

“(c) NOTICE TO CONGRESS OF CHANGES.—Whenever the Secretary of Defense proposes to implement changes to the gender-neutral occupational standard for a military career designator that are expected to result in an increase, or in a decrease, of at least 10 percent in the number of female members of the Armed Forces who enter, or are assigned to, that military career designator, the Secretary of Defense shall submit to Congress a report providing notice of the change and the justification and rationale for the change. Such changes may then be implemented only after the end of the 60-day period beginning on the date on which such report is submitted.

“(d) DEFINITIONS.—In this section:

“(1) GENDER-NEUTRAL OCCUPATIONAL STANDARD.—The term ‘gender-neutral occupational standard’, with respect to a military career designator, means that all members of the Armed Forces serving in or assigned to the military career designator must meet

the same performance outcome-based standards for the successful accomplishment of the necessary and required specific tasks associated with the qualifications and duties performed while serving in or assigned to the military career designator.

“(2) MILITARY CAREER DESIGNATOR.—The term ‘military career designator’ refers to—

“(A) in the case of enlisted members and warrant officers of the Armed Forces, military occupational specialties, specialty codes, enlisted designators, enlisted classification codes, additional skill identifiers, and special qualification identifiers; and

“(B) in the case of commissioned officers (other than commissioned warrant officers), officer areas of concentration, occupational specialties, specialty codes, additional skill identifiers, and special qualification identifiers.”

SECURITY CLEARANCES

Pub. L. 103-337, div. A, title X, §1041, Oct. 5, 1994, 108 Stat. 2842, directed the Secretary of Defense to submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

Pub. L. 103-160, div. A, title XI, §1183, Nov. 30, 1993, 107 Stat. 1774, provided that:

“(a) REVIEW OF SECURITY CLEARANCE PROCEDURES.—

(1) The Secretary of Defense shall conduct a review of the procedural safeguards available to Department of Defense civilian employees who are facing denial or revocation of security clearances.

“(2) Such review shall specifically consider—

“(A) whether the procedural rights provided to Department of Defense civilian employees should be enhanced to include the procedural rights available to Department of Defense contractor employees;

“(B) whether the procedural rights provided to Department of Defense civilian employees should be enhanced to include the procedural rights available to similarly situated employees in those Government agencies that provide greater rights than the Department of Defense; and

“(C) whether there should be a difference between the rights provided to both Department of Defense civilian and contractor employees with respect to security clearances and the rights provided with respect to sensitive compartmented information and special access programs.

“(b) REPORT.—The Secretary shall submit to Congress a report on the results of the review required by subsection (a) not later than March 1, 1994.

“(c) REGULATIONS.—The Secretary shall revise the regulations governing security clearance procedures for Department of Defense civilian employees not later than May 15, 1994.”

FOREIGN LANGUAGE PROFICIENCY TEST PROGRAM

Pub. L. 103-160, div. A, title V, §575, Nov. 30, 1993, 107 Stat. 1675, directed the Secretary of Defense to develop and carry out a test program for improving foreign language proficiency in the Department of Defense through improved management and other measures and to submit a report to committees of Congress not later than Apr. 1, 1994, containing a plan for the program, an explanation of the plan, and a discussion of proficiency pay adjustments, and provided for the program to begin on Oct. 1, 1994, or 180 days after the date of submission of the report and to terminate two years later.

INVESTIGATIONS OF DEATHS OF MEMBERS OF ARMED  
FORCES FROM SELF-INFLICTED CAUSES

Pub. L. 103-160, div. A, title XI, §1185, Nov. 30, 1993, 107 Stat. 1774, required the Secretary of Defense to review, not later than June 30, 1994, the procedures of the military departments for investigating deaths of members of the Armed Forces that may have resulted from self-

inflicted causes, to submit to Congress, not later than July 15, 1994, a report on the review, and to prescribe, not later than Oct. 1, 1994, regulations governing the investigation of deaths of members of the Armed Forces that may have resulted from self-inflicted causes, required the Inspector General of the Department of Defense to review certain death investigations, and required the Secretary of Transportation to implement with respect to the Coast Guard the requirements that were imposed on the Secretary of Defense and the Inspector General of the Department of Defense.

#### PROGRAM TO COMMEMORATE WORLD WAR II

Pub. L. 102-484, div. A, title III, § 378, Oct. 23, 1992, 106 Stat. 2387, as amended by Pub. L. 103-337, div. A, title III, § 382(a), Oct. 5, 1994, 108 Stat. 2740, authorized the Secretary of Defense, during fiscal years 1993 through 1996, to conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate commemoration programs and activities of Federal, State, and local governments.

#### REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS

Pub. L. 102-484, div. A, title III, § 383, Oct. 23, 1992, 106 Stat. 2392, provided that:

“(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

“(b) PURPOSE.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect the public safety while meeting training requirements of the Armed Forces.

“(c) SPECIAL REQUIREMENT.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.”

#### REPORT ON ACTIONS TO REDUCE DISINCENTIVES FOR DEPENDENTS TO REPORT ABUSE BY MEMBERS OF ARMED FORCES

Pub. L. 102-484, div. A, title VI, § 653(d), Oct. 23, 1992, 106 Stat. 2429, directed the Secretary of Defense to transmit a report to Congress not later than Dec. 15, 1993, on actions that had been taken and were planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse.

#### SURVIVOR NOTIFICATION AND ACCESS TO REPORTS RELATING TO SERVICE MEMBERS WHO DIE

Pub. L. 102-484, div. A, title X, § 1072, Oct. 23, 1992, 106 Stat. 2508, provided that:

“(a) AVAILABILITY OF FATALITY REPORTS AND RECORDS.—

“(1) REQUIREMENT.—The Secretary of each military department shall ensure that fatality reports and records pertaining to any member of the Armed Forces who dies in the line of duty shall be made available to family members of the service member in accordance with this subsection.

“(2) INFORMATION TO BE PROVIDED AFTER NOTIFICATION OF DEATH.—Within a reasonable period of time after family members of a service member are notified of the member's death, but not more than 30 days after the date of notification, the Secretary concerned shall ensure that the family members—

“(A) in any case in which the cause or circumstances surrounding the death are under investigation, are informed of that fact, of the names of the agencies within the Department of Defense conducting the investigations, and of the existence of any reports by such agencies that have been or will be issued as a result of the investigations; and

“(B) are furnished, if the family members so desire, a copy of any completed investigative report

and any other completed fatality reports that are available at the time family members are provided the information described in subparagraph (A) to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

“(3) ASSISTANCE IN OBTAINING REPORTS.—(A) In any case in which an investigative report or other fatality reports are not available at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death, the Secretary concerned shall ensure that a copy of such investigative report and any other fatality reports are furnished to the family members, if they so desire, when the reports are completed and become available, to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

“(B) In any case in which an investigative report or other fatality reports cannot be released at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death because of section 552 or 552a of title 5, United States Code, the Secretary concerned shall ensure that the family members—

“(i) are informed about the requirements and procedures necessary to request a copy of such reports; and

“(ii) are assisted, if the family members so desire, in submitting a request in accordance with such requirements and procedures.

“(C) The requirement of subparagraph (B) to inform and assist family members in obtaining copies of fatality reports shall continue until a copy of each report is obtained, or access to any such report is denied by competent authority within the Department of Defense.

“(4) WAIVER.—The requirements of paragraph (2) or (3) may be waived on a case-by-case basis, but only if the Secretary of the military department concerned determines that compliance with such requirements is not in the interests of national security.

“(b) REVIEW OF COMBAT FATALITY NOTIFICATION PROCEDURES.—

“(1) REVIEW.—The Secretary of Defense shall conduct a review of the fatality notification procedures used by the military departments. Such review shall examine the following matters:

“(A) Whether uniformity in combat fatality notification procedures among the military departments is desirable, particularly with respect to—

“(i) the use of one or two casualty notification and assistance officers;

“(ii) the use of standardized fatality report forms and witness statements;

“(iii) the use of a single center for all military departments through which combat fatality information may be processed; and

“(iv) the use of uniform procedures and the provision of a dispute resolution process for instances in which members of one of the Armed Forces inflict casualties on members of another of the Armed Forces.

“(B) Whether existing combat fatality report forms should be modified to include a block or blocks with which to identify the cause of death as ‘friendly fire’, ‘U.S. ordnance’, or ‘unknown’.

“(C) Whether the existing ‘Emergency Data’ form prepared by members of the Armed Forces should be revised to allow members to specify provision for notification of additional family members in cases such as the case of a divorced service member who leaves children with both a current and a former spouse.

“(D) Whether the military departments should, in all cases, provide family members of a service member who died as a result of injuries sustained in combat with full and complete details of the death of the service member, regardless of whether such details may be graphic, embarrassing to the family



members, or reflect negatively on the military department concerned.

“(E) Whether, and when, the military departments should inform family members of a service member who died as a result of injuries sustained in combat about the possibility that the death may have been the result of friendly fire.

“(F) The criteria and standards which the military departments should use in deciding when disclosure is appropriate to family members of a member of the military forces of an allied nation who died as a result of injuries sustained in combat when the death may have been the result of fire from United States armed forces and an investigation into the cause or circumstances of the death has been conducted.

“(2) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review conducted under paragraph (1). Such report shall be submitted not later than March 31, 1993, and shall include recommendations on the matters examined in the review and on any other matters the Secretary determines to be appropriate based upon the review or on any other reviews undertaken by the Department of Defense.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘fatality reports’ includes investigative reports and any other reports pertaining to the cause or circumstances of death of a member of the Armed Forces in the line of duty (such as autopsy reports, battlefield reports, and medical reports).

“(2) The term ‘family members’ means parents, spouses, adult children, and such other relatives as the Secretary concerned considers appropriate.

“(d) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies with respect to deaths of members of the Armed Forces occurring after the date of the enactment of this Act [Oct. 23, 1992].

“(2) With respect to deaths of members of the Armed Forces occurring before the date of the enactment of this Act, the Secretary concerned shall provide fatality reports to family members upon request as promptly as practicable.”

#### LIMITATION ON SUPPORT FOR UNITED STATES CONTRACTORS SELLING ARMS OVERSEAS

Pub. L. 102-484, div. A, title X, §1082, Oct. 23, 1992, 106 Stat. 2516, as amended by Pub. L. 108-136, div. A, title X, §1031(d)(2), Nov. 24, 2003, 117 Stat. 1604, provided that:

“(a) SUPPORT FOR CONTRACTORS.—In the event that a United States defense contractor or industrial association requests the Department of Defense or a military department to provide support in the form of military equipment for any airshow or trade exhibition to be held outside the United States, such equipment may not be supplied unless the contractor or association agrees to reimburse the Treasury of the United States for—

“(1) all incremental costs of military personnel accompanying the equipment, including food, lodging, and local transportation;

“(2) all incremental transportation costs incurred in moving such equipment from its normally assigned location to the airshow or trade exhibition and return; and

“(3) any other miscellaneous incremental costs not included under paragraphs (1) and (2) that are incurred by the Federal Government but would not have been incurred had military support not been provided to the contractor or industrial association.

“(b) DEPARTMENT OF DEFENSE EXHIBITIONS.—(1) A military department may not participate directly in any airshow or trade exhibition held outside the United States unless the Secretary of Defense determines that it is in the national security interests of the United States for the military departments to do so.

“(2) The Secretary of Defense may not delegate the authority to make the determination referred to in [former] paragraph (1)(A) below the level of the Under Secretary of Defense for Policy.

“(c) DEFINITION.—In this section, the term ‘incremental transportation cost’ includes the cost of transporting equipment to an airshow or trade exhibition only to the extent that the provision of transportation by the Department of Defense described in subsection (a)(2) does not fulfill legitimate training requirements that would otherwise have to be met.”

#### OVERSEAS MILITARY END STRENGTH

Pub. L. 102-484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which provided that on and after Sept. 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on Sept. 30, 1992, with exceptions in the event of declarations of war or emergency, was repealed and restated as section 123b of this title by Pub. L. 103-337, §1312(a), (c).

#### REPORTS ON OVERSEAS BASING

Pub. L. 111-84, div. A, title X, §1063, Oct. 28, 2009, 123 Stat. 2469, as amended by Pub. L. 111-383, div. A, title X, §1075(d)(14), Jan. 7, 2011, 124 Stat. 4373, provided that:

“(a) REPORT REQUIREMENT.—Concurrent with the delivery of the report on the 2009 quadrennial defense review required by [former] section 118 of title 10, United States Code, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the plan for basing of forces outside the United States.

“(b) MATTERS COVERED.—The report required under subsection (a) shall contain a description of—

“(1) how the plan supports the United States national security strategy;

“(2) how the plan supports the security commitments undertaken by the United States pursuant to any international security treaty, including the North Atlantic Treaty, the Treaty of Mutual Cooperation and Security between the United States and Japan, and the Security Treaty Between Australia, New Zealand, and the United States of America;

“(3) how the plan addresses the current security environment in each geographic combatant command’s area of responsibility, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises;

“(4) the impact that a permanent change in the basing of a unit currently stationed outside the United States would have on the matters described in paragraphs (1) through (3);

“(5) the impact the plan will have on the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy and the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations of the global defense posture of the United States;

“(6) any recommendations for additional closures or realignments of military installations outside of the United States; and

“(7) any comments resulting from an interagency review of the plan that includes the Department of State and other relevant Federal departments and agencies.

“(c) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify Congress at least 30 days before the permanent relocation of a unit stationed outside the United States as of the date of the enactment of this Act [Oct. 28, 2009].

“(d) DEFINITIONS.—In this section:

“(1) UNIT.—The term ‘unit’ has the meaning determined by the Secretary of Defense for purposes of this section.

“(2) GEOGRAPHIC COMBATANT COMMAND.—The term ‘geographic combatant command’ means a combatant command with a geographic area of responsibility that does not include North America.”

Pub. L. 102-484, div. A, title XIII, §1304, Oct. 23, 1992, 106 Stat. 2546, as amended by Pub. L. 103-160, div. B, title XXIX, §2924(a), Nov. 30, 1993, 107 Stat. 1931; Pub. L. 104-106, div. A, title XV, §1502(c)(2)(A), Feb. 10, 1996, 110 Stat. 506, provided that:

“(a) ANNUAL REPORT.—The Secretary of Defense shall, not later than March 31 of each year through 1997, submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of House of Representatives], either separately or as part of another relevant report, a report that specifies—

“(1) the stationing and basing plan by installation for United States military forces outside the United States;

“(2) the status of closures of United States military installations located outside the United States;

“(3) both—

“(A) the status of negotiations, if any, between the United States and the host government as to (i) United States claims for compensation for the fair market value of the improvements made by the United States at each installation referred to in paragraph (2), and (ii) any claims of the host government for damages or restoration of the installation; and

“(B) the representative of the United States in any such negotiations;

“(4) the potential savings to the United States resulting from such closures;

“(5) the cost to the United States of any improvements made at each installation referred to in paragraph (2) and the fair market value of such improvements, expressed in constant dollars based on the date of completion of the improvements;

“(6) in each case in which negotiations between the United States and a host government have resulted in an agreement for the payment to the United States by the host government of the value of improvements to an installation made by the United States, the amount of such payment, the form of such payment, and the expected date of such payment; and

“(7) efforts and progress toward achieving host nation offsets under section 1301(e) [106 Stat. 2545] and reduced end strength levels under section 1302 [set out above].

“(b) REPORT ON BUDGET IMPLICATIONS OF OVERSEAS BASING AGREEMENTS.—Whenever the Secretary of Defense enters into a basing agreement between the United States and a foreign country with respect to United States military forces outside the United States, the Secretary of Defense shall, in advance of the signing of the agreement, submit to the congressional defense committees a report on the Federal budget implications of the agreement.”

#### COMMISSION ON ASSIGNMENT OF WOMEN IN ARMED FORCES

Pub. L. 102-190, div. A, title V, part D, subpart 2, Dec. 5, 1991, 105 Stat. 1365, provided for the creation of a Commission on the Assignment of Women in the Armed Forces to assess the laws and policies restricting the assignment of female service members and the implications, if any, for the combat readiness of the Armed Forces of permitting female members to qualify for assignment to positions in some or all categories of combat positions, with a report to be submitted to the President no later than Nov. 15, 1992, and to the Congress no later than Dec. 15, 1992, containing recommendations as to what roles female members should have in combat and what laws and policies restricting such assignments should be repealed or modified, and further provided for powers and procedures of the Commission, personnel matters, payment of Commission expenses and other miscellaneous administrative provi-

sions, termination of the Commission 90 days after submission of its final report, and test assignments of female service members to combat positions.

#### REQUIREMENTS RELATING TO EUROPEAN MILITARY PROCUREMENT PRACTICES

Pub. L. 102-190, div. A, title VIII, §832, Dec. 5, 1991, 105 Stat. 1446, provided that:

“(a) EUROPEAN PROCUREMENT PRACTICES.—The Secretary of Defense shall—

“(1) compute the total value of American-made military goods and services procured each year by European governments or companies;

“(2) review defense procurement practices of European governments to determine what factors are considered in the selection of contractors and to determine whether American firms are discriminated against in the selection of contractors for purchases by such governments of military goods and services; and

“(3) establish a procedure for discussion with European governments about defense contract awards made by them that American firms believe were awarded unfairly.

“(b) DEFENSE TRADE AND COOPERATION WORKING GROUP.—The Secretary of Defense shall establish a defense trade and cooperation working group. The purpose of the group is to evaluate the impact of, and formulate United States positions on, European initiatives that affect United States defense trade, cooperation, and technology security. In carrying out the responsibilities of the working group, members of the group shall consult, as appropriate, with personnel in the Departments of State and Commerce and in the Office of the United States Trade Representative.

“(c) GAO REVIEW.—The Comptroller General shall conduct a review to determine how the members of the North Atlantic Treaty Organization are implementing their bilateral reciprocal defense procurement memoranda of understanding with the United States. The Comptroller General shall complete the review, and submit to Congress a report on the results of the review, not later than February 1, 1992.”

#### DEPARTMENT OF DEFENSE USE OF NATIONAL INTELLIGENCE COLLECTION SYSTEMS

Pub. L. 102-190, div. A, title IX, §924, Dec. 5, 1991, 105 Stat. 1454, provided that:

“(a) PROCEDURES FOR USE.—The Secretary of Defense, after consultation with the Director of Central Intelligence, shall prescribe procedures for regularly and periodically exercising national intelligence collection systems and exploitation organizations that would be used to provide intelligence support, including support of the combatant commands, during a war or threat to national security.

“(b) USE IN JOINT TRAINING EXERCISES.—In accordance with procedures prescribed under subsection (a), the Chairman of the Joint Chiefs of Staff shall provide for the use of the national intelligence collection systems and exploitation organizations in joint training exercises to the extent necessary to ensure that those systems and organizations are capable of providing intelligence support, including support of the combatant commands, during a war or threat to national security.

“(c) REPORT.—Not later than May 1, 1992, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a joint report—

“(1) describing the procedures prescribed under subsection (a); and

“(2) stating the assessment of the Chairman of the Joint Chiefs of Staff of the performance in joint training exercises of the national intelligence collection systems and the Chairman's recommendations for any changes that the Chairman considers appropriate to improve that performance.”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION

Pub. L. 102-190, div. A, title X, §1083, Dec. 5, 1991, 105 Stat. 1482, provided that:

“(a) REQUEST FOR ESTABLISHMENT.—The President is authorized and requested to establish in the Department of Defense a family support center to provide information and assistance to members of the families of persons who at any time while members of the Armed Forces were classified as prisoners of war or missing in action in Southeast Asia and who have not been accounted for. Such a support center should be located in a facility in the National Capital region.

“(b) DUTIES.—The center should be organized and provided with such personnel as necessary to permit the center to assist family members referred to in subsection (a) in contacting the departments and agencies of the Federal Government having jurisdiction over matters relating to such persons.”

REPORTS ON FOREIGN CONTRIBUTIONS AND COSTS OF OPERATION DESERT STORM

Pub. L. 102-25, title IV, Apr. 6, 1991, 105 Stat. 99, directed Director of Office of Management and Budget to submit to Congress a number of reports on incremental costs associated with Operation Desert Storm and amounts of contributions made to United States by foreign countries to offset those costs, with a final report due not later than Nov. 15, 1992, and directed Secretary of State and Secretary of the Treasury to jointly submit to Congress a number of reports on contributions made by foreign countries as part of international response to Persian Gulf crisis, with a final report due not later than Nov. 15, 1992.

CHILD CARE ASSISTANCE TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY DURING PERSIAN GULF CONFLICT

Pub. L. 102-25, title VI, §601, Apr. 6, 1991, 105 Stat. 105, as amended by Pub. L. 102-190, div. A, title X, §1063(d)(1), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 102-484, div. A, title X, §1053(8), Oct. 23, 1992, 106 Stat. 2502, authorized the Secretary of Defense to provide child care assistance for families of members of the Armed Forces and the National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm.

FAMILY EDUCATION AND SUPPORT SERVICES TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY IN OPERATION DESERT STORM

Pub. L. 102-25, title VI, §602, Apr. 6, 1991, 105 Stat. 106, as amended by Pub. L. 102-190, div. A, title X, §1063(d)(2), Dec. 5, 1991, 105 Stat. 1476, authorized the Secretary of Defense to provide assistance to families of members of the Armed Forces and National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm in order to ensure that they would receive educational assistance and support services necessary to meet needs.

WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

Pub. L. 102-25, title VI, §608, Apr. 6, 1991, 105 Stat. 112, provided that:

“(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enact-

ment of this Act [Apr. 6, 1991], the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

“(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term ‘nonpaying pledging nation’ means a foreign nation that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

“(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

“(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States.”

PROGRAMMING LANGUAGE FOR DEPARTMENT OF DEFENSE SOFTWARE

Pub. L. 102-396, title IX, §9070, Oct. 6, 1992, 106 Stat. 1918, provided that: “Notwithstanding any other provision of law, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-172, title VIII, §8073, Nov. 26, 1991, 105 Stat. 1188.

Pub. L. 101-511, title VIII, §8092, Nov. 5, 1990, 104 Stat. 1896.

CONTRIBUTIONS BY JAPAN TO SUPPORT OF UNITED STATES FORCES IN JAPAN

Pub. L. 101-511, title VIII, §8105, Nov. 5, 1990, 104 Stat. 1902, as amended by Pub. L. 102-190, div. A, title X, §1063(b), Dec. 5, 1991, 105 Stat. 1476, provided that:

“(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

“(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

“(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

“(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

“(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

“(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Nov. 5, 1990].”

Pub. L. 101-510, div. A, title XIV, §1455, Nov. 5, 1990, 104 Stat. 1695, provided that:

“(a) PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

“(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

“(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

“(2) It is the sense of Congress that—

“(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

“(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

“(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act [Nov. 5, 1990], the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

“(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

“(2) This section may be waived by the President if the President—

“(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

“(B) immediately informs the Congress of the waiver and the reasons for the waiver.”

#### NATIONAL MILITARY STRATEGY REPORTS

Pub. L. 101-510, div. A, title IX, §901, Nov. 5, 1990, 104 Stat. 1619, directed the Secretary of Defense to submit, with the Secretary's annual report to Congress during each of fiscal years 1992, 1993, and 1994, a report covering a period of at least ten years addressing threats facing the United States and strategic military plans to aid in the achievement of national objectives.

#### ANNUAL REPORT ON BALANCED TECHNOLOGY INITIATIVE

Pub. L. 101-189, div. A, title II, §211(e), Nov. 29, 1989, 103 Stat. 1394, which required Secretary of Defense to submit annual report to congressional defense committees on Balanced Technology Initiative, was repealed by Pub. L. 104-106, div. A, title X, §1061(l), Feb. 10, 1996, 110 Stat. 443.

#### MILITARY RELOCATION ASSISTANCE PROGRAMS

Pub. L. 101-189, div. A, title VI, §661, Nov. 29, 1989, 103 Stat. 1463, which related to establishment by Secretary of Defense of programs to provide relocation assistance to members of Armed Forces and their families, was repealed and restated in section 1056 of this title by Pub. L. 101-510, div. A, title XIV, §1481(c)(1), (3), Nov. 5, 1990, 104 Stat. 1705.

#### MILITARY CHILD CARE

Pub. L. 101-189, div. A, title XV, Nov. 29, 1989, 103 Stat. 1589, which provided that such title could be cited

as the “Military Child Care Act of 1989”, and which related to funding for military child care for fiscal year 1990, child care employees, parent fees, child abuse prevention and safety at facilities, parent partnerships with child development centers, report on 5-year demand for child care, subsidies for family home day care, early childhood education demonstration program, and deadline for regulations, was repealed and restated in subchapter II (§1791 et seq.) of chapter 88 of this title by Pub. L. 104-106, div. A, title V, §568(a)(1), (e)(2), Feb. 10, 1996, 110 Stat. 331, 336.

#### LEAD AGENCY FOR DETECTION OF TRANSIT OF ILLEGAL DRUGS

Pub. L. 100-456, div. A, title XI, §1102, Sept. 29, 1988, 102 Stat. 2042, which designated the Department of Defense as the single lead agency of the Federal Government for detection and monitoring of aerial and maritime transit of illegal drugs into the United States, was repealed and restated as section 124 of this title by Pub. L. 101-189, §1202(a)(1), (b).

#### ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN PHILIPPINES

Pub. L. 100-456, div. A, title XIII, §1309, Sept. 29, 1988, 102 Stat. 2063, directed Secretary of Defense to submit to Congress annual reports assessing security at United States military facilities in Republic of Philippines, prior to repeal by Pub. L. 102-484, div. A, title X, §1074, Oct. 23, 1992, 106 Stat. 2511.

#### DEPARTMENT OF DEFENSE OVERSEAS PERSONNEL; ACTIONS RESULTING IN MORE BALANCED SHARING OF DEFENSE AND FOREIGN ASSISTANCE SPENDING BURDENS BY UNITED STATES AND ALLIES; REPORTS TO CONGRESS; LIMITATION ON ACTIVE DUTY ARMED FORCES MEMBERS IN JAPAN AND REPUBLIC OF KOREA

Pub. L. 100-463, title VIII, §8125, Oct. 1, 1988, 102 Stat. 2270-41, as amended by Pub. L. 101-189, div. A, title XVI, §1623, Nov. 29, 1989, 103 Stat. 1606; Pub. L. 103-236, title I, §162(j), Apr. 30, 1994, 108 Stat. 408; Pub. L. 104-106, div. A, title XV, §1502(f)(1), Feb. 10, 1996, 110 Stat. 509; Pub. L. 106-65, div. A, title X, §1067(14), Oct. 5, 1999, 113 Stat. 775, provided that:

“(a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

“(2) The report shall include a discussion of the following:

“(A) The current assignment of military missions among the member countries of NATO.

“(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

“(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

“(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

“(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

“(c) Repealed. Pub. L. 103-236, title I, § 162(j), Apr. 30, 1994, 108 Stat. 408.]

“(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in each budget submitted to Congress under section 1105 of title 31, United States Code, (1) the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and (2) the costs for all dependents who accompany Department of Defense personnel outside the United States.

“(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

“(f) As of September 30 of each fiscal year, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation in the preceding sentence may be increased if and when (1) a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and (2) the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

“(g)(1) After fiscal year 1990, budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989 and shall set forth a detailed description of (A) the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations’ financing for these cost increases.

“(2) The Secretary of Defense shall notify in advance the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives, through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore outside the United States will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

“(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

“(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

“(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

“(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

“(i) In this section—

“(1) the term ‘personnel’ means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

“(2) the term ‘Department of Defense overseas personnel’ means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

“(3) the term ‘United States’ includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.”

#### ANNUAL REPORT ON COSTS OF STATIONING UNITED STATES TROOPS OVERSEAS

Pub. L. 100-202, § 101(b) [title VIII, § 8042], Dec. 22, 1987, 101 Stat. 1329-43, 1329-69, which required Secretary of Defense to submit annual report on full costs of stationing United States troops overseas, etc., was repealed and restated in subsec. (k) [now (j)] of this section by Pub. L. 100-370, § 1(o).

#### REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Pub. L. 100-180, div. A, title VI, § 637, Dec. 4, 1987, 101 Stat. 1106, provided that: “Not later than 60 days after the date of the enactment of this Act [Dec. 4, 1987], the Secretary of Defense shall prescribe regulations to establish the policy that—

“(1) the decision by a spouse of a member of the Armed Forces to be employed or to voluntarily participate in activities relating to the Armed Forces should not be influenced by the preferences or requirements of the Armed Forces; and

“(2) neither such decision nor the marital status of a member of the Armed Forces should have an effect on the assignment or promotion opportunities of the member.”

#### TEST PROGRAM FOR REIMBURSEMENT FOR ADOPTION EXPENSES

Pub. L. 100-180, div. A, title VI, § 638, Dec. 4, 1987, 101 Stat. 1106, as amended by Pub. L. 101-189, div. A, title VI, § 662, Nov. 29, 1989, 103 Stat. 1465; Pub. L. 101-510, div. A, title XIV, § 1484(l)(1), Nov. 5, 1990, 104 Stat. 1719, provided that the Secretary of Defense, with respect to members of the Armed Forces, and the Secretary of Transportation, with respect to members of the Coast Guard, were to carry out a test program providing for reimbursement for qualifying adoption expenses incurred by members of the Army, Navy, Air Force, or Marine Corps for adoption proceedings initiated after Sept. 30, 1987, and before Oct. 1, 1990, and for qualifying adoption expenses incurred by members of the Coast Guard for adoption proceedings initiated after Sept. 30, 1989, and before Oct. 1, 1990.

#### COUNTERINTELLIGENCE POLYGRAPH PROGRAM

Pub. L. 100-180, div. A, title XI, § 1121, Dec. 4, 1987, 101 Stat. 1147, as amended by Pub. L. 105-85, div. A, title X, § 1073(d)(5), Nov. 18, 1997, 111 Stat. 1906, which provided for a counterintelligence polygraph program to be carried out by the Secretary of Defense, was repealed and restated in section 1564a of this title by Pub. L. 108-136, div. A, title X, § 1041(a)(1), (b), Nov. 24, 2003, 117 Stat. 1607, 1608.

#### COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

Pub. L. 99-661, div. A, title VI, § 612, Nov. 14, 1986, 100 Stat. 3878, provided that: “The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.”

#### COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

Pub. L. 99-500, § 101(c) [title X, § 955], Oct. 18, 1986, 100 Stat. 1783-82, 1783-173, and Pub. L. 99-591, § 101(c) [title

X, §955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, §955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, which provided that in preparing the defense budget for any fiscal year, the Secretary of Defense was to specifically identify each common procurement weapon system included in the budget, take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system, and identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems, and that the Secretary of Defense carry out this section through the Assistant Secretary of Defense (Comptroller), was repealed and restated in section 2217 of this title by Pub. L. 100–370, §1(d)(3).

ANNUAL REPORT TO CONGRESS ON IMPLEMENTATION OF  
JOINT OFFICER PERSONNEL POLICY

Pub. L. 99–433, title IV, §405, Oct. 1, 1986, 100 Stat. 1032, required the Secretary of Defense to include in the Secretary's annual report to Congress under subsec. (c) of this section for each year from 1987 through 1991 a detailed report on the implementation of title IV of Pub. L. 99–433.

INITIAL REPORT TO CONGRESS

Pub. L. 99–433, title IV, §406(g), Oct. 1, 1986, 100 Stat. 1034, required that the first report submitted by the Secretary of Defense under subsec. (c) of this section after Oct. 1, 1986, would contain as much of the information required by former section 667 of this title as had been available to the Secretary at the time of its preparation.

SECURITY AT MILITARY BASES ABROAD

Pub. L. 99–399, title XI, Aug. 27, 1986, 100 Stat. 894, directed the Secretary of Defense to report to Congress not later than June 30, 1987, on actions taken to review the security of each base and installation of the Department of Defense outside the United States, to improve the security of such bases and installations, and to institute a training program for members of the Armed Forces stationed outside the United States and their families concerning security and antiterrorism.

SURCHARGE FOR SALES BY ANIMAL DISEASE PREVENTION  
AND CONTROL CENTERS; FEE FOR VETERINARY  
SERVICES

Pub. L. 99–145, title VI, §685(a), (b), (d), Nov. 8, 1985, 99 Stat. 666, provided that:

“(a) REQUIRED SURCHARGE.—The Secretary of Defense shall require that each time a sale is recorded at a military animal disease prevention and control center the person to whom the sale is made shall be charged a surcharge of \$2.

“(b) DEPOSIT OF RECEIPTS IN TREASURY.—Amounts received from surcharges under this section shall be deposited in the Treasury in accordance with section 3302 of title 31.”

“(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1985.”

Pub. L. 98–94, title X, §1033, Sept. 24, 1983, 97 Stat. 672, as amended by Pub. L. 98–525, title VI, §656, Oct. 19, 1984, 98 Stat. 2553, effective Oct. 1, 1985, required payment by a member of the Armed Forces of a \$10 fee for veterinary services, prior to repeal by Pub. L. 99–145, title VI, §685(c), (d), Nov. 8, 1985, 99 Stat. 666, effective Oct. 1, 1985.

MILITARY FAMILY POLICY AND PROGRAMS

Pub. L. 99–145, title VIII, Nov. 8, 1985, 99 Stat. 678, as amended by Pub. L. 99–661, div. A, title VI, §653, Nov. 14, 1986, 100 Stat. 3890; Pub. L. 100–180, div. A, title VI, §635, Dec. 4, 1987, 101 Stat. 1106; Pub. L. 100–456, div. A, title V, §524, Sept. 29, 1988, 102 Stat. 1975, which provided that such title could be cited as the “Military

Family Act of 1985”, and which related to Office of Family Policy, transfer of Military Family Resource Center, surveys of military families, family members serving on advisory committees, employment opportunities for military spouses, youth sponsorship program, dependent student travel within United States, relocation and housing, food programs, reporting of child abuse, miscellaneous reporting requirements, and effective date, was repealed and restated in subchapter I (§1781 et seq.) of chapter 88 of this title by Pub. L. 104–106, div. A, title V, §568(a)(1), (e)(1), Feb. 10, 1996, 110 Stat. 329, 336.

ACADEMIC INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES; PROHIBITION OF CERTAIN RESTRICTIONS

Pub. L. 99–145, title XII, §1212, Nov. 8, 1985, 99 Stat. 726, as amended by Pub. L. 101–189, div. A, title V, §518, Nov. 29, 1989, 103 Stat. 1443, provided that:

“(a) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

“(b) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

“(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 [probably means date of enactment of Pub. L. 101–189, Nov. 29, 1989] with respect to the procurement of such services are—

“(A) consistent with the provisions of subsections (a) and (b);

“(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

“(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

“(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

“(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

“(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

“(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

“(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph [Nov. 29, 1989] may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

“(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

“(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph [Nov. 29, 1989], the contract may be awarded—

“(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

“(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

“(iii) on the basis of a new solicitation.

“(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel.”

#### REPORT OF UNOBLIGATED BALANCES

Pub. L. 99-145, title XIV, §1407, Nov. 8, 1985, 99 Stat. 745, required reports on unobligated balances, prior to repeal by Pub. L. 99-661, div. A, title XIII, §1307(b), Nov. 14, 1986, 100 Stat. 3981. See section 2215 of this title.

#### DEFENSE INDUSTRIAL BASE FOR TEXTILE AND APPAREL PRODUCTS

Pub. L. 99-145, title XIV, §1456, Nov. 8, 1985, 99 Stat. 762, which directed Secretary of Defense to monitor capability of domestic textile and apparel industrial base to support defense mobilization requirements and to make annual reports to Congress on status of such industrial base, was repealed and restated in section 2510 of this title by Pub. L. 101-510, §826(a)(1), (b).

#### HOTLINE BETWEEN UNITED STATES AND SOVIET UNION

Pub. L. 99-85, Aug. 8, 1985, 99 Stat. 286, as amended by Pub. L. 103-199, title IV, §404(a), Dec. 17, 1993, 107 Stat. 2325, provided: “That the Secretary of Defense may provide to Russia, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Russian part of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to Russia at the cost thereof to the United States.

“SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

“(b) Funds received from Russia as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.”

[Pub. L. 103-199, title IV, §404(b), Dec. 17, 1993, 107 Stat. 2325, provided that: “The amendment made by subsection (a)(2) [amending section 2(b) of Pub. L. 99-85,

set out above] does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union.”]

#### CONSOLIDATION OF FUNCTIONS OF MILITARY TRANSPORTATION COMMANDS PROHIBITED

Pub. L. 97-252, title XI, §1110, Sept. 8, 1982, 96 Stat. 747, provided that none of funds appropriated pursuant to an authorization of appropriations could be used for purpose of consolidating any functions being performed on Sept. 8, 1982, by Military Traffic Management Command of Army, Military Sealift Command of Navy, or Military Airlift Command of Air Force with any function being performed on such date by either or both of the other commands, prior to repeal by Pub. L. 99-433, title II, §213(a), Oct. 1, 1986, 100 Stat. 1018.

#### REPORTS TO CONGRESS ON RECOMMENDATIONS WITH RESPECT TO ELIMINATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT IN DEPARTMENT OF DEFENSE

Pub. L. 97-86, title IX, §918, Dec. 1, 1981, 95 Stat. 1132, directed Secretary of Defense, not later than Jan. 15, 1982 and 1983, to submit to Congress reports containing recommendations to improve efficiency and management of, and to eliminate waste, fraud, abuse, and mismanagement in, operation of Department of Defense, and to include each recommendation by Comptroller General since Jan. 1, 1979, for elimination of waste, fraud, abuse, or mismanagement in Department of Defense with a statement as to which have been adopted and, to extent practicable actual and projected cost savings from each, and which have not been adopted and, to extent practicable, projected cost savings from each and an explanation of why each such recommendation was not adopted.

#### MILITARY INSTALLATIONS TO BE CLOSED IN UNITED STATES, GUAM, OR PUERTO RICO; STUDIES TO DETERMINE POTENTIAL USE

Pub. L. 94-431, title VI, §610, Sept. 30, 1976, 90 Stat. 1365, authorized Secretary of Defense to conduct studies with regard to possible use of military installations being closed and to make recommendations with regard to such installations, prior to repeal by Pub. L. 97-86, title IX, §912(b), Dec. 1, 1981, 95 Stat. 1123. See section 2391 of this title.

#### REPORTS TO CONGRESSIONAL COMMITTEES ON FOREIGN POLICY AND MILITARY FORCE STRUCTURE

Pub. L. 94-106, title VIII, §812, Oct. 7, 1975, 89 Stat. 540, which directed Secretary of Defense, after consultation with Secretary of State, to prepare and submit not later than January 31 of each year to Committees on Armed Services of Senate and House of Representatives a written annual report on foreign policy and military force structure of United States for next fiscal year, how such policy and force structure relate to each other, and justification for each, was repealed and restated as subsec. (e) of section 133 [now §113] of this title by Pub. L. 97-295, §§1(1), 6(b).

#### REPORT TO CONGRESS ON SALE OR TRANSFER OF DEFENSE ARTICLES

Pub. L. 94-106, title VIII, §813, Oct. 7, 1975, 89 Stat. 540, as amended by Pub. L. 95-79, title VIII, §814, July 30, 1977, 91 Stat. 337; Pub. L. 97-252, title XI, §1104, Sept. 8, 1982, 96 Stat. 739, which directed Secretary of Defense to report to Congress on any letter proposing to transfer \$50,000,000 or more of defense articles, detailing impact of such a sale on readiness, adequacy of price for replacement, and armed forces needs and supply for each article, was repealed and restated as section 133b

(renumbered § 118 and repealed) of this title by Pub. L. 97-295, §§ 1(2)(A), 6(b).

PROCUREMENT OF AIRCRAFT, MISSILES, NAVAL VESSELS, TRACKED COMBAT VEHICLES, AND OTHER WEAPONS; AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT, RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES; SELECTED RESERVE OF RESERVE COMPONENTS; ANNUAL AUTHORIZATION OF PERSONNEL STRENGTH

Pub. L. 86-149, title IV, § 412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87-436, § 2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88-174, title VI, § 610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89-37, title III, § 304, June 11, 1965, 79 Stat. 128; Pub. L. 90-168, § 6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91-121, title IV, § 405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91-441, title V, §§ 505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92-129, title VII, § 701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92-436, title III, § 302, title VI, § 604, Sept. 26, 1972, 86 Stat. 736, 739, was repealed by Pub. L. 93-155, title VIII, § 803(b)(1), Nov. 16, 1973, 87 Stat. 615. See sections 114 to 116 of this title.

REGULATIONS GOVERNING LIQUOR SALES; PENALTIES

Act June 19, 1951, ch. 144, title I, § 6, 65 Stat. 88, as amended by Pub. L. 99-145, title XII, § 1224(b)(2), Nov. 8, 1985, 99 Stat. 729, provided that: "Subject to section 2683(c) of title 10, United States Code, the Secretary of Defense is authorized to make such regulations as he may deem to be appropriate governing the sale, consumption, possession of or traffic in beer, wine, or any other intoxicating liquors to or by members of the Armed Forces or the National Security Training Corps at or near any camp, station, post, or other place primarily occupied by members of the Armed Forces or the National Security Training Corps. Any person, corporation, partnership, or association who knowingly violates the regulations which may be made hereunder shall, unless otherwise punishable under the Uniform Code of Military Justice [10 U.S.C. 801 et seq.], be deemed guilty of a misdemeanor and be punished by a fine of not more than \$1,000 or imprisonment for not more than twelve months, or both."

EX. ORD. NO. 12765. DELEGATION OF CERTAIN DEFENSE RELATED AUTHORITIES OF PRESIDENT TO SECRETARY OF DEFENSE

Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, and my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 749 of title 10 of the United States Code to assign the command without regard to rank in grade to any commissioned officer otherwise eligible to command when two or more commissioned officers of the same grade or corresponding grades are assigned to the same area, field command, or organization.

SEC. 2. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7299a(a) of title 10 of the United States Code to direct that combatant vessels and escort vessels be constructed in a Navy or private yard, as the case may be, if the requirement of the Act of March 27, 1934 (ch. 95, 48 Stat. 503) that the first and each succeeding alternate vessel of the same class be constructed in a Navy yard is inconsistent with the public interest.

SEC. 3. For vessels, and for any major component of the hull or superstructure of vessels to be constructed or repaired for any of the armed forces, the Secretary

of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7309(b) of title 10 of the United States Code to authorize exceptions to the prohibition in section 7309(a) of title 10 of the United States Code. Such exceptions shall be based on a determination that it is in the national security interest of the United States to authorize an exception. The Secretary of Defense shall transmit notice of any such determination to the Congress, as required by section 7309(b).

SEC. 4. The Secretary of Defense may redelegate the authority delegated to him by this order, in accordance with applicable law.

SEC. 5. This order shall be effective immediately.

GEORGE BUSH.

WAIVER OF LIMITATION WITH RESPECT TO END STRENGTH LEVEL OF U.S. ARMED FORCES IN JAPAN FOR FISCAL YEAR 1991

Memorandum of the President of the United States, May 14, 1991, 56 F.R. 23991, provided:

Memorandum for the Secretary of Defense  
Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101-511; 104 Stat. 1856) [set out above], I hereby waive the limitation in section 8105(b) which states that the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so.

You are authorized and directed to inform the Congress of this waiver and of the reasons for the waiver contained in the attached justification, and to publish this memorandum in the Federal Register.

GEORGE BUSH.

JUSTIFICATION PURSUANT TO SECTION 8105(d)(2) OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991 (PUBLIC LAW NO. 101-511; 104 STAT. 1856)

In January of this year the Department of Defense signed a new Host Nation Support Agreement with the Government of Japan in which that government agreed to pay all utility and Japanese labor costs incrementally over the next five years (worth \$1.7 billion). Because United States forward deployed forces stationed in Japan have regional missions in addition to the defense of Japan, we did not seek to have the Government of Japan offset all of the direct costs incurred by the United States related to the presence of all United States military personnel in Japan (excluding military personnel title costs).

**§ 113a. Transmission of annual defense authorization request**

(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term "defense authorization request", with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

(3) Authority to carry out military construction projects, as required by section 2802 of this title.



(4) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.

(Added Pub. L. 107-314, div. A, title X, §1061(a), Dec. 2, 2002, 116 Stat. 2649; amended Pub. L. 108-136, div. A, title X, §1044(a), Nov. 24, 2003, 117 Stat. 1612.)

#### AMENDMENTS

2003—Subsec. (b)(3), (4). Pub. L. 108-136 added par. (3) and redesignated former par. (3) as (4).

### § 114. Annual authorization of appropriations

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

- (1) procurement of aircraft, missiles, or naval vessels;
- (2) any research, development, test, or evaluation, or procurement or production related thereto;
- (3) procurement of tracked combat vehicles;
- (4) procurement of other weapons;
- (5) procurement of naval torpedoes and related support equipment;
- (6) military construction;
- (7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);
- (8) procurement of ammunition; or
- (9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b) In subsection (a)(6), the term “military construction” includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 1803 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c)(1) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed \$2,500,000,000.

(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitations in paragraphs (1) and (3) and other applicable law; and

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

(3) Of the amount of annual obligations from the Special Defense Acquisition Fund in each of fiscal years 2018 through 2022, not less than 20 percent shall be for funds to procure and stock precision guided munitions that may be required by partner and allied forces to enhance the effectiveness of current or future contributions of such forces to overseas contingency operations conducted or supported by the United States.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.

(Added Pub. L. 93-155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138; amended Pub. L. 94-106, title VIII, §801(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 94-361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96-107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96-342, title X, §1001(a)(1), (b)-(d)(1), Sept. 8, 1980, 94 Stat. 1117-1119; Pub. L. 96-513, title I, §102, title V, §511(4), Dec. 12, 1980, 94 Stat. 2840, 2920; Pub. L. 97-22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97-86, title III, §302, title IX, §§901(a), 902, 903, Dec. 1, 1981, 95 Stat. 1104, 1113, 1114; Pub. L. 97-113, title I, §108(b), Dec. 29, 1981, 95 Stat. 1524; Pub. L. 97-214, §4, July 12, 1982, 96 Stat. 170; Pub. L. 97-252, title IV, §402(a), title XI, §§1103, 1105, Sept. 8, 1982, 96 Stat. 725, 738, 739; Pub. L. 97-295, §1(3), (4), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98-525, title XIV, §1405(2), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99-145, title XII, §1208, title XIV, §1403, Nov. 8, 1985, 99 Stat. 723, 743; renumbered §114 and amended Pub. L. 99-433, title I, §§101(a)(2), 110(b)(1)-(9), (11), Oct. 1, 1986, 100 Stat. 994, 1001, 1002; Pub. L. 99-661, div. A, title I, §105(d), title XIII, §1304(a), Nov. 14, 1986, 100 Stat. 3827, 3979; Pub. L. 100-26, §7(j)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100-180, div. A, title XII, §1203, Dec. 4, 1987, 101 Stat. 1154; Pub. L. 101-189, div. A, title XVI, §1602(b), Nov. 29, 1989, 103 Stat. 1597; Pub. L. 101-510, div. A, title XIV, §1481(a)(1), Nov. 5, 1990, 104 Stat. 1704; Pub. L. 104-106, div. A, title XV, §1501(c)(2), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104-201, div. A, title X, §1005, Sept. 23, 1996, 110 Stat. 2632; Pub. L. 114-328, div. A, title XII, §1202(a), (b), Dec. 23, 2016, 130 Stat. 2474; Pub. L. 115-91, div. A, title XII, §1203(a), Dec. 12, 2017, 131 Stat. 1642.)

HISTORICAL AND REVISION NOTES  
1982 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
138(c)(5) ..	10:138 (note).	Aug. 5, 1974, Pub. L. 93-365, § 502, 88 Stat. 404.
138(i) .....	10:135 (note).	June 11, 1965, Pub. L. 89-37, § 305, 79 Stat. 128.

In subsection (c)(5), the words "It is the sense of Congress that" are omitted as unnecessary. The words "Secretary of Defense" are substituted for "Department of Defense" the first time it appears because the responsibility is in the head of the agency. The word "Therefore" is omitted as surplus. The word "complete" is substituted for "full", and the word "personnel" is substituted for "manpower" except in the phrase "manpower requirements", for consistency.

In subsection (i), the words "may be . . . only if" are substituted for "No . . . may be . . . unless" to use the positive voice. The words "after June 30, 1966" are substituted for "after that date" for clarity.

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (c), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 5 of the Arms Export Control Act is classified generally to subchapter V (§ 2795 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

PRIOR PROVISIONS

Provisions similar to those in subsec. (c)(2) of this section were contained in Pub. L. 101-165, title IX, § 9017, Nov. 21, 1989, 103 Stat. 1133, which was set out as a note below, prior to repeal by Pub. L. 101-510, § 1481(a)(2).

Prior similar provisions were contained in Pub. L. 86-149, title IV, § 412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87-436, § 2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88-174, title VI, § 610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89-37, title III, § 304, June 11, 1965, 79 Stat. 128; Pub. L. 90-168, § 6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91-121, title IV, § 405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91-441, title V, §§ 505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92-129, title VII, § 701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92-436, title III, § 302, title VI, § 604, Sept. 26, 1972, 86 Stat. 736, 739, prior to repeal by Pub. L. 93-155, § 803(b)(1).

AMENDMENTS

2017—Subsec. (c)(3). Pub. L. 115-91 substituted "Of the amount of annual obligations from the Special Defense Acquisition Fund in each of fiscal years 2018 through 2022, not less than 20 percent shall be for funds to procure" for "Of the amount available in the Special Defense Acquisition Fund in any fiscal year after fiscal year 2016, \$500,000,000 may be used in such fiscal year only to procure".

2016—Subsec. (c)(1). Pub. L. 114-328, § 1202(a), substituted "\$2,500,000,000" for "\$1,070,000,000".

Subsec. (c)(2)(A). Pub. L. 114-328, § 1202(b)(1), substituted "limitations in paragraphs (1) and (3)" for "limitation in paragraph (1)".

Subsec. (c)(3). Pub. L. 114-328, § 1202(b)(2), added par. (3).

1996—Subsec. (b). Pub. L. 104-106 substituted "chapter 1803" for "chapter 133".

Subsec. (f). Pub. L. 104-201 added subsec. (f).

1990—Subsec. (c). Pub. L. 101-510 designated existing provisions as par. (1) and added par. (2).

1989—Subsecs. (f), (g). Pub. L. 101-189 struck out subsecs. (f) and (g) which read as follows:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of

Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense."

1987—Subsec. (e). Pub. L. 100-26 redesignated subsec. (f) as (e).

Subsec. (f). Pub. L. 100-180 added subsec. (f).

Pub. L. 100-26, § 7(j)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 100-180, § 1203, added subsec. (g).

1986—Pub. L. 99-433, § 101(a)(2), renumbered section 138 of this title as this section.

Pub. L. 99-433, § 110(b)(1), struck out "and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports" at end of section catchline.

Subsec. (a)(6). Pub. L. 99-433, § 110(b)(3), struck out "(as defined in subsection (f))" after "military construction".

Subsec. (b). Pub. L. 99-433, § 110(b)(4), (5), (8), redesignated subsec. (f)(1) as (b). Former subsec. (b) redesignated section 115(a) of this title.

Subsec. (c). Pub. L. 99-661, § 1304(a), substituted "\$1,070,000,000" for "\$1,000,000,000".

Pub. L. 99-433, § 110(b)(4), (5), (11), redesignated subsec. (g) as (c). Former subsec. (c) redesignated section 115(b) of this title.

Subsec. (d). Pub. L. 99-433, § 110(b)(4), (5), (11), redesignated subsec. (i) as (d). Former subsec. (d) redesignated section 115(c) of this title.

Subsec. (e). Pub. L. 99-433, § 110(b)(6), (7), redesignated subsec. (e) as section 116(a) of this title.

Subsec. (f). Pub. L. 99-661, § 105(d), added subsec. (f).

Subsec. (f)(1). Pub. L. 99-433, § 110(b)(8), redesignated subsec. (f)(1) as (b).

Subsec. (f)(2). Pub. L. 99-433, § 110(b)(9), redesignated subsec. (f)(2) as section 116(b) of this title.

Subsec. (g). Pub. L. 99-433, § 110(b)(11), redesignated subsec. (g) as (c).

Subsec. (h). Pub. L. 99-433, § 110(b)(2), redesignated subsec. (h) as section 113(i) of this title.

Subsec. (i). Pub. L. 99-433, § 110(b)(11), redesignated subsec. (i) as (d).

1985—Subsec. (b)(3). Pub. L. 99-145, § 1208, added par. (3).

Subsec. (g). Pub. L. 99-145, § 1403, substituted "\$1,000,000,000" for "\$300,000,000 in fiscal year 1982, may not exceed \$600,000,000 in fiscal year 1983, and may not exceed \$900,000,000 in fiscal year 1984 or any fiscal year thereafter".

1984—Subsec. (g). Pub. L. 98-525 inserted "(22 U.S.C. 2795 et seq.)".

1982—Subsec. (c)(1)(A). Pub. L. 97-252, § 402(a), authorized increase in fiscal year end-strength authorizations determined by the Secretary of Defense to be in the national interest.

Subsec. (c)(5). Pub. L. 97-295, § 1(3), added par. (5).

Subsec. (f)(1). Pub. L. 97-214 substituted "any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23" for "but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85-241 (42 U.S.C. 1594i) applies" and inserted provision that "military construction" does not include any activity to which section 2821 or 2854 of this title applies.

Subsec. (g). Pub. L. 97-252, § 1103, limited size of Special Defense Acquisition Fund to \$600,000,000 in fiscal

year 1983, striking out such sum as a limit in any fiscal year thereafter, and limited size of Fund to \$900,000,000 in fiscal year 1984 or any fiscal year thereafter.

Subsec. (h). Pub. L. 97-252, §1105, added subsec. (h).

Subsec. (i). Pub. L. 97-295, §1(4), added subsec. (i).

1981—Subsec. (a)(8), (9). Pub. L. 97-86, §901(a), added pars. (8) and (9).

Subsec. (b). Pub. L. 97-86, §902, designated existing provisions as par. (1), substituted “authorize the average personnel strength” for “authorize the personnel strength”, and added par. (2).

Subsec. (c)(3)(D)(iii)(I). Pub. L. 97-22 struck out “and active military service” after “active commissioned service”.

Subsec. (c)(4). Pub. L. 97-86, §903, added par. (4).

Subsec. (e)(3), (4). Pub. L. 97-86, §302, struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

Subsec. (g). Pub. L. 97-113 added subsec. (g).

1980—Pub. L. 96-342, §1001(d)(1), substituted “Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports” for “Secretary of Defense: Annual authorization of appropriations for armed forces” in section catchline.

Subsec. (a). Pub. L. 96-342, §1001(a)(1), (b)(1), in cl. (6) substituted reference to subsec. (f) for reference to subsec. (e), and added cl. (7).

Subsec. (c)(1). Pub. L. 96-513, §102(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3)(D). Pub. L. 96-513, §102(b), substituted provisions relating to expanded coverage in the annual report of the Secretary of Defense for provisions under which the report had formerly covered only the estimated requirements in members on active duty during the next fiscal year, the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year, and an analysis of the distribution by grade of commissioned officers on active duty at the time the report was prepared.

Subsec. (e). Pub. L. 96-342, §1001(b)(2), (3), added subsec. (e). Former subsec. (e) redesignated (f)(1).

Subsec. (f). Pub. L. 96-513, §511(4), substituted “(42 U.S.C. 1594i)” for “(71 Stat. 556)” in par. (1), and substituted “In subsection (e)” for “In subsection (f)” in par. (2).

Pub. L. 96-342, §1001(b)(2), (c), redesignated subsec. (e) as (f), substituted “(1) In subsection (a)(6)” for “For purposes of subsection (a)(6) of this section”, and added par. (2).

1979—Subsec. (c)(3). Pub. L. 96-107 restructured existing provisions into subpars. (A) to (C) with minor changes in phraseology and added subpar. (D).

1976—Subsec. (c)(3). Pub. L. 94-361 required the report to Congress to identify, define, and group by mission and by region the types of military bases, installations, and facilities and to provide an explanation and justification of the relationship between the base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce the costs.

1975—Subsec. (a)(6). Pub. L. 94-106, §801(a)(1), added par. (6).

Subsec. (e). Pub. L. 94-106, §801(a)(2), added subsec. (e).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title XII, §1203(b), Dec. 12, 2017, 131 Stat. 1642, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 2017.”

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title XII, §1202(a), Dec. 23, 2016, 130 Stat. 2474, provided that the amendment made by section 1202(a) is effective as of Oct. 1, 2016.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

#### EFFECTIVE DATE OF 1982 AMENDMENTS

Pub. L. 97-252, title IV, §402(b), Sept. 8, 1982, 96 Stat. 725, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981.”

Amendment by Pub. L. 97-214 applicable with respect to funds appropriated for fiscal years beginning after Sept. 30, 1983, see section 12(b) of Pub. L. 97-214, set out as a note under section 2801 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-86, title IX, §901(b), Dec. 1, 1981, 95 Stat. 1113, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1982.”

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by section 102 of Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

Amendment by section 511(4) of Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513.

Pub. L. 96-342, title X, §1001(a)(2), Sept. 8, 1980, 94 Stat. 1118, provided that: “The amendments made by paragraph (1) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.”

#### APPLICABILITY OF PROVISIONS RELATING TO FUNDS NOT HERETOFORE REQUIRED TO BE AUTHORIZED

Pub. L. 94-106, title VIII, §801(b), Oct. 7, 1975, 89 Stat. 537, provided that: “The amendment provided by paragraph (2) of subsection (a) above [enacting subsec. (e) of this section] with respect to funds not heretofore required to be authorized shall only apply to funds authorized for appropriation for fiscal year 1977 and thereafter.”

#### AVAILABILITY OF APPROPRIATIONS

Pub. L. 101-165, title IX, §9017, Nov. 21, 1989, 103 Stat. 1133, which prohibited funding to be used for planning or executing programs which utilized amounts credited to the Department of Defense pursuant to section 2777(a) of Title 22, Foreign Relations and Intercourse, was repealed and restated in subsec. (c)(2) of this section by Pub. L. 101-510, div. A, title XIV, §1481(a), Nov. 5, 1990, 104 Stat. 1704.

The following general provisions, which had been repealed as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1986, Pub. L. 99-190, §101(b) [title VIII, §§8005, 8006, 8009], Dec. 19, 1985, 99 Stat. 1185, 1202, 1203, 1204:

“SEC. 8005. [Authorized use of appropriated funds for expenses in connection with administration of occupied areas; payment of rewards for information leading to discovery of missing naval property or recovery thereof; payment of deficiency judgments and interests thereon arising out of condemnation proceedings; leasing of buildings and facilities; payments under contracts for maintenance of tools and facilities for twelve months; maintenance of defense access roads; purchase of milk for enlisted personnel; payments under leases for real or personal property, including maintenance; purchase of right-hand-drive vehicles not to exceed

\$12,000 per vehicle; payment of unusual cost overruns incident to ship overhaul, maintenance, and repair; payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations; and payments for depot maintenance contracts for twelve months; and was repealed and (except for section 8005(e)) restated in sections 2242(2), 2252, 2253(a)(2), 2389(b), 2410a, 2661(b), and 7313 of this title by Pub. L. 100-370, §1(e)(1), (h)(1), (2), (l)(3), (n)(1), (p)(3), July 19, 1988, 102 Stat. 844, 847, 849-851. Section 8005(c) was not restated in view of section 2676(e) [now 2664(e)] of this title.]

“SEC. 8006. [Authorized use of appropriated funds for military courts, boards, and commissions; utility services for buildings erected at private cost and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and exchange fees, and losses in accounts of disbursing officers or agents; and was repealed and restated in sections 2242(3), 2490, and 2781 of this title by Pub. L. 100-370, §1(e)(1), (j)(1), (m)(1), (p)(3), July 19, 1988, 102 Stat. 844, 848, 849, 851.]

“SEC. 8009. [Provided for exemption from apportionment requirement; exceptions for cost of airborne alerts and cost of increased military personnel on active duty; and for reports to Congress; and was repealed and restated in section 2201 of this title by Pub. L. 100-370, §1(d)(1), July 19, 1988, 102 Stat. 841.]”

The following general provisions, that had been repealed as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriation Act, 1984, Pub. L. 98-212, title VII, §§ 705-707, 723, 728, 735, 774, Dec. 8, 1983, 97 Stat. 1437, 1438, 1443, 1444, 1452:

“SEC. 705. [Authorized use of appropriated funds for insurance of official motor vehicles in foreign countries; advance payments for investigations in foreign countries; security guard services for protection of confidential files; and other necessary expenses; and was repealed and restated in sections 2241(b), 2242(1), (4), and 2253(a)(1) of this title by Pub. L. 100-370, §1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

“SEC. 706. [Authorized use of appropriated funds for expenses incident to maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status was determined by Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation, and was repealed by Pub. L. 98-525, title XIV, §§1403(a)(1), 1404, Oct. 19, 1984, 98 Stat. 2621, effective Oct. 1, 1985. See section 956(5) of this title.]

“SEC. 707. [Authorized use of appropriated funds for acquisition of certain interests in land, and was repealed and restated in sections 2673 and 2828(h) of this title by Pub. L. 100-370, §1(l)(1), (2), (p)(1), July 19, 1988, 102 Stat. 849, 851.]

“SEC. 723. [Authorized use of appropriated funds for purchase of household furnishings, and automobiles from military and civilian personnel on duty outside continental United States, for purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of Department of Defense on duty outside continental United States or in Alaska, and was repealed and restated in section 2251 of this title by Pub. L. 100-370, §1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

“SEC. 728. [Prohibited use of appropriated funds for payment of costs of advertising by any defense contractor, except advertising for which payment is made from profits, provided exemptions for advertising for personnel recruitment, procurement of scarce required items, and disposal of scrap or surplus materials, and was repealed by Pub. L. 100-370, §1(p)(1), July 19, 1988, 102 Stat. 851. See section 2324(e)(1)(H) of this title.]

“SEC. 735. [Authorized use of appropriated funds for operation and maintenance of the active forces for welfare and recreation; hire of passenger motor vehicles;

repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions was amended by Pub. L. 98-525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985, and was repealed and restated in sections 2241(a) and 2661(a) of this title by Pub. L. 100-370, §1(e)(1), (l)(3), (p)(1), July 19, 1988, 102 Stat. 844, 849, 851.]

“SEC. 774. During the current fiscal year and subsequent fiscal years, for the purposes of the appropriation ‘Foreign Currency Fluctuations, Defense’ the foreign currency exchange rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on this Act.”

#### REPORTS

Pub. L. 114-328, div. A, title XII, §1202(c), Dec. 23, 2016, 130 Stat. 2474, provided that:

“(1) INITIAL PLAN ON USE OF AUTHORITY.—Before exercising authority for use of amounts in the Special Defense Acquisition Fund in excess of the size of that Fund as of September 30, 2016, by reason of the amendments made by this section [amending this section], the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report on the plan for the use of such amounts.

“(2) QUARTERLY SPENDING PLAN.—Not later than 30 days before the beginning of each fiscal year quarter, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a detailed plan for the use of amounts in the Special Defense Acquisition Fund for such fiscal year quarter.

“(3) ANNUAL UPDATES.—Not later than 90 days after the end of each fiscal year, the Secretary of Defense shall, with the concurrence of the Secretary of State, submit to the appropriate committees of Congress a report setting forth the inventory of defense articles and services acquired, possessed, and transferred through the Special Defense Acquisition Fund in such fiscal year.

“(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ has the meaning given that term in section 301(1) of title 10, United States Code (as added by section 1241(a)(3) of this Act).”

#### WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA

Pub. L. 105-85, div. A, title XII, §§1203, 1206, Nov. 18, 1997, 111 Stat. 1929, 1932, provided that:

#### “SEC. 1203. WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA.

“(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1998 or any subsequent fiscal year may be used for the deployment of any United States ground combat forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, not later than May 15, 1998, and after consultation with the bipartisan leadership of the two Houses of Congress, transmits to Congress a certification—

“(1) that the continued presence of United States ground combat forces, after June 30, 1998, in the Republic of Bosnia and Herzegovina is required in order to meet the national security interests of the United States; and

“(2) that after June 30, 1998, it will remain United States policy that United States ground forces will not serve as, or be used as, civil police in the Republic of Bosnia and Herzegovina.

“(b) REPORT.—The President shall submit with the certification under subsection (a) a report that includes the following:

“(1) The reasons why that presence is in the national security interest of the United States.

“(2) The number of United States military personnel to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after that date.

“(3) The expected duration of any such deployment.

“(4) The mission and objectives of the United States Armed Forces to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after June 30, 1998.

“(5) The exit strategy of such forces.

“(6) The incremental costs associated with any such deployment.

“(7) The effect of such deployment on the morale, retention, and effectiveness of United States armed forces.

“(8) A description of the forces from other nations involved in a follow-on mission, shown on a nation-by-nation basis.

“(9) A description of the command and control arrangement established for United States forces involved in a follow-on mission.

“(10) An assessment of the expected threats to United States forces involved in a follow-on mission.

“(11) The plan for rotating units and personnel to and from the Republic of Bosnia and Herzegovina during a follow-on mission, including the level of participation by reserve component units and personnel.

“(12) The mission statement and operational goals of the United States forces involved in a follow-on mission.

“(c) REQUEST FOR SUPPLEMENTAL APPROPRIATIONS.—The President shall transmit to Congress with a certification under subsection (a) a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any continued deployment beyond June 30, 1998.

“(d) CONSTRUCTION WITH PRESIDENT’S CONSTITUTIONAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

“(e) CONSTRUCTION WITH APPROPRIATIONS PROVISION.—The provisions of this section are enacted, and shall be applied, as supplemental to (and not in lieu of) the provisions of section 8132 of the Department of Defense Appropriations Act, 1998 (Public Law 105-56) [11 Stat. 1250].

#### “SEC. 1206. DEFINITIONS.

“As used in this subtitle [subtitle A (§§1201-1206) of title XII of div. A of Pub. L. 105-85, enacting this note]:

“(1) DAYTON PEACE AGREEMENT.—The term ‘Dayton Peace Agreement’ means the General Framework Agreement for Peace in Bosnia and Herzegovina, initiated by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

“(2) IMPLEMENTATION FORCE.—The term ‘Implementation Force’ means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as ‘IFOR’), authorized under the Dayton Peace Agreement.

“(3) STABILIZATION FORCE.—The term ‘Stabilization Force’ means the NATO-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as ‘SFOR’), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

“(4) FOLLOW-ON MISSION.—The term ‘follow-on mission’ means a mission involving the deployment of ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998 (other than as described in section 1203(b)).

“(5) NATO.—The term ‘NATO’ means the North Atlantic Treaty Organization.”

#### BUDGET DETERMINATION BY DIRECTOR OF OMB

Pub. L. 102-484, div. D, title XLV, §4501, Oct. 23, 1992, 106 Stat. 2769, directed that amounts made available

under Pub. L. 102-484 for defense programs covered by certain portions of that Act could be obligated for such programs only if expenditures for such programs had been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), and required the President to submit to Congress a report listing amounts appropriated for fiscal year 1993 for programs that the Director had determined would not classify against the defense category.

#### CLASSIFIED ANNEX

Pub. L. 107-107, div. A, title X, §1002, Dec. 28, 2001, 115 Stat. 1202, provided that:

“(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill S. 1438 of the One Hundred Seventh Congress [Pub. L. 107-107] and transmitted to the President is hereby incorporated into this Act [see Tables for classification].

“(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

“(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

“(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.”

Similar provisions were contained in the following prior authorization or appropriation acts:

Pub. L. 106-398, §1 [[div. A], title X, §1002], Oct. 30, 2000, 114 Stat. 1654, 1654A-245.

Pub. L. 106-65, div. A, title X, §1002, Oct. 5, 1999, 113 Stat. 732.

Pub. L. 105-261, div. A, title X, §1002, Oct. 17, 1998, 112 Stat. 2111.

Pub. L. 105-85, div. A, title X, §1002, Nov. 18, 1997, 111 Stat. 1868.

Pub. L. 104-201, div. A, title X, §1002, Sept. 23, 1998, 110 Stat. 2631.

Pub. L. 104-106, div. A, title X, §1002, Feb. 10, 1996, 110 Stat. 414.

Pub. L. 103-337, div. A, title X, §1003, Oct. 5, 1994, 108 Stat. 2834.

Pub. L. 103-335, title VIII, §8084, Sept. 30, 1994, 108 Stat. 2637.

Pub. L. 103-160, div. A, title XI, §1103, Nov. 30, 1993, 107 Stat. 1749.

Pub. L. 103-139, title VIII, §8108, Nov. 11, 1993, 107 Stat. 1464.

Pub. L. 102-484, div. A, title X, §1006, Oct. 23, 1992, 106 Stat. 2482.

Pub. L. 102-396, title IX, §9126, Oct. 6, 1992, 106 Stat. 1931.

Pub. L. 102-190, div. A, title X, §1005, Dec. 5, 1991, 105 Stat. 1457.

Pub. L. 102-172, title VIII, §8124, Nov. 26, 1991, 105 Stat. 1206.

Pub. L. 101-511, title VIII, §8111, Nov. 5, 1990, 104 Stat. 1904.

Pub. L. 101-510, div. A, title XIV, §1409, Nov. 5, 1990, 104 Stat. 1681.

#### BUDGET ACT LIMITATION

Pub. L. 99-661, div. A, title XIII, §1304(b), Nov. 14, 1986, 100 Stat. 3979, provided that: “New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)]) provided by the

amendment made by subsection (a) [amending this section] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.”

LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN  
DEMOCRATIC RESISTANCE

Pub. L. 99-661, div. A, title XIII, §1351, Nov. 14, 1986, 100 Stat. 3995, as amended by Pub. L. 104-106, div. A, title X, §1063(a), Feb. 10, 1996, 110 Stat. 444, provided that: “Notwithstanding title II of the Military Construction Appropriations Act, 1987 [Pub. L. 99-500, §101(k) [title II], Oct. 18, 1986, 100 Stat. 1783-287, 1783-295, and Pub. L. 99-591, §101(k) [title II], Oct. 30, 1986, 100 Stat. 3341-287, 3341-295], or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).”

USE OF APPROPRIATED FUNDS TO SUPPORT REVENUE  
GENERATING ACTIVITIES IN LARGE METROPOLITAN  
AREAS PROHIBITED

Pub. L. 99-500, §101(c) [title IX, §9102], Oct. 18, 1986, 100 Stat. 1783-82, 1783-118, and Pub. L. 99-591, §101(c) [title IX, §9102], Oct. 30, 1986, 100 Stat. 3341-82, 3341-118, which provided that after Sept. 30, 1987, no appropriated funds could be used to support revenue generating morale, welfare, and recreation activities in large metropolitan areas, was repealed by Pub. L. 100-202, §101(b) [title VIII, §8099], Dec. 22, 1987, 101 Stat. 1329-43, 1329-78.

TRANSFER OF OPERATION AND MAINTENANCE APPROPRIATIONS UNOBLIGATED BALANCES TO FOREIGN CURRENCY FLUCTUATIONS, DEFENSE, APPROPRIATION

Pub. L. 97-377, title I, §101(c) [title VII, §791], Dec. 21, 1982, 96 Stat. 1865, which provided that no later than end of second fiscal year following fiscal year for which appropriations for Operation and Maintenance have been made available to Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter could be transferred into appropriation “Foreign Currency Fluctuations, Defense” to be merged with and available for same time period and same purposes as appropriation to which transferred, except that any transfer made pursuant to any use of this authority was limited to that amount in appropriation did not exceed \$970,000,000 at time of transfer, was repealed and restated in section 2779(d) of this title by Pub. L. 104-106, div. A, title IX, §911(b), (d)(2), (f), Feb. 10, 1996, 110 Stat. 406, 407, applicable only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

WAIVER OF APPLICABILITY OF OMB CIRCULAR A-76 TO  
CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Pub. L. 96-107, title VIII, §802, Nov. 9, 1979, 93 Stat. 811, provided that:

“(a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A-76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law.

“(b) Funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law may be obligated or

expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

“(c) No law enacted after the date of the enactment of this Act [Nov. 9, 1979] shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.”

MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR  
ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS

Pub. L. 93-365, title V, §502, Aug. 5, 1974, 88 Stat. 404, which provided that it was the sense of Congress that the Department of Defense use the least costly form of manpower consistent with military requirements and other needs of the Department of Defense, that in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense was to consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job, and that a full justification of any conversion from one form of manpower to another be contained in the annual manpower requirements report to the Congress required by subsec. (c)(3) of this section, was repealed and restated as subsec. (c)(5) of this section by Pub. L. 97-295, §§1(3), 6(b).

[§ 114a. Renumbered § 221]

**§ 115. Personnel strengths: requirement for annual authorization**

(a) ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(1)(B) of title 32 for the purpose of

preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).

(c) LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law; or

(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize for each fiscal year the end strength for military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.

(e) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be established for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter

from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE STRENGTHS.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 3 percent of that end strength; and

(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

(A) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength; and

(B) increase the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for the Selected Reserve of the reserve component of any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength.

(2) Any increase under paragraph (1)(A) of the end strength for an armed force for a fiscal year shall be counted as part of the increase for that

armed force for that fiscal year authorized under subsection (f)(1). Any increase under paragraph (1)(B) of the end strength for the Selected Reserve of a reserve component of an armed force for a fiscal year shall be counted as part of the increase for that Selected Reserve for that fiscal year authorized under subsection (f)(3).

(h) ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.—The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

(5) Members of the National Guard called into Federal service under section 12406 of this title.

(6) Members of the militia called into Federal service under chapter 15 of this title.

(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1)(A) of title 32.

(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a)).

(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

(11) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2))<sup>1</sup> for the administration of the Selective Service System.

(12) Members of the National Guard on full-time National Guard duty for the purpose of providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.

(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.

<sup>1</sup> See References in Text note below.



(Added Pub. L. 101-510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1710; amended Pub. L. 102-190, div. A, title III, §312(a), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104-106, div. A, title IV, §§401(c), 415, title V, §513(a)(1), title X, §1061(c), title XV, §1501(c)(3), Feb. 10, 1996, 110 Stat. 286, 288, 305, 442, 498; Pub. L. 105-85, div. A, title IV, §413(b), title V, §522(i)(1), Nov. 18, 1997, 111 Stat. 1720, 1736; Pub. L. 106-65, div. A, title IV, §415, Oct. 5, 1999, 113 Stat. 587; Pub. L. 106-398, §1 [[div. A], title IV, §422], Oct. 30, 2000, 114 Stat. 1654, 1654A-96; Pub. L. 107-107, div. A, title IV, §421(a), 422, Dec. 28, 2001, 115 Stat. 1076, 1077; Pub. L. 107-314, div. A, title IV, §403, Dec. 2, 2002, 116 Stat. 2525; Pub. L. 108-136, div. A, title IV, §403(a), (b), Nov. 24, 2003, 117 Stat. 1450, 1451; Pub. L. 108-375, div. A, title IV, §416(a)-(d), title V, §512(b), Oct. 28, 2004, 118 Stat. 1866, 1867, 1880; Pub. L. 109-364, div. A, title X, §1071(a)(1), (g)(1)(A), Oct. 17, 2006, 120 Stat. 2398, 2402; Pub. L. 110-181, div. A, title IV, §§416(b), 417, Jan. 28, 2008, 122 Stat. 91, 92; Pub. L. 111-84, div. A, title IV, §418, Oct. 28, 2009, 123 Stat. 2268; Pub. L. 114-328, div. A, title IV, §416, Dec. 23, 2016, 130 Stat. 2093; Pub. L. 115-91, div. A, title X, §1081(a)(2), Dec. 12, 2017, 131 Stat. 1594.)

## REFERENCES IN TEXT

Section 10(b)(2) of the Military Selective Service Act, referred to in subsec. (i)(11), was classified to section 460(b)(2) of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as section 3809(b)(2) of Title 50.

## PRIOR PROVISIONS

A prior section 115, added Pub. L. 93-155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138(b)-(d); amended Pub. L. 94-361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96-107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96-513, title I, §102, Dec. 12, 1980, 94 Stat. 2840; Pub. L. 97-22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97-86, title IX, §§902, 903, Dec. 1, 1981, 95 Stat. 1113, 1114; Pub. L. 97-252, title IV, §402(a), Sept. 8, 1982, 96 Stat. 725; Pub. L. 97-295, §1(3), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99-145, title XII, §1208, Nov. 8, 1985, 99 Stat. 723; renumbered §115, Pub. L. 99-433, title I, §§101(a)(2), 110(b)(4), (5), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 99-661, div. A, title IV, §§411(c) [(d)], 413, Nov. 14, 1986, 100 Stat. 3861, 3862; Pub. L. 100-26, §7(j)(2), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100-456, div. A, title VI, §641, Sept. 29, 1988, 102 Stat. 1987, related to annual authorization of personnel strengths and annual manpower requirements reports, prior to repeal and reenactment as sections 115, 115a, 115b [now 10541], 123a, and 129a of this title by Pub. L. 101-510, §1483(a), (b).

## AMENDMENTS

2017—Subsec. (i)(9). Pub. L. 115-91 substituted “section 1321(a) of the Department of Defense Cooperative Threat Reduction Act (50 U.S.C. 3711(a))” for “section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b))”.

2016—Subsec. (b)(1)(B), (C). Pub. L. 114-328, §416(1), substituted “502(f)(1)(B)” for “502(f)(2)”.

Subsec. (i)(7). Pub. L. 114-328, §416(2), substituted “502(f)(1)(A)” for “502(f)(1)”.

2009—Subsec. (g). Pub. L. 111-84 amended subsec. (g) generally. Prior to amendment, subsec. (g) related to authority for service secretary variances for active-duty end strengths.

2008—Subsec. (b)(4). Pub. L. 110-181, §416(b), added par. (4).

Subsec. (f)(3). Pub. L. 110-181, §417, substituted “3 percent” for “2 percent”.

2006—Subsec. (a)(1)(A). Pub. L. 109-364, §1071(g)(1)(A), made technical correction to directory language of

Pub. L. 108-375, §416(a)(1). See 2004 Amendment note below.

Subsec. (i). Pub. L. 109-364, §1071(a)(1)(A), struck out heading and text of subsec. (i) enacted by Pub. L. 108-375, §512(b). Text read as follows: “In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded.”

Subsec. (i)(13). Pub. L. 109-364, §1071(a)(1)(B), added par. (13).

2004—Subsec. (a)(1)(A). Pub. L. 108-375, §416(a)(1), as amended by Pub. L. 109-364, §1071(g)(1)(A), inserted “unless on active duty pursuant to subsection (b)” after “funds appropriated for active-duty personnel”.

Subsec. (a)(1)(B). Pub. L. 108-375, §416(a)(2), inserted “unless on active duty or full-time National Guard duty pursuant to subsection (b)” after “reserve personnel”.

Subsec. (b). Pub. L. 108-375, §416(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108-375, §416(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 108-375, §416(b), added par. (3). Subsec. (d). Pub. L. 108-375, §416(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108-375, §416(a)(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108-375, §416(d)(1)(A), substituted “subsection (a) or (d)” for “subsection (a) or (c)”.

Subsec. (e)(2). Pub. L. 108-375, §416(d)(1)(B), substituted “subsections (a) and (d)” for “subsections (a) and (c)” in subpar. (A) and substituted “pursuant to subsection (f) and subsection (d)” for “pursuant to subsection (e) and subsection (c)” in subpars. (A) and (B).

Subsec. (f). Pub. L. 108-375, §416(c)(1), struck out “End” after “Reserve” in heading.

Pub. L. 108-375, §416(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(4). Pub. L. 108-375, §416(c)(2)-(4), added par. (4).

Subsec. (g). Pub. L. 108-375, §416(a)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 108-375, §416(d)(2), substituted “subsection (f)(1)” for “subsection (e)(1)”.

Subsec. (h). Pub. L. 108-375, §416(a)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108-375, §512(b), added subsec. (i) relating to certain full-time National Guard duty personnel excluded from counting for full-time National Guard duty end strengths.

Pub. L. 108-375, §416(d)(3), amended heading and text of subsec. (i) generally, substituting provisions relating to 12 categories of personnel excluded from counting for active-duty end strengths for provisions relating to 11 categories of active-duty personnel excluded from counting for active-duty end strengths.

Pub. L. 108-375, §416(a)(3), redesignated subsec. (h) as (i).

2003—Subsecs. (a), (b). Pub. L. 108-136, §403(b)(1), (2), inserted headings.

Subsec. (c). Pub. L. 108-136, §403(a)(1), (b)(3), redesignated subsec. (g) as (c), transferred it to appear after subsec. (b), and inserted heading. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 108-136, §403(a)(3), added subsec. (d). Former subsec. (d) redesignated (h).

Subsec. (e). Pub. L. 108-136, §403(a)(1), (b)(4), redesignated subsec. (c) as (e), transferred it to appear after subsec. (d), and inserted heading. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 108-136, §403(b)(5), inserted heading and, in par. (2), substituted “subsection (e)(1)” for “subsection (c)(1)”.

Subsec. (g). Pub. L. 108-136, §403(a)(1), (b)(6), redesignated subsec. (e) as (g), transferred it to appear after subsec. (f), and inserted heading. Former subsec. (g) redesignated (c).

Subsec. (h). Pub. L. 108-136, §403(a)(2), (b)(7), redesignated subsec. (d) as (h), transferred it to appear at end of section, and inserted heading.

2002—Subsec. (c)(1). Pub. L. 107-314, § 403(a), substituted “3 percent” for “2 percent”.

Subsec. (f). Pub. L. 107-314, § 403(b), added subsec. (f).  
2001—Subsec. (c)(1). Pub. L. 107-107, § 421(a), substituted “2 percent” for “1 percent”.

Subsec. (d)(10), (11). Pub. L. 107-107, § 422, added pars. (10) and (11).

2000—Subsec. (d)(9). Pub. L. 106-398 added par. (9).

1999—Subsec. (c)(3). Pub. L. 106-65 added par. (3).

1997—Subsec. (g). Pub. L. 105-85, § 522(i)(1), inserted “(dual status)” after “military technicians” in first sentence and after “military technician” in second sentence.

Pub. L. 105-85, § 413(b), inserted at end “In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.”

1996—Subsec. (a)(3). Pub. L. 104-106, § 1061(c)(1), struck out par. (3) which read as follows: “The average military training student loads for each of the armed forces (other than the Coast Guard).”

Subsec. (b). Pub. L. 104-106, § 1061(c)(2), inserted “or” at end of par. (1), substituted a period for “; or” at end of par. (2), and struck out par. (3) which read as follows: “training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law.”

Subsec. (c)(1). Pub. L. 104-106, § 401(c), substituted “1 percent” for “0.5 percent”.

Subsec. (d)(1). Pub. L. 104-106, § 1501(c)(3)(A), substituted “section 12302” for “section 673”.

Subsec. (d)(2). Pub. L. 104-106, § 1501(c)(3)(B), substituted “section 12304” for “section 673b”.

Subsec. (d)(3). Pub. L. 104-106, § 1501(c)(3)(C), substituted “section 12406” for “section 3500 or 8500”.

Subsec. (d)(8). Pub. L. 104-106, § 415, added par. (8).

Subsec. (f). Pub. L. 104-106, § 1061(c)(3), struck out subsec. (f) which read as follows: “Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

- “(1) Recruit and specialized training.
- “(2) Flight training.
- “(3) Professional training in military and civilian institutions.
- “(4) Officer acquisition training.”

Subsec. (g). Pub. L. 104-106, § 513(a)(1), added subsec. (g).

1991—Subsec. (a)(4). Pub. L. 102-190, § 312(a)(1), struck out par. (4) which read as follows: “The end strength for civilian personnel for each component of the Department of Defense.”

Subsec. (b)(2) to (4). Pub. L. 102-190, § 312(a)(2), inserted “or” at end of par. (2), substituted a period for “; or” at end of par. (3), and struck out par. (4) which read as follows: “the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.”

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, § 1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(A) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108-375 as enacted.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-136, div. A, title IV, § 403(d), Nov. 24, 2003, 117 Stat. 1452, provided that: “Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title V, § 513(a)(2), Feb. 10, 1996, 110 Stat. 305, provided that: “The amendment made by

paragraph (1) [amending this section] does not apply with respect to fiscal year 1995.”

Pub. L. 104-106, div. A, title XV, § 1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

#### REGULATIONS

Pub. L. 108-375, div. A, title IV, § 416(m), Oct. 28, 2004, 118 Stat. 1869, provided that: “The Secretary of Defense shall prescribe by regulation the meaning of the term ‘operational support’ for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2008 AND 2009

Pub. L. 108-375, div. A, title IV, § 403, Oct. 28, 2004, 118 Stat. 1863, as amended by Pub. L. 109-163, div. A, title IV, § 403, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109-364, div. A, title IV, § 403, Oct. 17, 2006, 120 Stat. 2169, which authorized the Secretary of Defense, for each of fiscal years 2008 and 2009, to establish the active-duty end strengths for the Army and the Marine Corps at numbers greater than the numbers otherwise authorized by law up to the numbers equal to the fiscal-year 2007 baseline plus 20,000 with respect to the Army and plus 4,000 with respect to the Marine Corps, was repealed by Pub. L. 110-181, div. A, title IV, § 403(h), Jan. 28, 2008, 122 Stat. 87.

#### AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS FOR FISCAL YEAR 1996

Pub. L. 104-106, div. A, title IV, § 432, Feb. 10, 1996, 110 Stat. 290, authorized \$112,000,000 to be appropriated to the Department of Defense for fiscal year 1996 to increase the number of active-component military personnel for that fiscal year and provided that end-strength authorizations would each be deemed to be increased as necessary.

#### END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 109-163, div. A, title IV, § 413, Jan. 6, 2006, 119 Stat. 3221, which authorized the minimum number of military technicians (dual status) as of the last day of a fiscal year for each of the reserve components of the Army and the Air Force, was from the National Defense Authorization Act for Fiscal Year 2006 and was repealed in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108-375, div. A, title IV, § 413, Oct. 28, 2004, 118 Stat. 1865.

Pub. L. 108-136, div. A, title IV, § 413, Nov. 24, 2003, 117 Stat. 1453.

Pub. L. 107-314, div. A, title IV, § 413, Dec. 2, 2002, 116 Stat. 2527.

Pub. L. 107-107, div. A, title IV, § 413, Dec. 28, 2001, 115 Stat. 1070.

Pub. L. 106-398, § 1 [[div. A], title IV, § 413], Oct. 30, 2000, 114 Stat. 1654, 1654A-93.

Pub. L. 106-65, div. A, title IV, § 413, Oct. 5, 1999, 113 Stat. 586.

Pub. L. 105-261, div. A, title IV, § 413, Oct. 17, 1998, 112 Stat. 1997.

Pub. L. 105-85, div. A, title IV, § 413(a), Nov. 18, 1997, 111 Stat. 1720.

Pub. L. 104-201, div. A, title IV, § 413(a), Sept. 23, 1996, 110 Stat. 2507.

Pub. L. 104-106, div. A, title V, § 513(b), Feb. 10, 1996, 110 Stat. 305.

COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY  
END STRENGTH ALLOCATIONS

Pub. L. 104-106, title V, § 552, Feb. 10, 1996, 110 Stat. 319, provided that, during fiscal years 1996 through 2001, the Comptroller General was (1) to analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that was conducted before 2002, (2) to consider whether the proposed active component end strengths and planned allocation of forces for that period was sufficient to implement the national military strategy, and (3) to submit to Congress an annual report by Mar. 1 of each year through 2002 on the Comptroller General's findings and conclusions, prior to repeal by Pub. L. 107-107, div. A, title V, § 595, Dec. 28, 2001, 115 Stat. 1126.

EFFECT OF RESERVE COMPONENT ON COMPUTATION OF  
END STRENGTH LIMITATION FOR ACTIVE FORCES FOR  
FISCAL YEAR 1995

Pub. L. 103-337, div. A, title XIII, § 1316(c), Oct. 5, 1994, 108 Stat. 2899, provided that a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under former section 168 of this title shall not be counted (under subsec. (a)(1) of this section) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401 of Pub. L. 103-337, formerly set out below.

END STRENGTHS FOR ACTIVE FORCES

Pub. L. 109-163, div. A, title IV, § 401, Jan. 6, 2006, 119 Stat. 3218, which authorized specified strengths for Armed Forces active duty personnel as of Sept. 30, 2006, and provided that costs for that fiscal year of active duty personnel of the Army and the Marine Corps in excess of specified amounts would be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108-375, div. A, title IV, § 401, Oct. 28, 2004, 118 Stat. 1862.

Pub. L. 108-136, div. A, title IV, § 401, Nov. 24, 2003, 117 Stat. 1450.

Pub. L. 107-314, div. A, title IV, § 401, Dec. 2, 2002, 116 Stat. 2524.

Pub. L. 107-107, div. A, title IV, § 401, Dec. 28, 2001, 115 Stat. 1069.

Pub. L. 106-398, § 1 [[div. A], title IV, § 401], Oct. 30, 2000, 114 Stat. 1654, 1654A-92.

Pub. L. 106-65, div. A, title IV, § 401, Oct. 5, 1999, 113 Stat. 585.

Pub. L. 105-261, div. A, title IV, § 401, Oct. 17, 1998, 112 Stat. 1995.

Pub. L. 105-85, div. A, title IV, § 401, Nov. 18, 1997, 111 Stat. 1719.

Pub. L. 104-201, div. A, title IV, § 401, Sept. 23, 1996, 110 Stat. 2503.

Pub. L. 104-106, div. A, title IV, § 401(a), Feb. 10, 1996, 110 Stat. 285.

Pub. L. 103-337, div. A, title IV, § 401, Oct. 5, 1994, 108 Stat. 2743.

Pub. L. 103-160, div. A, title IV, §§ 401, 403, Nov. 30, 1993, 107 Stat. 1639, 1640.

Pub. L. 102-484, div. A, title IV, §§ 401, 402, Oct. 23, 1992, 106 Stat. 2397.

Pub. L. 102-190, div. A, title IV, § 401, title VI, § 664, Dec. 5, 1991, 105 Stat. 1349, 1399.

Pub. L. 101-510, div. A, title IV, §§ 401, 402, Nov. 5, 1990, 104 Stat. 1543, 1544; Pub. L. 102-25, title II, §§ 201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 104-106, div. A, title XV, § 1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507.

Pub. L. 101-189, div. A, title IV, § 401, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101-510, div. A, title IV, § 401(d), Nov. 5, 1990, 104 Stat. 1544.

Pub. L. 100-456, div. A, title IV, § 401, Sept. 29, 1988, 102 Stat. 1963.

Pub. L. 100-180, div. A, title IV, § 401, Dec. 4, 1987, 101 Stat. 1081.

Pub. L. 99-661, div. A, title IV, § 401, Nov. 14, 1986, 100 Stat. 3859.

Pub. L. 99-145, title IV, § 401, Nov. 8, 1985, 99 Stat. 618.

Pub. L. 98-525, title IV, § 401, Oct. 19, 1984, 98 Stat. 2516.

Pub. L. 98-94, title IV, § 401, Sept. 24, 1983, 97 Stat. 629.

Pub. L. 97-252, title IV, § 401, Sept. 8, 1982, 96 Stat. 725.

Pub. L. 97-86, title IV, § 401, Dec. 1, 1981, 95 Stat. 1104, as amended by Pub. L. 97-252, title IX, § 903, Sept. 8, 1982, 96 Stat. 729.

Pub. L. 96-342, title III, § 301, Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97-39, title III, § 301, Aug. 14, 1981, 95 Stat. 940.

Pub. L. 96-107, title III, § 301, Nov. 9, 1979, 93 Stat. 806.

Pub. L. 95-485, title III, § 301, Oct. 20, 1978, 92 Stat. 1613.

Pub. L. 95-79, title III, § 301, July 30, 1977, 91 Stat. 326.

Pub. L. 94-361, title III, § 301, July 14, 1976, 90 Stat. 924.

Pub. L. 94-106, title III, § 301, Oct. 7, 1975, 89 Stat. 532.

Pub. L. 93-365, title III, § 301, Aug. 5, 1974, 88 Stat. 401.

Pub. L. 93-155, title III, § 301, Nov. 16, 1973, 87 Stat. 607.

Pub. L. 92-436, title III, § 301, Sept. 26, 1972, 86 Stat. 735.

MINIMUM NUMBER OF NAVY HEALTH PROFESSIONS  
OFFICERS

Pub. L. 102-190, div. A, title VII, § 718(b), Dec. 5, 1991, 105 Stat. 1404, provided that, of the total number of officers authorized to be serving on active duty in Navy on last day of a fiscal year, 12,510 were to be available only for assignment to duties in health profession specialties, prior to repeal by Pub. L. 104-106, div. A, title V, § 564(d)(2), Feb. 10, 1996, 110 Stat. 327.

LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL

Pub. L. 101-510, div. A, title VII, § 711, Nov. 5, 1990, 104 Stat. 1582, as amended by Pub. L. 102-190, div. A, title VII, § 718(a), Dec. 5, 1991, 105 Stat. 1404, prohibited Secretary of Defense from reducing number of medical personnel of Department of Defense below baseline number unless Secretary certified to Congress that number of such personnel being reduced was excess to current and projected needs of military departments, and such reduction would not result in increase in cost of health care services provided under Civilian Health and Medical Program of the Uniformed Services, and, in case of military medical personnel, included in certification information on strength levels for individual category of medical personnel involved in reduction as of Sept. 30, 1989, projected requirements of Department over 5-fiscal year period following fiscal year in which certification was submitted for medical personnel in category of medical personnel involved, and strength level recommended for each component of Armed Forces for most recent fiscal year for which Secretary submitted recommendations pursuant to former section 115a(g)(1) of this title for personnel in category of medical personnel involved, prior to repeal by Pub. L. 104-106, div.

A, title V, §564(d)(1), Feb. 10, 1996, 110 Stat. 327. See section 129c of this title.

OPERATION DESERT SHIELD INCREASE IN END STRENGTHS OF ACTIVE DUTY PERSONNEL; AUTHORITY; CERTIFICATION

Pub. L. 101-510, div. A, title XI, §1117, Nov. 5, 1990, 104 Stat. 1637, authorized Secretary of Defense, after determining that operational requirements of Operation Desert Shield so require, to increase the end strengths of active duty personnel for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by section 401 of Pub. L. 101-510, set out above, and required certification by Secretary to Committees on Armed Services of Senate and House of Representatives of necessity of such increase, prior to repeal by Pub. L. 102-25, title II, §204, Apr. 6, 1991, 105 Stat. 80.

**§ 115a. Annual defense manpower requirements report**

(a) The Secretary of Defense shall submit to Congress an annual defense manpower requirements report. The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report shall contain the Secretary's recommendations for—

(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year;

(2) the annual civilian personnel requirements level for each component of the Department of Defense for the next fiscal year and the civilian end-strength level for the prior fiscal year; and

(3) the projected number of contractor personnel full-time equivalents required to provide contract services (as that term is defined in section 235 of this title) for each component of the Department of Defense for the next fiscal year and the contractor personnel full-time equivalents that provided contract services for each component of the Department of Defense for the prior fiscal year as reported in the inventory of contracts for services required by section 2330a(c)<sup>1</sup> of this title.

(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

(A) Unit mission and capability.

(B) Strategy which the unit supports.

(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense.

(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the following:

(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

(d) The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(A) retirements displayed by year of active commissioned service;

(B) discharges;

(C) other separations;

(D) deaths;

(E) promotions; and

(F) reserve and regular officers ordered to active duty.

(e)(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

(2) For purposes of this subsection, the term "medical personnel" includes—

(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

(D) enlisted members engaged in or supporting medically related activities; and

(E) such other personnel as the Secretary considers appropriate.

(f) The Secretary shall also include in each such report the following information with respect to personnel assigned to or supporting major Department of Defense headquarters activities:

(1) The military end strength and civilian full-time equivalents assigned to major De-

<sup>1</sup> See References in Text note below.

partment of Defense headquarters activities for the preceding fiscal year and estimates of such numbers for the current fiscal year and subsequent fiscal years.

(2) A summary of the replacement during the preceding fiscal year of contract workyears providing support to major Department of Defense headquarters activities with military end strength or civilian full-time equivalents, including an estimate of the number of contract workyears associated with the replacement of contracts performing inherently governmental or exempt functions.

(3) The plan for the continued review of contract personnel supporting major Department of Defense headquarters activities for possible conversion to military or civilian performance in accordance with section 2463 of this title.

(4) The amount of any adjustment in the limitation on personnel made by the Secretary of Defense or the Secretary of a military department, and, for each adjustment made pursuant to section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (10 U.S.C. 143 note), the purpose of the adjustment.

(g) In each report submitted under subsection (a), the Secretary shall also include a detailed discussion of the following:

(1) The progress made in implementing the plan required by section 656 of this title to accurately measure the efforts of the Department to reflect the diverse population of the United States eligible to serve in the armed forces.

(2) The number of members of the armed forces, including reserve components, listed by gender and race or ethnicity for each rank under each military department.

(3) The number of members of the armed forces, including reserve components, who were promoted during the year covered by the report, listed by gender and race or ethnicity for each rank under each military department.

(4) The number of members of the armed forces, including reserve components, who reenlisted or otherwise extended the commitment to military service during the year covered by the report, listed by gender and race or ethnicity for each rank under each military department.

(5) The available pool of qualified candidates for the general officer grades of general and lieutenant general and the flag officer grades of admiral and vice admiral.

(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following (displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians):

(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

(2) Within each of the numbers under paragraph (1)—

(A) the number applicable to a reserve component management headquarter organization; and

(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

(Added Pub. L. 101-510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1711; amended Pub. L. 102-190, div. A, title X, §1061(a)(1), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 104-106, div. A, title V, §513(e), title X, §1061(d), Feb. 10, 1996, 110 Stat. 307, 442; Pub. L. 105-85, div. A, title V, §522(i)(2), Nov. 18, 1997, 111 Stat. 1736; Pub. L. 105-261, div. A, title IV, §403, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 111-84, div. A, title XI, §1109(b)(1)-(2)(B)(i), Oct. 28, 2009, 123 Stat. 2492, 2493; Pub. L. 112-81, div. A, title IX, §934, Dec. 31, 2011, 125 Stat. 1544; Pub. L. 112-239, div. A, title V, §519(b), Jan. 2, 2013, 126 Stat. 1721; Pub. L. 115-91, div. A, title X, §1051(a)(2), Dec. 12, 2017, 131 Stat. 1560.)

#### REFERENCES IN TEXT

Section 2330a(c) of this title, referred to in subsec. (a)(3), was amended by Pub. L. 114-328 with respect to the requirement that the Secretary of Defense submit to Congress an annual inventory of the activities performed pursuant to contracts for services.

Section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, referred to in subsec. (f)(4), is section 1111(b)(2) of Pub. L. 110-417, which is set out as a note under section 143 of this title.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(1)(D), (3), (c)(2) of this title, prior to repeal by Pub. L. 101-510, §1483(a).

#### AMENDMENTS

2017—Subsec. (g). Pub. L. 115-91 struck out “during fiscal years 2013 through 2017” after “subsection (a)” in introductory provisions.

2013—Subsec. (g). Pub. L. 112-239 added subsec. (g).

2011—Subsec. (a)(2), (3). Pub. L. 112-81 added pars. (2) and (3) and struck out former par. (2) which read as follows: “the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year.”

2009—Pub. L. 111-84, §1109(b)(2)(B)(i), inserted “defense” before “manpower” in section catchline.

Subsec. (a). Pub. L. 111-84, §1109(b)(2)(A), inserted “defense” before “manpower requirements report” in introductory provisions.

Subsec. (f). Pub. L. 111-84, §1109(b)(1), added subsec. (f).

1998—Subsec. (a). Pub. L. 105-261, in introductory provisions, struck out “, not later than February 15 of each fiscal year,” after “submit to Congress” and substituted “The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report” for “The report shall be in writing and”.

1997—Subsec. (h). Pub. L. 105-85, §522(i)(2)(A), inserted “(displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians)” after “of the following” in introductory provisions.

Subsec. (h)(3). Pub. L. 105-85, §522(i)(2)(B), struck out par. (3) which read as follows: “Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve

component (so-called ‘single-status’ technicians), with a further display of such numbers as specified in paragraph (2).”

1996—Subsec. (b)(2)(C). Pub. L. 104–106, §1061(d)(1), struck out subpar. (C) which read as follows: “Area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.”

Subsec. (d). Pub. L. 104–106, §1061(d)(3), redesignated subsec. (e) as (d) and struck out pars. (4) and (5) which read as follows:

“(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

“(A) Regular officers.

“(B) Reserve officers on the active-duty list.

“(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

“(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

“(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

“(A) recruit and specialized training;

“(B) flight training;

“(C) professional training in military and civilian institutions; and

“(D) officer acquisition training.”

Pub. L. 104–106, §1061(d)(2), struck out subsec. (d) which read as follows: “In each such report, the Secretary shall also—

“(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

“(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

“(3) provide a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs.”

Subsec. (e). Pub. L. 104–106, §1061(d)(5), redesignated subsec. (g) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–106, §1061(d)(4), struck out subsec. (f) which read as follows: “In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended.”

Subsec. (g). Pub. L. 104–106, §1061(d)(5), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 104–106, §513(e), added subsec. (h).

1991—Subsec. (d)(3). Pub. L. 102–190 inserted “provide” before “a comprehensive”.

#### CENTRALIZED DATABASE OF INFORMATION ON MILITARY TECHNICIAN POSITIONS

Pub. L. 113–291, div. A, title V, §513, Dec. 19, 2014, 128 Stat. 3359, provided that:

“(a) CENTRALIZED DATABASE REQUIRED.—The Secretary of Defense shall establish and maintain a centralized database of information on military technician positions that will contain and set forth current information on all military technician positions of the Armed Forces.

“(b) ELEMENTS.—

“(1) IDENTIFICATION OF POSITIONS.—The database required by subsection (a) shall identify each military technician position, whether dual-status or non-dual status.

“(2) ADDITIONAL DETAILS.—For each military technician position identified pursuant to paragraph (1), the database required by subsection (a) shall include the following:

“(A) A description of the functions of the position.

“(B) A statement of the military necessity for the position.

“(C) A statement of whether the position is—

“(i) a general administration, clerical, or office service occupation; or

“(ii) directly related to the maintenance of military readiness.

“(c) CONSULTATION.—The Secretary of Defense shall establish the database required by subsection (a) in consultation with the Secretaries of the military departments.

“(d) IMPLEMENTATION REPORT.—Not later than September 1, 2015, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the progress made in establishing the database required by subsection (a).”

#### ASSESSMENT OF STRUCTURE AND MIX OF ACTIVE AND RESERVE FORCES

Pub. L. 102–190, div. A, title IV, §402, Dec. 5, 1991, 105 Stat. 1349, as amended by Pub. L. 102–484, div. A, title V, §513(b), Oct. 23, 1992, 106 Stat. 2406, required Secretary of Defense to submit to Congress a report containing an assessment of alternatives relating to structure and mix of active and reserve forces appropriate for carrying out assigned missions in mid- to late-1990s and an evaluation and recommendations of Secretary and Chairman of Joint Chiefs of Staff as to mix or mixes of reserve and active forces considered acceptable to carry out expected future missions, and further provided for matters to be included in report and evaluation, commencement of assessment, submission of interim and final reports, and funding for assessment.

#### [§ 115b. Repealed. Pub. L. 114–328, div. A, title XI, § 1102(a), Dec. 23, 2016, 130 Stat. 2444]

Section, added Pub. L. 111–84, div. A, title XI, §1108(a)(1), Oct. 28, 2009, 123 Stat. 2488; amended Pub. L. 112–81, div. A, title IX, §935(a)(1), (b), (c), title X, §1053, Dec. 31, 2011, 125 Stat. 1545, 1582; Pub. L. 113–291, div. A, title IX, §911, Dec. 19, 2014, 128 Stat. 3472; Pub. L. 114–92, div. A, title VIII, §841(b), Nov. 25, 2015, 129 Stat. 914, required Secretary of Defense to submit biennial strategic workforce plan.

A prior section 115b was renumbered section 10541 of this title.

#### § 116. Annual operations and maintenance report

(a)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

(2) The Secretary shall also include in each such report the justification for and an expla-

nation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

(b) The Secretary may submit the report required by subsection (a) by including the materials required in the report as an exhibit to the defense authorization request submitted pursuant to section 113a of this title in the fiscal year concerned.

(c) In this section:

(1) The term “combat arms battalions” means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(2) The term “major repair work” means, in the case of any ship to which subsection (a) is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than \$10,000,000.

(Added Pub. L. 96-342, title X, § 1001(b)(3), (c)(2), Sept. 8, 1980, 94 Stat. 1118, 1119, § 138(e), (f)(2); amended Pub. L. 96-513, title V, § 511(4)(B), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97-86, title III, § 302, Dec. 1, 1981, 95 Stat. 1104; renumbered § 116 and amended Pub. L. 99-433, title I, §§ 101(a)(2), 110(b)(6), (7), (9), (10), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 105-85, div. A, title X, § 1073(a)(3), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 112-81, div. A, title X, § 1064(2), Dec. 31, 2011, 125 Stat. 1586.)

#### AMENDMENTS

2011—Subsecs. (b), (c). Pub. L. 112-81 added subsec. (b) and redesignated former subsec. (b) as (c).

1997—Subsec. (b)(2). Pub. L. 105-85 substituted “subsection (a)” for “such subsection”.

1986—Pub. L. 99-433 successively redesignated subsecs. (e) and (f)(2) of section 138 of this title as subsecs. (e) and (f)(2) of section 114 of this title and then as subsecs. (a) and (b), respectively, of this section, added section catchline, and made minor conforming changes in text.

1981—Subsec. (a)(3), (4), formerly § 138(e)(3), (4). Pub. L. 97-86 struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

1980—Subsec. (b), formerly § 138(f)(2). Pub. L. 96-513 substituted “In subsection (e)” for “In subsection (f)”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in this section requiring submittal of reports to Congress, see section 1051(x) of Pub. L. 115-91, set out as a note under section 113 of this title.

### § 117. Readiness reporting system: establishment; reporting to congressional committees

(a) **REQUIRED READINESS REPORTING SYSTEM.**—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

(b) **READINESS REPORTING SYSTEM CHARACTERISTICS.**—In establishing the readiness reporting system, the Secretary shall ensure—

(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

(2) that information in the readiness reporting system is continually updated, with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours of the event necessitating the change in readiness status; and

(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

(c) **CAPABILITIES.**—The readiness reporting system shall measure such factors relating to readiness as the Secretary prescribes, except that the system shall include the capability to do each of the following:

(1) Measure, on a monthly basis, the capability of units (both as elements of their respective armed force and as elements of joint forces) to conduct their assigned wartime missions.

(2) Measure, on an annual basis, the capability of training establishments to provide trained and ready forces for wartime missions.

(3) Measure, on an annual basis, the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their wartime missions.

(4) Measure, on a monthly basis, critical warfighting deficiencies in unit capability.

(5) Measure, on an annual basis, critical warfighting deficiencies in training establishments and defense infrastructure.

(6) Measure, on a monthly basis, the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

(7) Measure, on a quarterly basis, the extent to which units of the armed forces remove serviceable parts, supplies, or equipment from one vehicle, vessel, or aircraft in order to render a different vehicle, vessel, or aircraft operational.

(8) Measure, on an annual basis, the capability of operational contract support to support current and anticipated wartime missions of the armed forces.

(d) SEMI-ANNUAL AND MONTHLY JOINT READINESS REVIEWS.—(1) The Chairman of the Joint Chiefs of Staff shall—

(A) on a semi-annual basis, conduct a joint readiness review; and

(B) on a monthly basis, review any changes that have been reported in readiness since the previous joint readiness review.

(2) The Chairman shall incorporate into both the joint readiness review required under paragraph (1)(A) and the monthly review required under paragraph (1)(B) the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time the review is conducted. The Chairman shall submit to the Secretary of Defense the results of each review under paragraph (1), including the deficiencies in readiness identified during that review.

(e) SUBMISSION TO CONGRESSIONAL COMMITTEES.—The Secretary shall semi-annually submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A), including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.

(Added Pub. L. 105-261, div. A, title III, §373(a)(1), Oct. 17, 1998, 112 Stat. 1990; amended Pub. L. 106-65, div. A, title III, §361(d)(1), title X, §1067(1), Oct. 5, 1999, 113 Stat. 575, 774; Pub. L. 106-398, §1 [[div. A], title III, §371], Oct. 30, 2000, 114 Stat. 1654, 1654A-80; Pub. L. 108-136, div. A, title X, §1031(a)(1), Nov. 24, 2003, 117 Stat. 1595; Pub. L. 112-239, div. A, title VIII, §845(a), Jan. 2, 2013, 126 Stat. 1848; Pub. L. 113-291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 115-91, div. A, title III, §331(b), Dec. 12, 2017, 131 Stat. 1354.)

#### PRIOR PROVISIONS

A prior section 117, added Pub. L. 97-295, §1(2)(A), Oct. 12, 1982, 96 Stat. 1287, §133a; renumbered §117 and amended Pub. L. 99-433, title I, §§101(a)(2), 110(d)(3), Oct. 1, 1986, 100 Stat. 994, 1002, required annual report on North Atlantic Treaty Organization readiness, prior to repeal by Pub. L. 101-510, div. A, title XIII, §1301(1), Nov. 5, 1990, 104 Stat. 1668.

#### AMENDMENTS

2017—Subsec. (d). Pub. L. 115-91, §331(b)(1)(A), substituted “Semi-annual” for “Quarterly” in heading.

Subsec. (d)(1)(A). Pub. L. 115-91, §331(b)(1)(B), substituted “semi-annual” for “quarterly”.

Subsec. (e). Pub. L. 115-91, §331(b)(2), substituted “semi-annually” for “each quarter”.

2014—Subsec. (a)(1). Pub. L. 113-291 substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Subsec. (c)(8). Pub. L. 112-239 added par. (8).

2003—Subsec. (e). Pub. L. 108-136 substituted “each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A)” for “each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report in writing containing the results of the most recent joint readiness review or monthly review conducted under subsection (d)”.

2000—Subsec. (c)(7). Pub. L. 106-398 added par. (7).

1999—Subsec. (b)(2). Pub. L. 106-65, §361(d)(1)(A), substituted “with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours” for “with any change in the overall readiness status of a unit, an element of the training establishment, or an element of defense infrastructure, that is required to be reported as part of the readiness reporting system, being reported within 24 hours”.

Subsec. (c)(2), (3), (5). Pub. L. 106-65, §361(d)(1)(B), substituted “an annual” for “a quarterly”.

Subsec. (e). Pub. L. 106-65, §1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (e) of this section requiring submittal of quarterly report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### DEFENSE MATERIEL READINESS BOARD

Pub. L. 112-239, div. A, title XVI, §1601(a), Jan. 2, 2013, 126 Stat. 2062, provided that: “The Defense Materiel Readiness Board established pursuant to section 871 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 117 note) [formerly set out below] is hereby disestablished.”

Pub. L. 112-239, div. A, title XVI, §1601(b), Jan. 2, 2013, 126 Stat. 2062, provided that: “The Department of Defense Strategic Readiness Fund established by section 872(d) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 10 U.S.C. 117 note) [formerly set out below] is hereby closed.”

Pub. L. 110-181, div. A, title VIII, subtitle G, Jan. 28, 2008, 122 Stat. 260, which required Secretary of Defense to establish Defense Materiel Readiness Board to provide independent assessments of materiel readiness, materiel readiness shortfalls, and materiel readiness plans to Secretary of Defense and Congress; provided for designation of critical materiel readiness shortfalls; established Department of Defense Strategic Readiness Fund; and required Secretary of military department to notify Congress with respect to determination that use of a multiyear procurement contract would address a critical materiel readiness shortfall, was repealed by Pub. L. 112-239, div. A, title XVI, §1601(c), Jan. 2, 2013, 126 Stat. 2062.

#### IMPLEMENTATION

Pub. L. 105-261, div. A, title III, §373(b), (c), Oct. 17, 1998, 112 Stat. 1992, as amended by Pub. L. 106-65, div. A, title III, §361(d)(2), Oct. 5, 1999, 113 Stat. 575, directed the Secretary of Defense to submit to Congress a report, not later than Mar. 1, 1999, setting forth a plan for implementation of this section, and required the Sec-



retary to establish and implement the readiness reporting system required by this section so as to ensure that required capabilities would be attained not later than Apr. 1, 2000.

**[§ 118. Repealed. Pub. L. 114-328, div. A, title IX, § 941(b)(1), Dec. 23, 2016, 130 Stat. 2367]**

Section, added Pub. L. 106-65, div. A, title IX, § 901(a)(1), Oct. 5, 1999, 113 Stat. 715; amended Pub. L. 107-107, div. A, title IX, § 921(a), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107-314, div. A, title IX, §§ 922, 923, Dec. 2, 2002, 116 Stat. 2623; Pub. L. 109-364, div. A, title X, § 1031(c)-(f), Oct. 17, 2006, 120 Stat. 2385, 2386; Pub. L. 110-181, div. A, title IX, §§ 941(b), 951(a), Jan. 28, 2008, 122 Stat. 287, 290; Pub. L. 111-84, div. A, title X, §§ 1002, 1073(a)(2), div. B, title XXVIII, § 2822(b), Oct. 28, 2009, 123 Stat. 2439, 2472, 2666; Pub. L. 111-383, div. A, title X, § 1071, Jan. 7, 2011, 124 Stat. 4364; Pub. L. 112-81, div. A, title VIII, § 820(a), title IX, § 942, Dec. 31, 2011, 125 Stat. 1501, 1548; Pub. L. 113-291, div. A, title X, §§ 1071(c)(2), (f)(1), 1072(a)(1), Dec. 19, 2014, 128 Stat. 3508, 3510, 3512, related to quadrennial defense strategy review by Secretary of Defense.

A prior section 118, added Pub. L. 97-295, § 1(2)(A), Oct. 12, 1982, 96 Stat. 1288, § 133b; renumbered § 118, Pub. L. 99-433, title I, § 101(a)(2), Oct. 1, 1986, 100 Stat. 994, required reports to Congress on sales or transfers of defense articles, prior to repeal by Pub. L. 101-510, div. A, title XIII, § 1301(2), Nov. 5, 1990, 104 Stat. 1668.

**§ 118a. Quadrennial quality of life review**

(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the “quadrennial quality of life review”). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as—

(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

(c) CONSIDERATIONS.—The Secretary shall consider addressing the following matters as part of the quadrennial quality of life review:

(1) Infrastructure.

(2) Military construction.

(3) Physical conditions at military installations and other Department of Defense facilities.

(4) Budget plans.

(5) Adequacy of medical care for members of the armed forces and their dependents.

(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

(7) Housing-related utility costs.

(8) Educational opportunities and costs.

(9) Length of deployments.

(10) Rates of pay and pay differentials between the pay of members and the pay of civilians.

(11) Retention and recruiting efforts.

(12) Workplace safety.

(13) Support services for spouses and children.

(14) Other elements of Department of Defense programs and Government policies and programs that affect the quality of life of members.

(d) SUBMISSION TO CONGRESSIONAL COMMITTEES.—(1) The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include the following:

(A) The assumptions used in the review.

(B) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

(2) The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.

(Added Pub. L. 107-314, div. A, title V, § 581(a)(1), Dec. 2, 2002, 116 Stat. 2559; amended Pub. L. 113-291, div. A, title X, § 1071(c)(2), Dec. 19, 2014, 128 Stat. 3508.)

AMENDMENTS

2014—Subsec. (b)(1). Pub. L. 113-291 substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

FIRST QUADRENNIAL QUALITY OF LIFE REVIEW

Pub. L. 107-314, div. A, title V, § 581(b), Dec. 2, 2002, 116 Stat. 2561, directed that the first quadrennial quality of life review under this section would be conducted during 2003, and that the report on such review was to be submitted not later than the date on which the President submitted the budget for fiscal year 2005 to Congress.

**[§ 118b. Repealed. Pub. L. 113-291, div. A, title X, § 1072(b)(1), Dec. 19, 2014, 128 Stat. 3516]**

Section, added Pub. L. 110-181, div. A, title IX, § 941(a), Jan. 28, 2008, 122 Stat. 286, related to quadrennial roles and missions review.

EFFECTIVE DATE OF REPEAL

Pub. L. 113-291, div. A, title X, § 1072(c), Dec. 19, 2014, 128 Stat. 3517, provided that: “[Former] Section 118 of such title [meaning title 10, United States Code], as amended by subsection (a), and the amendments made by this section [amending former section 118 of this title and repealing this section], shall take effect on October 1, 2015.”

**§ 119. Special access programs: congressional oversight**

(a)(1) Not later than March 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.

(2) Each such report shall set forth—

(A) the total amount requested for special access programs of the Department of Defense in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each program in that budget that is a special access program—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) In the case of a report under paragraph (1) submitted in a year during which the President's budget for the next fiscal year, because of multiyear budgeting for the Department of Defense, does not include a full budget request for the Department of Defense, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for special access programs of the Department of Defense and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program of the Department of Defense that is a special access program, the information specified in paragraph (2)(B).

(b)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term "new special access program" means a special access program that has not previously been covered in a notice and justification under this subsection.

(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees

a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e)(1) The Secretary of Defense may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the Secretary exercises the authority provided under paragraph (1), the Secretary shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the defense committees.

(f) A special access program may not be initiated until—

(1) the defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(g) In this section, the term "defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations, and the Subcommittee on Defense of the Committee on Appropriations, of the House of Representatives.

(Added Pub. L. 100-180, div. A, title XI, §1132(a)(1), Dec. 4, 1987, 101 Stat. 1151; amended Pub. L. 101-510, div. A, title XIV, §§1461, 1482(a), Nov. 5, 1990, 104 Stat. 1698, 1709; Pub. L. 104-106, div. A, title X, §1055, title XV, §1502(a)(4), Feb. 10, 1996, 110 Stat. 442, 502; Pub. L. 106-65, div. A,

title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107-107, div. A, title X, §1048(a)(2), Dec. 28, 2001, 115 Stat. 1222.)

#### AMENDMENTS

2001—Subsec. (g)(2). Pub. L. 107-107 substituted “Subcommittee on Defense” for “National Security Subcommittee”.

1999—Subsec. (g)(2). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Subsec. (a)(1). Pub. L. 104-106, §1055, substituted “March 1” for “February 1”.

Subsec. (g). Pub. L. 104-106, §1502(a)(4), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) the Committees on Armed Services and Appropriations of the Senate and House of Representatives; and

“(2) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.”

1990—Subsec. (c). Pub. L. 101-510, §1461(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Whenever a change is made in the status of a program of the Department of Defense as a special access program, the Secretary of Defense shall submit to the defense committees a report describing the change. Any such report shall be submitted not later than 30 days after the date on which the change takes effect.”

Subsec. (f). Pub. L. 101-510, §1482(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101-510, §1461(b), inserted “and Appropriations” after “Armed Services” in par. (1).

Subsec. (g). Pub. L. 101-510, §1482(a)(1), redesignated subsec. (f) as (g).

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-510, div. A, title XIV, §1482(d), Nov. 5, 1990, 104 Stat. 1710, provided that: “The amendments made by this section [enacting section 2214 of this title and amending this section and section 1584 of this title] shall take effect on October 1, 1991.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subssecs. (a) and (b) of this section requiring submission of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### INITIAL REPORTS ON SPECIAL ACCESS PROGRAMS

Pub. L. 100-180, div. A, title XI, §1132(b), (c), Dec. 4, 1987, 101 Stat. 1152, required that the first report under subsec. (a) of this section set forth the amount that had been requested in the President’s budget for each of the five previous fiscal years for special access programs of the Department of Defense and the amount appropriated for each such year for such programs, and required that the first report under subsec. (b) of this section cover existing special access programs.

### § 119a. Programs managed under alternative compensatory control measures: congressional oversight

(a) ANNUAL REPORT ON CURRENT PROGRAMS UNDER AACMS.—<sup>1</sup>

(1) IN GENERAL.—Not later than March 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the programs being managed under alternative compensatory control measures in the Department of Defense.

(2) ELEMENTS.—Each report under paragraph (1) shall set forth the following:

(A) The total amount requested for programs being managed under alternative compensatory control measures in the Department in the budget of the President under section 1105 of title 31 for the fiscal year beginning in the fiscal year in which such report is submitted.

(B) For each program in that budget that is a program being managed under alternative compensatory control measures in the Department—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for—

(I) the current fiscal year;

(II) the fiscal year for which that budget is submitted; and

(III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) ELEMENTS ON PROGRAMS COVERED BY MULTIYEAR BUDGETING.—In the case of a report under paragraph (1) submitted in a year during which the budget of the President for the fiscal year concerned does not, because of multi-year budgeting for the Department, include a full budget request for the Department, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for programs being managed under alternative compensatory control measures in the Department, and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program that is a program being managed under alternative compensatory control measures in the Department, the information specified in paragraph (2)(B).

(b) ANNUAL REPORT ON NEW PROGRAMS UNDER AACMS.—<sup>1</sup>

(1) IN GENERAL.—Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a report that, with respect to each new program being managed under alternative compensatory control measures in the Department, provides—

(A) notice of the designation of the program as a program being managed under alternative compensatory control measures in the Department; and

(B) a justification for such designation.

(2) ADDITIONAL ELEMENTS.—A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the tech-

<sup>1</sup> So in original. Probably should be “ACCMS.—”.

nology, or that have a mission similar to the mission, of the program that is the subject of the report.

(3) NEW PROGRAM BEING MANAGED UNDER ALTERNATIVE COMPENSATORY CONTROL MEASURES DEFINED.—In this subsection, the term “new program being managed under alternative compensatory control measures” means a program in the Department that has not previously been covered by a report under this subsection.

(c) REPORT ON CHANGE IN CLASSIFICATION OR DECLASSIFICATION OF PROGRAMS.—

(1) IN GENERAL.—Whenever a change in the classification of a program being managed under alternative compensatory control measures in the Department is planned to be made, or whenever classified information concerning a program being managed under alternative compensatory control measures in the Department is to be declassified and made public, the Secretary shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) DEADLINE FOR REPORT.—Except as provided in paragraph (3), a report required by paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement concerned is to occur.

(3) EXCEPTION.—If the Secretary determines that because of exceptional circumstances the requirement in paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a program covered by paragraph (1), the Secretary may submit the report required by that paragraph regarding the proposed change or public announcement at any time before the proposed change or public announcement is made, and shall include in the report an explanation of the exceptional circumstances.

(d) MODIFICATION OF CRITERIA OR POLICY FOR DESIGNATING PROGRAMS UNDER ACCMS.—Whenever there is a modification or termination of the policy or criteria used for designating a program as a program being managed under alternative compensatory control measures in the Department, the Secretary shall promptly notify the congressional defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy or criteria as modified.

(e) WAIVER.—

(1) IN GENERAL.—The Secretary may waive any requirement in subsection (a), (b), or (c) that certain information be included in a report under such subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) NOTICE TO CONGRESS.—If the Secretary exercises the authority in paragraph (1), the Secretary shall provide the information described

in the applicable subsection with respect to the program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the congressional defense committees.

(f) LIMITATION ON INITIATION OF PROGRAMS UNDER ACCMS.—

(1) NOTICE AND WAIT.—Except as provided in paragraph (2), a program to be managed under alternative compensatory control measures in the Department may not be initiated until—

(A) the congressional defense committees are notified of the program; and

(B) a period of 30 days elapses after such notification is received.

(2) EXCEPTION.—If the Secretary determines that waiting for the regular notification process before initiating a program as described in paragraph (1) would cause exceptionally grave damage to the national security, the Secretary may begin a program to be managed under alternative compensatory control measures in the Department before such waiting period elapses. The Secretary shall notify the congressional defense committees within 10 days of initiating a program under this paragraph, including a justification for the determination of the Secretary that waiting for the regular notification process would cause exceptionally grave damage to the national security.

(Added Pub. L. 114-328, div. A, title X, §1062(a), Dec. 23, 2016, 130 Stat. 2405.)

**CHAPTER 3—GENERAL POWERS AND FUNCTIONS**

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130h.	Prohibitions relating to missile defense information and systems.
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130k.	Notification requirements for cyber weapons <sup>1</sup>

## AMENDMENTS

2017—Pub. L. 115–91, div. A, title XVI, §1631(b), Dec. 12, 2017, 131 Stat. 1738, added items 130j and 130k.

2016—Pub. L. 114–328, div. A, title X, §1036(f)(2), title XI, §1101(b)(2), title XII, §§1203(a)(2), 1245(b), title XVI, §§1682(a)(3), 1682(a)(2), 1697(b), Dec. 23, 2016, 130 Stat. 2392, 2444, 2476, 2520, 2614, 2624, 2640, added items 127e, 128, 130f, 130h, and 130i, substituted “Civilian personnel management” for “Prohibition of certain civilian personnel management constraints” in item 129, and struck out former items 127d “Allied forces participating in combined operations: authority to provide logistic support, supplies, and services”, 128 “Physical protection of special nuclear material: limitation on dissemination of unclassified information”, 130f “Congressional notification of sensitive military operations”, and 130h “Prohibitions on providing certain missile defense information to Russian Federation”.

2015—Pub. L. 114–92, div. A, title X, §1042(d)(2), title XVI, §§1642(b), 1671(a)(2), Nov. 25, 2015, 129 Stat. 977, 1116, 1130, added items 130g and 130h and substituted “Department of Defense rewards program” for “Assistance in combating terrorism: rewards” in item 127b.

2014—Pub. L. 113–291, div. A, title X, §1071(f)(2), Dec. 19, 2014, 128 Stat. 3510, substituted “Treatment under Freedom of Information Act of certain critical infrastructure security information” for “Treatment under Freedom of Information Act of critical infrastructure security information” in item 130e and “Congressional notification of sensitive military operations” for “Congressional notification regarding sensitive military operations” in item 130f.

2013—Pub. L. 113–66, div. A, title X, §§1041(a)(2), 1091(a)(2), Dec. 26, 2013, 127 Stat. 857, 875, added item 130f and substituted “Treatment under Freedom of Information Act of critical infrastructure security information” for “Treatment under Freedom of Information Act of certain critical infrastructure security information” in item 130e.

2011—Pub. L. 112–81, div. A, title VIII, §802(a)(2), title IX, §931(b), title X, §1091(b), Dec. 31, 2011, 125 Stat. 1485, 1543, 1605, added items 129d and 130e and substituted “General policy for total force management” for “General personnel policy” in item 129a.

Pub. L. 111–383, div. A, title X, §1061(a)(2), Jan. 7, 2011, 124 Stat. 4362, added item 122a.

2008—Pub. L. 110–417, [div. A], title IV, §416(c)(2), Oct. 14, 2008, 122 Stat. 4430, substituted “Suspension of end-strength and other strength limitations in time of war or national emergency” for “Suspension of end-strength limitations in time of war or national emergency” in item 123a.

Pub. L. 110–181, div. A, title X, §1063(a)(1)(B), Jan. 28, 2008, 122 Stat. 321, which directed amendment of chapter 3 of title 10 “by revising the table of sections at the beginning of such chapter to reflect the redesignation and transfer made by paragraph (1)”, was executed to reflect the probable intent of Congress by amending the analysis to this chapter to reflect the redesignation and transfer made by section 1063(a)(1)(A) of Pub. L. 110–181, which redesignated the section 127c relating to allied forces participating in combined operations as 127d, and transferred it so as to appear immediately after section 127c relating to purchase of weapons overseas.

Pub. L. 110–181, div. A, title IX, §901(a)(2), Jan. 28, 2008, 122 Stat. 272, struck out item 130a “Major Department of Defense headquarters activities personnel: limitation”.

2006—Pub. L. 109–364, div. A, title XII, §1201(b), title XIV, §1405(b), Oct. 17, 2006, 120 Stat. 2412, 2436, added items 127c, relating to allied forces participating in combined operations, and 130d.

Pub. L. 109–163, div. A, title XII, §1231(b), Jan. 6, 2006, 119 Stat. 3468, added item 127c relating to purchase of weapons overseas.

2003—Pub. L. 108–136, div. A, title VIII, §841(b)(2), Nov. 24, 2003, 117 Stat. 1552, substituted “Authority to procure personal services” for “Experts and consultants: authority to procure services of” in item 129b.

2002—Pub. L. 107–314, div. A, title X, §1065(b), Dec. 2, 2002, 116 Stat. 2656, added item 127b.

2000—Pub. L. 106–398, §1 [[div. A], title X, §1073(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, added item 130c.

1999—Pub. L. 106–65, div. A, title IX, §921(a)(2), title X, §1044(b), Oct. 5, 1999, 113 Stat. 723, 762, substituted “Major Department of Defense headquarters activities personnel: limitation” for “Management headquarters and headquarters support activities personnel: limitation” in item 130a and added item 130b.

1997—Pub. L. 105–85, div. A, title IX, §911(a)(2), Nov. 18, 1997, 111 Stat. 1858, added item 130a.

1996—Pub. L. 104–106, div. A, title XV, §1504(a)(8), Feb. 10, 1996, 110 Stat. 513, made technical correction to directory language of Pub. L. 103–337, §1312(a)(2). See 1994 Amendment note below.

Pub. L. 104–106, div. A, title V, §564(a)(2), title X, §1003(a)(2), Feb. 10, 1996, 110 Stat. 326, 417, substituted “Operations for which funds are not provided in advance: funding mechanisms” for “Expenses for contingency operations” in item 127a and added item 129c.

1994—Pub. L. 103–337, div. A, title XVI, §1671(b)(2), Oct. 5, 1994, 108 Stat. 3013, added item 123 and struck out former item 123 “Suspension of certain provisions of law relating to reserve commissioned officers”.

Pub. L. 103–337, div. A, title XIII, §1312(a)(2), Oct. 5, 1994, 108 Stat. 2894, as amended by Pub. L. 104–106, div. A, title XV, §1504(a)(8), Feb. 10, 1996, 110 Stat. 513, added item 123b.

1993—Pub. L. 103–160, div. A, title XI, §1108(a)(2), Nov. 30, 1993, 107 Stat. 1752, added item 127a.

1990—Pub. L. 101–510, div. A, title XIV, §§1481(b)(2), 1483(c)(2), Nov. 5, 1990, 104 Stat. 1705, 1715, added items 123a, 129a, and 129b.

1989—Pub. L. 101–189, div. A, title XII, §1202(a)(2), Nov. 29, 1989, 103 Stat. 1563, added item 124.

1987—Pub. L. 100–180, div. A, title XI, §1123(b), Dec. 4, 1987, 101 Stat. 1150, added item 128.

Pub. L. 100–26, §9(b)(1), Apr. 21, 1987, 101 Stat. 287, struck out item 128 “Funds transfers for foreign cryptologic support”.

1986—Pub. L. 99–433, title I, §110(c)(2), (e)(1), title II, §211(c)(2), Oct. 1, 1986, 100 Stat. 1002, 1003, 1017, inserted “and Functions” after “General Powers” in chapter heading, struck out item 124 “Combatant commands: establishment; composition; functions; administration and support”, and added items 127 to 130.

1962—Pub. L. 87–651, title II, §201(b), Sept. 7, 1962, 76 Stat. 517, added items 124 to 126.

1958—Pub. L. 85–861, §1(2)(B), Sept. 2, 1958, 72 Stat. 1437, added items 122 and 123.

<sup>1</sup> So in original. Probably should be followed by a period.

**§ 121. Regulations**

The President may prescribe regulations to carry out his functions, powers, and duties under this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 6.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
121 .....	[No source].	[No source].

The revised section is inserted to make express the President's general authority to issue regulations, which has been expressly reflected in many laws and left to inference in the remainder.

**§ 122. Official registers**

The Secretary of a military department may have published, annually or at such other times as he may designate, official registers containing the names of, and other pertinent information about, such regular and reserve officers of the armed forces under his jurisdiction as he considers appropriate. The register may also contain any other list that the Secretary considers appropriate.

(Added Pub. L. 85-861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
122 .....	10 App.:20b. 34 App.:609.	July 24, 1956, ch. 677, §1, 70 Stat. 623.

**§ 122a. Public availability of Department of Defense reports required by law**

(a) IN GENERAL.—To the maximum extent practicable, on or after the date on which each report described in subsection (b) is submitted to Congress, the Secretary of Defense, acting through the Assistant to the Secretary of Defense for Public Affairs, shall ensure that the report is made available to the public by—

- (1) posting the report on a publicly accessible Internet website of the Department of Defense; and
- (2) upon request, transmitting the report by other means, as long as such transmission is at no cost to the Department.

(b) COVERED REPORTS.—(1) Except as provided in paragraph (2), a report described in this subsection is any report that is required by law to be submitted to Congress by the Secretary of Defense, or by any element of the Department of Defense.

(2) A report otherwise described in paragraph (1) is not a report described in this subsection if the report contains—

- (A) classified information;
- (B) proprietary information;
- (C) information that is exempt from disclosure under section 552 of title 5 (commonly referred to as the “Freedom of Information Act”); or
- (D) any other type of information that the Secretary of Defense determines should not be made available to the public in the interest of national security.

(Added Pub. L. 111-383, div. A, title X, §1061(a)(1), Jan. 7, 2011, 124 Stat. 4362; amended Pub. L. 112-81, div. A, title X, §1068, Dec. 31, 2011, 125 Stat. 1589; Pub. L. 113-66, div. A, title X, §1081(a), Dec. 26, 2013, 127 Stat. 871; Pub. L. 115-91, div. A, title X, §1081(a)(3), Dec. 12, 2017, 131 Stat. 1594.)

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 substituted “acting through the Assistant to the Secretary of Defense for Public Affairs” for “acting through the Office of the Assistant Secretary of Defense for Public Affairs” in introductory provisions.

2013—Subsec. (a). Pub. L. 113-66 amended subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary of Defense shall ensure that each report described in subsection (b) is

- “(1) made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs; and
- “(2) to the maximum extent practicable, transmitted in an electronic format.”

2011—Subsec. (a). Pub. L. 112-81 substituted pars. (1) and (2) for “made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs.”

EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-66, div. A, title X, §1081(b), Dec. 26, 2013, 127 Stat. 871, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reports submitted to Congress after the date of the enactment of this Act [Dec. 26, 2013].”

EFFECTIVE DATE

Pub. L. 111-383, div. A, title X, §1061(b), Jan. 7, 2011, 124 Stat. 4362, provided that: “Section 122a of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Jan. 7, 2011], and shall apply with respect to reports that are required by law to be submitted to Congress on or after that date.”

**§ 123. Authority to suspend officer personnel laws during war or national emergency**

(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

(c) If a provision of law pertaining to the promotion of reserve officers is suspended under

this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.

(d) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.

(Added Pub. L. 85-861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437; amended Pub. L. 86-559, §1(1), June 30, 1960, 74 Stat. 264; Pub. L. 89-718, §1, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90-130, §1(1), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96-513, title V, §§501(3), 511(1), Dec. 12, 1980, 94 Stat. 2907, 2920; Pub. L. 97-22, §10(b)(1), July 10, 1981, 95 Stat. 137; Pub. L. 103-337, div. A, title XVI, §1622(a), Oct. 5, 1994, 108 Stat. 2961; Pub. L. 104-106, div. A, title XV, §1501(c)(4), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107-107, div. A, title V, §508(b), Dec. 28, 2001, 115 Stat. 1090.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
123 .....	50:1199 (less applicability to National Guard).	Sept. 3, 1954, ch. 1257, §209 (less applicability to National Guard), 68 Stat. 1152.

In subsection (b), the words “the same as” are substituted for the word “comparable”, since any necessary differences in the recommended legislation between Reserves and Regulars are fully taken account of in the words “So far as practicable”.

#### REFERENCES IN TEXT

The National Emergencies Act, referred to in subsection (b), is Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 644 of this title prior to repeal by Pub. L. 103-337, §1622(b).

#### AMENDMENTS

2001—Subsec. (d). Pub. L. 107-107 added subsec. (d).  
 1996—Subsec. (a). Pub. L. 104-106 struck out “281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence),” after “armed force:”, “5414, 5457, 5458, 5506,” after “3855,”, and “8217, 8218, 8219,” after “6410,” and substituted “8855, 10214, 12003, 12004, 12005, 12007, 12202, 12213(a) (second sentence), 12642, 12645, 12646, 12647, 12771, 12772, and 12773” for “and 8855”.

1994—Pub. L. 103-337 substituted “Authority to suspend officer personnel laws during war or national

emergency” for “Suspension of certain provisions of law relating to reserve commissioned officers” as section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsecs. (a) and (b).

1981—Subsec. (a). Pub. L. 97-22 struck out references to sections 3494 and 8494.

1980—Subsec. (a). Pub. L. 96-513 struck out references to sections 3571, 3847, 5867, 8370, 8571, and 8847.

1967—Subsec. (a). Pub. L. 90-130 struck out reference to section 3391.

1966—Subsec. (a). Pub. L. 89-718 struck out reference to section 5907.

1960—Subsec. (a). Pub. L. 86-559 inserted references to sections 281, 3855, and 8855 and struck out references to sections 3841, 3842, 3849, 8841, 8842, and 8849.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, §1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-22, §10(b), July 10, 1981, 95 Stat. 137, provided that the amendment made by that section is effective Sept. 15, 1981.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 501(3) of Pub. L. 96-513, striking out references to sections 3571, 5867, and 8571, effective Sept. 15, 1981, and amendment by section 511(1) of Pub. L. 96-513, striking out references to sections 3847, 8370, and 8847, effective Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(11) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

#### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as amended, set out as a note under section 12302 of this title.

### § 123a. Suspension of end-strength and other strength limitations in time of war or national emergency

(a) DURING WAR OR NATIONAL EMERGENCY.—(1) If at the end of any fiscal year there is in effect a war or national emergency, the President may

waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

(2) When a designation of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) is in effect, the President may waive any statutory limit that would otherwise apply during the period of the designation on the number of members of a reserve component who are authorized to be on active duty under subparagraph (A) or (B) of section 115(b)(1) of this title, if the President determines the waiver is necessary to provide assistance in responding to the major disaster or emergency.

(b) TERMINATION OF WAIVER.—(1) Upon the termination of a war or national emergency with respect to which the President has exercised the authority provided by subsection (a)(1), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

(2) A waiver granted under subsection (a)(2) shall terminate not later than 90 days after the date on which the designation of the major disaster or emergency that was the basis for the waiver expires.

(c) STATUTORY END STRENGTH.—In this section, the term “statutory end strength” means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.

(Added Pub. L. 101–510, div. A, title XIV, §1483(b)(1), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 107–107, div. A, title IV, §421(b), Dec. 28, 2001, 115 Stat. 1076; Pub. L. 110–417, [div. A], title IV, §416(a)–(c)(1), Oct. 14, 2008, 122 Stat. 4430.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(4) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

#### AMENDMENTS

2008—Pub. L. 110–417 in section catchline substituted “Suspension of end-strength and other strength limitations in time of war or national emergency” for “Suspension of end-strength limitations in time of war or national emergency”, in subsec. (a) designated existing provisions as par. (1) and added par. (2), and in subsec. (b) substituted “Termination of Waiver” for “Upon Termination of War or National Emergency” in heading, designated existing provisions as par. (1), substituted “subsection (a)(1)” for “subsection (a)”, and added par. (2).

2001—Pub. L. 107–107 amended text generally. Prior to amendment, text read as follows: “If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.”

#### DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001,

66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as amended, set out as a note under section 12302 of this title.

#### § 123b. Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

(Added Pub. L. 103–337, div. A, title XIII, §1312(a)(1), Oct. 5, 1994, 108 Stat. 2894.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102–484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 103–337, §1312(c).

#### EFFECTIVE DATE

Pub. L. 103–337, div. A, title XIII, §1312(b), Oct. 5, 1994, 108 Stat. 2894, provided that: “Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.”

#### § 124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counterdrug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may



begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term “United States” means the land area of the several States and any territory, commonwealth, or possession of the United States.

(Added Pub. L. 101-189, div. A, title XII, §1202(a)(1), Nov. 29, 1989, 103 Stat. 1563; amended Pub. L. 102-190, div. A, title X, §1088(b), Dec. 5, 1991, 105 Stat. 1485.)

#### PRIOR PROVISIONS

A prior section 124, added Pub. L. 87-651, title II, §201(a), Sept. 7, 1962, 76 Stat. 514; amended Pub. L. 98-525, title XIII, §1301(a), Oct. 19, 1984, 98 Stat. 2611; Pub. L. 99-145, title XIII, §1303(a)(1), Nov. 8, 1985, 99 Stat. 738, related to establishment, composition, and functions of combatant commands, prior to repeal by Pub. L. 99-433, §211(c)(1). See section 161 et seq. of this title. Similar provisions were contained in Pub. L. 100-456, div. A, title XI, §1102, Sept. 29, 1988, 102 Stat. 2042, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101-189, §1202(b).

#### AMENDMENTS

1991—Subsec. (a). Pub. L. 102-190 designated existing provisions as par. (1) and added par. (2).

#### CONDITION ON DEVELOPMENT OF FORWARD OPERATING LOCATIONS FOR UNITED STATES SOUTHERN COMMAND COUNTER-DRUG DETECTION AND MONITORING FLIGHTS

Pub. L. 106-65, div. A, title X, §1024, Oct. 5, 1999, 113 Stat. 748, provided that:

“(a) CONDITION.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended for the purpose of improving the physical infrastructure at any proposed forward operating location outside the United States from which the United States Southern Command may conduct counter-drug detection and monitoring flights until a formal agreement regarding the extent and use of, and host nation support for, the forward operating location is executed by both the host nation and the United States.

“(b) EXCEPTION.—The limitation in subsection (a) does not apply to an unspecified minor military construction project authorized by section 2805 of title 10, United States Code.”

#### COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN

Pub. L. 102-484, div. A, title X, §1043, Oct. 23, 1992, 106 Stat. 2492, provided that:

“(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

“(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

“(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

“(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

“(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

“(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed

counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

“(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

“(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

“(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

“(d) REPORT.—Not later than six months after the date of the enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

“(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act [see Tables for classification] may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

“(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

“(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

“(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

“(f) DEFINITION.—For purposes of this section, the term ‘counter-drug detection and monitoring systems’ means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

“(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

“(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.”

#### INTEGRATION OF COMMUNICATIONS NETWORK

Pub. L. 101-189, div. A, title XII, §1204(a), Nov. 29, 1989, 103 Stat. 1564, provided that:

“(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

“(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.”

RESEARCH AND DEVELOPMENT

Pub. L. 101-189, div. A, title XII, §1205, Nov. 29, 1989, 103 Stat. 1564, provided that: "The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

- "(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and
- "(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers."

TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

Pub. L. 101-189, div. A, title XII, §1206, Nov. 29, 1989, 103 Stat. 1564, provided that:

"(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

"(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

"(2) The report shall include—  
 "(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and  
 "(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

"(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term 'drug-interdiction areas' includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred."

"(2) The report shall include—  
 "(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and  
 "(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

**§ 125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition**

(a) Subject to section 2 of the National Security Act of 1947 (50 U.S.C. 3002), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished.

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty vested by law in the Department of Defense, or an officer, official, or agency thereof, including one assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5062, 5063, or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

(c) Notwithstanding subsection (a), the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military departments or one or more of the armed forces.

(Added Pub. L. 87-651, title II, §201(a), Sept. 7, 1962, 76 Stat. 515; amended Pub. L. 89-501, title IV, §401, July 13, 1966, 80 Stat. 278; Pub. L. 98-525, title XIV, §1405(1), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99-433, title I, §103, title III, §301(b)(1), title V, §514(c)(1), Oct. 1, 1986, 100 Stat. 996, 1022, 1055; Pub. L. 101-510, div. A, title XIII, §1301(3), Nov. 5, 1990, 104 Stat. 1668; Pub. L. 113-291, div. A, title X, §1071(c)(1), Dec. 19, 2014, 128 Stat. 3508.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
125(a) .....	5:171a(c)(1), (2). 5:171n(a) (as applicable to 5:171a(c)(1)).	July 26, 1947, ch. 343, §202(c)(1), (2), (4), (5), (6); added Aug. 10, 1949, ch. 412, §5(3d, 4th, 6th, 7th, and 8th pars.); re-stated Aug. 6, 1958, Pub. L. 85-599, §3(a), (1st, 2d, 5th, 6th, and 7th pars.), 72 Stat. 514, 515.
125(b) .....	5:171a(c)(5). 5:171n(a) (as applicable to 5:171a(c)(5)).	July 26, 1947, ch. 343, §308(a) (as applicable to §202(c)(1), (5), (6)), 61 Stat. 509.
125(c) .....	5:171a(c)(4).	
125(d) .....	5:171a(c)(6). 5:171n(a) (as applicable to 5:171a(c)(6)).	

In subsection (a), the following substitutions are made: "Except as provided by subsections (b) and (c)" for "except as otherwise provided in this subsection"; "vested . . . by law" for "established by law to be performed by"; "recommending" for "stating"; "proposes" for "contemplates"; and "the period" for "the thirty-day period or the forty-day period". The words "on the first day after" are inserted for clarity. The words "if carried out" are omitted as surplusage.

In subsection (b), the words "Notwithstanding subsection (a)" are substituted for the words "Notwithstanding other provisions of this subsection"; and "Unless the President determines otherwise" for "subject to the determination of the President".

In subsection (c), the following substitutions are made: "Notwithstanding subsection (a)" for "Notwithstanding the provisions of paragraph (1) hereof"; and "armed forces" for "services".

In subsection (d), the following substitutions are made: "In subsection (a) (1)" for "within the meaning of paragraph (1) hereof"; and "considers" for "deems". The words "advantageous to the Government in terms of" are omitted as surplusage.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291 substituted "(50 U.S.C. 3002)" for "(50 U.S.C. 401)".

1990—Subsec. (c). Pub. L. 101-510 struck out at end "However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session."

1986—Subsec. (a). Pub. L. 99-433, §103(1), struck out provision under which the Secretary of Defense could substantially transfer, reassign, consolidate, or abolish functions, powers, or duties vested in the Department of Defense by law if the Secretary reported the details of the proposed transfer, reassignment, consolidation, or abolition to Congress and if Congress did not affirmatively reject the proposal.

Subsec. (b). Pub. L. 99-433, §§103(2), 514(c)(1), inserted "vested by law in the Department of Defense, or an of-

ficer, official, or agency thereof” and substituted “5062, 5063” for “5012, 5013”.

Subsec. (d). Pub. L. 99-433, § 301(b)(1), struck out subsec. (d) which read as follows: “In subsection (a)(1), ‘major combatant function, power, or duty’ does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate.”

1984—Subsec. (a). Pub. L. 98-525 substituted “section 2 of the National Security Act of 1947 (50 U.S.C. 401)” for “section 401 of title 50”.

1966—Subsec. (c). Pub. L. 89-501 required the Secretary of Defense to report to the Congress all the pertinent details regarding any substantial reduction or elimination of a major weapons system before action could be initiated or effected by the Department of Defense.

#### RESOLUTIONS RELATING TO TRANSFERS, REASSIGNMENTS, CONSOLIDATIONS, OR ABOLITIONS OF COMBATANT FUNCTIONS

Pub. L. 87-651, title III, § 303, Sept. 7, 1962, 76 Stat. 525, provided that:

“(a) For the purposes of this section, any resolution reported to the Senate or the House of Representatives pursuant to the provisions of section 125 of title 10, United States Code, shall be treated for the purpose of consideration by either House, in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U.S.C. 133z and the following) [63 Stat. 203; 71 Stat. 611], and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of that Act [63 Stat. 207].

“(b) The provisions of this section are enacted by the Congress—

“(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of either House to change the rules (as far as relating to the procedure in that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.”

#### § 126. Transfer of funds and employees

(a) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred or assigned to another department or agency of that department, balances of appropriations that the Secretary of Defense determines are available and needed to finance or discharge that function, power, duty, or activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty or activity, as the case may be, is transferred, and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(1) be credited to any applicable appropriation account of the receiving department or agency; or

(2) be credited to a new account that may be established on the books of the Department of the Treasury;

and be merged with the funds already credited to that account and accounted for as one fund.

Balances of appropriations credited to an account under clause (1) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under clause (2) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(b) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred to another department or agency of that department, those civilian employees of the department or agency from which the transfer is made that the Secretary of Defense determines are needed to perform that function, power, or duty, or for that activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty, or activity, as the case may be, is transferred. The authorized strength in civilian employees of a department or agency from which employees are transferred under this section is reduced by the number of employees so transferred. The authorized strength in civilian employees of a department or agency to which employees are transferred under this section is increased by the number of employees so transferred.

(Added Pub. L. 87-651, title II, § 201(a), Sept. 7, 1962, 76 Stat. 516; amended Pub. L. 96-513, title V, § 511(2), Dec. 12, 1980, 94 Stat. 2920.)

#### HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
126(a) .....	5:172f(a). 5:171n(a) (as applicable to 5:172f(a)).	July 26, 1947, ch. 343, § 407; added Aug. 10, 1949, ch. 412, § 11 (21st and 22d pars.), 63 Stat. 589.
126(b) .....	5:172f (less (a)).	July 26, 1947, ch. 343, § 308(a) (as applicable to § 407), 61 Stat. 509.

In subsection (a), the words “under authority of law” are omitted as surplusage. The following substitutions are made: “needed” for “necessary”; “used” for “be available for use by”; and “those appropriations” for “said funds”.

In subsection (b), 5 U.S.C. 172f(b) is restated to reflect more clearly its purpose to authorize “transfers of personnel” (Senate Report No. 366, 81st Congress, p. 23).

#### AMENDMENTS

1980—Subsec. (b) Pub. L. 96-513 substituted “President” for “Director of the Bureau of the Budget”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

#### DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to approve transfers of balances of appropriations provided for therein delegated to Director of Office of Management and Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

#### § 127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations made for the purpose, the Secretary of Defense, the Inspector General of the Department of De-

fense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of \$500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified congressional defense committees<sup>1</sup> of the intent to obligate or expend the funds, and—

(A) in the case of an obligation or expenditure in excess of \$1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of \$500,000, but not in excess of \$1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

(4)(A) Notwithstanding paragraph (1), funds may not be obligated or expended in an amount in excess of \$100,000 under the authority of subsection (a) or (b) for intelligence or counter-intelligence activities until the Secretary of Defense has notified the congressional defense committees and the congressional intelligence committees of the intent to obligate or expend the funds and 15 days have elapsed since the date of the notification.

<sup>1</sup> So in original. Probably should be "the congressional defense committees".

(B) The Secretary of Defense may waive subparagraph (A) if the Secretary determines that such a waiver is necessary due to extraordinary circumstances that affect the national security of the United States. If the Secretary issues a waiver under this subparagraph, the Secretary shall submit to the congressional defense and congressional intelligence committees, by not later than 48 hours after issuing the waiver, written notice of and justification for the waiver.

(d) ANNUAL REPORT.—(1) Not later than December 1 each year, the Secretary of Defense shall submit—

(A) to the congressional defense committees a report on all expenditures during the preceding fiscal year under subsections (a) and (b); and

(B) to the congressional intelligence committees a report on expenditures relating to intelligence and counter-intelligence during the preceding fiscal year under subsections (a) and (b).

(2) Each report required to be submitted under paragraph (1) shall include a detailed explanation, by category of activity and approving authority (the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department), of the expenditures during the preceding fiscal year.

(e) DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—In this section, the term "congressional intelligence committees" means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(Added Pub. L. 94-106, title VIII, §804(a), Oct. 7, 1975, 89 Stat. 538, §140; amended Pub. L. 98-94, title XII, §1268(2), Sept. 24, 1983, 97 Stat. 705; renumbered §127 and amended Pub. L. 99-433, title I, §§101(a)(3), 110(d)(4), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 103-160, div. A, title III, §361, Nov. 30, 1993, 107 Stat. 1627; Pub. L. 103-337, div. A, title III, §378, Oct. 5, 1994, 108 Stat. 2737; Pub. L. 104-106, div. A, title IX, §915, title XV, §1502(a)(5), Feb. 10, 1996, 110 Stat. 413, 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1031(a)(2), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 115-91, div. A, title X, §§1041(a)-(c), 1081(a)(4), Dec. 12, 2017, 131 Stat. 1552, 1553, 1594.)

#### AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-91, §1081(a)(4), substituted "congressional defense committees" for "the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives" in introductory provisions.

Subsec. (c)(4). Pub. L. 115-91, §1041(a), added par. (4).

Subsec. (d). Pub. L. 115-91, §1041(b), designated existing provisions as par. (1), substituted "submit—" for "submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).", added subpars. (A) and (B) of par. (1), and added par. (2).

Subsec. (e). Pub. L. 115-91, §1041(c), added subsec. (e).

2003—Subsec. (d). Pub. L. 108-136 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In any case in which funds are expended under the authority of subsections (a) and (b), the Secretary

of Defense shall submit a report of such expenditures on a quarterly basis to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

1999—Subsecs. (c)(1), (d). Pub. L. 106-65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

1996—Subsec. (c). Pub. L. 104-106, §915(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 104-106, §1502(a)(5), substituted "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of" for "Committees on Armed Services and Appropriations of the Senate and".

Subsec. (d). Pub. L. 104-106, §915(1), redesignated subsec. (c), as amended by Pub. L. 104-106, §§1502(a)(5), 1506, as (d).

1994—Subsec. (c). Pub. L. 103-337 struck out par. (1) designation before "In any case" and struck out par. (2) which read as follows: "The amount of funds expended by the Inspector General of the Department of Defense under subsections (a) and (b) during a fiscal year may not exceed \$400,000."

1993—Subsec. (a). Pub. L. 103-160, §361(1), inserted ", the Inspector General of the Department of Defense," after "the Secretary of Defense" and "or the Inspector General" after "the Secretary concerned" and after "The Secretary concerned".

Subsec. (b). Pub. L. 103-160, §361(2), inserted ", by the Inspector General to any person in the Office of the Inspector General," after "the Department of Defense".

Subsec. (c). Pub. L. 103-160, §361(3), designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99-433 renumbered section 140 of this title as this section and substituted "Emergency" for "Emergencies" in section catchline.

1983—Subsec. (a). Pub. L. 98-94 struck out "of this section" after "subsection (c)".

Subsec. (c). Pub. L. 98-94 struck out "of this section" after "subsections (a) and (b)".

CONSTRUCTION AUTHORITY OF SECRETARY OF DEFENSE UNDER DECLARATION OF WAR OR NATIONAL EMERGENCY

Pub. L. 97-99, title IX, §903, Dec. 23, 1981, 95 Stat. 1382, which authorized the Secretary of Defense, in the event of a declaration of war or the declaration of a national emergency by the President, to undertake military construction without regard to any other provisions of law, was repealed and restated as section 2808 of this title by Pub. L. 97-214, §§2(a), 7(18), July 12, 1982, 96 Stat. 157, 174, effective Oct. 1, 1982.

**§ 127a. Operations for which funds are not provided in advance: funding mechanisms**

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed \$50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the ex-

pected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of \$100,000,000.

Any operation the incremental cost of which is expected not to exceed \$10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is \$200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

[(d) Repealed. Pub. L. 108–136, div. A, title X, § 1031(a)(3), Nov. 24, 2003, 117 Stat. 1596.]

(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

(Added Pub. L. 103–160, div. A, title XI, § 1108(a)(1), Nov. 30, 1993, 107 Stat. 1751; amended Pub. L. 104–106, div. A, title X, § 1003(a)(1), Feb. 10, 1996, 110 Stat. 415; Pub. L. 108–136, div. A, title X, § 1031(a)(3), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 111–383, div. A, title X, § 1075(b)(2), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112–81, div. A, title X, § 1061(1), Dec. 31, 2011, 125 Stat. 1583.)

## REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (h), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§ 1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

## AMENDMENTS

2011—Subsec. (a)(1)(A). Pub. L. 111–383, § 1075(b)(2)(A), substituted “armed forces” for “Armed Forces”.

Subsec. (a)(3), (4). Pub. L. 112–81 redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).”

Subsec. (b)(1). Pub. L. 111–383, § 1075(b)(2)(B), substituted “armed forces” for “Armed Forces” in two places.

2003—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which required Secretary of Defense, within 45 days after identifying an operation pursuant to subsec. (a)(2), to submit a report to Congress relating to the funding, objectives, duration, cost, and exit criteria of the operation.

1996—Pub. L. 104–106 substituted “Operations for which funds are not provided in advance: funding mechanisms” for “Expenses for contingency operations” as section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to funding procedures for operations designated by the Secretary of Defense as National Contingency Operations.

## EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title X, § 1003(b), Feb. 10, 1996, 110 Stat. 417, provided that: “The amendment to section 127a of title 10, United States Code, made by subsection (a) shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any operation of the Department of Defense that is in effect on or after that date, whether such operation is begun before, on, or after such date of enactment. In the case of an operation begun before such date, any reference in such section to the commencement of such operation shall be treated as referring to the effective date under the preceding sentence.”

## INCREMENTAL CONTINGENCY OPERATIONS COST REPORT

Pub. L. 114–113, div. C, title VIII, § 8093, Dec. 18, 2015, 129 Stat. 2373, provided that: “The Department of Defense shall continue to report incremental contingency operations costs for Operation Inherent Resolve, Operation Freedom’s Sentinel, and any named successor operations, on a monthly basis and any other operation designated and identified by the Secretary of Defense for the purposes of section 127a of title 10, United States Code, on a semi-annual basis in the Cost of War Execution Report as prescribed in the Department of Defense Financial Management Regulation Department of Defense Instruction 7000.14, Volume 12, Chapter 23 ‘Contingency Operations’, Annex 1, dated September 2005.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 113–235, div. C, title VIII, § 8097, Dec. 16, 2014, 128 Stat. 2276.

Pub. L. 113–76, div. C, title VIII, § 8092, Jan. 17, 2014, 128 Stat. 126.

**§ 127b. Department of Defense rewards program**

(a) AUTHORITY.—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing

United States Government personnel, or government personnel of allied forces participating in a combined operation with the armed forces, with information or nonlethal assistance that is beneficial to—

(1) an operation or activity of the armed forces, or of allied forces participating in a combined operation with the armed forces, conducted outside the United States against international terrorism; or

(2) force protection of the armed forces, or of allied forces participating in a combined operation with the armed forces.

(b) LIMITATION.—The amount or value of a reward provided under this section may not exceed \$5,000,000.

(c) DELEGATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of \$1,000,000.

(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in an amount or with a value not in excess of \$10,000, except that such a delegation may be made to the commander's deputy commander, or to the commander of a command directly subordinate to that commander, without regard to such limitation. Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).

(3)(A) Subject to subparagraph (B), an official who has authority delegated under paragraph (1) or (2) may use that authority, acting through government personnel of allied forces, to offer and make rewards.

(B) The Secretary of Defense shall prescribe policies and procedures for making rewards in the manner described in subparagraph (A), which shall include guidance for the accountability of funds used for making rewards in that manner. The policies and procedures shall not take effect until 30 days after the date on which the Secretary submits the policies and procedures to the congressional defense committees. Rewards may not be made in the manner described in subparagraph (A) except under policies and procedures that have taken effect.

(d) COORDINATION.—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this section and otherwise for administering the authority under this section. Such policies and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of \$2,000,000.

(e) PERSONS NOT ELIGIBLE.—The following persons are not eligible to receive a reward under this section:

(1) A citizen of the United States.

(2) An officer or employee of the United States.

(3) An employee of a contractor of the United States.

(f) ANNUAL REPORT.—(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

(2) Each report for a fiscal year under this subsection shall include the following:

(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

(C) With respect to each reward provided during that fiscal year—

(i) the amount or value of the reward and whether the reward was provided as a monetary payment or in some other form;

(ii) the recipient of the reward and the recipient's geographic location; and

(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

(D) A description of the status of program implementation in each geographic combatant command, including in which countries the program is being operated.

(E) A description of efforts to coordinate and de-conflict the authority under subsection (a) with similar rewards programs administered by the United States Government.

(F) An assessment of the effectiveness of the program in meeting its objectives.

(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.

(h) REPORT ON DESIGNATION OF COUNTRIES FOR WHICH REWARDS MAY BE PAID.—Not later than 15 days after the date on which the Secretary designates a country as a country in which an operation or activity of the armed forces is occurring in connection with which rewards may be paid under this section, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the designation. Each report shall include the following:

(1) The country so designated.

(2) The reason and justification for the designation of the country.

(3) An estimate of the amount or value of the rewards to be paid as monetary payment or payment-in-kind under this section.

(Added Pub. L. 107–314, div. A, title X, §1065(a), Dec. 2, 2002, 116 Stat. 2655; amended Pub. L. 109–163, div. A, title X, §1056(c)(2), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 109–364, div. A, title XIV, §1401, Oct. 17, 2006, 120 Stat. 2433; Pub. L. 110–181, div. A, title X, §1033, Jan. 28, 2008, 122 Stat. 307; Pub. L. 111–84, div. A, title X, §1071, Oct. 28, 2009, 123 Stat. 2470; Pub. L. 111–383, div. A, title X, §1031, Jan. 7, 2011, 124 Stat. 4351; Pub. L. 112–81, div. A, title X, §§1033, 1064(3), Dec. 31, 2011, 125 Stat. 1572, 1587; Pub. L. 112–239, div. A, title X, §1021(a), Jan. 2, 2013, 126 Stat. 1911; Pub. L. 113–291, div. A, title X, §1031, Dec. 19, 2014, 128 Stat. 3491; Pub. L. 114–92, div. A, title X, §1042(a)–(d)(1), Nov. 25, 2015, 129 Stat. 976; Pub. L. 114–328, div. A, title X, §1063, Dec. 23, 2016, 130 Stat. 2408.)

#### AMENDMENTS

2016—Subsec. (h)(2). Pub. L. 114–328, §1063(1), inserted “and justification” after “reason”.

Subsec. (h)(3). Pub. L. 114–328, §1063(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “A justification for the designation of the country for purposes of this section.”

2015—Pub. L. 114–92, §1042(d)(1), substituted “Department of Defense rewards program” for “Assistance in combating terrorism: rewards” in section catchline.

Subsec. (c)(3)(A). Pub. L. 114–92, §1042(a)(1), substituted “subparagraph (B)” for “subparagraphs (B) and (C)”.

Subsec. (c)(3)(C), (D). Pub. L. 114–92, §1042(a)(2), struck out subpars. (C) and (D) which read as follows: “(C) Rewards may not be made in the manner described in subparagraph (A) after September 30, 2015.

“(D) Not later than April 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of this paragraph. The report shall identify each reward made in the manner described in subparagraph (A) and, for each such reward—

“(i) identify the type, amount, and recipient of the reward;

“(ii) explain the reason for making the reward; and

“(iii) assess the success of the reward in advancing the effort to combat terrorism.”

Subsec. (f)(2)(D) to (G). Pub. L. 114–92, §1042(b), redesignated subpars. (E) to (G) as (D) to (F), respectively, inserted “, including in which countries the program is being operated” before period at end of subpar. (D), and struck out former subpar. (D) which read as follows: “Information on the implementation of paragraph (3) of subsection (c).”

Subsec. (h). Pub. L. 114–92, §1042(c), added subsec. (h). 2014—Subsec. (c)(3)(C). Pub. L. 113–291 substituted “September 30, 2015” for “September 30, 2014”.

2013—Subsec. (c)(3)(C). Pub. L. 112–239 substituted “September 30, 2014” for “September 30, 2013”.

2011—Subsec. (c)(3)(C). Pub. L. 112–81, §1033(1), substituted “September 30, 2013” for “September 30, 2011”. Pub. L. 111–383 substituted “2011” for “2010”.

Subsec. (f)(1). Pub. L. 112–81, §1064(3), which directed the substitution of “February 1” for “December 1”, could not be executed because of the intervening amendment by Pub. L. 112–81, §1033(2)(A). See note below.

Pub. L. 112–81, §1033(2)(A), substituted “February” for “December”.

Subsec. (f)(2)(C)(ii). Pub. L. 112–81, §1033(2)(B)(i), inserted “and the recipient’s geographic location” after “reward”.

Subsec. (f)(2)(E) to (G). Pub. L. 112–81, §1033(2)(B)(ii), added subpars. (E) to (G).

2009—Subsec. (c)(3)(C). Pub. L. 111–84 substituted “2010” for “2009”.

2008—Subsec. (a). Pub. L. 110–181, §1033(b)(1)(A), in introductory provisions, inserted “, or government personnel of allied forces participating in a combined operation with the armed forces,” after “United States Government personnel”.

Subsec. (a)(1). Pub. L. 110–181, §1033(b)(1)(B), inserted “, or of allied forces participating in a combined operation with the armed forces,” after “armed forces”.

Subsec. (a)(2). Pub. L. 110–181, §1033(b)(1)(C), inserted “, or of allied forces participating in a combined operation with the armed forces” after “armed forces”.

Subsec. (b). Pub. L. 110–181, §1033(a)(1), substituted “\$5,000,000” for “\$200,000”.

Subsec. (c)(1)(B). Pub. L. 110–181, §1033(a)(2), substituted “\$1,000,000” for “\$50,000”.

Subsec. (c)(3). Pub. L. 110–181, §1033(b)(2), added par. (3).

Subsec. (d)(2). Pub. L. 110–181, §1033(a)(3), substituted “\$2,000,000” for “\$100,000”.

Subsec. (f)(2)(D). Pub. L. 110–181, §1033(c), added subpar. (D).

2006—Subsec. (c)(2). Pub. L. 109–364 substituted “\$10,000” for “\$2,500”, inserted “, or to the commander of a command directly subordinate to that commander,” after “deputy commander”, and inserted at end “Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).”

Subsec. (d)(1). Pub. L. 109–163 substituted “Such policies” for “Such polices”.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (f) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### § 127c. Purchase of weapons overseas: force protection

(a) **AUTHORITY.**—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

(b) **LIMITATION.**—The total amount expended during any fiscal year for purchases under this section may not exceed \$15,000,000.

(c) **SEMIANNUAL CONGRESSIONAL REPORT.**—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary’s estimate of the fair market value of those weapons.

(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).



(Added Pub. L. 109-163, div. A, title XII, § 1231(a), Jan. 6, 2006, 119 Stat. 3467.)

CODIFICATION

Another section 127c was renumbered section 127d of this title prior to being renumbered section 331 of this title.

[§ 127d. Renumbered § 331]

**§ 127e. Support of special operations to combat terrorism**

(a) **AUTHORITY.**—The Secretary of Defense may, with the concurrence of the relevant Chief of Mission, expend up to \$100,000,000 during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) **FUNDS.**—Funds for support under this section in a fiscal year shall be derived from amounts authorized to be appropriated for that fiscal year for the Department of Defense for operation and maintenance.

(c) **PROCEDURES.**—The authority in this section shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section. The Secretary shall notify the congressional defense committees of any material modification of such procedures.

(d) **NOTIFICATION.**—

(1) **IN GENERAL.**—Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an approved military operation or changing the scope or funding level of any support for such an operation by \$1,000,000 or an amount equal to 20 percent of such funding level (whichever is less), or not later than 48 hours after exercising such authority if the Secretary determines that extraordinary circumstances that impact the national security of the United States exist, the Secretary shall notify the congressional defense committees of the use of such authority with respect to that operation. Any such notification shall be in writing.

(2) **ELEMENTS.**—A notification required by this subsection shall include the following:

(A) The type of support provided or to be provided to United States special operations forces.

(B) The type of support provided or to be provided to the recipient of the funds.

(C) The amount obligated under the authority to provide support.

(e) **LIMITATION ON DELEGATION.**—The authority of the Secretary to make funds available under this section for support of a military operation may not be delegated.

(f) **INTELLIGENCE ACTIVITIES.**—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 3093(e)).

(g) **OVERSIGHT BY ASD FOR SOLIC.**—The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict shall have primary responsibility within the Office of the Secretary of Defense for oversight of policies and programs for support authorized by this section.

(h) **BIANNUAL REPORTS.**—

(1) **REPORT ON PRECEDING CALENDAR YEAR.**—Not later than 120 days after the last day of each fiscal year, the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the preceding calendar year.

(2) **REPORT ON CURRENT CALENDAR YEAR.**—Not later than six months after the date of the submittal of the report most recently submitted under paragraph (1), the Secretary shall submit to the congressional defense committees a report on the support provided under this section during the first half of the calendar year in which the report under this paragraph is submitted.

(3) **ELEMENTS.**—Each report required by this subsection shall include, for the period covered by such report, the following:

(A) A summary of the ongoing military operations by United States special operations forces to combat terrorism that were supported or facilitated by foreign forces, irregular forces, groups, or individuals for which support was provided under this section.

(B) A description of the support or facilitation provided by such foreign forces, irregular forces, groups, or individuals to United States special operations forces.

(C) The type of recipients that were provided support under this section, identified by authorized category (foreign forces, irregular forces, groups, or individuals).

(D) The total amount obligated for support under this section, including budget details.

(E) The total amount obligated in prior fiscal years under this section and applicable preceding authority.

(F) The intended duration of support provided under this section.

(G) A description of the support or training provided to the recipients of support under this section.

(H) A value assessment of the support provided under this section, including a summary of significant activities undertaken by foreign forces, irregular forces, groups, or individuals to support operations by United States special operations forces to combat terrorism.

(Added Pub. L. 114-328, div. A, title XII, § 1203(a)(1), Dec. 23, 2016, 130 Stat. 2474; amended Pub. L. 115-91, div. A, title X, § 1031, Dec. 12, 2017, 131 Stat. 1550.)

AMENDMENTS

2017—Subsecs. (g), (h). Pub. L. 115-91, § 1031(a), added subsec. (g) and redesignated former subsec. (g) as (h).

Subsec. (h)(1). Pub. L. 115-91, § 1031(b)(1), substituted “120 days after the last day of each fiscal year” for “March 1 each year”.

Subsec. (h)(2). Pub. L. 115-91, § 1031(b)(2), substituted “six months after the date of the submittal of the report most recently submitted under paragraph (1)” for “September 1 each year” and inserted “under this paragraph” after “in which the report”.

**§ 128. Control and physical protection of special nuclear material: limitation on dissemination of unclassified information**

(a)(1) In addition to any other authority or requirement regarding protection from dissemina-

tion of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense, with respect to special nuclear materials, shall prescribe such regulations, after notice and opportunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

- (A) illegal production of nuclear weapons, or
- (B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

- (i) illegal production of nuclear weapons, or
- (ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(b) Nothing in this section shall be construed to authorize the Secretary to withhold, or to authorize the withholding of, information from the appropriate committees of the Congress.

(c) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(d) Information that the Secretary prohibits to be disseminated pursuant to subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense, and a State or local law authorizing or requiring a State or local government to disclose such information shall not apply to such information.

(Added Pub. L. 100-180, div. A, title XI, §1123(a), Dec. 4, 1987, 101 Stat. 1149; amended Pub. L. 101-510, div. A, title XIII, §1311(1), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 108-136, div. A, title X, §1031(a)(4), Nov. 24, 2003, 117 Stat. 1596; Pub. L.

114-328, div. A, title XVI, §1662(a)(1), (2), Dec. 23, 2016, 130 Stat. 2614.)

#### PRIOR PROVISIONS

A prior section 128 was renumbered section 421 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328, §1662(a)(2), substituted “Control and physical protection” for “Physical protection” in section catchline.

Subsec. (d). Pub. L. 114-328, §1662(a)(1), added subsec. (d).

2003—Subsec. (d). Pub. L. 108-136 struck out subsec. (d) which required the Secretary to prepare an annual report detailing the Secretary’s application during the year of each regulation or order prescribed or issued under this section.

1990—Subsec. (d). Pub. L. 101-510 substituted “on an annual basis” for “on a quarterly basis”.

### § 129. Civilian personnel management

(a) The civilian personnel of the Department of Defense shall be managed each fiscal year on the basis of and consistent with (1) the total force management policies and procedures established under section 129a of this title, (2) the workload required to carry out the functions and activities of the department, and (3) the funds made available to the department for such fiscal year. Any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees shall be developed on the basis of those factors and shall be subject to adjustment solely for reasons of changed circumstances. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense except in accordance with the requirements of this section and section 129a of this title.

(b) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity as determined under the total force management policies and procedures established under section 129a of this title.

(c)(1) Not later than February 1 of each year—

(A) the Secretary of Defense shall submit to the congressional defense committees a report on the management of the civilian workforce of the Office of the Secretary of Defense and the Defense Agencies and Field Activities; and

(B) the Secretary of each military department shall submit to the congressional defense committees a report on the management of the civilian workforces under the jurisdiction of such Secretary.

(2) Each report under paragraph (1) shall contain, with respect to the civilian workforce under the jurisdiction of the official submitting the report, the following:

(A) An assessment of the projected size of such civilian workforce in the current year and for each year in the future-years defense program.

(B) If the projected size of such civilian workforce has changed from the previous year's projected size, an explanation of the reasons for the increase or decrease from the previous projection, including an explanation of any efforts that have been taken to identify offsetting reductions and avoid unnecessary overall growth in the size of the civilian workforce.

(C) In the case of a transfer of functions between military, civilian, and contractor workforces, an explanation of the reasons for the transfer and the steps that have been taken to control the overall cost of the function to the Department.

(Added Pub. L. 97-86, title IX, §904(a), Dec. 1, 1981, 95 Stat. 1114, §140b; renumbered §129, Pub. L. 99-433, title I, §101(a)(3), Oct. 1, 1986, 100 Stat. 994; amended Pub. L. 99-661, div. A, title V, §533, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 102-190, div. A, title III, §312(b), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104-106, div. A, title X, §1031, Feb. 10, 1996, 110 Stat. 428; Pub. L. 104-201, div. A, title X, §1074(a)(1), title XVI, §1603, Sept. 23, 1996, 110 Stat. 2658, 2735; Pub. L. 105-85, div. A, title XI, §1101, Nov. 18, 1997, 111 Stat. 1922; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 112-81, div. A, title IX, §932, Dec. 31, 2011, 125 Stat. 1543; Pub. L. 114-328, div. A, title XI, §1101(a), (b)(1), Dec. 23, 2016, 130 Stat. 2443.)

#### AMENDMENTS

2016—Pub. L. 114-328, §1101(b)(1), amended section catchline generally, substituting “Civilian personnel management” for “Prohibition of certain civilian personnel management constraints”.

Subsec. (a). Pub. L. 114-328, §1101(a)(1), in first sentence, struck out “solely” before “on the basis”, in second sentence, substituted “Any” for “The management of such personnel in any fiscal year shall not be subject to any” and inserted “shall be developed on the basis of those factors and shall be subject to adjustment solely for reasons of changed circumstances” after “employees”, and in third sentence, substituted “except in accordance with the requirements of this section and section 129a of this title.” for “unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after February 10, 1996, and that refers specifically to this subsection.”

Subsec. (b). Pub. L. 114-328, §1101(a)(2), (3), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to the number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense.

Subsec. (c). Pub. L. 114-328, §1101(a)(2), (4), added subsec. (c) and struck out former subsec. (c) which defined the term “indirectly funded Government employees”.

Subsecs. (d) to (f). Pub. L. 114-328, §1101(a)(2), (3), redesignated subsec. (d) as (b) and struck out subsecs. (e) and (f) which read as follows:

“(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level.

“(f)(1) Not later than February 1 of each year, the Secretary of each military department and the head of each Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the civilian workforce under the jurisdiction of that official.

“(2) Each report of an official under paragraph (1) shall contain the following:

“(A) The official's certification (i) that the civilian workforce under the jurisdiction of the official is not

subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees, and (ii) that, during the 12 months preceding the date on which the report is due, such workforce has not been subject to any such constraint or limitation.

“(B) A description of how the civilian workforce is managed.

“(C) A detailed description of the analytical tools used to determine civilian workforce requirements during the 12-month period referred to in subparagraph (A).”

2011—Subsec. (a). Pub. L. 112-81, §932(1), inserted “the total force management policies and procedures established under section 129a of this title, (2)” after “(1)” and substituted “department, and (3)” for “department and (2)”.

Subsec. (d). Pub. L. 112-81, §932(2), substituted “within that budget activity as determined under the total force management policies and procedures established under section 129a of this title.” for “within that budget activity for which funds are provided for that fiscal year.”

Subsec. (e). Pub. L. 112-81, §932(3), struck out at end “With respect to the MRTFB structure, the term ‘funds made available’ includes both direct appropriated funds and funds provided by MRTFB customers.”

1999—Subsec. (f)(1). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (f). Pub. L. 105-85 added subsec. (f).

1996—Subsec. (a). Pub. L. 104-201, §1074(a)(1), substituted “February 10, 1996,” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996”.

Pub. L. 104-106, §1031(1), substituted “constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection.” for “man-year constraint or limitation.”

Subsec. (b)(2). Pub. L. 104-106, §1031(2), substituted “any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees” for “any end-strength”.

Subsec. (c)(1). Pub. L. 104-201, §1603(1), inserted “, the Major Range and Test Facility Base,” after “industrial-type activities”.

Subsec. (d). Pub. L. 104-106, §1031(3), added subsec. (d).

Subsec. (e). Pub. L. 104-201, §1603(2), added subsec. (e).

1991—Subsec. (a). Pub. L. 102-190 substituted “department and (2)” for “department, (2)” and struck out “, and (3) the authorized end strength for the civilian personnel of the department for such fiscal year” at end of first sentence.

1986—Pub. L. 99-661 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Pub. L. 99-433 renumbered section 140b of this title as this section.

#### § 129a. General policy for total force management

(a) **POLICIES AND PROCEDURES.**—The Secretary of Defense shall establish policies and procedures for determining the most appropriate and cost efficient mix of military, civilian, and contractor personnel to perform the mission of the Department of Defense.

(b) **RISK MITIGATION OVER COST.**—In establishing the policies and procedures under subsection (a), the Secretary shall clearly provide that attainment of a Department of Defense workforce

sufficiently sized and comprised of the appropriate mix of personnel necessary to carry out the mission of the Department and the core mission areas of the armed forces takes precedence over cost.

(c) DELEGATION OF RESPONSIBILITIES.—The Secretary shall delegate responsibility for implementation of the policies and procedures established under subsection (a) as follows:

(1) The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for guidance to implement such policies and procedures.

(2) The Secretaries of the military departments and the heads of the Defense Agencies shall have overall responsibility for the requirements determination, planning, programming, and budgeting for such policies and procedures.

(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall be responsible for ensuring that the defense acquisition system, as defined in section 2545 of this title, is consistent with such policies and procedures and with implementation pursuant to paragraph (1).

(4) The Under Secretary of Defense (Comptroller) shall be responsible for ensuring that the budget for the Department of Defense is consistent with such policies and procedures. The Under Secretary shall notify the congressional defense committees of any deviations from such policies and procedures that are recommended in the budget.

(d) USE OF PLAN, INVENTORY, AND LIST.—The policies and procedures established by the Secretary under subsection (a) shall specifically require the Department of Defense to use the following when making determinations regarding the appropriate workforce mix necessary to perform its mission:

(1) The inventory of contracts for services required by section 2330a(c) of this title.

(2) The list of activities required by the Federal Activities Inventory Reform Act of 1998 (Public Law 105-270; 31 U.S.C. 501 note).

(e) CONSIDERATIONS IN CONVERTING PERFORMANCE OF FUNCTIONS.—If conversion of functions to performance by either Department of Defense civilian personnel or contractor personnel is considered, the Under Secretary of Defense for Personnel and Readiness shall ensure compliance with—

(1) section 2463 of this title (relating to guidelines and procedures for use of civilian employees to perform Department of Defense functions); and

(2) section 2461 of this title (relating to public-private competition required before conversion to contractor performance).

(f) CONSTRUCTION WITH OTHER REQUIREMENTS.—Nothing in this title may be construed as authorizing—

(1) a military department or Defense Agency to directly convert a function to contractor performance without complying with section 2461 of this title;

(2) the use of contractor personnel for functions that are inherently governmental even if there is a military or civilian personnel shortfall in the Department of Defense;

(3) restrictions on the use by a military department or Defense Agency of contractor personnel to perform functions closely associated with inherently governmental functions, provided that—

(A) there are adequate resources to maintain sufficient capabilities within the Department in the functional area being considered for performance by contractor personnel; and

(B) there is adequate Government oversight of contractor personnel performing such functions;

(4) the establishment of numerical goals or budgetary savings targets for the conversion of functions to performance by either Department of Defense civilian personnel or for conversion to performance by contractor personnel; or

(5) the imposition of a civilian hiring freeze that may inhibit the implementation of the policies and procedures established under subsection (a).

(g) PERFORMANCE OF CIVILIAN FUNCTIONS BY MILITARY PERSONNEL.—(1) Functions performed by civilian personnel should not be performed by military personnel except—

(A) if the Secretary of the military department concerned determines in writing based on mission requirements that the performance of such functions by military personnel, including a permanent conversion of such functions to performance by military personnel, is cost-effective or required by a mission; or

(B) if the performance of such functions by military personnel is required to address critical staffing needs resulting from a reduction in personnel or budgetary resources by reason of an Act of Congress, in which case such functions may not be performed by military personnel for a period in excess of one year.

(2) In determining the workforce mix between civilian and military personnel, the Secretary of a military department shall reserve military personnel for the performance of the functions that, in the estimation of the Secretary, are required to be performed by military personnel in order to achieve national defense goals or in order to enable the proper functioning of the military department. In making workforce decisions, the Secretary shall account for the relative budgetary impact of military versus civilian personnel in determining the functions required to be performed by military personnel.

(Added Pub. L. 101-510, div. A, title XIV, §1483(b)(2), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 112-81, div. A, title IX, §931(a), Dec. 31, 2011, 125 Stat. 1541; Pub. L. 114-328, div. A, title IX, §914, Dec. 23, 2016, 130 Stat. 2350; Pub. L. 115-91, div. A, title X, §§1051(a)(6)(B), 1081(a)(5), Dec. 12, 2017, 131 Stat. 1560, 1594.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(5) of this title, prior to repeal by Pub. L. 101-510, §1483(a).

#### AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91, §1081(a)(5), struck out “(as identified pursuant to section 118b of this title)” after “armed forces”.

Subsec. (d). Pub. L. 115-91, §1051(a)(6)(B), redesignated pars. (3) and (4) as (1) and (2), respectively, and struck out former pars. (1) and (2) which read as follows:

“(1) The civilian strategic workforce plan (required by section 115b of this title).

“(2) The civilian positions master plan (required by section 1597(c) of this title).”

2016—Subsec. (g). Pub. L. 114-328 added subsec. (g).

2011—Pub. L. 112-81 amended section generally. Prior to amendment, text read as follows: “The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

“(1) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

“(2) include in each manpower requirements report submitted under section 115a of this title a complete justification for converting from one form of personnel to another.”

#### STRATEGIC POLICY FOR THE RETROGRADE, RECONSTITUTION, AND REPLACEMENT OF OPERATING FORCES USED TO SUPPORT OVERSEAS CONTINGENCY OPERATIONS

Pub. L. 113-66, div. A, title III, §324, Dec. 26, 2013, 127 Stat. 733, provided that:

“(a) ESTABLISHMENT OF POLICY.—

“(1) IN GENERAL.—The Secretary of Defense shall establish a policy setting forth the programs and priorities of the Department of Defense for the retrograde, reconstitution, and replacement of units and materiel used to support overseas contingency operations. The policy shall take into account national security threats, the requirements of the combatant commands, the current readiness of the operating forces of the military departments, and risk associated with strategic depth and the time necessary to reestablish required personnel, equipment, and training readiness in such operating forces.

“(2) ELEMENTS.—The policy required under paragraph (1) shall include the following elements:

“(A) Establishment and assignment of responsibilities and authorities within the Department for oversight and execution of the planning, organization, and management of the programs to reestablish the readiness of redeployed operating forces.

“(B) Guidance concerning priorities, goals, objectives, timelines, and resources to reestablish the readiness of redeployed operating forces in support of national defense objectives and combatant command requirements.

“(C) Oversight reporting requirements and metrics for the evaluation of Department of Defense and military department progress on restoring the readiness of redeployed operating forces in accordance with the policy required under paragraph (1).

“(D) A framework for joint departmental reviews of military services’ annual budgets proposed for retrograde, reconstitution, or replacement activities, including an assessment of the strategic and operational risk assumed by the proposed levels of investment across the Department of Defense.

“(b) IMPLEMENTATION PLAN.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for implementation of the policy required under this section.

“(2) ELEMENTS.—The implementation plan required under paragraph (1) shall include the following elements:

“(A) The assignment of responsibilities and authorities for oversight and execution of the planning, organization, and management of the pro-

grams to reestablish the readiness of redeployed operating forces.

“(B) Establishment of priorities, goals, objectives, timelines, and resources to reestablish the readiness of redeployed operating forces in support of national defense objectives and combatant command requirements.

“(C) A description of how the plan will be implemented, including a schedule with milestones to meet the goals of the plan.

“(D) An estimate of the resources by military service and by year required to implement the plan, including an assessment of the risks assumed in the plan.

“(3) UPDATES.—Not later than one year after submitting the plan required under paragraph (1), and annually thereafter for two years, the Secretary of Defense shall submit to the congressional defense committees an update on progress toward meeting the goals of the plan.

“(c) COMPTROLLER GENERAL REPORT.—Not later than 120 days after the date of the enactment of this Act, and annually after the submittal of each update to the implementation plan under subsection (b), the Comptroller General of the United States shall review the implementation plan submitted under subsection (b) and the policy required by subsection (a), and submit to the congressional defense committees a report describing the findings of such review and progress made toward meeting the goals of the plan and including any additional information relating to the policy and plan that the Comptroller General determines appropriate.”

#### SAVINGS TO BE ACHIEVED IN CIVILIAN PERSONNEL WORKFORCE AND SERVICE CONTRACTOR WORKFORCE OF THE DEPARTMENT OF DEFENSE

Pub. L. 112-239, div. A, title IX, §955, Jan. 2, 2013, 126 Stat. 1896, which related to efficiencies plan for the civilian personnel workforce and service contractor workforce of the Department of Defense, requiring specific savings, excluding certain expenses, setting reporting requirements, limiting transfers of functions, recommending application of certain funds saved to transition assistance for personnel separated from the Armed Forces, and providing definition of “service contractor workforce”, was repealed by Pub. L. 114-328, div. A, title IX, §915, Dec. 23, 2016, 130 Stat. 2350.

#### CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS

Pub. L. 104-106, div. A, title X, §1032, Feb. 10, 1996, 110 Stat. 429, as amended by Pub. L. 104-201, div. A, title XVI, §1601, Sept. 23, 1996, 110 Stat. 2734, directed Secretary of Defense, by Sept. 30, 1996, to convert at least 3,000 military positions to civilian positions and, not later than Mar. 31, 1996, submit to Congress a plan for the implementation of conversion.

#### PROHIBITION ON USE OF FUNDS TO ASSIGN SUPERVISOR'S TITLE OR GRADE BASED UPON NUMBER OF PEOPLE SUPERVISED

Pub. L. 104-61, title VIII, §8031, Dec. 1, 1995, 109 Stat. 658, provided that: “None of the funds appropriated during the current fiscal year and hereafter, may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103-335, title VIII, §8036, Sept. 30, 1994, 108 Stat. 2626.

Pub. L. 103-139, title VIII, §8040, Nov. 11, 1993, 107 Stat. 1449.

Pub. L. 102-396, title IX, §9053, Oct. 6, 1992, 106 Stat. 1914.

Pub. L. 102-172, title VIII, §8055, Nov. 26, 1991, 105 Stat. 1184.

Pub. L. 101-511, title VIII, §8063, Nov. 5, 1990, 104 Stat. 1888.

Pub. L. 101-165, title IX, §9085, Nov. 21, 1989, 103 Stat. 1147.

Pub. L. 100-463, title VIII, §8079, Oct. 1, 1988, 102 Stat. 2270-30.

Pub. L. 100-202, §101(b) [title VIII, §8105], Dec. 22, 1987, 101 Stat. 1329-43, 1329-81.

#### § 129b. Authority to procure personal services

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense and the Secretaries of the military departments may—

(1) procure the services of experts or consultants (or of organizations of experts or consultants) in accordance with section 3109 of title 5; and

(2) pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law.

(b) CONDITIONS.—The services of experts or consultants (or organizations thereof) may be procured under subsection (a) only if the Secretary of Defense or the Secretary of the military department concerned, as the case may be, determines that—

(1) the procurement of such services is advantageous to the United States; and

(2) such services cannot adequately be provided by the Department of Defense.

(c) REGULATIONS.—Procurement of the services of experts and consultants (or organizations thereof) under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.

(d) ADDITIONAL AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts if the personal services—

(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

(B) directly support the mission of a defense intelligence component or counter-intelligence organization of the Department of Defense; or

(C) directly support the mission of the special operations command of the Department of Defense.

(2) The contracting officer for a personal services contract under this subsection shall be responsible for ensuring that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department to obtain such services by other means.

(3) The requirements of section 3109 of title 5 shall not apply to a contract entered into under this subsection.

(Added Pub. L. 101-510, div. A, title XIV, §1481(b)(1), Nov. 5, 1990, 104 Stat. 1704; amended

Pub. L. 102-190, div. A, title X, §1061(a)(2), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 108-136, div. A, title VIII, §841(a), (b)(1), Nov. 24, 2003, 117 Stat. 1552.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-165, title IX, §9002, Nov. 21, 1989, 103 Stat. 1129, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101-510, §1481(b)(3).

#### AMENDMENTS

2003—Pub. L. 108-136, §841(b)(1), substituted “Authority to procure personal services” for “Experts and consultants: authority to procure services of” in section catchline.

Subsec. (d). Pub. L. 108-136, §841(a), added subsec. (d). 1991—Pub. L. 102-190 inserted “of” after “services” in section catchline.

#### § 129c. Medical personnel: limitations on reductions

(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

(e) DEFINITION.—In this section, the term “medical personnel” means—

(1) the members of the armed forces covered by the term “medical personnel” as defined in section 115a(e)(2) of this title; and

(2) the civilian personnel of the Department of Defense assigned to military medical facilities.

(Added Pub. L. 104-106, div. A, title V, §564(a)(1), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 105-85, div. A, title X, §1073(a)(4), Nov. 18, 1997, 111 Stat. 1900.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-510, div. A, title VII, §711, Nov. 5, 1990, 104 Stat. 1582, as amended, which was set out as a note under section 115 of this title, prior to repeal by Pub. L. 104-106, §564(d)(1).

#### AMENDMENTS

1997—Subsec. (e)(1). Pub. L. 105-85 substituted “section 115a(e)(2)” for “section 115a(g)(2)”.

#### PROHIBITION ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 110-181, div. A, title VII, §721(a)-(d), Jan. 28, 2008, 122 Stat. 198, 199, as amended by Pub. L. 111-84, div. A, title VII, §701, Oct. 28, 2009, 123 Stat. 2372, prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position on or after Oct. 1, 2007, and required restoration of certain converted positions to military positions, prior to repeal by Pub. L. 114-328, div. A, title VII, §721(c), Dec. 23, 2016, 130 Stat. 2228.

#### REQUIREMENT TO CERTIFY AND REPORT ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 109-364, div. A, title VII, §742, Oct. 17, 2006, 120 Stat. 2306, which prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position in a fiscal year until the Secretary submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives with respect to that fiscal year a certification that the conversions within that department would not increase cost or decrease quality of care or access to care, was repealed by Pub. L. 110-181, div. A, title VII, §721(e), Jan. 28, 2008, 122 Stat. 199.

#### PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION

Pub. L. 109-163, div. A, title VII, §744, Jan. 6, 2006, 119 Stat. 3360, provided that:

“(a) PROHIBITION ON CONVERSIONS.—

“(1) SUBMISSION OF CERTIFICATION.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

“(2) REPORT WITH CERTIFICATION.—A Secretary submitting such a certification shall include with the certification a written report that includes—

“(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

“(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

“(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

“(b) REQUIREMENT FOR STUDY.—

“(1) IN GENERAL.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

“(2) MATTERS COVERED.—The study shall include the following:

“(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

“(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

“(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

“(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

“(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

“(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

“(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

“(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

“(3) REPORT ON STUDY.—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘military medical or dental position’ means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

“(2) The term ‘civilian medical or dental position’ means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

“(3) The term ‘affected area’ means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

“(4) The term ‘uniformed services’ has the meaning given that term in section 1072(1) of title 10, United States Code.”

#### SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996

Pub. L. 104-106, div. A, title V, §564(b), Feb. 10, 1996, 110 Stat. 326, provided that, for purposes of applying subsec. (b)(1) of this section during fiscal year 1996, the number against which the percentage limitation of 95 percent was to be computed would be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994, rather than the number as of the end of fiscal year 1995.

**§ 129d. Disclosure to litigation support contractors**

(a) DISCLOSURE AUTHORITY.—An officer or employee of the Department of Defense may disclose sensitive information to a litigation support contractor if—

(1) the disclosure is for the sole purpose of providing litigation support to the Government in the form of administrative, technical, or professional services during or in anticipation of litigation; and

(2) under a contract with the Government, the litigation support contractor agrees to and acknowledges—

(A) that sensitive information furnished will be accessed and used only for the purposes stated in the relevant contract;

(B) that the contractor will take all precautions necessary to prevent disclosure of the sensitive information provided to the contractor;

(C) that such sensitive information provided to the contractor under the authority of this section shall not be used by the contractor to compete against a third party for Government or non-Government contracts; and

(D) that the violation of subparagraph (A), (B), or (C) is a basis for the Government to terminate the litigation support contract of the contractor.

(b) DEFINITIONS.—In this section:

(1) The term “litigation support contractor” means a contractor (including an expert or technical consultant) under contract with the Department of Defense to provide litigation support.

(2) The term “sensitive information” means confidential commercial, financial, or proprietary information, technical data, or other privileged information.

(Added Pub. L. 112-81, div. A, title VIII, § 802(a)(1), Dec. 31, 2011, 125 Stat. 1484.)

**§ 130. Authority to withhold from public disclosure certain technical data**

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.

(b) Regulations under this section shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation. Such regulations shall address, where appropriate, releases of technical data to allies of the United States and to qualified United States contractors, including United

States contractors that are small business concerns, for use in performing United States Government contracts.

(c) In this section, the term “technical data with military or space application” means any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or be adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

(Added Pub. L. 98-94, title XII, § 1217(a), Sept. 24, 1983, 97 Stat. 690, § 140c; amended Pub. L. 99-145, title XIII, § 1303(a)(3), Nov. 8, 1985, 99 Stat. 738; renumbered § 130 and amended Pub. L. 99-433, title I, §§ 101(a)(3), 110(d)(6), Oct. 1, 1986, 100 Stat. 994, 1003; Pub. L. 100-26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-510, div. A, title XIV, § 1484(b)(1), Nov. 5, 1990, 104 Stat. 1715; Pub. L. 114-328, div. A, title X, § 1081(b)(3)(A), Dec. 23, 2016, 130 Stat. 2418.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96-72, Sept. 29, 1979, 93 Stat. 503, which is classified principally to chapter 56 (§ 4601 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 50 and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328 substituted “(50 U.S.C. 4601 et seq.)” for “(50 U.S.C. App. 2401-2420)”.

1990—Subsecs. (b), (c). Pub. L. 101-510 substituted “Regulations under this section” for “(1) Within 90 days after September 24, 1983, the Secretary of Defense shall propose regulations to implement this section. Such regulations” in subsec. (b) and redesignated former subsec. (b)(2) as subsec. (c).

1987—Subsec. (b)(2). Pub. L. 100-26 inserted “the term” after “In this section,”.

1986—Pub. L. 99-433 renumbered section 140c of this title as this section and substituted “Authority” for “Secretary of Defense: authority” in section catchline.

1985—Subsec. (b)(1). Pub. L. 99-145 substituted “September 24, 1983” for “enactment of this section”.

**§ 130a. Repealed. Pub. L. 110-181, div. A, title IX, § 901(a)(1), Jan. 28, 2008, 122 Stat. 272]**

Section, added Pub. L. 105-85, div. A, title IX, § 911(a)(1), Nov. 18, 1997, 111 Stat. 1857; amended Pub. L. 106-65, div. A, title IX, § 921(a)(1), Oct. 5, 1999, 113 Stat. 722; Pub. L. 106-398, § 1 [[div. A], title IX, § 941], Oct. 30, 2000, 114 Stat. 1654, 1654A-241; Pub. L. 108-375, div. A, title X, § 1084(d)(2), Oct. 28, 2004, 118 Stat. 2061, related to major Department of Defense headquarters activities personnel.

**§ 130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information**

(a) EXEMPTION FROM DISCLOSURE.—The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security



may, notwithstanding section 552 of title 5, authorize to be withheld from disclosure to the public personally identifying information regarding—

(1) any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit; and

(2) any employee of the Department of Defense or of the Coast Guard whose duty station is with any such unit.

(b) EXCEPTIONS.—(1) The authority in subsection (a) is subject to such exceptions as the President may direct.

(2) Subsection (a) does not authorize any official to withhold, or to authorize the withholding of, information from Congress.

(c) DEFINITIONS.—In this section:

(1) The term “personally identifying information”, with respect to any person, means the person’s name, rank, duty address, and official title and information regarding the person’s pay.

(2) The term “unit” means a military organization of the armed forces designated as a unit by competent authority.

(3) The term “overseas unit” means a unit that is located outside the United States and its territories.

(4) The term “sensitive unit” means a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including—

(A) a unit involved in collecting, handling, disposing, or storing of classified information and materials;

(B) a unit engaged in training—

(i) special operations units;

(ii) security group commands weapons stations; or

(iii) communications stations; and

(C) any other unit that is designated as a sensitive unit by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(5) The term “routinely deployable unit” means a unit that normally deploys from its permanent home station on a periodic or rotating basis to meet peacetime operational requirements that, or to participate in scheduled training exercises that, routinely require deployments outside the United States and its territories. Such term includes a unit that is alerted for deployment outside the United States and its territories during an actual execution of a contingency plan or in support of a crisis operation.

(Added Pub. L. 106-65, div. A, title X, §1044(a), Oct. 5, 1999, 113 Stat. 761; amended Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### AMENDMENTS

2002—Subsecs. (a), (c)(4)(C). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of

Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

### § 130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations

(a) EXEMPTION FROM DISCLOSURE.—The national security official concerned (as defined in subsection (h)) may withhold from public disclosure otherwise required by law sensitive information of foreign governments in accordance with this section.

(b) INFORMATION ELIGIBLE FOR EXEMPTION.—For the purposes of this section, information is sensitive information of a foreign government only if the national security official concerned makes each of the following determinations with respect to the information:

(1) That the information was provided by, otherwise made available by, or produced in cooperation with, a foreign government or international organization.

(2) That the foreign government or international organization is withholding the information from public disclosure (relying for that determination on the written representation of the foreign government or international organization to that effect).

(3) That any of the following conditions are met:

(A) The foreign government or international organization requests, in writing, that the information be withheld.

(B) The information was provided or made available to the United States Government on the condition that it not be released to the public.

(C) The information is an item of information, or is in a category of information, that the national security official concerned has specified in regulations prescribed under subsection (g) as being information the release of which would have an adverse effect on the ability of the United States Government to obtain the same or similar information in the future.

(c) INFORMATION OF OTHER AGENCIES.—If the national security official concerned provides to the head of another agency sensitive information of a foreign government, as determined by that national security official under subsection (b), and informs the head of the other agency of that determination, then the head of the other agency shall withhold the information from any public disclosure unless that national security official specifically authorizes the disclosure.

(d) LIMITATIONS.—(1) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government before October 30, 2000, and more than 25 years before the request is received by an agency, the information may be withheld only as set forth in paragraph (3).

(2)(A) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government on or after the date referred

to in paragraph (1), the authority to withhold the information under this section is subject to the provisions of subparagraphs (B) and (C).

(B) Information referred to in subparagraph (A) may not be withheld under this section after—

(i) the date that is specified by a foreign government or international organization in a request or expression of a condition described in paragraph (1) or (2) of subsection (b) that is made by the foreign government or international organization concerning the information; or

(ii) if there are more than one such foreign governments or international organizations, the latest date so specified by any of them.

(C) If no date is applicable under subparagraph (B) to a request referred to in subparagraph (A) and the information referred to in that subparagraph came into possession or under the control of the United States more than 10 years before the date on which the request is received by an agency, the information may be withheld under this section only as set forth in paragraph (3).

(3) Information referred to in paragraph (1) or (2)(C) may be withheld under this section in the case of a request for disclosure only if, upon the notification of each foreign government and international organization concerned in accordance with the regulations prescribed under subsection (g)(2), any such government or organization requests in writing that the information not be disclosed for an additional period stated in the request of that government or organization. After the national security official concerned considers the request of the foreign government or international organization, the official shall designate a later date as the date after which the information is not to be withheld under this section. The later date may be extended in accordance with a later request of any such foreign government or international organization under this paragraph.

(e) INFORMATION PROTECTED UNDER OTHER AUTHORITY.—This section does not apply to information or matters that are specifically required in the interest of national defense or foreign policy to be protected against unauthorized disclosure under criteria established by an Executive order and are classified, properly, at the confidential, secret, or top secret level pursuant to such Executive order.

(f) DISCLOSURES NOT AFFECTED.—Nothing in this section shall be construed to authorize any official to withhold, or to authorize the withholding of, information from the following:

(1) Congress.

(2) The Comptroller General, unless the information relates to activities that the President designates as foreign intelligence or counterintelligence activities.

(g) REGULATIONS.—(1) The national security officials referred to in subsection (h)(1) shall each prescribe regulations to carry out this section. The regulations shall include criteria for making the determinations required under subsection (b). The regulations may provide for controls on access to and use of, and special markings and specific safeguards for, a category or categories of information subject to this section.

(2) The regulations shall include procedures for notifying and consulting with each foreign government or international organization concerned about requests for disclosure of information to which this section applies.

(h) DEFINITIONS.—In this section:

(1) The term “national security official concerned” means the following:

(A) The Secretary of Defense, with respect to information of concern to the Department of Defense, as determined by the Secretary.

(B) The Secretary of Homeland Security, with respect to information of concern to the Coast Guard, as determined by the Secretary, but only while the Coast Guard is not operating as a service in the Navy.

(C) The Secretary of Energy, with respect to information concerning the national security programs of the Department of Energy, as determined by the Secretary.

(2) The term “agency” has the meaning given that term in section 552(f) of title 5.

(3) The term “international organization” means the following:

(A) A public international organization designated pursuant to section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) as being entitled to enjoy the privileges, exemptions, and immunities provided in such Act.

(B) A public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(C) An official mission, except a United States mission, to a public international organization referred to in subparagraph (A) or (B).

(Added Pub. L. 106-398, § 1 [[div. A], title X, § 1073(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-277; amended Pub. L. 107-107, div. A, title X, § 1048(a)(3), (c)(1), Dec. 28, 2001, 115 Stat. 1222, 1226; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

#### REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (h)(3)(A), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

#### AMENDMENTS

2002—Subsec. (h)(1)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (b)(3)(C). Pub. L. 107-107, § 1048(a)(3), substituted “subsection (g)” for “subsection (f)”.

Subsec. (d)(1). Pub. L. 107-107, § 1048(c)(1), substituted “October 30, 2000,” for “the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

**§ 130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel**

Confidential business information and other sensitive but unclassified homeland security information in the possession of the Department of Defense that is shared, pursuant to section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482), with State and local personnel (as defined in such section) shall not be subject to disclosure under section 552 of title 5 by virtue of the sharing of such information with such personnel.

(Added Pub. L. 109-364, div. A, title XIV, § 1405(a), Oct. 17, 2006, 120 Stat. 2436.)

**§ 130e. Treatment under Freedom of Information Act of certain critical infrastructure security information**

(a) EXEMPTION.—The Secretary of Defense may exempt Department of Defense critical infrastructure security information from disclosure pursuant to section 552(b)(3) of title 5, upon a written determination that—

(1) the information is Department of Defense critical infrastructure security information; and

(2) the public interest consideration in the disclosure of such information does not outweigh preventing the disclosure of such information.

(b) DESIGNATION OF DEPARTMENT OF DEFENSE CRITICAL INFRASTRUCTURE SECURITY INFORMATION.—In addition to any other authority or requirement regarding protection from dissemination of information, the Secretary may designate information as being Department of Defense critical infrastructure security information, including during the course of creating such information, to ensure that such information is not disseminated without authorization. Information so designated is subject to the determination process under subsection (a) to determine whether to exempt such information from disclosure described in such subsection.

(c) INFORMATION PROVIDED TO STATE AND LOCAL GOVERNMENTS.—(1) Department of Defense critical infrastructure security information covered by a written determination under subsection (a) or designated under subsection (b) that is provided to a State or local government shall remain under the control of the Department of Defense.

(2)(A) A State or local law authorizing or requiring a State or local government to disclose Department of Defense critical infrastructure security information that is covered by a written determination under subsection (a) shall not apply to such information.

(B) If a person requests pursuant to a State or local law that a State or local government disclose information that is designated as Department of Defense critical infrastructure security information under subsection (b), the State or local government shall provide the Secretary an opportunity to carry out the determination process under subsection (a) to determine whether to exempt such information from disclosure pursuant to subparagraph (A).

(d) DELEGATION.—The Secretary of Defense may delegate the authority to make a determination under subsection (a) to the Director of Administration and Management.

(e) TRANSPARENCY.—Each determination of the Secretary, or the Secretary's designee, under subsection (a) shall be made in writing and accompanied by a statement of the basis for the determination. All such determinations and statements of basis shall be available to the public, upon request, through the Office of the Director of Administration and Management.

(f) DEFINITION.—In this section, the term "Department of Defense critical infrastructure security information" means sensitive but unclassified information that, if disclosed, would reveal vulnerabilities in Department of Defense critical infrastructure that, if exploited, would likely result in the significant disruption, destruction, or damage of or to Department of Defense operations, property, or facilities, including information regarding the securing and safeguarding of explosives, hazardous chemicals, or pipelines, related to critical infrastructure or protected systems owned or operated by or on behalf of the Department of Defense, including vulnerability assessments prepared by or on behalf of the Department of Defense, explosives safety information (including storage and handling), and other site-specific information on or relating to installation security.

(Added Pub. L. 112-81, div. A, title X, § 1091(a), Dec. 31, 2011, 125 Stat. 1604; amended Pub. L. 114-92, div. A, title X, § 1081(a)(2), Nov. 25, 2015, 129 Stat. 1000; Pub. L. 114-328, div. A, title XVI, § 1662(b), Dec. 23, 2016, 130 Stat. 2614.)

AMENDMENTS

2016—Subsecs. (b), (c), (f). Pub. L. 114-328 added subsecs. (b) and (c), redesignated former subsec. (c) as (f), and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: "Department of Defense critical infrastructure security information covered by a written determination under subsection (a) that is provided to a State or local government shall remain under the control of the Department of Defense."

2015—Pub. L. 114-92 substituted "Treatment under Freedom of Information Act of certain critical infrastructure security information" for "Treatment under Freedom of Information Act of critical infrastructure security information" in section catchline.

**§ 130f. Notification requirements for sensitive military operations**

(a) IN GENERAL.—The Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to

protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a sensitive military operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) **BRIEFING REQUIREMENT.**—The Secretary of Defense shall periodically brief the congressional defense committees on Department of Defense personnel and equipment assigned to sensitive military operations, including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(d) **SENSITIVE MILITARY OPERATION DEFINED.**—The term “sensitive military operation” means the following:

- (1) A lethal operation or capture operation—
  - (A) conducted by the armed forces outside a declared theater of active armed conflict; or
  - (B) conducted by a foreign partner in coordination with the armed forces that targets a specific individual or individuals.
- (2) An operation conducted by the armed forces outside a declared theater of active armed conflict in self-defense or in defense of foreign partners, including during a cooperative operation.

(e) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(Added Pub. L. 113–66, div. A, title X, §1041(a)(1), Dec. 26, 2013, 127 Stat. 856; amended Pub. L. 114–92, div. A, title X, §1043, Nov. 25, 2015, 129 Stat. 977; Pub. L. 114–328, div. A, title X, §1036(a)–(f)(1), Dec. 23, 2016, 130 Stat. 2391, 2392; Pub. L. 115–91, div. A, title X, §1081(a)(6), Dec. 12, 2017, 131 Stat. 1594.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsecs. (c) and (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

The War Powers Resolution, referred to in subsec. (e), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

#### AMENDMENTS

2017—Subsec. (b)(1). Pub. L. 115–91 inserted period at end.

2016—Pub. L. 114–328, §1036(f)(1), amended section catchline generally, substituting “Notification requirements for sensitive military operations” for “Congressional notification of sensitive military operations”.

Subsec. (a). Pub. L. 114–328, §1036(a), (c)(1), inserted “no later than 48 hours” before “following such operation” and struck out at end “Department of Defense support to operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.) is addressed in the classified annex prepared to accompany the National Defense Authorization Act for Fiscal Year 2014.”

Subsec. (b)(1). Pub. L. 114–328, §1036(b)(1), inserted at end “The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes”.

Subsec. (b)(3). Pub. L. 114–328, §1036(b)(2), added par. (3).

Subsec. (c). Pub. L. 114–328, §1036(c)(2), inserted before period at end “, including Department of Defense support to such operations conducted under the National Security Act of 1947 (50 U.S.C. 3001 et seq.)”.

Subsec. (d). Pub. L. 114–328, §1036(d), substituted “means the following:” and pars. (1) and (2) for “means a lethal operation or capture operation conducted by the armed forces outside the United States and outside a theater of major hostilities pursuant to—

“(1) the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note); or

“(2) any other authority except—

“(A) a declaration of war; or

“(B) a specific statutory authorization for the use of force other than the authorization referred to in paragraph (1).”

Subsecs. (e), (f). Pub. L. 114–328, §1036(e), redesignated subsec. (f) as (e) and struck out former subsec. (e) which provided exception to notification requirement.

2015—Subsec. (e). Pub. L. 114–92 designated existing provisions as par. (1) and added par. (2).

#### EFFECTIVE DATE

Pub. L. 113–66, div. A, title X, §1041(b), Dec. 26, 2013, 127 Stat. 857, provided that: “Section 130f of title 10, United States Code, as added by subsection (a), shall apply with respect to any sensitive military operation (as defined in subsection (d) of such section) executed on or after the date of the enactment of this Act [Dec. 26, 2013].”

#### DEADLINE FOR SUBMITTAL OF PROCEDURES

Pub. L. 113–66, div. A, title X, §1041(c), Dec. 26, 2013, 127 Stat. 857, provided that: “The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the procedures required under section 130f(b) of title 10, United States Code, as added by subsection (a), by not later than 60 days after the date of the enactment of this Act [Dec. 26, 2013].”

### § 130g. Authorities concerning military cyber operations

The Secretary of Defense shall develop, prepare, and coordinate; make ready all armed forces for purposes of; and, when appropriately authorized to do so, conduct, a military cyber operation in response to malicious cyber activity carried out against the United States or a United States person by a foreign power (as such terms are defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)).

(Added Pub. L. 114–92, div. A, title XVI, §1642(a), Nov. 25, 2015, 129 Stat. 1116.)

#### POLICY OF THE UNITED STATES ON CYBERSPACE, CYBERSECURITY, AND CYBER WARFARE

Pub. L. 115–91, div. A, title XVI, §1633, Dec. 12, 2017, 131 Stat. 1738, provided that:

“(a) IN GENERAL.—The President shall—

“(1) develop a national policy for the United States relating to cyberspace, cybersecurity, and cyber warfare; and

“(2) submit to the appropriate congressional committees a report on the policy.

“(b) ELEMENTS.—The national policy required under subsection (a) shall include the following elements:

“(1) Delineation of the instruments of national power available to deter or respond to cyber attacks or other malicious cyber activities by a foreign power or actor that targets United States interests.

“(2) Available or planned response options to address the full range of potential cyber attacks on United States interests that could be conducted by potential adversaries of the United States.

“(3) Available or planned denial options that prioritize the defensibility and resiliency against cyber attacks and malicious cyber activities that are carried out against infrastructure critical to the political integrity, economic security, and national security of the United States.

“(4) Available or planned cyber capabilities that may be used to impose costs on any foreign power targeting the United States or United States persons with a cyber attack or malicious cyber activity.

“(5) Development of multi-prong response options, such as—

“(A) boosting the cyber resilience of critical United States strike systems (including cyber, nuclear, and non-nuclear systems) in order to ensure the United States can credibly threaten to impose unacceptable costs in response to even the most sophisticated large-scale cyber attack;

“(B) developing offensive cyber capabilities and specific plans and strategies to put at risk targets most valued by adversaries of the United States and their key decision makers; and

“(C) enhancing attribution capabilities and developing intelligence and offensive cyber capabilities to detect, disrupt, and potentially expose malicious cyber activities.

“(c) LIMITATION ON AVAILABILITY OF FUNDS.—

“(1) IN GENERAL.—Of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise made available for fiscal year 2018 for procurement, research, development, test and evaluation, and operations and maintenance, for the covered activities of the Defense Information Systems Agency, not more than 60 percent may be obligated or expended until the date on which the President submits to the appropriate congressional committees the report under subsection (a)(2).

“(2) COVERED ACTIVITIES DESCRIBED.—The covered activities referred to in paragraph (1) are the activities of the Defense Information Systems Agency in support of—

“(A) the White House Communication Agency; and

“(B) the White House Situation Support Staff.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘foreign power’ has the meaning given that term in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

“(2) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives];

“(B) the Committee on Foreign Affairs, the Committee on Homeland Security, and the Committee on the Judiciary of the House of Representatives; and

“(C) the Committee on Foreign Relations, the Committee on Homeland Security and Governmental Affairs, and the Committee on the Judiciary of the Senate.”

### § 130h. Prohibitions relating to missile defense information and systems

(a) CERTAIN “HIT-TO-KILL” TECHNOLOGY AND TELEMETRY DATA.—None of the funds authorized

to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation with “hit-to-kill” technology and telemetry data for missile defense interceptors or target vehicles.

(b) OTHER SENSITIVE MISSILE DEFENSE INFORMATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be used to provide the Russian Federation with—

(1) information relating to velocity at burn-out of missile defense interceptors or targets of the United States; or

(2) classified or otherwise controlled missile defense information.

(c) EXCEPTION.—The prohibitions in subsections (a) and (b) shall not apply to the United States providing to the Russian Federation information regarding ballistic missile early warning.

(d) INTEGRATION.—None of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be obligated or expended to integrate a missile defense system of the Russian Federation or a missile defense system of the People’s Republic of China into any missile defense system of the United States.

(e) SUNSET.—The prohibitions in subsections (a), (b), and (d) shall expire on January 1, 2019.

(Added Pub. L. 114–92, div. A, title XVI, §1671(a)(1), Nov. 25, 2015, 129 Stat. 1129; amended Pub. L. 114–328, div. A, title X, §1081(a)(1), title XVI, §1682(a)(1), (b), Dec. 23, 2016, 130 Stat. 2417, 2623, 2624.)

#### AMENDMENTS

2016—Pub. L. 114–328, §1682(a)(1)(C), added section catchline and struck out former section catchline which read as follows: “Prohibitions on providing certain missile defense information to Russian Federation”.

Subsec. (c). Pub. L. 114–328, §1081(a)(1), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

Subsec. (d). Pub. L. 114–328, §1682(a)(1)(B), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 114–328, §1081(a)(1), substituted “subsections (a) and (b)” for “subsection (a) and (b)”.

Subsec. (e). Pub. L. 114–328, §1682(a)(1)(A), (b), redesignated subsec. (d) as (e) and amended it generally. Prior to amendment, text read as follows: “The prohibitions in subsections (a) and (b) shall expire on January 1, 2017.”

### § 130i. Protection of certain facilities and assets from unmanned aircraft

(a) AUTHORITY.—Notwithstanding section 46502 of title 49, or any provision of title 18, the Secretary of Defense may take, and may authorize members of the armed forces and officers and civilian employees of the Department of Defense with assigned duties that include safety, security, or protection of personnel, facilities, or assets, to take, such actions described in subsection (b)(1) that are necessary to mitigate the threat (as defined by the Secretary of Defense, in consultation with the Secretary of Transportation) that an unmanned aircraft system or unmanned aircraft poses to the safety or security of a covered facility or asset.

(b) ACTIONS DESCRIBED.—(1) The actions described in this paragraph are the following:

(A) Detect, identify, monitor, and track the unmanned aircraft system or unmanned aircraft, without prior consent, including by means of intercept or other access of a wire communication, an oral communication, or an electronic communication used to control the unmanned aircraft system or unmanned aircraft.

(B) Warn the operator of the unmanned aircraft system or unmanned aircraft, including by passive or active, and direct or indirect physical, electronic, radio, and electromagnetic means.

(C) Disrupt control of the unmanned aircraft system or unmanned aircraft, without prior consent, including by disabling the unmanned aircraft system or unmanned aircraft by intercepting, interfering, or causing interference with wire, oral, electronic, or radio communications used to control the unmanned aircraft system or unmanned aircraft.

(D) Seize or exercise control of the unmanned aircraft system or unmanned aircraft.

(E) Seize or otherwise confiscate the unmanned aircraft system or unmanned aircraft.

(F) Use reasonable force to disable, damage, or destroy the unmanned aircraft system or unmanned aircraft.

(2) The Secretary of Defense shall develop the actions described in paragraph (1) in coordination with the Secretary of Transportation.

(c) FORFEITURE.—Any unmanned aircraft system or unmanned aircraft described in subsection (a) that is seized by the Secretary of Defense is subject to forfeiture to the United States.

(d) REGULATIONS AND GUIDANCE.—(1) The Secretary of Defense and the Secretary of Transportation may prescribe regulations and shall issue guidance in the respective areas of each Secretary to carry out this section.

(2)(A) The Secretary of Defense and the Secretary of Transportation shall coordinate in the development of guidance under paragraph (1).

(B) The Secretary of Defense shall coordinate with the Secretary of Transportation and the Administrator of the Federal Aviation Administration before issuing any guidance or otherwise implementing this section if such guidance or implementation might affect aviation safety, civilian aviation and aerospace operations, aircraft airworthiness, or the use of airspace.

(e) PRIVACY PROTECTION.—The regulations prescribed or guidance issued under subsection (d) shall ensure that—

(1) the interception or acquisition of, or access to, communications to or from an unmanned aircraft system under this section is conducted in a manner consistent with the fourth amendment to the Constitution and applicable provisions of Federal law;

(2) communications to or from an unmanned aircraft system are intercepted, acquired, or accessed only to the extent necessary to support a function of the Department of Defense;

(3) records of such communications are not maintained for more than 180 days unless the Secretary of Defense determines that maintenance of such records—

(A) is necessary to support one or more functions of the Department of Defense; or

(B) is required for a longer period to support a civilian law enforcement agency or by any other applicable law or regulation; and

(4) such communications are not disclosed outside the Department of Defense unless the disclosure—

(A) would fulfill a function of the Department of Defense;

(B) would support a civilian law enforcement agency or the enforcement activities of a regulatory agency of the Federal Government in connection with a criminal or civil investigation of, or any regulatory action with regard to, an action described in subsection (b)(1); or

(C) is otherwise required by law or regulation.

(f) BUDGET.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2018, a consolidated funding display that identifies the funding source for the actions described in subsection (b)(1) within the Department of Defense. The funding display shall be in unclassified form, but may contain a classified annex.

(g) SEMIANNUAL BRIEFINGS.—(1) On a semi-annual basis during the five-year period beginning March 1, 2018, the Secretary of Defense and the Secretary of Transportation, shall jointly provide a briefing to the appropriate congressional committees on the activities carried out pursuant to this section. Such briefings shall include—

(A) policies, programs, and procedures to mitigate or eliminate impacts of such activities to the National Airspace System;

(B) a description of instances where actions described in subsection (b)(1) have been taken;

(C) how the Secretaries have informed the public as to the possible use of authorities under this section; and

(D) how the Secretaries have engaged with Federal, State, and local law enforcement agencies to implement and use such authorities.

(2) Each briefing under paragraph (1) shall be in unclassified form, but may be accompanied by an additional classified briefing.

(h) RULE OF CONSTRUCTION.—Nothing in this section may be construed to—

(1) vest in the Secretary of Defense any authority of the Secretary of Transportation or the Administrator of the Federal Aviation Administration under title 49; and

(2) vest in the Secretary of Transportation or the Administrator of the Federal Aviation Administration any authority of the Secretary of Defense under this title.

(i) PARTIAL TERMINATION.—(1) Except as provided by paragraph (2), the authority to carry out this section with respect to the covered facilities or assets specified in clauses (iv) through (viii) of subsection (j)(3)<sup>1</sup> shall terminate on December 31, 2020.

<sup>1</sup> So in original. Probably should be “subsection (j)(3)(C)”.

(2) The President may extend by 180 days the termination date specified in paragraph (1) if before November 15, 2020, the President certifies to Congress that such extension is in the national security interests of the United States.

(j) DEFINITIONS.—In this section:

(1) The term “appropriate congressional committees” means—

(A) the congressional defense committees;

(B) the Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Commerce, Science, and Transportation of the Senate; and

(C) the Permanent Select Committee on Intelligence, the Committee on the Judiciary, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(3) The term “covered facility or asset” means any facility or asset that—

(A) is identified by the Secretary of Defense, in consultation with the Secretary of Transportation with respect to potentially impacted airspace, through a risk-based assessment for purposes of this section;

(B) is located in the United States (including the territories and possessions of the United States); and

(C) directly relates to the missions of the Department of Defense pertaining to—

(i) nuclear deterrence, including with respect to nuclear command and control, integrated tactical warning and attack assessment, and continuity of government;

(ii) missile defense;

(iii) national security space;

(iv) assistance in protecting the President or the Vice President (or other officer immediately next in order of succession to the office of the President) pursuant to the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note);

(v) air defense of the United States, including air sovereignty, ground-based air defense, and the National Capital Region integrated air defense system;

(vi) combat support agencies (as defined in paragraphs (1) through (4) of section 193(f) of this title);

(vii) special operations activities specified in paragraphs (1) through (9) of section 167(k) of this title;

(viii) production, storage, transportation, or decommissioning of high-yield explosive munitions, by the Department; or

(ix) a Major Range and Test Facility Base (as defined in section 196(i) of this title).

(4) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(5) The terms “electronic communication”, “intercept”, “oral communication”, and “wire

communication” have the meanings given those terms in section 2510 of title 18.

(6) The terms “unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in section 331 of the FAA Modernization and Reform Act of 2012 (Public Law 112-95; 49 U.S.C. 40101 note).

(Added Pub. L. 114-328, div. A, title XVI, §1697(a), Dec. 23, 2016, 130 Stat. 2639; amended Pub. L. 115-91, div. A, title XVI, §1692, Dec. 12, 2017, 131 Stat. 1788.)

#### REFERENCES IN TEXT

The Presidential Protection Assistance Act of 1976, referred to in subsec. (j)(3)(C)(iv), is Pub. L. 94-524, Oct. 17, 1976, 90 Stat. 2475, which enacted and amended provisions set out as notes under section 3056 of Title 18, Crimes and Criminal Procedure. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2017—Pub. L. 115-91 amended section generally. Prior to amendment, section related to protection of certain facilities and assets from unmanned aircraft and consisted of provisions relating to authority of Secretary of Defense, authorized actions, forfeiture, regulations, and definitions.

#### § 130j. Notification requirements for sensitive military cyber operations

(a) IN GENERAL.—Except as provided in subsection (d), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military cyber operation conducted under this title no later than 48 hours following such operation.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a sensitive military cyber operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military cyber operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) SENSITIVE MILITARY CYBER OPERATION DEFINED.—(1) In this section, the term “sensitive military cyber operation” means an action described in paragraph (2) that—

(A) is carried out by the armed forces of the United States; and

(B) is intended to cause cyber effects outside a geographic location—

(i) where the armed forces of the United States are involved in hostilities (as that term is used in section 1543 of title 50, United States Code); or

(ii) with respect to which hostilities have been declared by the United States.

(2) The actions described in this paragraph are the following:

(A) An offensive cyber operation.

(B) A defensive cyber operation outside the Department of Defense Information Networks to defeat an ongoing or imminent threat.

(d) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

(2) to a covert action (as that term is defined in section 3093 of title 50, United States Code).

(e) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(Added Pub. L. 115-91, div. A, title XVI, §1631(a), Dec. 12, 2017, 131 Stat. 1736.)

#### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (e), is Pub. L. 93-148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The Authorization for Use of Military Force, referred to in subsec. (e), is Pub. L. 107-40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

The National Security Act of 1947, referred to in subsec. (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

#### § 130k. Notification requirements for cyber weapons

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of the following:

(1) With respect to a cyber capability that is intended for use as a weapon, on a quarterly basis, the aggregated results of all reviews of the capability for legality under international law pursuant to Department of Defense Directive 5000.01 carried out by any military department concerned.

(2) The use as a weapon of any cyber capability that has been approved for such use under international law by a military department no later than 48 hours following such use.

(b) PROCEDURES.—(1) The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integ-

rity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.

(2) The congressional defense committees shall ensure that committee procedures designed to protect from unauthorized disclosure classified information relating to national security of the United States are sufficient to protect the information that is submitted to the committees pursuant to this section.

(3) In the event of an unauthorized disclosure of a cyber capability covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the cyber capability concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.

(c) EXCEPTIONS.—The notification requirement under subsection (a) does not apply—

(1) to a training exercise conducted with the consent of all nations where the intended effects of the exercise will occur; or

(2) to a covert action (as that term is defined in section 3093 of title 50, United States Code).

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to provide any new authority or to alter or otherwise affect the War Powers Resolution (50 U.S.C. 1541 et seq.), the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note), or any requirement under the National Security Act of 1947 (50 U.S.C. 3001 et seq.).

(Added Pub. L. 115-91, div. A, title XVI, §1631(a), Dec. 12, 2017, 131 Stat. 1737.)

#### REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (d), is Pub. L. 93-148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§1541 et seq.) of Title 50, War and National Defense. For complete classification of this Resolution to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

The Authorization for Use of Military Force, referred to in subsec. (d), is Pub. L. 107-40, Sept. 18, 2001, 115 Stat. 224, which is set out as a note under section 1541 of Title 50, War and National Defense.

The National Security Act of 1947, referred to in subsec. (d), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

#### CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

Sec.	
131.	Office of the Secretary of Defense.
132.	Deputy Secretary of Defense.
132a.	Chief Management Officer.
[133.	Repealed.]
133a.	Under Secretary of Defense for Research and Engineering.
133b.	Under Secretary of Defense for Acquisition and Sustainment.
134.	Under Secretary of Defense for Policy.
[134a, 134b.	Repealed.]
135.	Under Secretary of Defense (Comptroller).
136.	Under Secretary of Defense for Personnel and Readiness.



- Sec.  
 [136a. Repealed.]  
 137. Under Secretary of Defense for Intelligence.  
 137a. Deputy Under Secretaries of Defense.  
 138. Assistant Secretaries of Defense.  
 [138a to 138d. Repealed.]  
 139. Director of Operational Test and Evaluation.  
 139a. Director of Cost Assessment and Program Evaluation.  
 139b. Special Operations Policy and Oversight Council.  
 [139c. Repealed.]  
 [139d, 139e. Renumbered.]  
 140. General Counsel.  
 [140a to 140c. Renumbered.]  
 141. Inspector General.  
 142. Chief Information Officer.  
 143. Office of the Secretary of Defense personnel limitation.  
 144. Director of Small Business Programs.

## AMENDMENTS

2017—Pub. L. 115–91, div. A, title X, §1081(b)(1)(B), Dec. 12, 2017, 131 Stat. 1597, repealed Pub. L. 113–291, §901(l)(1)(A). See 2014 Amendment note below.

Pub. L. 115–91, div. A, title IX, §§906(f)(2), 910(a)(2), Dec. 12, 2017, 131 Stat. 1514, 1517, substituted “Chief Management Officer” for “Deputy Chief Management Officer” in item 132a and “Deputy Under Secretaries of Defense” for “Principal Deputy Under Secretaries of Defense” in item 137a.

2016—Pub. L. 114–328, div. A, title IX, §901(g)(2), Dec. 23, 2016, 130 Stat. 2342, effective on Feb. 1, 2018, added items 133a and 133b and struck out item 133 “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

Pub. L. 114–328, div. A, title IX, §§901(g)(1), 922(b)(2), Dec. 23, 2016, 130 Stat. 2342, 2356, added item 139b and struck out former item 139b “Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance” and item 139c “Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy”.

2014—Pub. L. 113–291, div. A, title IX, §901(l)(1)(B), (C), Dec. 19, 2014, 128 Stat. 3468, added item 142 and struck out items 138a “Assistant Secretary of Defense for Logistics and Materiel Readiness”, 138b “Assistant Secretary of Defense for Research and Engineering”, 138c “Assistant Secretary of Defense for Operational Energy Plans and Programs”, and 138d “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs”.

Pub. L. 113–291, div. A, title IX, §901(l)(1)(A), Dec. 19, 2014, 128 Stat. 3468, which directed substitution of “Under Secretary of Defense for Business Management and Information” for “Deputy Chief Management Officer” in item 132a, was repealed by Pub. L. 115–91, §1081(b)(1)(B).

2013—Pub. L. 112–239, div. A, title X, §1076(f)(2), Jan. 2, 2013, 126 Stat. 1952, struck out item 133b “Deputy Under Secretary of Defense for Logistics and Materiel Readiness”.

2011—Pub. L. 111–383, div. A, title IX, §901(k)(2)(A), Jan. 7, 2011, 124 Stat. 4325, added items 132a, 137a, 138b to 138d, and 139a to 139c, and struck out former items 133a “Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics”, 134a “Principal Deputy Under Secretary of Defense for Policy”, 136a “Principal Deputy Under Secretary of Defense for Personnel and Readiness”, 137a “Deputy Under Secretaries of Defense”, 139a “Director of Defense Research and Engineering”, 139b “Director of Operational Energy Plans and Programs”, 139c “Director of Cost Assessment and Program Evaluation”, 139d “Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance”, and 142 “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs”.

2009—Pub. L. 111–84, div. A, title IX, §§905(a)(2), 906(c)(3), Oct. 28, 2009, 123 Stat. 2425, 2427, added items

133a, 134a, 136a, 137a, and 138a and struck out former items 133a “Deputy Under Secretary of Defense for Acquisition and Technology”, 134a “Deputy Under Secretary of Defense for Policy”, 134b “Deputy Under Secretary of Defense for Technology Security Policy”, and 136a “Deputy Under Secretary of Defense for Personnel and Readiness”.

Pub. L. 111–23, title I, §§101(a)(2), 102(a)(2), May 22, 2009, 123 Stat. 1706, 1713, added items 139c and 139d.

2008—Pub. L. 110–417, [div. A], title IX, §902(b), Oct. 14, 2008, 122 Stat. 4566, added item 139b.

2006—Pub. L. 109–163, div. A, title IX, §904(b)(2), Jan. 6, 2006, 119 Stat. 3400, added item 144.

2002—Pub. L. 107–314, div. A, title IX, §901(b)(2), Dec. 2, 2002, 116 Stat. 2619, added items 137 and 139a and struck out former item 137 “Director of Defense Research and Engineering”.

2001—Pub. L. 107–107, div. A, title IX, §901(a)(2), Dec. 28, 2001, 115 Stat. 1194, added item 136a.

1999—Pub. L. 106–65, div. A, title IX, §911(d)(3), Oct. 5, 1999, 113 Stat. 719, added items 133 and 133b and struck out former item 133 “Under Secretary of Defense for Acquisition and Technology”.

1998—Pub. L. 105–261, div. A, title XV, §1521(b)(2), Oct. 17, 1998, 112 Stat. 2179, added item 134b.

1997—Pub. L. 105–85, div. A, title IX, §911(d)(2), Nov. 18, 1997, 111 Stat. 1859, added item 143.

1996—Pub. L. 104–106, div. A, title IX, §904(a)(2), Feb. 10, 1996, 110 Stat. 403, substituted “Nuclear and Chemical and Biological Defense Programs” for “Atomic Energy” in item 142.

Pub. L. 104–106, div. A, title IX, §903(a), (e)(3), Feb. 10, 1996, 110 Stat. 401, 402, which directed amendment of analysis, eff. Jan. 31, 1997, by striking out items 133a, 134a, 137, and 142, was repealed by Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

1994—Pub. L. 103–337, div. A, title IX, §903(a)(3), Oct. 5, 1994, 108 Stat. 2823, substituted “Under Secretary of Defense (Comptroller)” for “Comptroller” in item 135.

1993—Pub. L. 103–160, div. A, title IX, §906(b), Nov. 30, 1993, 107 Stat. 1729, amended table of sections generally, inserting “and Technology” after “Acquisition” in items 133 and 133a, adding item 136, and redesignating former items 135, 136, 137, 138, 139, 140, and 141 as 137, 138, 135, 139, 140, 141, and 142, respectively.

1991—Pub. L. 102–190, div. A, title IX, §901(a)(2), Dec. 5, 1991, 105 Stat. 1450, added item 134a.

1987—Pub. L. 100–180, div. A, title XII, §1245(a)(2), Dec. 4, 1987, 101 Stat. 1165, added item 141.

Pub. L. 100–26, §9(b)(2), Apr. 21, 1987, 101 Stat. 287, struck out item 140a “Counterintelligence official reception and representation expenses” and item 140b “Authority to use proceeds from counterintelligence operations of the military departments”.

1986—Pub. L. 99–500, §101(c) [title X, §902(a)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–131, and Pub. L. 99–591, §101(c) [title X, §902(a)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–131; Pub. L. 99–661, div. A, title IX, formerly title IV, §902(a)(2), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, amended analysis identically adding item 133a.

Pub. L. 99–569, title IV, §§401(d), 403(b), Oct. 27, 1986, 100 Stat. 3196, 3197, added items 140a and 140b.

Pub. L. 99–433, title I, §§101(a)(6), 110(e)(2), Oct. 1, 1986, 100 Stat. 995, 1003, substituted “Office of the Secretary of Defense” for “Department of Defense” in chapter heading, and amended analysis generally, substituting items 131 to 140 for former items 131 “Executive department”, 132 “Seal”, 133 “Secretary of Defense: appointment; powers and duties; delegation by”, 133a “Secretary of Defense: annual report on North Atlantic Treaty Organization readiness”, 133b “Sale or transfer of defense articles: reports to Congress”, 134 “Deputy Secretary of Defense: appointment; powers and duties; precedence”, 134a “Under Secretary of Defense for Acquisition: appointment”, 135 “Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence”, 136 “Assistant Secretaries of Defense: appoint-

ment; powers and duties; precedence”, 136a “Director of Operational Test and Evaluation: appointment; powers and duties”, 137 “General Counsel: appointment; powers and duties”, 138 “Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports”, 139 “Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports”, 139a “Oversight of cost growth in major programs: Selected Acquisition Reports”, 139b “Oversight of cost growth in major programs: unit cost reports”, 139c “Major defense acquisition programs: independent cost estimates”, 140 “Emergencies and extraordinary expenses”, 140a “Secretary of Defense: funds transfers for foreign cryptologic support”, 140b “Prohibition of certain civilian personnel management constraints”, and 140c “Secretary of Defense: authority to withhold from public disclosure certain technical data”.

Pub. L. 99-348, title V, § 501(e)(2), July 1, 1986, 100 Stat. 708, added item 134a and substituted “Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments” for “Under Secretaries of Defense: appointment” in item 135.

1983—Pub. L. 98-94, title XII, §§ 1203(a)(2), 1211(a)(2), 1217(b), Sept. 24, 1983, 97 Stat. 683, 686, 690, added items 136a, 139c, and 140c.

1982—Pub. L. 97-295, § 1(2)(B), Oct. 12, 1982, 96 Stat. 1288, added items 133a and 133b.

Pub. L. 97-252, title XI, § 1107(a)(2), Sept. 8, 1982, 96 Stat. 745, added items 139a and 139b.

1981—Pub. L. 97-86, title IX, § 904(b), Dec. 1, 1981, 95 Stat. 1114, added item 140b.

1980—Pub. L. 96-450, title IV, § 401(b), Oct. 14, 1980, 94 Stat. 1977, added item 140a.

Pub. L. 96-342, title X, § 1001(d)(2), Sept. 8, 1980, 94 Stat. 1119, substituted “Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports” for “Secretary of Defense: Annual authorization of appropriations for armed forces” in item 138.

1977—Pub. L. 95-140, §§ 1(b), 2(b), Oct. 21, 1977, 91 Stat. 1172, 1173, substituted “Deputy Secretary” for “Deputy Secretaries” in item 134 and “Under Secretaries of Defense” for “Director of Defense Research and Engineering” in item 135.

1975—Pub. L. 94-106, title VIII, § 804(a), Oct. 7, 1975, 89 Stat. 538, added item 140.

1973—Pub. L. 93-155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, added items 138 and 139.

1972—Pub. L. 92-596, § 4(3), Oct. 27, 1972, 86 Stat. 1318, substituted “Deputy Secretaries” for “Deputy Secretary” in item 134.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, § 910(a)(2), Dec. 12, 2017, 131 Stat. 1517, provided that the amendment made by section 910(a)(2) is effective Feb. 1, 2018.

Pub. L. 115-91, div. A, title X, § 1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(B) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title IX, § 901(g)(2), Dec. 23, 2016, 130 Stat. 2342, provided that the amendment made by section 901(g)(2) is effective on Feb. 1, 2018.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title IX, § 901(l)(1)(A), Dec. 19, 2014, 128 Stat. 3468, which provided that the amendment made by section 901(l)(1)(A) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 115-91, div. A, title X, § 1081(b)(1)(B), Dec. 12, 2017, 131 Stat. 1597, effective as of Dec. 23, 2016.

### § 131. Office of the Secretary of Defense

(a) There is in the Department of Defense an Office of the Secretary of Defense. The function

of the Office is to assist the Secretary of Defense in carrying out the Secretary’s duties and responsibilities and to carry out such other duties as may be prescribed by law.

(b) The Office of the Secretary of Defense is composed of the following:

(1) The Deputy Secretary of Defense.

(2) The Chief Management Officer of the Department of Defense.

(3) The Under Secretaries of Defense, as follows:

(A) The Under Secretary of Defense for Research and Engineering.

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

(C) The Under Secretary of Defense for Policy.

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

(E) The Under Secretary of Defense for Personnel and Readiness.

(F) The Under Secretary of Defense for Intelligence.

(4) The Deputy Chief Management Officer of the Department of Defense.<sup>1</sup>

(5) Other officers who are appointed by the President, by and with the advice and consent of the Senate, and who report directly to the Secretary and Deputy Secretary without intervening authority, as follows:

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

(B) The Director of Operational Test and Evaluation.

(C) The General Counsel of the Department of Defense.

(D) The Inspector General of the Department of Defense.

(6) The Chief Information Officer of the Department of Defense, who reports directly to the Secretary and Deputy Secretary without intervening authority.

(7) The Deputy Under Secretaries of Defense.

(8) The Assistant Secretaries of Defense.

(9) Other officials provided for by law, as follows:

(A) The two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation under section 139a(c) of this title.

(B) The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation appointed pursuant to section 139b(a)<sup>1</sup> of this title.

(C) The Deputy Assistant Secretary of Defense for Systems Engineering appointed pursuant to section 139b(b)<sup>1</sup> of this title.

(D) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy appointed pursuant to section 139c<sup>1</sup> of this title.

(E) The Director of Small Business Programs appointed pursuant to section 144 of this title.

(F) The official designated under section 1501(a) of this title to have responsibility for Department of Defense matters relating to missing persons as set forth in section 1501 of this title.

<sup>1</sup> See References in Text note below.

(G) The Director of Military Family Readiness Policy under section 1781 of this title.

(H) The Director of the Office of Corrosion Policy and Oversight assigned pursuant to section 2228(a) of this title.

(I) The official designated under section 2438(a) of this title to have responsibility for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

(Added Pub. L. 99-433, title I, §104, Oct. 1, 1986, 100 Stat. 996; amended Pub. L. 103-160, div. A, title IX, §906(a), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 103-337, div. A, title IX, §903(b)(1), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104-106, div. A, title IX, §903(e)(1), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107-314, div. A, title IX, §901(b)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 110-181, div. A, title IX, §904(a)(4), Jan. 28, 2008, 122 Stat. 274; Pub. L. 110-417, [div. A], title X, §1061(b)(7), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111-383, div. A, title IX, §901(b)(2), (m)(1), Jan. 7, 2011, 124 Stat. 4317, 4326; Pub. L. 113-291, div. A, title IX, §901(a)(2), (b)(2), (j)(1)(A), (k)(1), (n)(1), Dec. 19, 2014, 128 Stat. 3463, 3467, 3469; Pub. L. 114-328, div. A, title IX, §§901(d), (f), 902(b), 933(a)(3), Dec. 23, 2016, 130 Stat. 2342, 2344, 2364; Pub. L. 115-91, div. A, title IX, §§906(d)(1), 910(c)(1), title X, §1081(b)(1)(A), (D), (d)(9), Dec. 12, 2017, 131 Stat. 1513, 1518, 1597, 1600.)

#### REFERENCES IN TEXT

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (b)(4), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115-91, div. A, title IX, §910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115-91, section 132a of this title established the Chief Management Officer of the Department of Defense.

Section 139b(a) of this title, referred to in subsec. (b)(9)(B) and (C), and section 139c of this title, referred to in subsec. (b)(9)(D), were repealed by Pub. L. 114-328, div. A, title IX, §901(e)(2), Dec. 23, 2016, 130 Stat. 2342. A subsequent section 139b of this title, added by Pub. L. 114-328, div. A, title IX, §922(b)(1), Dec. 23, 2016, 130 Stat. 2355, relates to Special Operations Policy and Oversight Council.

#### PRIOR PROVISIONS

A prior section 131 was renumbered section 111 of this title.

#### AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91, §1081(b)(1)(A), repealed Pub. L. 113-291, §901(j)(1)(A). See 2014 Amendment notes below.

Subsec. (b)(2) to (4). Pub. L. 115-91, §910(c)(1), added par. (2) and redesignated pars. (2) to (4) as (3) to (5), respectively.

Subsec. (b)(5). Pub. L. 115-91, §1081(d)(9), made technical correction to directory language of Pub. L. 114-328, §902(b). See 2016 Amendment note below.

Pub. L. 115-91, §910(c)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 115-91, §910(c)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 115-91, §906(d)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The Principal Deputy Under Secretaries of Defense.”

Subsec. (b)(7) to (10). Pub. L. 115-91, §910(c)(1)(A), redesignated pars. (6) to (9) as (7) to (10), respectively.

2016—Subsec. (b)(2). Pub. L. 114-328, §901(f), added subpars. (A) and (B), redesignated former subpars. (B) to (E) as (C) to (F), respectively, and struck out former subpar. (A), which read as follows: “The Under Secretary of Defense for Acquisition, Technology, and Logistics.”

Pub. L. 114-328, §901(d), repealed Pub. L. 113-291, §901(a)(2). See 2014 Amendment note below.

Subsec. (b)(5). Pub. L. 114-328, §902(b), as amended by Pub. L. 115-91, §1081(d)(9), inserted “, who reports directly to the Secretary and Deputy Secretary without intervening authority” before period at end.

Subsec. (b)(8)(G). Pub. L. 114-328, §933(a)(3), substituted “Director of Military Family Readiness Policy” for “Director of Family Policy”.

2014—Subsec. (b)(2). Pub. L. 113-291, §901(a)(2), which directed adding subpar. (A) reading “The Under Secretary of Defense for Business Management and Information.” and redesignating former subpars. (A) to (E) as (B) to (F), respectively, was repealed by Pub. L. 114-328, §901(d).

Subsec. (b)(5) to (7). Pub. L. 113-291, §901(j)(1)(A), which directed striking out par. (5) and redesignating pars. (6) to (8) as (5) to (7), respectively, was repealed by Pub. L. 115-91, §1081(b)(1)(A).

Pub. L. 113-291, §901(b)(2), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).

Subsec. (b)(8). Pub. L. 113-291, §901(j)(1)(A)(ii), which directed redesignating par. (9) as (8), was repealed by Pub. L. 115-91, §1081(b)(1)(A).

Pub. L. 113-291, §901(k)(1), added subpar. (A) and redesignated former subpars. (A) to (H) as (B) to (I), respectively.

Pub. L. 113-291, §901(b)(2)(A), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (b)(9). Pub. L. 113-291, §901(j)(1)(A)(ii), which directed redesignating par. (9) as (8), was repealed by Pub. L. 115-91, §1081(b)(1)(A).

Pub. L. 113-291, §901(b)(2)(A), redesignated par. (8) as (9).

2011—Subsec. (a). Pub. L. 111-383, §901(m)(1), substituted “the Secretary’s” for “his”.

Subsec. (b). Pub. L. 111-383, §901(b)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to the composition of the Office of the Secretary of Defense.

2008—Subsec. (b)(3) to (9). Pub. L. 110-181, as amended by Pub. L. 110-417, added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively.

2002—Subsec. (b)(2) to (11). Pub. L. 107-314 added par. (2), redesignated pars. (6) to (11) as (3) to (8), respectively, and struck out former pars. (2) to (5) which read as follows:

“(2) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(3) The Under Secretary of Defense for Policy.

“(4) The Under Secretary of Defense (Comptroller).

“(5) The Under Secretary of Defense for Personnel and Readiness.”

1999—Subsec. (b)(2). Pub. L. 106-65 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

1996—Subsec. (b)(6) to (11). Pub. L. 104-106, §903(a), (e)(1), which directed amendment of subsec. (b), eff. Jan. 31, 1997, by striking out pars. (6) and (8) and redesignating pars. (7), (9), (10), and (11) as (6), (7), (8), and (9), respectively, was repealed by Pub. L. 104-201.

1994—Subsec. (b)(4). Pub. L. 103-337 substituted “Under Secretary of Defense (Comptroller)” for “Comptroller”.

1993—Subsec. (b). Pub. L. 103-160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Office of the Secretary of Defense is composed of the following:

“(1) The Deputy Secretary of Defense.

“(2) The Under Secretary of Defense for Acquisition.

“(3) The Under Secretary of Defense for Policy.

“(4) The Director of Defense Research and Engineering.

“(5) The Assistant Secretaries of Defense.

“(6) The Comptroller of the Department of Defense.

“(7) The Director of Operational Test and Evaluation.

“(8) The General Counsel of the Department of Defense.

“(9) The Inspector General of the Department of Defense.

“(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.”

#### CHANGE OF NAME

Reference to “Deputy Chief Management Officer of the Department of Defense” in subsec. (b)(4) was to be deemed to refer to “Under Secretary of Defense for Business Management and Information” after Feb. 1, 2017, pursuant to section 901(n)(1) of Pub. L. 113-291, formerly set out as a note under this section. Section 901(a)(1) of Pub. L. 113-291, which amended section 132a of this title, effective Feb. 1, 2017, to establish the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 114-328, div. A, title IX, §901(d), Dec. 23, 2016, 130 Stat. 2342, effective Dec. 23, 2016. Section 901(n)(1) of Pub. L. 113-291 was repealed by Pub. L. 115-91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(1) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114-328 (see Tables for classification).

Pub. L. 115-91, div. A, title X, §1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A), (D) is effective as of Dec. 23, 2016.

Pub. L. 115-91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(9) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114-328 as enacted.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title IX, §901(f), Dec. 23, 2016, 130 Stat. 2342, provided that the amendment made by section 901(f) is effective on Feb. 1, 2018.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title IX, §901(a)(2), Dec. 19, 2014, 128 Stat. 3463, which provided that the amendment made by section 901(a)(2) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 114-328, div. A, title IX, §901(d), Dec. 23, 2016, 130 Stat. 2342.

Pub. L. 113-291, div. A, title IX, §901(j)(1), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment

made by section 901(j)(1)(A) was effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 115-91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-383, div. A, title IX, §901(p), Jan. 7, 2011, 124 Stat. 4327, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), this section [see Tables for classification] and the amendments made by this section shall take effect on January 1, 2011.

“(2) CERTAIN MATTERS.—Subsection (i) [enacting and amending provisions set out as notes under section 137a of this title] and the amendments made by that subsection, and subsection (o) [enacting provisions set out as a note under this section], shall take effect on the date of the enactment of this Act [Jan. 7, 2011].”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-417 effective Jan. 28, 2008, and as if included in Pub. L. 110-181 as enacted, see section 1061(b) of Pub. L. 110-417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title IX, §903(a), Feb. 10, 1996, 110 Stat. 401, which provided that the amendments made by section 903 of Pub. L. 104-106 (amending this section and sections 138, 176, 1056, 1216, 1587, and 10201 of this title, repealing sections 133a, 134a, 137, and 142 of this title, and amending provisions set out as a note under section 167 of this title) were to take effect on Jan. 31, 1997, was repealed by Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

#### DESIGNATION OF OFFICE WITHIN OFFICE OF THE SECRETARY OF DEFENSE TO OVERSEE USE OF FOOD ASSISTANCE PROGRAMS BY MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY

Pub. L. 115-91, div. A, title V, §583, Dec. 12, 2017, 131 Stat. 1416, provided that: “Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall designate an office or official within the Office of the Secretary of Defense for purposes as follows:

“(1) To discharge responsibility for overseeing the efforts of the Department of Defense to collect, analyze, and monitor data on the use of food assistance programs by members of the Armed Forces on active duty.

“(2) To establish and maintain relationships with other departments and agencies of the Federal Government to facilitate the discharge of the responsibility specified in paragraph (1).”

#### CHIEF MANAGEMENT OFFICER

Pub. L. 114-328, div. A, title IX, §901(c)(1)–(3), Dec. 23, 2016, 130 Stat. 2341, which established the position of Chief Management Officer of the Department of Defense, effective Feb. 1, 2018, was repealed by Pub. L. 115-91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517. See section 132a of this title.

[Pub. L. 115-91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517, provided that the repeal made by section 910(b)(1) is effective Jan. 31, 2018.]

#### SECRETARY OF DEFENSE DELIVERY UNIT

Pub. L. 114-328, div. A, title IX, §913, Dec. 23, 2016, 130 Stat. 2349, provided that:

“(a) IN GENERAL.—The Secretary of Defense serving in that position as of March 1, 2017, may establish within the Office of the Secretary of Defense a unit of personnel that shall be responsible for providing expertise and support throughout the Department of Defense in an effort to improve the implementation of policies and

priorities across the Department. The unit may be known as the ‘delivery unit’.

“(b) COMPOSITION.—The unit established pursuant to subsection (a) shall consist of not more than 30 individuals selected by the Secretary primarily from among individuals outside the Government who have significant experience and expertise in management consulting, organizational architecture, relationship management, or data analytics.

“(c) DUTIES.—The unit established pursuant to subsection (a) shall have the duties as follows:

“(1) To advise the Secretary on improving the implementation and delivery of policies and priorities of the Department, including making recommendations on establishing performance or implementation targets, assisting in the development of delivery plans to achieve targets, and monitoring and measuring progress.

“(2) To work across organizations, missions, and functions of the Department in order to identify obstacles to improving the implementation of policies and priorities of the Department, including organization, culture, and incentives, and to recommend options to the Secretary for addressing such obstacles.

“(d) SUNSET.—The unit established pursuant to subsection (a) shall sunset on January 31, 2021.”

#### REFERENCES

Pub. L. 113–291, div. A, title IX, §901(n), Dec. 19, 2014, 128 Stat. 3469, as amended by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

“[(1) Repealed. Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597.]

“(2) ASDEIE.—Any reference to the Assistant Secretary of Defense for Operational Energy Plans and Programs or to the Deputy Under Secretary of Defense for Installations and Environment in any provision of law or in any rule, regulation, or other paper of the United States shall be deemed to refer to the Assistant Secretary of Defense for Energy, Installations, and Environment.”

#### REDESIGNATION OF CERTAIN POSITIONS IN OFFICE OF SECRETARY OF DEFENSE

Pub. L. 111–383, div. A, title IX, §901(a), Jan. 7, 2011, 124 Stat. 4317, provided that:

“(1) REDESIGNATION.—Positions in the Office of the Secretary of Defense are hereby redesignated as follows:

“(A) The Director of Defense Research and Engineering is redesignated as the Assistant Secretary of Defense for Research and Engineering.

“(B) The Director of Operational Energy Plans and Programs is redesignated as the Assistant Secretary of Defense for Operational Energy Plans and Programs [now Assistant Secretary of Defense for Energy, Installations, and Environment].

“(C) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs is redesignated as the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

“(2) REFERENCES.—Any reference in any law, rule, regulation, paper, or other record of the United States to an office of the Department of Defense redesignated by paragraph (1) shall be deemed to be a reference to such office as so redesignated.”

#### INAPPLICABILITY OF APPOINTMENT REQUIREMENT TO CERTAIN INDIVIDUALS SERVING ON EFFECTIVE DATE

Pub. L. 111–383, div. A, title IX, §901(o), Jan. 7, 2011, 124 Stat. 4327, provided that:

“(1) IN GENERAL.—Notwithstanding this section [see Tables for classification] and the amendments made by this section, the individual serving as specified in paragraph (2) on December 31, 2010, may continue to serve in the applicable position specified in that paragraph after that date without the requirement for appoint-

ment by the President, by and with the advice and consent of the Senate.

“(2) COVERED INDIVIDUALS AND POSITIONS.—The individuals and positions specified in this paragraph are the following:

“(A) In the case of the individual serving as Director of Defense Research and Engineering, the position of Assistant Secretary of Defense for Research and Engineering.

“(B) In the case of the individual serving as Director of Operational Energy Plans and Programs, the position of Assistant Secretary of Defense for Operational Energy Plans and Programs.

“(C) In the case of the individual serving as Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.”

#### DEFENSE ACQUISITION WORKFORCE

Pub. L. 105–85, div. A, title IX, §912(a)–(e), Nov. 18, 1997, 111 Stat. 1860, 1861, required Secretary of Defense to accomplish reductions in defense acquisition personnel positions, to report on specific acquisition positions previously eliminated, to submit an implementation plan to streamline and improve acquisition organizations, to review acquisition organizations and functions, and to require certain duties of Task Force on Defense Reform.

#### REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE

Pub. L. 104–201, div. A, title IX, §903, Sept. 23, 1996, 110 Stat. 2617, which provided for phased reduction of number of personnel assigned to or employed in functions in Office of the Secretary of Defense, was repealed and restated in section 143 of this title by Pub. L. 105–85, div. A, title IX, §911(d)(1), (3), Nov. 18, 1997, 111 Stat. 1859, 1860.

#### ORGANIZATION OF OFFICE OF THE SECRETARY OF DEFENSE

Pub. L. 104–106, div. A, title IX, §901, Feb. 10, 1996, 110 Stat. 399, as amended by Pub. L. 104–201, div. A, title IX, §903(g), Sept. 23, 1996, 110 Stat. 2618, directed the Secretary of Defense to conduct a review of the organizations and functions of the Office of the Secretary of Defense and the personnel needed to carry out those functions, and to submit to the congressional defense committees a report containing findings, conclusions, and a plan for implementing recommendations not later than Mar. 1, 1996.

Pub. L. 99–433, title I, §109, Oct. 1, 1986, 100 Stat. 999, directed the Secretary of Defense, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to conduct studies of the functions and organization of the Office of the Secretary of Defense, required the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff to submit reports on their studies to the Secretary of Defense, and directed the Secretary of Defense to submit a report on the Secretary’s study to Congress not later than one year after Oct. 1, 1986.

### § 132. Deputy Secretary of Defense

(a) There is a Deputy Secretary of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management experience. A person may not be appointed as Deputy Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(c) The Deputy Secretary takes precedence in the Department of Defense immediately after the Secretary.

(e)<sup>1</sup> Until September 30, 2020, the Deputy Secretary of Defense shall lead the Guam Oversight Council and shall be the Department of Defense’s principal representative for coordinating the interagency efforts in matters relating to Guam, including the following executive orders:

(1) Executive Order No. 13299 of May 12, 2003 (68 Fed. Reg. 25477; 48 U.S.C. note prec. 1451; relating to the Interagency Group on Insular Affairs).

(2) Executive Order No. 12788 of January 15, 1992, as amended (57 Fed. Reg. 2213; relating to the Defense Economic Adjustment Program).

(Added Pub. L. 87–651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §134; amended Pub. L. 92–596, §4(1), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, §1(a), Oct. 21, 1977, 91 Stat. 1172; renumbered §132 and amended Pub. L. 99–433, title I, §§101(a)(7), 110(d)(7), Oct. 1, 1986, 100 Stat. 995, 1003; Pub. L. 110–181, div. A, title IX, §§903(b), 904(a)(1), Jan. 28, 2008, 122 Stat. 273; Pub. L. 111–84, div. B, title XXVIII, §2831(a), Oct. 28, 2009, 123 Stat. 2669; Pub. L. 111–383, div. A, title IX, §901(c)(2), (m)(2), title X, §1075(b)(4), div. B, title XXVIII, §2821, Jan. 7, 2011, 124 Stat. 4321, 4326, 4369, 4465; Pub. L. 112–81, div. A, title IX, §902, Dec. 31, 2011, 125 Stat. 1532; Pub. L. 113–291, div. A, title IX, §901(k)(2), Dec. 19, 2014, 128 Stat. 3468; Pub. L. 114–328, div. A, title IX, §901(c)(4), Dec. 23, 2016, 130 Stat. 2341; Pub. L. 115–91, div. A, title IX, §910(b), Dec. 12, 2017, 131 Stat. 1517.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
134(a) .....	5:171c(a) (1st sentence).	July 26, 1947, ch. 343, §203(a); added Aug. 10, 1949, ch. 412, §6(a) (1st par.), 63 Stat. 581.
134(b) .....	5:171c(a) (less 1st sentence and last 15 words of 2d sentence).	
134(c) .....	5:171c(a) (last 15 words of 2d sentence).	

In subsection (a), the last sentence is substituted for 5 U.S.C. 171c(a) (proviso).

REFERENCES IN TEXT

Executive Order No. 13299, referred to in subsec. (e)(1), was superseded by Ex. Ord. No. 13537, Apr. 14, 2010, 75 F.R. 20237, set out as a note preceding section 1451 of Title 48, Territories and Insular Possessions.

Executive Order No. 12788, referred to in subsec. (e)(2), is set out as a note under section 2391 of this title.

PRIOR PROVISIONS

A prior section 132 was renumbered section 112 of this title.

AMENDMENTS

2017—Subsecs. (c), (d). Pub. L. 115–91, §910(b)(2), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “The Deputy Secretary serves as the Chief Management Officer of the Department of Defense.”

Pub. L. 115–91, §910(b)(1), repealed Pub. L. 114–328, §901(c)(4). See 2016 Amendment note below.

Subsec. (e). Pub. L. 115–91, §910(b)(1), repealed Pub. L. 114–328, §901(c)(4). See 2016 Amendment note below.

2016—Subsecs. (c) to (e). Pub. L. 114–328, §901(c)(4), which directed striking out subsec. (c) and redesignating subsecs. (d) and (e) as (c) and (d), respectively, was repealed by Pub. L. 115–91, §901(b)(1).

2014—Subsec. (b). Pub. L. 113–291 substituted “dies, resigns, or is otherwise unable to perform the functions and duties of the office” for “is disabled or there is no Secretary of Defense”.

2011—Subsec. (a). Pub. L. 112–81 inserted “The Deputy Secretary shall be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management experience.” after first sentence.

Subsec. (c). Pub. L. 111–383, §901(c)(2), struck out at end “The Deputy Secretary shall be assisted in this capacity by a Deputy Chief Management Officer, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.”

Subsec. (d). Pub. L. 111–383, §1075(b)(4)(A), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), could not be executed because of the prior amendment by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

Subsec. (e). Pub. L. 111–383, §2821, which directed substitution of “September 30, 2020” for “September 30, 2015” in subsec. (d), as added by section 2831(a) of Pub. L. 111–84, was executed in subsec. (e) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (e) by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §1075(b)(4), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), and substitution of “Guam Oversight Council” for “Guam Executive Council”, was executed by making the substitution in subsec. (e) because of the prior redesignation of subsec. (d) as (e) by Pub. L. 111–383, §901(m)(2). See below.

Pub. L. 111–383, §901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d) relating to the Deputy Secretary of Defense leading the Guam Executive Council.

2008—Subsec. (a). Pub. L. 110–181, §903(b), substituted “seven” for “ten”.

Subsecs. (c), (d). Pub. L. 110–181, §904(a)(1), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Pub. L. 99–433 renumbered section 134 of this title as this section and struck out “; appointment; powers and duties; precedence” at end of section catchline.

1977—Pub. L. 95–140, §1(a)(4), substituted “Deputy Secretary” for “Deputy Secretaries” in section catchline.

Subsec. (a). Pub. L. 95–140, §1(a)(1), substituted “There is a Deputy Secretary” for “There are two Deputy Secretaries” and struck out “a” before “Deputy Secretary”.

Subsec. (b). Pub. L. 95–140, §1(a)(2), substituted “Deputy Secretary” for “Deputy Secretaries” and “Deputy Secretary” for “Deputy Secretaries, in the order of precedence, designated by the President”.

Subsec. (c). Pub. L. 95–140, §1(a)(3), substituted “The Deputy Secretary takes” for “The Deputy Secretaries take”.

1972—Pub. L. 92–596 substituted “Deputy Secretaries” for “Deputy Secretary” in section catchline.

Subsec. (a). Pub. L. 92–596 substituted “There are two Deputy Secretaries of Defense” for “There is a Deputy Secretary of Defense”.

Subsec. (b). Pub. L. 92–596 provided for the exercise of powers and duties consequent to the creation of a second Deputy Secretary.

Subsec. (c). Pub. L. 92–596 substituted “The Deputy Secretaries take” for “The Deputy Secretary takes”.

<sup>1</sup> So in original. There is no subsec. (d).

## EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517, provided that the amendment made by section 910(b)(1) is effective on Jan. 31, 2018.

Pub. L. 115–91, div. A, title IX, §910(b)(2), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(b)(2) is effective on Feb. 1, 2018.

## EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114–328, div. A, title IX, §901(c)(4), Dec. 23, 2016, 130 Stat. 2341, which provided that the amendment made by section 901(c)(4) was effective on Feb. 1, 2018, was repealed by Pub. L. 115–91, div. A, title IX, §910(b)(1), Dec. 12, 2017, 131 Stat. 1517.

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(c)(2), (m)(2) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

## ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, listed in a table under section 3345 of Title 5, Government Organization and Employees.

## ASSIGNMENT OF DUTIES

Pub. L. 110–181, div. A, title IX, §904(a)(2), Jan. 28, 2008, 122 Stat. 273, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

“(A) The Secretary of Defense shall assign duties and authorities relating to the management of the business operations of the Department of Defense.

“(B) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the Department of Defense.

“(C) The Secretary shall assign such duties and authorities to the Deputy Chief Management Officer as are necessary for that official to assist the Chief Management Officer to effectively and efficiently organize the business operations of the Department of Defense.

“(D) The Deputy Chief Management Officer shall perform the duties and have the authorities assigned by the Secretary under subparagraph (C) and perform such duties and have such authorities as are delegated by the Chief Management Officer.”

[*Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, which had deemed references to the Deputy Chief Management Officer of the Department of Defense to be references to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.*]

## ASSIGNMENT OF MANAGEMENT DUTIES AND DESIGNATION OF THE CHIEF MANAGEMENT OFFICERS OF THE MILITARY DEPARTMENTS

Pub. L. 110–181, div. A, title IX, §904(b), Jan. 28, 2008, 122 Stat. 274, as amended by Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, provided that:

“(1) The Secretary of a military department shall assign duties and authorities relating to the management of the business operations of such military department.

“(2) The Secretary of a military department, in assigning duties and authorities under paragraph (1) shall designate the Under Secretary of such military department to have the primary management responsibility for business operations, to be known in the performance of such duties as the Chief Management Officer.

“(3) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the military department concerned.

“(4) The Chief Management Officer of each military department shall promptly provide such information relating to the business operations of such department to the Chief Management Officer and Deputy Chief Management Officer of the Department of Defense as is necessary to assist those officials in the performance of their duties.”

[*Pub. L. 113–291, div. A, title IX, §901(n)(1), Dec. 19, 2014, 128 Stat. 3469, which had deemed references to the Deputy Chief Management Officer of the Department of Defense to be references to the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.*]

## § 132a. Chief Management Officer

(a) APPOINTMENT AND QUALIFICATIONS.—(1) There is a Chief Management Officer of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(2) The Chief Management Officer shall be appointed from among persons who have an extensive management or business background and experience with managing large or complex organizations. A person may not be appointed as Chief Management Officer within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) RESPONSIBILITIES.—Subject to the authority, direction, and control of the Secretary of Defense and the Deputy Secretary of Defense, the Chief Management Officer shall perform such duties and exercise such powers as the Secretary or the Deputy Secretary may prescribe, including the following:

(1) Serving as the chief management officer of the Department of Defense with the mission of managing enterprise business operations and shared services of the Department of Defense.

(2) Serving as the principal advisor to the Secretary and the Deputy Secretary on establishing policies for, and directing, all enterprise business operations of the Department, including planning and processes, business transformation, performance measurement and management, and business information technology management and improvement activities and programs, including the allocation of resources for enterprise business operations and unifying business management efforts across the Department.

(3) Exercising authority, direction, and control over the Defense Agencies and Department of Defense Field Activities providing shared business services for the Department that are designated by the Secretary or the Deputy Secretary for purposes of this paragraph.

(4) As of January 1, 2019—

(A) serving as the Chief Information Officer of the Department for purposes of section 2222 of this title;

(B) administering the responsibilities and duties specified in sections 11315 and 11319 of title 40, section 3506(a)(2) of title 44, and sec-

tion 2223(a) of this title for business systems and management; and

(C) Exercising any responsibilities, duties, and powers relating to business systems or management that are exercisable by a chief information officer for the Department, other than those responsibilities, duties, and powers of a chief information officer that are vested in the Chief Information Officer of the Department of Defense by section 142 of this title.

(5) Serving as the official with principal responsibility in the Department for providing for the availability of common, usable, Defense-wide data sets with applications such as improving acquisition outcomes and personnel management.

(6) Authority to direct the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Chief Management Officer has responsibility under this section.

(c) PRECEDENCE.—The Chief Management Officer takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

(d) ENTERPRISE BUSINESS OPERATION DEFINED.—In this section, the term “enterprise business operations” means those activities that constitute the cross-cutting business operations used by multiple components of the Department of Defense, but not those activities that are directly tied to a single military department or Department of Defense component. The term includes business-support functions designated by the Secretary of Defense or the Deputy Secretary of Defense for purposes of this section, such as aspects of financial management, healthcare, acquisition and procurement, supply chain and logistics, certain information technology, real property, and human resources operations.

(Added Pub. L. 111–383, div. A, title IX, § 901(c)(1), Jan. 7, 2011, 124 Stat. 4320; amended Pub. L. 113–291, div. A, title IX, § 901(a)(1), Dec. 19, 2014, 128 Stat. 3462; Pub. L. 114–328, div. A, title IX, § 901(d), Dec. 23, 2016, 130 Stat. 2342; Pub. L. 115–91, div. A, title IX, § 910(a)(1), Dec. 12, 2017, 131 Stat. 1516.)

#### AMENDMENTS

2017—Pub. L. 115–91 amended section generally. Prior to amendment, section related to the appointment, responsibilities and precedence of the Deputy Chief Management Officer.

2016—Pub. L. 114–328, § 901(d), repealed Pub. L. 113–291, § 901(a)(1). See 2014 Amendment note below.

2014—Pub. L. 113–291, § 901(a)(1), which directed the general amendment of this section, substituting provisions relating to Under Secretary of Defense for Business Management and Information for provisions which related to Deputy Chief Management Officer, was repealed by Pub. L. 114–328, § 901(d).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, § 910(a)(1), Dec. 12, 2017, 131 Stat. 1516, provided that the amendment made by section 910(a)(1) is effective Feb. 1, 2018.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, § 901(a)(1), Dec. 19, 2014, 128 Stat. 3462, provided that the amendment made

by section 901(a)(1) was effective Feb. 1, 2017, prior to repeal by Pub. L. 114–328, div. A, title IX, § 901(d), Dec. 23, 2016, 130 Stat. 2342.

#### EFFECTIVE DATE

Section effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

SERVICE OF INCUMBENT DEPUTY CHIEF MANAGEMENT OFFICER AS CHIEF MANAGEMENT OFFICER UPON COMMENCEMENT OF LATTER POSITION WITHOUT FURTHER APPOINTMENT

Pub. L. 115–91, div. A, title IX, § 910(e), Dec. 12, 2017, 131 Stat. 1518, provided that: “The individual serving in the position of Deputy Chief Management Officer of the Department of Defense as of February 1, 2018, may continue to serve as Chief Management Officer of the Department of Defense under section 132a of title 10, United States Code (as amended by subsection (a)), commencing as of that date without further appointment pursuant to such section 132a.”

#### DEFENSE AGENCIES AND FIELD ACTIVITIES PROVIDING SHARED BUSINESS SERVICES

Pub. L. 115–91, div. A, title IX, § 910(f), Dec. 12, 2017, 131 Stat. 1518, provided that:

“(1) INITIAL REPORTING REQUIREMENT.—Not later than January 15, 2018, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report specifying each Defense Agency and Department of Defense Field Activity providing shared business services for the Department of Defense that is to be designated by the Secretary of Defense or the Deputy Secretary of Defense for purposes of subsection (b)(3) of section 132a of title 10, United States Code (as amended by subsection (a)), as of the coming into effect of such section 132a.

“(2) NOTICE TO CONGRESS ON TRANSFER OF OVERSIGHT.—Upon the transfer to the Chief Management Officer of the Department of Defense of responsibility for oversight of shared business services of a Defense Agency or Department of Defense Field Activity specified in the report required by paragraph (1), the Secretary of Defense shall submit to the congressional defense committees a notice of the transfer, including the Defense Agency or Field Activity subject to the transfer and a description of the nature and scope of the responsibility for oversight transferred.”

#### [§ 133. Repealed. Pub. L. 114–328, div. A, title IX, § 901(a)(1), Dec. 23, 2016, 130 Stat. 2339]

Section, added Pub. L. 99–348, title V, § 501(a), July 1, 1986, 100 Stat. 707, § 134a; renumbered § 133 and amended Pub. L. 99–433, title I, §§ 101(a)(7), 110(c)(1), (d)(8), Oct. 1, 1986, 100 Stat. 995, 1002, 1003; Pub. L. 99–500, § 101(c) [title X, § 901], Oct. 18, 1986, 100 Stat. 1783–82, 1783–130, and Pub. L. 99–591, § 101(c) [title X, § 901], Oct. 30, 1986, 100 Stat. 3341–82, 3341–130; Pub. L. 99–661, div. A, title IX, formerly title IV, § 901, Nov. 14, 1986, 100 Stat. 3910, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–456, div. A, title VIII, § 809(d), Sept. 29, 1988, 102 Stat. 2013; Pub. L. 103–160, div. A, title IX, § 904(b), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106–65, div. A, title IX, § 911(a)(2), (d)(2), Oct. 5, 1999, 113 Stat. 717, 719; Pub. L. 107–107, div. A, title VIII, § 801(a), Dec. 28, 2001, 115 Stat. 1174; Pub. L. 109–364, div. A, title X, § 1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, § 907, Jan. 28, 2008, 122 Stat. 277; Pub. L. 111–350, § 5(b)(1), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 113–291, div. A, title IX, § 901(j)(2)(A), Dec. 19, 2014, 128 Stat. 3467; Pub. L. 114–92, div. A, title VIII, § 825(b), Nov. 25, 2015, 129 Stat. 908; Pub. L. 115–91, div. A, title X, § 1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597, related to Under Secretary of Defense for Acquisition, Technology, and Logistics.

A prior section 133 was renumbered section 113 of this title.



## CHANGE OF NAME

Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that the position of Under Secretary of Defense for Acquisition and Technology in the Department of Defense was redesignated as the Under Secretary of Defense for Acquisition, Technology, and Logistics, and any reference in any law, regulation, document, or other record of the United States to the Under Secretary of Defense for Acquisition and Technology was to be treated as referring to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Pub. L. 103-160, div. A, title IX, §904(a), (f), Nov. 30, 1993, 107 Stat. 1728, 1729, provided that the office of Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Under Secretary of Defense for Acquisition and Technology, the office of Deputy Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Deputy Under Secretary of Defense for Acquisition and Technology, and any reference to the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition in any provision of law other than this title, or in any rule, regulation, or other paper of the United States was to be treated as referring to the Under Secretary of Defense for Acquisition and Technology or the Deputy Under Secretary of Defense for Acquisition and Technology, respectively.

## EFFECTIVE DATE OF REPEAL

Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that the repeal of this section is effective Feb. 1, 2018.

### § 133a. Under Secretary of Defense for Research and Engineering

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive technology, science, or engineering background and experience with managing complex or advanced technological programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief technology officer of the Department of Defense with the mission of advancing technology and innovation for the armed forces (and the Department);

(2) establishing policies on, and supervising, all defense research and engineering, technology development, technology transition, prototyping, experimentation, and developmental testing activities and programs, including the allocation of resources for defense research and engineering, and unifying defense research and engineering efforts across the Department; and

(3) serving as the principal advisor to the Secretary on all research, engineering, and technology development activities and programs in the Department.

(c) PRECEDENCE IN DEPARTMENT OF DEFENSE.—

(1) PRECEDENCE IN MATTERS OF RESPONSIBILITY.—With regard to all matters for which the

Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense.

(2) PRECEDENCE IN OTHER MATTERS.—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, the Chief Management Officer, and the Secretaries of the military departments.

(Added Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339; amended Pub. L. 115-91, div. A, title IX, §910(c)(2), Dec. 12, 2017, 131 Stat. 1518.)

## PRIOR PROVISIONS

A prior section 133a, added Pub. L. 99-500, §101(c) [title X, §902(a)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-131, and Pub. L. 99-591, §101(c) [title X, §902(a)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-131; Pub. L. 99-661, div. A, title IX, formerly title IV, §902(a)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103-160, div. A, title IX, §904(c), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103-337, div. A, title X, §1070(a)(2), Oct. 5, 1994, 108 Stat. 2855; Pub. L. 104-106, div. A, title IX, §903(c)(1), Feb. 10, 1996, 110 Stat. 401; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(c), Oct. 5, 1999, 113 Stat. 718; Pub. L. 107-107, div. A, title X, §1048(b)(1), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111-84, div. A, title IX, §906(c)(1)(A), (2)(A), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics, prior to repeal by Pub. L. 111-383, div. A, title IX, §901(b)(1), (p), Jan. 7, 2011, 124 Stat. 4317, 4327, effective Jan. 1, 2011.

Another prior section 133a was renumbered section 117 of this title.

## AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-91, §910(c)(2)(A), substituted “, the Deputy Secretary of Defense, and the Chief Management Officer of the Department of Defense” for “and the Deputy Secretary of Defense”.

Subsec. (c)(2). Pub. L. 115-91, §910(c)(2)(B), inserted “the Chief Management Officer,” after “the Deputy Secretary,”.

## EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, §910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(2) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114-328 (see Tables for classification).

## EFFECTIVE DATE

Pub. L. 114-328, div. A, title IX, §901(a)(1), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

## SERVICE OF INCUMBENT USD FOR ATL IN POSITION

Pub. L. 114-328, div. A, title IX, §901(a)(2), Dec. 23, 2016, 130 Stat. 2339, which provided that the Under Secretary of Defense for Acquisition, Technology, and Logistics serving as of Feb. 1, 2018, could continue as Under Secretary of Defense for Research and Engineering, without further appointment under this section, was repealed by Pub. L. 115-91, div. A, title IX, §901, Dec. 12, 2017, 131 Stat. 1511.

REPORTS TO CONGRESS ON FAILURE TO COMPLY WITH  
RECOMMENDATIONS

Pub. L. 112-239, div. A, title IX, §904(h), Jan. 2, 2013, 126 Stat. 1868, provided that:

“(1) REPORT REQUIRED.—Not later than 60 days after the end of each fiscal year, from fiscal year 2013 through fiscal year 2018, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on each case in which a major defense acquisition program, in the preceding fiscal year—

“(A) proceeded to implement a test and evaluation master plan notwithstanding a decision of the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation to disapprove the developmental test and evaluation plan within that plan in accordance with former section 139b(a)(5)(B) of title 10, United States Code; or

“(B) proceeded to initial operational testing and evaluation notwithstanding a determination by the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation on the basis of an assessment of operational test readiness that the program is not ready for operational testing.

“(2) MATTERS COVERED.—

“(A) For each program covered by paragraph (1)(A), the report shall include the following:

“(i) A description of the specific aspects of the developmental test and evaluation plan that the Deputy Assistant Secretary determined to be inadequate.

“(ii) An explanation of the reasons why the program disregarded the Deputy Assistant Secretary’s recommendations with regard to those aspects of the developmental test and evaluation plan.

“(iii) The steps taken to address those aspects of the developmental test and evaluation plan and address the concerns of the Deputy Assistant Secretary.

“(B) For each program covered by paragraph (1)(B), the report shall include the following:

“(i) An explanation of the reasons why the program proceeded to initial operational testing and evaluation notwithstanding the findings of the assessment of operational test readiness.

“(ii) A description of the aspects of the approved testing and evaluation master plan that had to be set aside to enable the program to proceed to initial operational testing and evaluation.

“(iii) A description of how the program addressed the specific areas of concern raised in the assessment of operational test readiness.

“(iv) A statement of whether initial operational testing and evaluation identified any significant shortcomings in the program.

“(3) ADDITIONAL CONGRESSIONAL NOTIFICATION.—Not later than 30 days after any decision to conduct developmental testing on a major defense acquisition program without an approved test and evaluation master plan in place, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall provide to the congressional defense committees a written explanation of the basis for the decision and a timeline for getting an approved plan in place.”

OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES

Pub. L. 109-364, div. A, title IX, §905, Oct. 17, 2006, 120 Stat. 2353, as amended by Pub. L. 110-181, div. A, title IX, §905, Jan. 28, 2008, 122 Stat. 275, provided that:

“(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

“(1) any commander of a combatant command who is authorized by section 166b, 167, or 167a of title 10, United States Code, to exercise acquisition authority; and

“(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

“(b) GUIDANCE.—

“(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

“(A) is in compliance with department-wide acquisition policy; and

“(B) is coordinated with acquisition programs of the military departments.

“(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

“(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

“(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].”

IMPROVEMENT IN DEFENSE RESEARCH AND  
PROCUREMENT LIAISON WITH ISRAEL

Pub. L. 100-456, div. A, title X, §1006, Sept. 29, 1988, 102 Stat. 2040, as amended by Pub. L. 103-160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106-65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: “The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.”

§ 133b. Under Secretary of Defense for Acquisition and Sustainment

(a) UNDER SECRETARY OF DEFENSE.—There is an Under Secretary of Defense for Acquisition and Sustainment, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive system development, engineering, production, or management background and experience with managing complex programs. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) DUTIES AND POWERS.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall perform such duties and exercise such powers as the Secretary may prescribe, including—

(1) serving as the chief acquisition and sustainment officer of the Department of Defense with the mission of delivering and sustaining timely, cost-effective capabilities for the armed forces (and the Department);

(2) establishing policies on, and supervising, all elements of the Department relating to acquisition (including system design, develop-

ment, and production, and procurement of goods and services) and sustainment (including logistics, maintenance, and materiel readiness);

(3) establishing policies for access to, and maintenance of, the defense industrial base and materials critical to national security, and policies on contract administration;

(4) serving as—

(A) the principal advisor to the Secretary on acquisition and sustainment in the Department;

(B) the senior procurement executive for the Department for the purposes of section 1702(c) of title 41; and

(C) the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive;

(5) overseeing the modernization of nuclear forces and the development of capabilities to counter weapons of mass destruction, and serving as the chairman of the Nuclear Weapons Council and the co-chairman of the Council on Oversight of the National Leadership Command, Control, and Communications System;

(6) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department with regard to matters for which the Under Secretary has responsibility, except that the Under Secretary shall exercise advisory authority over service acquisition programs for which the service acquisition executive is the milestone decision authority; and

(7) to the extent directed by the Secretary, exercising overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

(c) PRECEDENCE IN DEPARTMENT OF DEFENSE.—

(1) PRECEDENCE IN MATTERS OF RESPONSIBILITY.—With regard to all matters for which the Under Secretary has responsibility by the direction of the Secretary of Defense or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary of Defense, the Chief Management Officer of the Department of Defense, and the Under Secretary of Defense for Research and Engineering.

(2) PRECEDENCE IN OTHER MATTERS.—With regard to all matters other than the matters for which the Under Secretary has responsibility by the direction of the Secretary or by law, the Under Secretary takes precedence in the Department of Defense after the Secretary, the Deputy Secretary, the Chief Management Officer, the Under Secretary of Defense for Research and Engineering, and the Secretaries of the military departments.

(Added Pub. L. 114-328, div. A, title IX, § 901(b), Dec. 23, 2016, 130 Stat. 2340; amended Pub. L. 115-91, div. A, title IX, §§ 902, 910(c)(3), Dec. 12, 2017, 131 Stat. 1511, 1518.)

#### PRIOR PROVISIONS

A prior section 133b was renumbered section 138a of this title.

Another prior section 133b was renumbered section 118 of this title.

#### AMENDMENTS

2017—Subsec. (b)(6). Pub. L. 115-91, § 902, substituted “advisory authority” for “supervisory authority”.

Subsec. (c)(1). Pub. L. 115-91, § 910(c)(3)(A), inserted “the Chief Management Officer of the Department of Defense,” after “the Deputy Secretary of Defense.”

Subsec. (c)(2). Pub. L. 115-91, § 910(c)(3)(B), inserted “the Chief Management Officer,” after “the Deputy Secretary.”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, § 902, Dec. 12, 2017, 131 Stat. 1511, provided that the amendment made by section 902 is effective Feb. 1, 2018, and immediately after the coming into effect of the amendment made by section 901(b) of Pub. L. 114-328 (enacting this section).

Pub. L. 115-91, div. A, title IX, § 910(c), Dec. 12, 2017, 131 Stat. 1518, provided that the amendment made by section 910(c)(3) is effective on Feb. 1, 2018, and immediately after the coming into effect of the amendments made by section 901 of Pub. L. 114-328 (see Tables for classification).

#### EFFECTIVE DATE

Pub. L. 114-328, div. A, title IX, § 901(b), Dec. 23, 2016, 130 Stat. 2339, provided that this section is effective on Feb. 1, 2018.

### § 134. Under Secretary of Defense for Policy

(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) The Under Secretary shall assist the Secretary of Defense—

(A) in preparing written policy guidance for the preparation and review of contingency plans; and

(B) in reviewing such plans.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.

(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.

(c) The Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Secretaries of the military departments.

(Added Pub. L. 99-433, title I, § 105(1), Oct. 1, 1986, 100 Stat. 997; amended Pub. L. 99-500, § 101(c) [title X, § 903(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, § 101(c) [title X, § 903(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-661, div. A, title IX, formerly title IV,

§ 903(a), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103-160, div. A, title IX, § 904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105-261, div. A, title XV, § 1521(a), Oct. 17, 1998, 112 Stat. 2178; Pub. L. 106-65, div. A, title IX, § 911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107-314, div. A, title IX, § 902(b), Dec. 2, 2002, 116 Stat. 2620; Pub. L. 110-181, div. A, title IX, § 903(c), Jan. 28, 2008, 122 Stat. 273; Pub. L. 113-291, div. A, title IX, § 901(j)(2)(B), Dec. 19, 2014, 128 Stat. 3467; Pub. L. 115-91, div. A, title X, § 1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.)

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### PRIOR PROVISIONS

Provisions of this section were contained in section 135 of this title prior to amendment by Pub. L. 99-433.

A prior section 134 was renumbered section 132 of this title.

#### AMENDMENTS

2017—Pub. L. 115-91, § 1081(b)(1)(A), repealed Pub. L. 113-291, § 901(j)(2)(B). See 2014 Amendment note below.

2014—Subsec. (c). Pub. L. 113-291, § 901(j)(2)(B), which directed insertion of “the Under Secretary of Defense for Business Management and Information,” after “the Deputy Secretary of Defense,” was repealed by Pub. L. 115-91, § 1081(b)(1)(A).

2008—Subsec. (a). Pub. L. 110-181 substituted “seven” for “10”.

2002—Subsec. (b)(4). Pub. L. 107-314 added par. (4).

1999—Subsec. (c). Pub. L. 106-65 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

1998—Subsec. (b)(3). Pub. L. 105-261 added par. (3).

1993—Subsec. (c). Pub. L. 103-160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

1986—Subsec. (c). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 amended subsec. (c) identically, inserting “the Under Secretary of Defense for Acquisition.”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, § 1081(b)(1), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title IX, § 901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(B) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 115-91, div. A, title X, § 1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### IMPLEMENTATION OF AMENDMENTS BY PUB. L. 105-261

Pub. L. 105-261, div. A, title XV, § 1521(c), (d), Oct. 17, 1998, 112 Stat. 2179, provided that:

“(c) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) [amending this section] and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with [former] section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998].

“(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on

Armed Services of the House of Representatives] a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b) [enacting former section 134b of this title and amending this section]. The report shall include the following:

“(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

“(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman’s role in those activities before the implementation of those subsections.”

#### [§ 134a. Repealed. Pub. L. 111-383, div. A, title IX, § 901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 102-190, div. A, title IX, § 901(a)(1), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 104-106, div. A, title IX, § 903(c)(2), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 111-84, div. A, title IX, § 906(c)(1)(B), (2)(B), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Policy.

#### PRIOR PROVISIONS

A prior section 134a was renumbered section 133 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

#### [§ 134b. Repealed. Pub. L. 111-84, div. A, title IX, § 905(a)(1), Oct. 28, 2009, 123 Stat. 2425]

Section, added Pub. L. 105-261, div. A, title XV, § 1521(b)(1), Oct. 17, 1998, 112 Stat. 2178, related to the Deputy Under Secretary of Defense for Technology Security Policy.

#### § 135. Under Secretary of Defense (Comptroller)

(a)(1) There is an Under Secretary of Defense (Comptroller), appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.

(2) The Under Secretary of Defense (Comptroller) shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations.

(b) The Under Secretary of Defense (Comptroller) is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31. The Under Secretary of Defense (Comptroller) shall perform the duties assigned to the Under Secretary in section 2222 of this title and such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Under Secretary of Defense (Comptroller) shall advise and assist the Secretary of Defense—

(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(A) the preparation and execution of budgets;

(B) fiscal, cost, operating, and capital property accounting; and

(C) progress and statistical reporting;

(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by paragraphs (1) through (4).

(d) In addition to any duties under subsection (c), the Under Secretary of Defense (Comptroller) shall, subject to the authority, direction, and control of the Secretary of Defense, do the following:

(1) Provide guidance and instruction on annual performance plans and evaluations to the following:

(A) The Assistant Secretaries of the military departments for financial management.

(B) Any other official of an agency, organization, or element of the Department of Defense with responsibility for financial management.

(2) Give directions to the military departments, Defense Agencies, and other organizations and elements of the Department of Defense regarding their financial statements and the audit and audit readiness of such financial statements.

(e) The Under Secretary of Defense (Comptroller) takes precedence in the Department of Defense after the Under Secretary of Defense for Policy.

(f) The Under Secretary of Defense (Comptroller) shall ensure that each of the congressional defense committees is informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the Under Secretary of Defense (Comptroller).

(Added Pub. L. 99-433, title I, §107, Oct. 1, 1986, 100 Stat. 998, §137; renumbered §135 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(2), 902(a)(1), (b), Nov. 30, 1993, 107 Stat. 1726, 1727; Pub. L. 103-337, div. A, title IX, §903(a)(1), (2), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104-106, div. A, title XV, §1502(a)(6), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title X, §1043(b)(1), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 111-383, div. A, title IX, §901(m)(3), Jan. 7, 2011, 124 Stat. 4326; Pub. L. 115-91, div. A, title IX, §§904(1), 905(a), 912(b), Dec. 12, 2017, 131 Stat. 1512, 1520.)

#### PRIOR PROVISIONS

A prior section 135 was renumbered section 138b of this title.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, §905(a)(1), designated existing provisions as par. (1) and added par. (2).

Pub. L. 115-91, §904(1), inserted at end “A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.”

Subsec. (b). Pub. L. 115-91, §912(b), inserted “the duties assigned to the Under Secretary in section 2222 of this title and” after “shall perform”.

Subsecs. (d) to (f). Pub. L. 115-91, §905(a)(2), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

2011—Subsec. (c)(5). Pub. L. 111-383 substituted “paragraphs” for “clauses”.

2003—Subsec. (e). Pub. L. 108-136 struck out “(1)” before “The Under Secretary”, substituted “each of the congressional defense committees” for “each congressional committee specified in paragraph (2)”, and struck out par. (2) which read as follows: “The committees referred to in paragraph (1) are—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

1999—Subsec. (e)(2)(B). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Subsec. (e). Pub. L. 104-106 designated existing provisions as par. (1), substituted “each congressional committee specified in paragraph (2) is” for “the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each”, and added par. (2).

1994—Pub. L. 103-337, §903(a)(2), substituted “Under Secretary of Defense (Comptroller)” for “Comptroller” as section catchline.

Subsec. (a). Pub. L. 103-337, §903(a)(1)(A), substituted “an Under Secretary of Defense (Comptroller)” for “a Comptroller of the Department of Defense”.

Subsecs. (b) to (e). Pub. L. 103-337, §903(a)(1)(B), substituted “Under Secretary of Defense (Comptroller)” for “Comptroller” wherever appearing.

1993—Pub. L. 103-160, §901(a)(2), renumbered section 137 of this title as this section.

Subsec. (b). Pub. L. 103-160, §902(a)(1), inserted “The Comptroller is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31.” after “(b)” and “additional” after “shall perform such”.

Subsec. (d). Pub. L. 103-160, §901(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 103-160, §902(b), added subsec. (e).

#### CHANGE OF NAME

Pub. L. 103-337, div. A, title IX, §903(d), Oct. 5, 1994, 108 Stat. 2823, provided that: “Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller).”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title IX, §905(c), Dec. 12, 2017, 131 Stat. 1513, provided that: “The appointment qualifications imposed by the amendments made by subsection (a)(1) [amending this section] and the appointment qualifications imposed by subsection (b) [set out as a note below] shall apply with respect to appointments as Under Secretary of Defense (Comptroller) and Deputy Chief Financial Officer of the Department of Defense that are made on or after the date of the enactment of this Act [Dec. 12, 2017].”

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### QUALIFICATION FOR APPOINTMENT AS DEPUTY CHIEF FINANCIAL OFFICER

Pub. L. 115-91, div. A, title IX, §905(b), Dec. 12, 2017, 131 Stat. 1513, provided that: “The Deputy Chief Finan-

cial Officer of the Department of Defense shall be appointed from among persons who have significant budget, financial management, or audit experience in complex organizations.”

**§ 136. Under Secretary of Defense for Personnel and Readiness**

(a) There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the areas of military readiness, total force management, military and civilian personnel requirements, military and civilian personnel training, military and civilian family matters, exchange, commissary, and nonappropriated fund activities, personnel requirements for weapons support, National Guard and reserve components, and health affairs.

(c) The Under Secretary of Defense for Personnel and Readiness takes precedence in the Department of Defense after the Under Secretary of Defense (Comptroller).

(d) The Under Secretary of Defense for Personnel and Readiness is responsible, subject to the authority, direction, and control of the Secretary of Defense, for the monitoring of the operations tempo and personnel tempo of the armed forces. The Under Secretary shall establish, to the extent practicable, uniform standards within the Department of Defense for terminology and policies relating to deployment of units and personnel away from their assigned duty stations (including the length of time units or personnel may be away for such a deployment) and shall establish uniform reporting systems for tracking deployments.

(Added Pub. L. 103-160, div. A, title IX, §903(a), Nov. 30, 1993, 107 Stat. 1727; amended Pub. L. 104-106, div. A, title XV, §1503(a)(2), Feb. 10, 1996, 110 Stat. 510; Pub. L. 106-65, div. A, title IX, §923(a), title X, §1066(a)(1), Oct. 5, 1999, 113 Stat. 724, 770; Pub. L. 115-91, div. A, title IX, §904(2), Dec. 12, 2017, 131 Stat. 1512.)

PRIOR PROVISIONS

A prior section 136 was renumbered section 138 of this title.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 inserted at end “A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.”

1999—Subsec. (a). Pub. L. 106-65, §1066(a)(1), inserted “advice and” after “by and with the”.

Subsec. (d). Pub. L. 106-65, §923(a), added subsec. (d).  
1996—Subsec. (c). Pub. L. 104-106 substituted “Under Secretary of Defense (Comptroller)” for “Comptroller”.

**[§ 136a. Repealed. Pub. L. 111-383, div. A, title IX, § 901(b)(1), Jan. 7, 2011, 124 Stat. 4317]**

Section, added Pub. L. 107-107, div. A, title IX, §901(a)(1), Dec. 28, 2001, 115 Stat. 1193; amended Pub. L.

111-84, div. A, title IX, §906(c)(1)(C), (2)(C), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Personnel and Readiness.

PRIOR PROVISIONS

A prior section 136a was renumbered section 139 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

**§ 137. Under Secretary of Defense for Intelligence**

(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

(c) The Under Secretary of Defense for Intelligence takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.

(Added Pub. L. 107-314, div. A, title IX, §901(a)(2), Dec. 2, 2002, 116 Stat. 2619; amended Pub. L. 115-91, div. A, title IX, §904(3), Dec. 12, 2017, 131 Stat. 1512.)

PRIOR PROVISIONS

A prior section 137 was renumbered section 138b of this title.

Another prior section 137 was renumbered section 135 of this title.

Another prior section 137 was renumbered section 140 of this title.

AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 inserted at end “A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of the armed forces.”

PLAN FOR INCORPORATION OF ENTERPRISE QUERY AND CORRELATION CAPABILITY INTO THE DEFENSE INTELLIGENCE INFORMATION ENTERPRISE

Pub. L. 112-81, div. A, title IX, §925, Dec. 31, 2011, 125 Stat. 1540, provided that:

“(a) PLAN REQUIRED.—

“(1) IN GENERAL.—The Under Secretary of Defense for Intelligence shall develop a plan for the incorporation of an enterprise query and correlation capability into the Defense Intelligence Information Enterprise (DI2E).

“(2) ELEMENTS.—The plan required by paragraph (1) shall—

“(A) include an assessment of all the current and planned advanced query and correlation systems which operate on large centralized databases that are deployed or to be deployed in elements of the Defense Intelligence Information Enterprise; and

“(B) determine where duplication can be eliminated, how use of these systems can be expanded, whether these systems can be operated collaboratively, and whether they can and should be integrated with the enterprise-wide query and correlation capability required pursuant to paragraph (1).

## “(b) PILOT PROGRAM.—

“(1) IN GENERAL.—The Under Secretary shall conduct a pilot program to demonstrate an enterprisewide query and correlation capability through the Defense Intelligence Information Enterprise program.

“(2) PURPOSE.—The purpose of the pilot program shall be to demonstrate the capability of an enterprisewide query and correlation system to achieve the following:

“(A) To conduct complex, simultaneous queries by a large number of users and analysts across numerous, large distributed data stores with response times measured in seconds.

“(B) To be scaled up to operate effectively on all the data holdings of the Defense Intelligence Information Enterprise.

“(C) To operate across multiple levels of security with data guards.

“(D) To operate effectively on both unstructured data and structured data.

“(E) To extract entities, resolve them, and (as appropriate) mask them to protect sources and methods, privacy, or both.

“(F) To control access to data by means of on-line electronic user credentials, profiles, and authentication.

“(3) TERMINATION.—The pilot program conducted under this subsection shall terminate on September 30, 2014.

“(c) REPORT.—Not later than November 1, 2012, the Under Secretary shall submit to the appropriate committees of Congress a report on the actions undertaken by the Under Secretary to carry out this section. The report shall set forth the plan developed under subsection (a) and a description and assessment of the pilot program conducted under subsection (b).

“(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Committee on Armed Services, the Committee on Appropriations, and the Select Committee on Intelligence of the Senate; and

“(2) the Committee on Armed Services, the Committee on Appropriations, and the Permanent Select Committee on Intelligence of the House of Representatives.”

RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947

Pub. L. 107-314, div. A, title IX, §901(d), Dec. 2, 2002, 116 Stat. 2620, as amended by Pub. L. 113-291, div. A, title X, §1071(d)(2), Dec. 19, 2014, 128 Stat. 3509, provided that: “Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 3001 et seq.).”

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director’s capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 3001 of Title 50, War and National Defense.]

### § 137a. Deputy Under Secretaries of Defense

(a)(1) There are six Deputy Under Secretaries of Defense.

(2) The Deputy Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(3) The officials authorized under this section shall be the only Deputy Under Secretaries of Defense.

(b) Each Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

(c)(1) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Research and Engineering.

(2) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition and Sustainment.

(3) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Policy.

(4) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Personnel and Readiness.

(5) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense (Comptroller).

(6) One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Intelligence, who shall be appointed from among persons who have extensive expertise in intelligence matters.

(d) The Deputy Under Secretaries of Defense take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense.<sup>1</sup> The Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 111-84, div. A, title IX, §906(a)(1), Oct. 28, 2009, 123 Stat. 2425; amended Pub. L. 111-383, div. A, title IX, §901(b)(3), (k)(1)(A), Jan. 7, 2011, 124 Stat. 4318, 4325; Pub. L. 113-291, div. A, title IX, §901(i)(1), (j)(2)(C), (k)(3), Dec. 19, 2014, 128 Stat. 3467, 3468; Pub. L. 115-91, div. A, title IX, §906(a)-(c), (f)(1), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597.)

REFERENCES IN TEXT

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (d), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115-91, div. A, title IX, §910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115-91, section 132a of this title established the Chief Management Officer of the Department of Defense.

AMENDMENTS

2017—Pub. L. 115-91, §906(f)(1), amended section catchline generally, substituting “Deputy Under Secretaries of Defense” for “Principal Deputy Under Secretaries of Defense”.

Subsec. (a)(1). Pub. L. 115-91, §906(b), substituted “six” for “five”.

Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under”.

Subsec. (a)(2). Pub. L. 115-91, §906(a), struck out “Principal” before “Deputy Under”.

<sup>1</sup> See References in Text note below.

Subsec. (b). Pub. L. 115–91, §906(a), struck out “Principal” before “Deputy Under”.

Subsec. (c). Pub. L. 115–91, §906(c), added pars. (1) and (2), redesignated former pars. (2) to (5) as (3) to (6), respectively, and struck out former par. (1) which read as follows: “One of the Deputy Under Secretaries is the Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.”

Pub. L. 115–91, §906(a), struck out “Principal” before “Deputy Under” wherever appearing.

Subsec. (d). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(2)(C). See 2014 Amendment note below.

Pub. L. 115–91, §906(a), struck out “Principal” before “Deputy Under” in two places.

2014—Subsec. (a)(3). Pub. L. 113–291, §901(i)(1), added par. (3).

Subsec. (b). Pub. L. 113–291, §901(k)(3), substituted “dies, resigns, or is otherwise unable to perform the functions and duties of the office” for “is absent or disabled”.

Subsec. (d). Pub. L. 113–291, §901(j)(2)(C), which directed substitution of “and the Under Secretaries of Defense.” for “the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense.”, was repealed by Pub. L. 115–91, §1081(b)(1)(A).

2011—Pub. L. 111–383, §901(k)(1)(A), substituted “Principal Deputy Under Secretaries of Defense” for “Deputy Under Secretaries of Defense” in section catchline.

Subsec. (a)(1). Pub. L. 111–383, §901(b)(3)(A), substituted “Principal Deputy Under” for “Deputy Under”.

Subsec. (a)(2). Pub. L. 111–383, §901(b)(3)(B), struck out subpar. (A) and subpar. (B) designation and substituted “The Principal Deputy Under Secretaries of Defense” for “The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c)”. Prior to amendment, subpar. (A) read as follows: “The Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph.”

Subsec. (b). Pub. L. 111–383, §901(b)(3)(A), substituted “Principal Deputy Under” for “Deputy Under”.

Subsec. (c)(1). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 133a of this title” after “Logistics”.

Subsec. (c)(2). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 134a of this title” after “Policy”.

Subsec. (c)(3). Pub. L. 111–383, §901(b)(3)(C)(i), (ii), substituted “One of the Principal Deputy” for “One of the Deputy” and struck out “appointed pursuant to section 136a of this title” after “Readiness”.

Subsec. (c)(4). Pub. L. 111–383, §901(b)(3)(C)(i), (iii), substituted “One of the Principal Deputy Under Secretaries is” for “One of the Deputy Under Secretaries shall be”.

Subsec. (c)(5). Pub. L. 111–383, §901(b)(3)(C)(i), (iii), (iv), substituted “One of the Principal Deputy Under Secretaries is” for “One of the Deputy Under Secretaries shall be” and inserted before period at end “, who shall be appointed from among persons who have extensive expertise in intelligence matters”.

Subsec. (d). Pub. L. 111–383, §901(b)(3)(A), (D), substituted “Principal Deputy Under” for “Deputy Under” and inserted at end “The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §906(c), Dec. 12, 2017, 131 Stat. 1513, provided that the amendment made by section 906(c) is effective on Feb. 1, 2018.

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(i)(1), Dec. 19, 2014, 128 Stat. 3467, provided that the amendment made by section 901(i)(1) is effective Jan. 1, 2015.

Pub. L. 113–291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(C) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

#### SAVINGS PROVISIONS

Pub. L. 111–84, div. A, title IX, §906(e), Oct. 28, 2009, 123 Stat. 2428, provided that:

“(1) IN GENERAL.—Notwithstanding the amendments made by this section [enacting this section and amending sections 133a, 134a, 136a, 138, and former 138a of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees], the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act [Oct. 28, 2009] may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

“(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

“(A) The Principal Deputy Under Secretary of Defense (Comptroller).

“(B) The Principal Deputy Under Secretary of Defense for Intelligence.”

#### TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS

Pub. L. 111–383, div. A, title IX, §901(i)(2), Jan. 7, 2011, 124 Stat. 4323, provided that: “During the period beginning on the date of the enactment of this Act [Jan. 7, 2011] and ending on January 1, 2015, the Secretary of Defense may, in the Secretary’s discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3)).”

#### DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE

Pub. L. 111–84, div. A, title IX, §906(a)(2), Oct. 28, 2009, 123 Stat. 2426, as amended by Pub. L. 111–383, div. A, title IX, §901(i)(1), Jan. 7, 2011, 124 Stat. 4323, which provided that, effective Jan. 1, 2015, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10 would be the only Deputy Under Secretaries of Defense, was repealed by Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467.

[Pub. L. 113–291, div. A, title IX, §901(i)(2), Dec. 19, 2014, 128 Stat. 3467, provided that section 901(i)(2), which repealed section 906(a)(2) of Pub. L. 111–84, formerly set out above, is effective on the effective date specified in section 901(i)(1) of Pub. L. 113–291, which is Jan. 1, 2015.]

### § 138. Assistant Secretaries of Defense

(a)(1) There are 13 Assistant Secretaries of Defense.

(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Special Oper-



ations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j)<sup>1</sup> of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense. Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

(iii) Such other matters as may be specified by the Secretary and the Under Secretary.

(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(4) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Assistant Secretary shall—

(A) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;

(B) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and

(C) perform such additional duties as the Secretary may prescribe.

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to the Assistant Secretary in writing; and

(2) the order is issued through the Secretary of the military department concerned.

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, the Deputy Chief Management Officer of the Department of Defense,<sup>1</sup> the officials serving in positions specified in section 131(b)(4)<sup>1</sup> of this title, and the Deputy Under Secretaries of Defense. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 87-651, title II, § 202, Sept. 7, 1962, 76 Stat. 518, § 136; amended Pub. L. 90-168, § 2(1), (2), Dec. 1, 1967, 81 Stat. 521; Pub. L. 91-121, title IV, § 404(a), Nov. 19, 1969, 83 Stat. 207; Pub. L. 92-215, § 1, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92-596, § 4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, § 3(a), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 96-107, title VIII, § 820(a), Nov. 9, 1979, 93 Stat. 819; Pub. L. 98-94, title XII, § 1212(a), Sept. 24, 1983, 97 Stat. 686; Pub. L. 99-433, title I, §§ 106, 110(d)(9), Oct. 1, 1986, 100 Stat. 997, 1003; Pub. L. 99-500, § 101(c) [title IX, § 9115(a)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-122, and Pub. L. 99-591, § 101(c) [title IX, § 9115(a)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-122; Pub. L. 99-661, div. A, title XIII, § 1311(a), Nov. 14, 1986, 100 Stat. 3983; Pub. L. 100-180, div. A, title XII, § 1211(a)(1), Dec. 4, 1987, 101 Stat. 1154; Pub. L. 100-453, title VII, § 702, Sept. 29, 1988, 102 Stat. 1912; Pub. L. 100-456, div. A, title VII, § 701, Sept. 29, 1988, 102 Stat. 1992; renumbered § 138 and amended Pub. L. 103-160, div. A, title IX, §§ 901(a)(1), (c), 903(c)(1), 905, Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103-337, div. A, title IX, §§ 901(a), 903(b)(2), Oct. 5, 1994, 108 Stat. 2822, 2823; Pub. L. 104-106, div. A, title IX, §§ 902(a), 903(b), (e)(2), Feb. 10, 1996, 110 Stat. 401, 402; Pub. L. 104-201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 105-261, div. A, title IX, §§ 901(a), 902, Oct. 17, 1998, 112 Stat. 2091; Pub. L. 106-398, § 1 [[div. A], title IX, § 901], Oct. 30, 2000, 114 Stat. 1654, 1654A-223; Pub. L. 107-107, div. A, title IX, § 901(c)(1), Dec. 28, 2001, 115 Stat. 1194; Pub. L. 107-314, div. A, title IX, § 902(a), (c), (d), Dec. 2, 2002, 116 Stat. 2620, 2621; Pub. L. 109-364, div. A, title IX, § 901(a), Oct. 17, 2006, 120 Stat. 2350; Pub. L. 111-84, div. A, title IX, § 906(b)(2), Oct. 28, 2009, 123 Stat. 2426; Pub. L. 111-383, div. A, title IX, § 901(b)(4), Jan. 7, 2011, 124 Stat. 4319; Pub. L. 112-81, div. A, title III, § 314(a), Dec. 31, 2011, 125 Stat. 1357; Pub. L. 112-166, § 2(c)(1)(A), Aug. 10, 2012, 126 Stat. 1283; Pub. L. 112-239, div. A, title X, § 1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113-291, div. A, title IX, §§ 901(f), (h)(1)-(3), (j)(2)(D), 902(a)(2), Dec. 19, 2014, 128 Stat. 3464, 3466, 3467, 3469; Pub. L. 114-92, div. A, title VIII, § 829, title X, § 1078(a), Nov. 25, 2015, 129 Stat. 911, 998; Pub. L. 114-328, div. A, title IX, §§ 901(e)(1), 922(a), Dec. 23, 2016, 130 Stat. 2342, 2354; Pub. L. 115-91, div. A, title IX, §§ 906(d)(2), 907, title X, § 1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1513, 1514, 1597.)

<sup>1</sup> See References in Text note below.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
136(a) .....	5:171c(c) (1st sentence).	July 26, 1947, ch. 343, §202(c)(7) (less 1st 2 sentences); added Aug. 6, 1958, Pub. L. 85-599, §3(a) (8th par., less 1st 2 sentences), 72 Stat. 516.
136(b) .....	5:171c(c) (1st 18 words of 2d sentence). 5:171c-2 (less 1st sentence). 5:171n(a) (as applicable to 5:172).	July 26, 1947, ch. 343, §203(c); added Aug. 10, 1949, ch. 412, §6(a), (2d par.), 63 Stat. 581; redesignated Aug. 6, 1958, Pub. L. 85-599, §9(a) (1st par., as applicable to §203(c)), 10(a), 72 Stat. 520, 521.
136(c) .....	5:171a(c)(7) (3rd sentence).	July 26, 1947, ch. 343, §302 (less 1st sentence); restated Aug. 10, 1949, ch. 412, §10(b) (less 1st sentence) restated Aug. 10, 1956, ch. 1041, §21 (less 1st sentence), 70A Stat. 629.
136(d) .....	5:171a(c)(7) (less 1st 3 sentences).	July 26, 1947, ch. 343, §308(a) (as applicable to §401), 61 Stat. 509.
136(e) .....	5:171c(c) (less 1st sentence and less 1st 18 words of 2d sentence).	July 26, 1947, ch. 343, §401; added Aug. 10, 1949, ch. 412, §11 (1st 2 pars.), 63 Stat. 585.

In subsection (b)(1), 5 U.S.C. 172(b) (last 13 words of 1st sentence) is omitted as surplusage, since they are only a general description of the powers of the Secretary of Defense under this title. 5 U.S.C. 171c-2 (less 1st sentence) is omitted as covered by 5 U.S.C. 171c(c) (1st 18 words of 2d sentence).

In subsection (d), the following substitutions are made: “In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (last two sentences), 8010, and 8012(b) last two sentences of this title,” for “In implementation of this paragraph”; and “members of the armed forces under the jurisdiction of his department” for “the military personnel in such department”. The words “in a continuous effort” are omitted as surplusage.

REFERENCES IN TEXT

Section 167(j) of this title, referred to in subsec. (b)(2), was redesignated section 167(k) of this title by Pub. L. 114-328, div. A, title IX, §922(c)(2)(A), Dec. 23, 2016, 130 Stat. 2356.

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (d), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115-91, div. A, title IX, §910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115-91, section 132a of this title established the Chief Management Officer of the Department of Defense.

Section 131(b)(4) of this title, referred to in subsec. (d), was redesignated section 131(b)(5) of this title by Pub. L. 115-91, div. A, title IX, §910(c)(1)(A), Dec. 12, 2017, 131 Stat. 1518.

CODIFICATION

The text of section 138a(b) and (c) of this title, which was transferred to subsec. (b)(7) of this section and amended by Pub. L. 113-291, §901(h)(1)(C)-(E), was based on Pub. L. 106-65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111-84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111-383, div. A, title IX, §901(b)(5), Jan. 7, 2011, 124 Stat. 4319.

The text of section 138b of this title, which was transferred to subsec. (b)(8) of this section and amended by Pub. L. 113-291, §901(h)(2), was based on Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92-596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99-348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99-433, title I, §105, Oct. 1, 1986, 100 Stat. 997;

Pub. L. 99-500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104-106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L. 107-314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111-23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111-383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112-239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867.

The text of section 138d of this title, which was transferred to subsec. (b)(10) of this section and amended by Pub. L. 113-291, §901(h)(3), was based on Pub. L. 100-180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103-160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104-106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110-417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111-383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325. Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

PRIOR PROVISIONS

A prior section 138 was renumbered section 139 of this title.

Another prior section 138 was renumbered by Pub. L. 99-433 as follows:

Section 138(a) was renumbered section 114(a) of this title.

Section 138(b) was renumbered successively as section 114(b) and section 115(a) of this title.

Section 138(c) was renumbered successively as section 114(c) and section 115(b) of this title.

Section 138(d) was renumbered successively as section 114(d) and section 115(c) of this title.

Section 138(e) was renumbered successively as section 114(e) and section 116(a) of this title.

Section 138(f)(1) was renumbered successively as section 114(f)(1) and section 114(b) of this title.

Section 138(f)(2) was renumbered successively as section 114(f)(2) and section 116(b) of this title.

Section 138(g) was renumbered successively as section 114(g) and section 114(c) of this title.

Section 138(h) was renumbered successively as section 114(h) and section 113(i) of this title.

Section 138(i) was renumbered successively as section 114(i) and section 114(d) of this title.

AMENDMENTS

2017—Subsec. (a)(1). Pub. L. 115-91, §907(a), substituted “13” for “14”.

Subsec. (b)(2) to (6). Pub. L. 115-91, §907(b), redesignated pars. (4) to (6) as (2) to (4), respectively, and struck out former pars. (2) and (3) which read as follows:

“(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Manpower and Reserve Affairs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Manpower and Reserve Affairs shall have as the principal duty of such Assistant Secretary the overall supervision of manpower and reserve affairs of the Department of Defense.

“(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.”

Subsec. (d). Pub. L. 115-91, §1081(b)(1)(A), repealed Pub. L. 113-291, §901(j)(2)(D). See 2014 Amendment note below.

Pub. L. 115-91, §906(d)(2), struck out “Principal” before “Deputy Under Secretaries of Defense”.

2016—Subsec. (b)(4). Pub. L. 114-328, §922(a), inserted at end “Subject to the authority, direction, and control of the Secretary of Defense, the Assistant Secretary shall do the following:

“(A) Exercise authority, direction, and control of all special-operations peculiar administrative matters relating to the organization, training, and equipping of special operations forces.

“(B) Assist the Secretary and the Under Secretary of Defense for Policy in the development and supervision of policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for the following:

“(i) Irregular warfare, combating terrorism, and the special operations activities specified by section 167(k) of this title.

“(ii) Integrating the functional activities of the headquarters of the Department to most efficiently and effectively provide for required special operations forces and capabilities.

“(iii) Such other matters as may be specified by the Secretary and the Under Secretary.”

Subsec. (b)(6) to (10). Pub. L. 114-328, §901(e)(1), redesignated par. (10) as (6) and struck out former pars. (6) to (9), which related to positions of Assistant Secretary of Defense for Acquisition, Assistant Secretary of Defense for Logistics and Materiel Readiness, Assistant Secretary of Defense for Research and Engineering, and Assistant Secretary of Defense for Energy, Installations, and Environment.

2015—Subsec. (b)(8). Pub. L. 114-92, §1078(a), substituted “shall periodically review and assess the technological maturity” for “shall—”, the designation for subpar. (A), and “review and assess the technological maturity”; substituted period at end for “; and”; and struck out subpar. (B) which read as follows: “submit to the Secretary of Defense and to the congressional defense committees by March 1 of each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense for which a Milestone B approval occurred during the preceding fiscal year.”

Subsec. (b)(8)(A). Pub. L. 114-92, §829(a), struck out “periodically” before “review and assess”, inserted “before the Milestone B approval for that program” after “Department of Defense”, and substituted “each major defense acquisition program” for “the major defense acquisition programs” and “such review and assessment” for “such reviews and assessments”.

Subsec. (b)(8)(B). Pub. L. 114-92, §829(b), inserted “for which a Milestone B approval occurred during the preceding fiscal year” after “Department of Defense”.

2014—Subsec. (b)(2). Pub. L. 113-291, §902(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “One of the Assistant Secretaries is the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.”

Subsec. (b)(7). Pub. L. 113-291, §901(h)(1)(D), (E), transferred section 138a(c) of this title to subsec. (b)(7) of this section, inserted it at end, and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively. The redesignation was executed to reflect the probable intent of Congress, notwithstanding directory language referring to the text transferred by subparagraph (C) of section 901(h)(1) instead of subparagraph (D).

Pub. L. 113-291, §901(h)(1)(C), transferred section 138a(b) of this title to subsec. (b)(7) of this section and inserted it after first sentence.

Pub. L. 113-291, §901(h)(1)(A), (B), in first sentence, inserted “, who shall be appointed from among persons with an extensive background in the sustainment of major weapons systems and combat support equip-

ment” after “Readiness” and struck out second sentence which read as follows: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title.”

Subsec. (b)(8). Pub. L. 113-291, §901(h)(2)(C)–(E), transferred section 138b(b)(1) and (2) of this title to subsec. (b)(8) of this section, inserted it at end, and realigned margins; redesignated pars. (1) and (2) as subpars. (A) and (B), respectively; in subpar. (A), struck out “The Assistant Secretary of Defense for Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall” before “periodically review” and substituted “; and” for period at end; and, in subpar. (B), struck out “The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall” before “submit”.

Pub. L. 113-291, §901(h)(2)(B), inserted “The Assistant Secretary, in consultation with the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, shall—” after “Logistics may prescribe.”

Pub. L. 113-291, §901(h)(2)(A), inserted text of section 138b(a) of this title after first sentence of subsec. (b)(8) of this section and struck out at end: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title.”

Subsec. (b)(9). Pub. L. 113-291, §901(f), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title.”

Subsec. (b)(10). Pub. L. 113-291, §901(h)(3)(B), inserted text of section 138d(a) of this title at end of subsec. (b)(10) of this section, struck out “of Defense for Nuclear, Chemical, and Biological Defense Programs” before “shall—”, and redesignated pars. (1) to (3) as subpars. (A) to (C), respectively.

Pub. L. 113-291, §901(h)(3)(A), inserted text of section 138d(b) after first sentence of subsec. (b)(10) of this section and struck out at end: “In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138d of this title.”

Subsec. (d). Pub. L. 113-291, §901(j)(2)(D), which directed striking out “the Deputy Chief Management Officer of the Department of Defense,” was repealed by Pub. L. 115-91, §1081(b)(1)(A).

2013—Subsec. (c)(3). Pub. L. 112-239 transferred subsec. (c)(3), relating to responsibilities of the Assistant Secretary of Defense for Operational Energy Plans and Programs regarding alternative fuel, to section 138c(c)(3) of this title.

2012—Subsec. (a)(1). Pub. L. 112-166 substituted “14” for “16”.

Subsec. (c)(3). Pub. L. 112-81 added par. (3).

2011—Subsec. (a)(1). Pub. L. 111-383, §901(b)(4)(A)(i), substituted “16” for “12”.

Subsec. (a)(2). Pub. L. 111-383, §901(b)(4)(A)(ii), struck out subpar. (A) and subpar. (B) designation and substituted “The” for “The other”. Prior to amendment, subpar. (A) read as follows: “The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection.”

Subsec. (b)(2) to (6). Pub. L. 111-383, §901(b)(4)(B)(i), substituted “Secretaries is” for “Secretaries shall be”.

Subsec. (b)(7). Pub. L. 111-383, §901(b)(4)(B)(ii), struck out “appointed pursuant to section 138a of this title” before period at end of first sentence.

Subsec. (b)(8) to (10). Pub. L. 111-383, §901(b)(4)(B)(iii), added pars. (8) to (10).

Subsec. (d). Pub. L. 111-383, §901(b)(4)(C), substituted “the Deputy Chief Management Officer of the Depart-

ment of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense” for “and the Director of Defense Research and Engineering”.

2009—Subsec. (a). Pub. L. 111-84, § 906(b)(2)(A), added subsec. (a) and struck out former subsec. (a), which read as follows: “There are ten Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.”

Subsec. (b)(6), (7). Pub. L. 111-84, § 906(b)(2)(B), added pars. (6) and (7).

2006—Subsec. (a). Pub. L. 109-364 substituted “ten” for “nine”.

2002—Subsec. (a). Pub. L. 107-314, § 902(d), which directed the repeal of Pub. L. 107-107, § 901(c), was executed by substituting “nine” for “eight” to reflect the probable intent of Congress. See 2001 Amendment note below.

Subsec. (b)(3). Pub. L. 107-314, § 902(a), added par. (3).

Subsec. (b)(6). Pub. L. 107-314, § 902(c), struck out par. (6) which read as follows:

“(6)(A) One of the Assistant Secretaries, as designated by the Secretary of Defense from among those Assistant Secretaries with responsibilities that include responsibilities related to combating terrorism, shall have, among that Assistant Secretary’s duties, the duty to provide overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism, including antiterrorism activities, counterterrorism activities, terrorism consequences management activities, and terrorism-related intelligence support activities.

“(B) The Assistant Secretary designated under subparagraph (A) shall be the principal civilian adviser to the Secretary of Defense on combating terrorism and (after the Secretary and Deputy Secretary) shall be the principal official within the senior management of the Department of Defense responsible for combating terrorism.

“(C) If the Secretary of Defense designates under subparagraph (A) an Assistant Secretary other than the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, then the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict related to combating terrorism shall be exercised subject to subparagraph (B).”

2001—Subsec. (a). Pub. L. 107-107, which substituted “eight Assistant Secretaries of Defense” for “nine Assistant Secretaries of Defense”, was repealed by Pub. L. 107-314, § 902(d). See 2002 Amendment note above.

2000—Subsec. (b)(6). Pub. L. 106-398 added par. (6).

1998—Subsec. (a). Pub. L. 105-261, § 901(a), substituted “nine” for “ten”.

Subsec. (b)(3). Pub. L. 105-261, § 902, struck out par. (3) which read as follows:

“(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

“(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

“(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.”

1996—Subsec. (a). Pub. L. 104-106, § 902(a), substituted “ten” for “eleven”.

Subsec. (b). Pub. L. 104-106, § 903(a), (b), which directed the general amendment of subsec. (b), eff. Jan.

31, 1997, designating par. (1) as entire subsec. and striking out pars. (2) to (5), was repealed by Pub. L. 104-201.

Subsec. (d). Pub. L. 104-106, § 903(a), (e)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting “and the Under Secretaries of Defense” for “the Under Secretaries of Defense, and the Director of Defense Research and Engineering”, was repealed by Pub. L. 104-201.

1994—Subsec. (a). Pub. L. 103-337, § 901(a), substituted “eleven” for “ten”.

Subsec. (d). Pub. L. 103-337, § 903(b)(2), struck out “and Comptroller” after “Under Secretaries of Defense”.

1993—Pub. L. 103-160, § 901(a)(1), renumbered section 136 of this title as this section.

Subsec. (a). Pub. L. 103-160, § 903(c)(1), substituted “ten” for “eleven”.

Subsec. (b)(5). Pub. L. 103-160, § 905, added par. (5).

Subsec. (d). Pub. L. 103-160, § 901(c), inserted “and Comptroller” after “Under Secretaries of Defense”.

1988—Subsec. (b)(3). Pub. L. 100-453 and Pub. L. 100-456 generally amended par. (3) identically. Prior to amendment, par. (3) read as follows: “One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.”

1987—Subsec. (b)(4). Pub. L. 100-180 inserted at end “The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.”

1986—Pub. L. 99-433, § 110(d)(9), struck out “; appointment; powers and duties; precedence” at end of section catchline.

Subsec. (b)(2), (3). Pub. L. 99-433, § 106(a)(1), (2), redesignated pars. (4) and (5) as pars. (2) and (3), respectively, and struck out former par. (2) relating to the Assistant Secretary of Defense for Health Affairs and former par. (3) relating to the Assistant Secretary of Defense for Manpower and Logistics.

Subsec. (b)(4). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661, amended subsec. (b) identically, adding par. (4).

Pub. L. 99-433, § 106(a)(2), redesignated par. (4) as (2).

Subsec. (b)(5). Pub. L. 99-433, § 106(a)(2), redesignated par. (5) as (3).

Subsec. (b)(6). Pub. L. 99-433, § 106(a)(3), struck out par. (6) relating to Comptroller of Department of Defense. See section 135 of this title.

Subsec. (c)(1). Pub. L. 99-433, § 106(c)(1)(A), substituted “the Assistant Secretary” for “him”.

Subsec. (c)(2). Pub. L. 99-433, § 106(c)(1)(B), struck out “, or his designee” after “concerned”.

Subsecs. (d), (e). Pub. L. 99-433, § 106(b), (c)(2), (3), redesignated subsec. (e) as (d), substituted “the Under Secretaries of Defense, and the Director of Defense Research and Engineering” for “and the Under Secretaries of Defense”, inserted sentence directing that the Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense, and struck out former subsec. (d) which directed the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department to cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

1983—Subsec. (a). Pub. L. 98-94, § 1212(a)(1), substituted “eleven” for “seven”.

Subsec. (b)(1). Pub. L. 98-94, § 1212(a)(2)(A), designated existing first sentence as par. (1).

Subsec. (b)(2). Pub. L. 98-94, § 1212(a)(2)(B), designated existing second and third sentences as par. (2).

Subsec. (b)(3). Pub. L. 98-94, § 1212(a)(2)(C), (D), designated existing fourth and fifth sentences as par. (3)

and substituted “Logistics” for “Reserve Affairs” and “logistics” for “reserve component”.

Subsec. (b)(4), (5). Pub. L. 98-94, §1212(a)(2)(E), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 98-94, §1212(a)(2)(F), designated existing sixth sentence as par. (6), substituted “One of the Assistant Secretaries” for “In addition, one of the Assistant Secretaries”, redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, redesignated former subpars. (A) to (D) as cls. (1) to (4), respectively, and in subpar. (E) substituted “clauses (A) through (D)” for “clauses (1)–(4)”.

Subsec. (f). Pub. L. 98-94, §1212(a)(3), struck out subsec. (f) which provided for appointment of a Deputy Assistant Secretary of Defense for Reserve Affairs within the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs. See subsec. (b)(4) of this section.

1979—Subsec. (a). Pub. L. 96-107 substituted “seven” for “nine”.

1977—Subsec. (e). Pub. L. 95-140 inserted “of Defense” after “Secretary” and substituted “Secretary of Defense” for “Secretaries of Defense” and “, and the Under Secretaries of Defense” for “, and the Director of Defense Research and Engineering”.

1972—Subsec. (e). Pub. L. 92-596 substituted “Deputy Secretaries” for “Deputy Secretary”.

1971—Subsec. (a). Pub. L. 92-215 substituted “nine” for “eight”.

1969—Subsec. (a). Pub. L. 91-121, §404(a)(1), substituted “eight” for “seven”.

Subsec. (b). Pub. L. 91-121, §404(a)(2), provided for an Assistant Secretary of Defense for Health Affairs having as his principal duty the overall supervision of health affairs of Department of Defense.

1967—Subsec. (b). Pub. L. 90-168, §2(1), inserted provisions for an Assistant Secretary of Defense for Manpower and Reserve Affairs with principal duty of overall supervision of manpower and reserve component affairs of Department of Defense.

Subsec. (f). Pub. L. 90-168, §2(2), added subsec. (f).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title IX, §901(j)(2), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(2)(D) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113-291, which was Feb. 1, 2017, was repealed by Pub. L. 115-91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-166 effective 60 days after Aug. 10, 2012, and applicable to appointments made on and after that effective date, including any nomination pending in the Senate on that date, see section 6(a) of Pub. L. 112-166, set out as a note under section 113 of Title 6, Domestic Security.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title XII, §1212(e), Sept. 24, 1983, 97 Stat. 687, provided that: “The amendments made by this section [amending this section, sections 175, 3013, and 5034 of this title, and section 5315 of Title 5, Government Organization and Employees] shall take effect on October 1, 1983.”

#### EFFECTIVE DATE OF 1967 AMENDMENT

Pub. L. 90-168, §7, Dec. 1, 1967, 81 Stat. 526, provided that: “The provisions of this Act [see Short Title of

1967 Amendment note below] shall become effective on the first day of the first calendar month following the date of enactment [Dec. 1, 1967].”

#### SHORT TITLE OF 1967 AMENDMENT

Pub. L. 90-168, §1, Dec. 1, 1967, 81 Stat. 521, provided: “That this Act [amending this section, sections 175, 262, 264, 268, 269, 270, 511 [now 12103], 3014, 5034, 8014, and 8850 of this title, section 502 of Title 32, National Guard, and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting sections 3021 [now 10302], 3038, 8021 [now 10305], and 8038 of this title, enacting provisions set out as notes under this section and section 8212 of this title, and amending provisions set out as a note under section 113 of this title] may be cited as the ‘Reserve Forces Bill of Rights and Vitalization Act.’”

#### LIMITATION ON MAXIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 115-91, div. A, title IX, §908, Dec. 12, 2017, 131 Stat. 1514, provided that: “The maximum number of Deputy Assistant Secretaries of Defense after the date of the enactment of this Act [Dec. 12, 2017] may not exceed 48.”

#### REDESIGNATION OF ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS

Pub. L. 113-291, div. A, title IX, §902(a)(1), Dec. 19, 2014, 128 Stat. 3469, provided that: “The position of Assistant Secretary of Defense for Reserve Affairs is hereby redesignated as the Assistant Secretary of Defense for Manpower and Reserve Affairs. The individual serving in that position on the day before the date of the enactment of this Act [Dec. 19, 2014] may continue in office after that date without further appointment.”

#### DECREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 112-166, §2(c)(1)(B)–(D), Aug. 10, 2012, 126 Stat. 1283, provided that:

“(B) ADMINISTRATION OF REDUCTION.—The Assistant Secretary of Defense positions eliminated in accordance with the reduction in numbers required by the amendment made by subparagraph (A) [amending this section] shall be—

“(i) the Assistant Secretary of Defense for Networks and Information Integration; and

“(ii) the Assistant Secretary of Defense for Public Affairs.

“(C) CONTINUED SERVICE OF INCUMBENTS.—Notwithstanding the requirements of this paragraph, any individual serving in a position described under subparagraph (B) on the date of the enactment of this Act [Aug. 10, 2012] may continue to serve in such position without regard to the limitation imposed by the amendment in subparagraph (A).

“(D) PLAN FOR SUCCESSOR POSITIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall report to the congressional defense committees on his plan for successor positions, not subject to Senate confirmation, for the positions eliminated in accordance with the requirements of this paragraph.”

#### CHARTER OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

Pub. L. 100-180, div. A, title XII, §1211(a)(2)–(5), Dec. 4, 1987, 101 Stat. 1154, 1155, provided that:

“(2) The Secretary of Defense shall publish a directive setting forth the charter of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987]. The directive shall set forth—

“(A) the duties and responsibilities of the Assistant Secretary;

“(B) the relationships between the Assistant Secretary and other Department of Defense officials;

“(C) any delegation of authority from the Secretary of Defense to the Assistant Secretary; and

“(D) such other matters as the Secretary considers appropriate.

“(3) On the date that such directive is published, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives—

“(A) a copy of the directive; and

“(B) a report explaining how the charter of the Assistant Secretary fulfills the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), that provide that the Assistant Secretary—

“(i) exercises overall supervision of special operations activities and low intensity conflict activities of the Department of Defense;

“(ii) is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters; and

“(iii) is the principal special operations and low intensity conflict official (after the Secretary and Deputy Secretary) within the senior management of the Department of Defense.

“(4)(A) Until the office of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict is filled for the first time by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of the Army shall carry out the duties and responsibilities of that office.

“(B) Throughout the period of time during which the Secretary of the Army is carrying out the duties and responsibilities of that office, he shall submit to the Committees on Armed Services of the Senate and House of Representatives a monthly report on the administrative actions that he has taken and the policy guidance that he has issued to carry out such duties and responsibilities. Each such report shall also describe the actions that he intends to take and the guidance that he intends to issue to fulfill the provisions of section 136(b)(4) [now 138(b)(4)] of title 10, United States Code (as amended by paragraph (1)), along with a timetable for completion of such actions and issuance of such guidance. The first such report shall be submitted not later than 30 days after the date of the enactment of this Act [Dec. 4, 1987].

“(5) Until the first individual appointed to the position of Assistant Secretary of Defense for Special Operations and Low Intensity Conflict by the President, by and with the advice and consent of the Senate, leaves that office, that Assistant Secretary (and the Secretary of the Army when carrying out the duties and responsibilities of the Assistant Secretary) shall, with respect to the duties and responsibilities of that office, report directly, without intervening review or approval, to the Secretary of Defense personally or, as designated by the Secretary, to the Deputy Secretary of Defense personally.”

#### TEMPORARY INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE

Pub. L. 100-180, div. A, title XIII, §1311, Dec. 4, 1987, 101 Stat. 1174, provided that until Jan. 20, 1989, the number of Assistant Secretaries of Defense authorized under subsec. (a) of this section and the number of positions at level IV of the Executive Schedule are each increased by one (to a total of 12).

#### [§§ 138a, 138b. Repealed. Pub. L. 113-291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]

Section 138a, added Pub. L. 106-65, div. A, title IX, §911(b)(1), Oct. 5, 1999, 113 Stat. 718, §133b; renumbered §138a and amended Pub. L. 111-84, div. A, title IX, §906(b)(1), (c)(2)(D), Oct. 28, 2009, 123 Stat. 2426, 2427; Pub. L. 111-383, div. A, title IX, §901(b)(5), Jan. 7, 2011, 124 Stat. 4319; Pub. L. 113-291, div. A, title IX, §901(h)(1)(C), (D), Dec. 19, 2014, 128 Stat. 3466, related to

Assistant Secretary of Defense for Logistics and Materiel Readiness.

Section 138b, added Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 518, §135; amended Pub. L. 92-596, §4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, §2(a), Oct. 21, 1977, 91 Stat. 1172; Pub. L. 99-348, title V, §501(b)(1), (2), (e)(1), July 1, 1986, 100 Stat. 707, 708; Pub. L. 99-433, title I, §105, Oct. 1, 1986, 100 Stat. 997; Pub. L. 99-500, §101(c) [title X, §903(b)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, and Pub. L. 99-591, §101(c) [title X, §903(b)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132; Pub. L. 99-661, div. A, title IX, formerly title IV, §903(b)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; renumbered §137 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(1), 904(d)(1), Nov. 30, 1993, 107 Stat. 1726, 1728; Pub. L. 104-106, div. A, title IX, §903(c)(3), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 106-65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; renumbered §139a, Pub. L. 107-314, div. A, title IX, §901(a)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 111-23, title I, §104(a)(1), May 22, 2009, 123 Stat. 1717; renumbered §138b and amended Pub. L. 111-383, div. A, title IX, §901(b)(6), (k)(1)(B), Jan. 7, 2011, 124 Stat. 4319, 4325; Pub. L. 112-239, div. A, title IX, §904(e)(1), Jan. 2, 2013, 126 Stat. 1867; Pub. L. 113-291, div. A, title IX, §901(h)(2)(C), Dec. 19, 2014, 128 Stat. 3466, related to Assistant Secretary of Defense for Research and Engineering.

#### [§ 138c. Repealed. Pub. L. 113-291, div. A, title IX, §901(g)(2), Dec. 19, 2014, 128 Stat. 3466]

Section, added Pub. L. 110-417, [div. A], title IX, §902(a), Oct. 14, 2008, 122 Stat. 4564, §139b; renumbered §138c and amended Pub. L. 111-383, div. A, title IX, §901(b)(7), (k)(1)(C), Jan. 7, 2011, 124 Stat. 4320, 4325; Pub. L. 112-81, div. A, title III, §311, Dec. 31, 2011, 125 Stat. 1351; Pub. L. 112-239, div. A, title X, §1076(f)(3), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 113-66, div. A, title III, §311, Dec. 26, 2013, 127 Stat. 728; Pub. L. 113-291, div. A, title IX, §901(g)(1)(B), (D), Dec. 19, 2014, 128 Stat. 3464, 3465, related to Assistant Secretary of Defense for Operational Energy Plans and Programs.

#### [§ 138d. Repealed. Pub. L. 113-291, div. A, title IX, §901(h)(4), Dec. 19, 2014, 128 Stat. 3467]

Section, added Pub. L. 100-180, div. A, title XII, §1245(a)(1), Dec. 4, 1987, 101 Stat. 1165, §141; renumbered §142, Pub. L. 103-160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726; amended Pub. L. 104-106, div. A, title IX, §§903(c)(4), 904(a)(1), Feb. 10, 1996, 110 Stat. 402, 403; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 110-417, [div. A], title IX, §905, Oct. 14, 2008, 122 Stat. 4568; renumbered §138d and amended Pub. L. 111-383, div. A, title IX, §901(b)(8), (k)(1)(D), Jan. 7, 2011, 124 Stat. 4320, 4325, related to Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

#### § 139. Director of Operational Test and Evaluation

(a)(1) There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Director. The Director may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

(2) In this section:

(A) The term “operational test and evaluation” means—

(i) the field test, under realistic combat conditions, of any item of (or key compo-

ment of) weapons, equipment, or munitions for the purpose of determining the effectiveness and suitability of the weapons, equipment, or munitions for use in combat by typical military users; and

(ii) the evaluation of the results of such test.

(B) The term “major defense acquisition program” means a Department of Defense acquisition program that is a major defense acquisition program for purposes of section 2430 of this title or that is designated as such a program by the Director for purposes of this section.

(b) The Director is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on operational test and evaluation in the Department of Defense and the principal operational test and evaluation official within the senior management of the Department of Defense. The Director shall—

(1) prescribe, by authority of the Secretary of Defense, policies and procedures for the conduct of operational test and evaluation in the Department of Defense;

(2) provide guidance to and consult with the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Secretaries of the military departments with respect to operational test and evaluation in the Department of Defense in general and with respect to specific operational test and evaluation to be conducted in connection with a major defense acquisition program;

(3) monitor and review all operational test and evaluation in the Department of Defense;

(4) coordinate operational testing conducted jointly by more than one military department or defense agency;

(5) review and make recommendations to the Secretary of Defense on all budgetary and financial matters relating to operational test and evaluation, including operational test facilities and equipment, in the Department of Defense; and

(6) monitor and review the live fire testing activities of the Department of Defense provided for under section 2366 of this title.

(c) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense. The Director shall consult closely with, but the Director and the Director’s staff are independent of, the Under Secretary of Defense for Acquisition, Technology, and Logistics and all other officers and entities of the Department of Defense responsible for acquisition.

(d) The Director may not be assigned any responsibility for developmental test and evaluation, other than the provision of advice to officials responsible for such testing.

(e)(1) The Secretary of a military department shall report promptly to the Director the results of all operational test and evaluation conducted by the military department and of all studies

conducted by the military department in connection with operational test and evaluation in the military department.

(2) The Director may require that such observers as he designates be present during the preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

(3) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out his duties under this section.

(f)(1) The Director of the Missile Defense Agency shall make available to the Director of Operational Test and Evaluation the results of all tests and evaluations conducted by the Missile Defense Agency and of all studies conducted by the Missile Defense Agency in connection with tests and evaluations in the Missile Defense Agency.

(2) The Director of Operational Test and Evaluation may require that such observers as the Director designates be present during the preparation for and the conducting of any test and evaluation conducted by the Missile Defense Agency.

(3) The Director of Operational Test and Evaluation shall have access to all records and data in the Department of Defense (including the records and data of the Missile Defense Agency) that the Director considers necessary to review in order to carry out his duties under this subsection.

(g) The Director shall ensure that safety concerns developed during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.

(h)(1) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year.

(2) Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretaries of the military departments, and the Congress not later than January 31 of each year, through January 31, 2021.

(3) If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.

(4) The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and evaluation activities. The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.

(5) The Secretary of Defense and the Secretaries of the military departments may comment on any report of the Director to Congress under this subsection.

(i) The Director shall comply with requests from Congress (or any committee of either House of Congress) for information relating to operational test and evaluation in the Department of Defense.

(j) The President shall include in the Budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the activities of the Director of Operational Test and Evaluation in carrying out the duties and responsibilities of the Director under this section.

(k) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.

(Added Pub. L. 98-94, title XII, §1211(a)(1), Sept. 24, 1983, 97 Stat. 684, §136a; amended Pub. L. 99-348, title V, §501(c), July 1, 1986, 100 Stat. 708; renumbered §138 and amended Pub. L. 99-433, title I, §§101(a)(7), 110(d)(10), (g)(1), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99-500, §101(c) [title X, §§903(c), 910(c)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-132, 1783-145, and Pub. L. 99-591, §101(c) [title X, §§903(c), 910(c)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-132, 3341-145; Pub. L. 99-661, div. A, title IX, formerly title IV, §§903(c), 910(c), Nov. 14, 1986, 100 Stat. 3912, 3924, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100-26, §7(a)(1), (c)(2), Apr. 21, 1987, 101 Stat. 275, 280; Pub. L. 100-180, div. A, title VIII, §801, Dec. 4, 1987, 101 Stat. 1123; Pub. L. 101-189, div. A, title VIII, §802(b), title XVI, §1622(e)(1), Nov. 29, 1989, 103 Stat. 1486, 1605; Pub. L. 101-510, div. A, title XIV, §1484(k)(1), Nov. 5, 1990, 104 Stat. 1719; renumbered §139 and amended Pub. L. 103-160, div. A, title IX, §§901(a)(1), 904(d)(1), 907, Nov. 30, 1993, 107 Stat. 1726, 1728, 1730; Pub. L. 103-355, title III, §§3011-3013, Oct. 13, 1994, 108 Stat. 3331, 3332; Pub. L. 106-65, div. A, title IX, §911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107-107, div. A, title II, §263, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1044, 1225; Pub. L. 107-314, div. A, title II, §235, Dec. 2, 2002, 116 Stat. 2491; Pub. L. 109-364, div. A, title II, §231(f), Oct. 17, 2006, 120 Stat. 2133; Pub. L. 110-181, div. A, title II, §221, Jan. 28, 2008, 122 Stat. 37; Pub. L. 110-417, [div. A], title II, §251(c), Oct. 14, 2008, 122 Stat. 4400; Pub. L. 114-328, div. A, title VIII, §845, Dec. 23, 2016, 130 Stat. 2292.)

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### PRIOR PROVISIONS

A prior section 139 was renumbered section 140 of this title.

Another prior section 139 was renumbered section 2431 of this title.

#### AMENDMENTS

2016—Subsec. (h)(2). Pub. L. 114-328, §845(1), inserted “the Secretaries of the military departments,” after “Logistics,” and substituted “January 31 of each year, through January 31, 2021” for “10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31”.

Subsec. (h)(5). Pub. L. 114-328, §845(2), inserted “of Defense and the Secretaries of the military departments” after “Secretary”.

2008—Subsec. (b)(3) to (7). Pub. L. 110-417 redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which required the Director to provide guidance to and consult with the officials described in par. (2) of subsec. (b) with respect to operational test and evaluation or survivability testing (or both) within the Department of Defense of force protection equipment.

Subsecs. (f) to (k). Pub. L. 110-181 added subsec. (f) and redesignated former subsecs. (f) to (j) as (g) to (k), respectively.

2006—Subsec. (b)(3) to (7). Pub. L. 109-364 added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

2002—Subsec. (g). Pub. L. 107-314, §235(b), designated first sentence as par. (1), second sentence as par. (2), third sentence as par. (3), fourth and fifth sentences as par. (4), and sixth sentence as par. (5).

Pub. L. 107-314, §235(a), inserted after fourth sentence “The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.”

2001—Subsec. (c). Pub. L. 107-107, §1048(b)(2), substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

Subsec. (f). Pub. L. 107-107, §263(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 107-107, §1048(b)(2), substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

Pub. L. 107-107, §263(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h) to (j). Pub. L. 107-107, §263(1), redesignated subsecs. (g) to (i) as (h) to (j), respectively.

1999—Subsec. (b). Pub. L. 106-65 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology” in introductory provisions and in par. (2).

1994—Subsec. (b)(6). Pub. L. 103-355, §3012(a), added par. (6).

Subsec. (c). Pub. L. 103-355, §3011, inserted “The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining the approval or concurrence of any other official within the Department of Defense.” after “(c)”.

Subsec. (f). Pub. L. 103-355, §§3012(b), 3013, in first sentence inserted “(including live fire testing activities)” after “operational test and evaluation activities” and after second sentence inserted “If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.”

1993—Pub. L. 103-160, §901(a)(1), renumbered section 138 of this title as this section.

Subsec. (b). Pub. L. 103-160, §904(d)(1), substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition” in introductory provisions and in par. (2).

Subsec. (c). Pub. L. 103-160, §907, struck out “The Director reports directly, without intervening review or approval, to the Secretary of Defense personally.” after “(c)” and substituted “Under Secretary of Defense for Acquisition and Technology” for “Director of Defense Research and Engineering” and “responsible for acquisition” for “responsible for research and development”.

Subsec. (f). Pub. L. 103-160, §904(d)(1), substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.



1990—Subsec. (a)(2)(A). Pub. L. 101-510, §1484(k)(1)(A), substituted “(A) The term ‘operational test and evaluation’ for ‘(A) ‘Operational test and evaluation’”.

Subsec. (a)(2)(B). Pub. L. 101-510, §1484(k)(1)(B), substituted “(B) The term ‘major defense acquisition program’ for ‘(B) ‘Major defense acquisition program’”.

1989—Subsec. (a)(2)(A). Pub. L. 101-189, §1622(e)(1)(A), which directed amendment of subpar. (A) by substituting “(A) The term ‘operational’” for “(A) ‘Operational’”, could not be executed because a closing quotation mark did not follow “Operational”.

Subsec. (a)(2)(B). Pub. L. 101-189, §1622(e)(1)(B), which directed amendment of subpar. (B) by substituting “(B) The term ‘major’” for “(B) ‘Major’”, could not be executed because a closing quotation mark did not follow “Major”.

Subsec. (b)(4). Pub. L. 101-189, §802(b)(1)(A), inserted “and” after “defense agency;”.

Subsec. (b)(5), (6). Pub. L. 101-189, §802(b)(1)(B), (C), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: “analyze the results of the operational test and evaluation conducted for each major defense acquisition program and, at the conclusion of such operational test and evaluation, report to the Secretary of Defense, to the Under Secretary of Defense for Acquisition, and to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives as provided in subsection (c) on—

“(A) whether the test and evaluation performed was adequate; and

“(B) whether the test and evaluation results confirm that the items or components actually tested are effective and suitable for combat; and”.

Subsec. (c). Pub. L. 101-189, §802(b)(2), (3), redesignated subsec. (d)(1) as (c) and struck out former subsec. (c) which read as follows: “Each report of the Director required under subsection (b)(5) shall be submitted to the committees specified in that subsection in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report.”

Subsec. (d). Pub. L. 101-189, §802(b)(4), redesignated former par. (2) of subsec. (d) as entire subsec. Former par. (1) of subsec. (d) redesignated subsec. (c).

Subsec. (f). Pub. L. 101-189, §802(b)(5)–(7), redesignated subsec. (g)(1) as (f), substituted “this subsection” for “this paragraph”, and struck out former subsec. (f) which read as follows:

“(1) Operational testing of a major defense acquisition program may not be conducted until the Director has approved in writing the adequacy of the plans (including the adequacy of projected levels of funding) for operational test and evaluation to be conducted in connection with that program.

“(2) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program required by subsection (b)(5) and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have received that report.”

Subsec. (g). Pub. L. 101-189, §802(b)(6), (8), redesignated former par. (2) of subsec. (g) as entire subsec. (g), and redesignated former par. (1) of subsec. (g) as subsec. (f).

1987—Subsec. (a)(2)(B). Pub. L. 100-26, §7(c)(2), substituted “section 2430” for “section 2432(a)(1)”.

Subsec. (c). Pub. L. 100-26, §7(a)(1), substituted “to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report.” for “to the Secretary, to the Under Secretary of Defense for Acquisition, and shall be accompanied by such comments as the Secretary of Defense may wish to make on such report.”

Subsec. (d). Pub. L. 100-180 designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99-433, §§101(a)(7), 110(d)(10), renumbered section 136a of this title as this section, and struck out “; appointment; powers and duties” at end of section catchline.

Subsec. (a)(2)(B). Pub. L. 99-433, §110(g)(1), substituted “section 2432(a)(1)” for “section 139a(a)(1)”.

Subsec. (b). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§903(c)(1)–(3)] and Pub. L. 99-661, §903(c)(1)–(3), amended subsec. (b) identically, in provisions preceding par. (1) and in par. (2), inserting “and the Under Secretary of Defense for Acquisition” and, in par. (5), inserting “, to the Under Secretary of Defense for Acquisition.”

Subsec. (c). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§903(c)(4)], and Pub. L. 99-661, §903(c)(4), amended subsec. (c) identically by directing the insertion of “, to the Under Secretary of Defense for Acquisition,” after “Secretary of Defense” the first place it appears which was executed by making the insertion after “the Secretary” the first place it appears as the probable intent of Congress.

Subsec. (d). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§903(c)(5)], and Pub. L. 99-661, §903(c)(5), amended subsec. (d) identically inserting “personally” after “Secretary of Defense”.

Pub. L. 99-348 substituted “Director of Defense Research and Engineering” for “Under Secretary of Defense for Research and Engineering”.

Subsec. (g)(1). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§§903(c)(6), 910(c)], and Pub. L. 99-661, §§903(c)(6), 910(c), amended par. (1) identically, inserting “, the Under Secretary of Defense for Acquisition,” and substituting “10 days after transmission of the budget for the next fiscal year under section 1105 of title 31” for “January 15 immediately following the end of the fiscal year for which the report is prepared”.

Subsec. (i). Pub. L. 99-500 and Pub. L. 99-591, §101(c) [§903(c)(7)], and Pub. L. 99-661, §903(c)(7), amended section identically adding subsec. (i).

#### EFFECTIVE DATE

Pub. L. 98-94, title XII, §1211(c), Sept. 24, 1983, 97 Stat. 686, provided that: “The amendments made by this section [enacting this section and amending section 5315 of Title 5, Government Organization and Employees] shall take effect on November 1, 1983.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (h) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### REVIEW AND REVISION OF POLICIES AND PRACTICES ON TEST AND EVALUATION; INCLUSION IN STRATEGIC PLAN; REPORT

Pub. L. 109-364, div. A, title II, §231(b)–(e), Oct. 17, 2006, 120 Stat. 2132, 2133, provided that:

“(b) REVIEW AND REVISION OF POLICIES AND PRACTICES.—

“(1) REVIEW.—During fiscal year 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Operational Test and Evaluation shall review Department of Defense policies and practices on test and evaluation in order to—

“(A) reaffirm the test and evaluation principles that should guide traditional acquisition programs; and

“(B) determine how best to apply appropriate test and evaluation principles to emerging acquisition approaches.

“(2) REVISED GUIDANCE.—If the Under Secretary determines as a result of the review under paragraph (1) that a revision of the policies and practices referred to in that paragraph is necessary, the Under Secretary and the Director shall jointly issue new or revised guidance for the Department of Defense on test and evaluation to address that determination.

“(c) ISSUES TO BE ADDRESSED.—In carrying out subsection (b), the Under Secretary shall address policies and practices on test and evaluation in order to—

“(1) ensure the performance of test and evaluation activities with regard to—

“(A) items that are acquired pursuant to the authority for rapid acquisition and deployment of items in section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Pub. L. 107-314] (10 U.S.C. 2302 note);

“(B) programs that are conducted pursuant to the authority for spiral development in section 803 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107-314; 116 Stat. 2603; 10 U.S.C. 2430 note), or other authority for the conduct of incremental acquisition programs;

“(C) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

“(D) equipment that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code, but that may require limited operational test and evaluation for the purpose of ensuring the safety and survivability of such equipment and personnel using such equipment; and

“(2) ensure the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for the purpose of section 2366a of title 10, United States Code, and other applicable technology readiness requirements.

“(d) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director, Test Resource Management Center, shall ensure that the strategic plan for Department of Defense test and evaluation resources developed pursuant to section 196 of title 10, United States Code—

“(1) reflects any testing needs of the Department of Defense that are identified as a result of activities under subsection (b); and

“(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

“(e) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act [Oct. 17, 2006], the Under Secretary and the Director of Operational Test and Evaluation shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the review conducted under paragraph (1) of subsection (b), including any new or revised guidance issued pursuant to paragraph (2) of that subsection.”

### § 139a. Director of Cost Assessment and Program Evaluation

(a) APPOINTMENT.—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.

(b) INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.—(1) The Director of Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

(A) Matters assigned to the Director pursuant to this section and section 2334 of this title.

(B) Matters assigned to the Director by the Secretary pursuant to section 113 of this title.

(2) The Director may communicate views on matters within the responsibility of the Director directly to the Secretary of Defense and the Deputy Secretary of Defense without obtaining

the approval or concurrence of any other official within the Department of Defense.

(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:

(1) The Deputy Director for Cost Assessment.

(2) The Deputy Director for Program Evaluation.

(d) RESPONSIBILITIES.—The Director of Cost Assessment and Program Evaluation shall serve as the principal official within the senior management of the Department of Defense for the following:

(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section 2334 of this title.

(2) Analysis and advice on matters relating to the planning and programming phases of the Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense.

(5) Review, analysis, and evaluation of programs for executing approved strategies and policies, ensuring that information on programs is presented accurately and completely, and assessing the effect of spending by the Department of Defense on the United States economy.

(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence and in accordance with applicable policies.

(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources.

(9) Performing the duties assigned to the Director in section 2222 of this title.

(Added Pub. L. 111-23, title I, §101(a)(1), May 22, 2009, 123 Stat. 1705, §139c; renumbered §139a and amended Pub. L. 111-383, div. A, title IX, §901(f), title X, §1075(b)(5), Jan. 7, 2011, 124 Stat. 4322, 4369; Pub. L. 112-239, div. A, title X, §1076(f)(4), Jan. 2, 2013, 126 Stat. 1952; Pub. L. 115-91, div. A, title IX, §912(c), Dec. 12, 2017, 131 Stat. 1521.)

## PRIOR PROVISIONS

A prior section 139a was renumbered section 138b of this title.

Another prior section 139a was renumbered section 2432 of this title.

## AMENDMENTS

2017—Subsec. (d)(9). Pub. L. 115-91 added par. (9).

2013—Subsec. (d)(4). Pub. L. 112-239, which directed amendment of par. (4) by inserting a period at end, was not executed to reflect the probable intent of Congress and the prior amendment by Pub. L. 111-383, §1075(b)(5). See 2011 Amendment note below.

2011—Pub. L. 111-383, §901(f), renumbered section 139c of this title as this section.

Subsec. (d)(4). Pub. L. 111-383, §1075(b)(5), which directed amendment of section 139c of this title by inserting a period at the end of subsec. (d)(4), was executed to this section, to reflect the probable intent of Congress and the renumbering of section 139c of this title as this section by Pub. L. 111-383, §901(f). See above.

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(f) of Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

## TRANSFER OF PERSONNEL AND FUNCTIONS

Pub. L. 111-23, title I, §101(c), May 22, 2009, 123 Stat. 1709, provided that:

“(1) TRANSFER OF FUNCTIONS.—The functions of the Office of Program Analysis and Evaluation of the Department of Defense, including the functions of the Cost Analysis Improvement Group, are hereby transferred to the Office of the Director of Cost Assessment and Program Evaluation.

“(2) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR INDEPENDENT COST ASSESSMENT.—The personnel of the Cost Analysis Improvement Group are hereby transferred to the Deputy Director for Cost Assessment in the Office of the Director of Cost Assessment and Program Evaluation.

“(3) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR PROGRAM ANALYSIS AND EVALUATION.—The personnel (other than the personnel transferred under paragraph (2)) of the Office of Program Analysis and Evaluation are hereby transferred to the Deputy Director for Program Evaluation in the Office of the Director of Cost Assessment and Program Evaluation.”

**§ 139b. Special Operations Policy and Oversight Council**

(a) IN GENERAL.—In order to fulfill the responsibilities specified in section 138(b)(4)<sup>1</sup> of this title, the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, or the designee of the Assistant Secretary, shall establish and lead a team to be known as the “Special Operations Policy and Oversight Council” (in this section referred to as the “Council”).

(b) PURPOSE.—The purpose of the Council is to integrate the functional activities of the headquarters of the Department of Defense in order to most efficiently and effectively provide for special operations forces and capabilities. In fulfilling this purpose, the Council shall develop and continuously improve policy, joint processes, and procedures that facilitate the development, acquisition, integration, employment, and sustainment of special operations forces and capabilities.

(c) MEMBERSHIP.—The Council shall include the following:

(1) The Assistant Secretary, who shall act as leader of the Council.

(2) Appropriate senior representatives of each of the following:

(A) The Under Secretary of Defense for Research and Engineering.

(B) The Under Secretary of Defense for Management and Support.

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

(D) The Under Secretary of Defense for Personnel and Readiness.

(E) The Under Secretary of Defense for Intelligence.

(F) The General Counsel of the Department of Defense.

(G) The other Assistant Secretaries of Defense under the Under Secretary of Defense for Policy.

(H) The military departments.

(I) The Joint Staff.

(J) The United States Special Operations Command.

(K) Such other officials or Agencies, elements, or components of the Department of Defense as the Secretary of Defense considers appropriate.

(d) OPERATION.—The Council shall operate continuously.

(Added Pub. L. 114-328, div. A, title IX, §922(b)(1), Dec. 23, 2016, 130 Stat. 2355; amended Pub. L. 115-91, div. A, title X, §1081(a)(7), Dec. 12, 2017, 131 Stat. 1594.)

## REFERENCES IN TEXT

Section 138(b)(4) of this title, referred to in subsec. (a), was redesignated section 138(b)(2) of this title by Pub. L. 115-91, div. A, title IX, §907(b)(2), Dec. 12, 2017, 131 Stat. 1514.

## PRIOR PROVISIONS

A prior section 139b, added Pub. L. 111-23, title I, §102(a)(1), May 22, 2009, 123 Stat. 1710, §139d; renumbered §139b and amended Pub. L. 111-383, div. A, title IX, §901(e), (f), (k)(1)(E), title X, §1075(b)(6), Jan. 7, 2011, 124 Stat. 4321, 4322, 4325, 4369; Pub. L. 112-81, div. A, title VIII, §835(b), Dec. 31, 2011, 125 Stat. 1507; Pub. L. 112-239, div. A, title IX, §904(a)-(d), (f), (g), title X, §1076(f)(5), Jan. 2, 2013, 126 Stat. 1866, 1867, 1952; Pub. L. 113-291, div. A, title II, §221(a), Dec. 19, 2014, 128 Stat. 3330; Pub. L. 114-92, div. A, title VIII, §832, title X, §1078(b), Nov. 25, 2015, 129 Stat. 913, 998, related to Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering; support of major defense acquisition programs; annual and biennial report requirements; and joint guidance in certain areas, prior to repeal by Pub. L. 114-328, div. A, title IX, §901(e)(2), Dec. 23, 2016, 130 Stat. 2342.

Another prior section 139b was renumbered section 138c of this title.

Another prior section 139b was renumbered section 2433 of this title.

## AMENDMENTS

2017—Subsec. (c)(2)(K). Pub. L. 115-91 inserted period at end.

**[§ 139c. Repealed. Pub. L. 114-328, div. A, title IX, § 901(e)(2), Dec. 23, 2016, 130 Stat. 2342]**

Section, added §139e and renumbered §139c, Pub. L. 111-383, div. A, title VII, §896(a), title IX, §901(f), Jan. 7, 2011, 124 Stat. 4314, 4322; amended Pub. L. 112-81, div. A,

<sup>1</sup> See References in Text note below.

title VIII, §855, Dec. 31, 2011, 125 Stat. 1521; Pub. L. 112-239, div. A, title IX, §901(a), (b), title X, §1076(a)(13), (b)(3), Jan. 2, 2013, 126 Stat. 1863, 1864, 1948, 1949; Pub. L. 114-328, div. A, title X, §1081(b)(4)(A), Dec. 23, 2016, 130 Stat. 2419, related to Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.

A prior section 139c was renumbered section 139a of this title.

Another prior section 139c was renumbered section 2434 of this title.

**[[§ 139d, 139e. Renumbered §§ 139b, 139c]**

**§ 140. General Counsel**

(a) There is a General Counsel of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel is the chief legal officer of the Department of Defense. He shall perform such functions as the Secretary of Defense may prescribe.

(Added Pub. L. 87-651, title II, §202, Sept. 7, 1962, 76 Stat. 519, §137; amended Pub. L. 88-426, title III, §305(9), Aug. 14, 1964, 78 Stat. 423; renumbered §139 and amended Pub. L. 99-433, title I, §§101(a)(7), 110(d)(11), Oct. 1, 1986, 100 Stat. 995, 1003; renumbered §140, Pub. L. 103-160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
137(a) .....	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (1st 25 words of 1st sentence), 67 Stat. 639].	1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4, 67 Stat. 639.
137(b) .....	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (1st sentence, less 1st 25 words), 67 Stat. 639].	
137(c) .....	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (2d sentence), 67 Stat. 639].	

In subsection (b), the words “from time to time” are omitted as surplusage.

PRIOR PROVISIONS

A prior section 140 was renumbered section 141 of this title.

Another prior section 140 was renumbered section 127 of this title.

AMENDMENTS

1993—Pub. L. 103-160 renumbered section 139 of this title as this section.

1986—Pub. L. 99-433, §§101(a)(7), 110(d)(11), renumbered section 137 of this title as this section, and struck out “: powers and duties” at end of section catchline.

1964—Subsec. (c). Pub. L. 88-426 repealed subsec. (c) which related to compensation of General Counsel. See section 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88-426, see section 501 of Pub. L. 88-426.

**[[§ 140a. Renumbered § 422]**

PRIOR PROVISIONS

A prior section 140a was renumbered section 421 of this title.

**[[§ 140b. Renumbered § 423]**

PRIOR PROVISIONS

A prior section 140b was renumbered section 129 of this title.

**[[§ 140c. Renumbered § 130]**

**§ 141. Inspector General**

(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3).

(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.

(Added Pub. L. 99-433, title I, §108, Oct. 1, 1986, 100 Stat. 998, §140; renumbered §141, Pub. L. 103-160, div. A, title IX, §901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95-452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 141 was renumbered section 138d of this title.

Another prior section 141 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99-433. See note preceding section 151 of this title.

AMENDMENTS

1993—Pub. L. 103-160 renumbered section 140 of this title as this section.

**§ 142. Chief Information Officer**

(a) There is a Chief Information Officer of the Department of Defense.

(b)(1) The Chief Information Officer of the Department of Defense—

(A) is the Chief Information Officer of the Department of Defense for the purposes of sections 3506(a)(2) and 3544(a)(3) of title 44;

(B) has the responsibilities and duties specified in section 11315 of title 40;

(C) has the responsibilities specified for the Chief Information Officer in sections 2222, 2223(a), and 2224 of this title;

(D) exercises authority, direction, and control over the Information Assurance Directorate of the National Security Agency;

(E) exercises authority, direction, and control over the Defense Information Systems Agency, or any successor organization;

(F) has the responsibilities for policy, oversight, guidance, and coordination for all Department of Defense matters related to electromagnetic spectrum, including coordination with other Federal and industry agencies, coordination for classified programs, and in coordination with the Under Secretary for Personnel and Readiness, policies related to spectrum management workforce;

(G) has the responsibilities for policy, oversight, guidance, and coordination for nuclear command and control systems;

(H) has the responsibilities for policy, oversight, and guidance for matters related to precision navigation and timing; and

(I) has the responsibilities for policy, oversight, and guidance for the architecture and programs related to the networking and cyber defense architecture of the Department.

(2) The Chief Information Officer shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Chief Information Officer takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4)<sup>1</sup> of this title. The officials serving in positions specified in section 131(b)(4)<sup>1</sup> and the Chief Information Officer of the Department of Defense take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added and amended Pub. L. 113–291, div. A, title IX, §901(b)(1), (j)(1)(B), Dec. 19, 2014, 128 Stat. 3463, 3467; Pub. L. 114–328, div. A, title IX, §902(a), Dec. 23, 2016, 130 Stat. 2343; Pub. L. 115–91, div. A, title IX, §909(a)–(d), title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1514, 1515, 1597.)

#### AMENDMENT OF SECTION

*Pub. L. 115–91, div. A, title IX, §909(a)–(d), (g), Dec. 12, 2017, 131 Stat. 1514–1516, provided that, effective Jan. 1, 2019, this section is amended:*

*(1) in subsection (a), by inserting before the period at the end the following: “, who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer”;*

*(2) in subsection (b)—*

*(A) in paragraph (1)(I), by striking “the networking and cyber defense architecture” and inserting “the information technology, networking, information assurance, cybersecurity, and cyber capability architectures”;*

*(B) by redesignating paragraph (2) as paragraph (4); and*

*(C) by inserting after paragraph (1) the following new paragraphs:*

*“(2)(A) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require the Secretaries of the military departments and the heads of the Defense Agencies with responsibilities associated with any activity specified in paragraph (1) to transmit the proposed budget for such activities for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Chief Information Officer for review under subparagraph (B) before submitting the proposed budget to the Under Secretary of Defense (Comptroller).*

*“(B) The Chief Information Officer shall review each proposed budget transmitted under subparagraph (A) and, not later than January 31 of the year preceding the fiscal year for which the budget is proposed, shall submit to the Secretary of Defense a report containing the comments of the Chief Information Officer with respect to all such proposed budgets, together with the certification of the Chief Information Officer regarding whether each proposed budget is adequate.*

*“(C) Not later than March 31 of each year, the Secretary of Defense shall submit to Congress a report specifying each proposed budget contained in the most-recent report submitted under subparagraph (B) that the Chief Information Officer did not certify to be adequate. The report of the Secretary shall include the following matters:*

*“(i) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets specified in the report.*

*“(ii) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.*

*“(3)(A) The Secretary of a military department or head of a Defense Agency may not develop or procure information technology (as defined in section 11101 of title 40) that does not fully comply with such standards as the Chief Information Officer may establish.*

*“(B) The Chief Information Officer shall implement and enforce a process for—*

*“(i) developing, adopting, or publishing standards for information technology, networking, or cyber capabilities to which any military department or defense agency would need to adhere in order to run such capabilities on defense networks; and*

*“(ii) certifying on a regular and ongoing basis that any capabilities being developed or procured meets such standards as have been published by the Department at the time of certification.*

*“(C) The Chief Information Officer shall identify gaps in standards and mitigation plans for operating in the absence of acceptable standards.”; and*

*(3) by adding at the end the following new subsections:*

*(c) The Chief Information Officer of the Department of Defense shall report directly to the Secretary of Defense in the performance of duties under this section.*

*(d) The Chief Information Officer of the Department of Defense takes precedence in the Department of Defense with the officials serving in positions specified in section 131(b)(4) of this title. The officials serving in positions specified in such section and the Chief Information Officer take precedence among themselves in the order prescribed by the Secretary of Defense.*

*See 2017 Amendment notes below.*

#### REFERENCES IN TEXT

Section 131(b)(4) of this title, referred to in subsec. (c), was redesignated section 131(b)(5) of this title by Pub. L. 115–91, div. A, title IX, §910(c)(1)(A), Dec. 12, 2017, 131 Stat. 1518.

#### PRIOR PROVISIONS

A prior section 142 of this title was renumbered section 138d of this title and subsequently repealed.

Another prior section 142 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91, §909(a), inserted before period at end “, who shall be appointed by the President, by and with the advice and consent of the Senate, from among civilians who are qualified to serve as such officer”.

<sup>1</sup> See References in Text note below.

Subsec. (b)(1)(I). Pub. L. 115–91, §909(b), substituted “the information technology, networking, information assurance, cybersecurity, and cyber capability architectures” for “the networking and cyber defense architecture”.

Subsec. (b)(2) to (4). Pub. L. 115–91, §909(c), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (c). Pub. L. 115–91, §1081(b)(1)(A), repealed Pub. L. 113–291, §901(j)(1)(B). See 2014 Amendment note below.

Pub. L. 115–91, §909(d), added subsec. (c), relating to the direct report of the Chief Information Officer to the Secretary of Defense.

Subsec. (d). Pub. L. 115–91, §909(d), added subsec. (d). 2016—Subsec. (b)(1)(E) to (I). Pub. L. 114–328 added subpars. (E) to (I).

2014—Subsec. (c). Pub. L. 113–291, §901(j)(1)(B), which directed striking out subsec. (c), was repealed by Pub. L. 115–91, §1081(b)(1)(A).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115–91, div. A, title IX, §909(g), Dec. 12, 2017, 131 Stat. 1516, provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 2019.”

Pub. L. 115–91, div. A, title X, §1081(b), Dec. 12, 2017, 131 Stat. 1597, provided that the amendment made by section 1081(b)(1)(A) is effective as of Dec. 23, 2016.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113–291, div. A, title IX, §901(j)(1), Dec. 19, 2014, 128 Stat. 3467, which provided that the amendment made by section 901(j)(1)(B) is effective on the effective date specified in former section 901(a)(1) of Pub. L. 113–291, which was Feb. 1, 2017, was repealed by Pub. L. 115–91, div. A, title X, §1081(b)(1)(A), Dec. 12, 2017, 131 Stat. 1597.

#### SERVICE OF INCUMBENT WITHOUT FURTHER APPOINTMENT

Pub. L. 115–91, div. A, title IX, §909(f), Dec. 12, 2017, 131 Stat. 1516, provided that: “The individual serving in the position of Chief Information Officer of the Department of Defense as of January 1, 2019, may continue to serve in such position commencing as of that date without further appointment pursuant to section 142 of title 10, United States Code, as amended by this section.”

### § 143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed 3,767.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term “OSD personnel” means military, civilian, and detailed personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the number of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(Added Pub. L. 105–85, div. A, title IX, §911(d)(1), Nov. 18, 1997, 111 Stat. 1859; amended Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723; Pub. L. 114–328, div. A, title IX, §903(a), Dec. 23, 2016, 130 Stat. 2344.)

#### CODIFICATION

Section, as added by Pub. L. 105–85, consists of text of Pub. L. 104–201, div. A, title IX, §903(a)–(f), Sept. 23, 1996, 110 Stat. 2617. Section 903 of Pub. L. 104–201, which was formerly set out as a note under section 131 of this title, was repealed by Pub. L. 105–85, div. A, title IX, §911(d)(3), Nov. 18, 1997, 111 Stat. 1860.

#### AMENDMENTS

2016—Subsec. (b). Pub. L. 114–328 substituted “civilian, and detailed personnel” for “and civilian personnel”.

1999—Subsec. (a). Pub. L. 106–65, §921(c)(1), substituted “The number” for “Effective October 1, 1999, the number” and “3,767” for “75 percent of the baseline number”.

Subsec. (b). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “The number of OSD personnel—

“(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

“(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.”

Subsec. (c). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “For purposes of this section, the term ‘baseline number’ means the number of OSD personnel as of October 1, 1994.”

Subsecs. (d), (e). Pub. L. 106–65, §921(c)(3), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

Subsec. (f). Pub. L. 106–65, §921(c)(2), struck out heading and text of subsec. (f). Text read as follows: “If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.”

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723, provided that the amendment made by section 921(c) is effective Oct. 1, 1999.

#### EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Pub. L. 110–417, [div. A], title XI, §1111, Oct. 14, 2008, 122 Stat. 4619, as amended by Pub. L. 111–84, div. A, title XI, §1109(a), Oct. 28, 2009, 123 Stat. 2492; Pub. L. 111–383, div. A, title X, §1075(e)(17), Jan. 7, 2011, 124 Stat. 4375, provided that:

“(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 3014, 5014, and 8014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

“(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) [now 1705(g)] of title 10, United States Code, as amended by section 833 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

“(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

“(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the Secretary of Defense or a Secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

“(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of [former] section 115b of such title; or

“(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any of the following purposes:

“(A) Performance of inherently governmental functions.

“(B) Performance of work pursuant to section 2463 of title 10, United States Code.

“(C) Ability to maintain sufficient organic expertise and technical capability.

“(D) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work.”

#### § 144. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109-163, div. A, title IX, §904(b)(1), Jan. 6, 2006, 119 Stat. 3400.)

##### CHANGE OF NAME

Pub. L. 109-163, div. A, title IX, §904(a), Jan. 6, 2006, 119 Stat. 3399, provided that:

“(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

“(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

“(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

“(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

“(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

“(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

“(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

“(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

“(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

“(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

“(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.”

#### ROLE OF THE DIRECTORS OF SMALL BUSINESS PROGRAMS IN ACQUISITION PROCESSES OF THE DEPARTMENT OF DEFENSE

Pub. L. 112-239, div. A, title XVI, §1611, Jan. 2, 2013, 126 Stat. 2063, provided that:

“(a) GUIDANCE REQUIRED.—The Secretary of Defense shall develop and issue guidance to ensure that the head of each Office of Small Business Programs of the Department of Defense is a participant as early as practicable in the acquisition processes—

“(1) of the Department, in the case of the Director of Small Business Programs in the Department of Defense; and

“(2) of the military department concerned, in the case of the Director of Small Business Programs in the Department of the Army, in the Department of the Navy, and in the Department of the Air Force.

“(b) MATTERS TO BE INCLUDED.—Such guidance shall, at a minimum—

“(1) require the Director of Small Business Programs in the Department of Defense—

“(A) to provide advice to the Defense Acquisition Board; and

“(B) to provide advice to the Information Technology Acquisition Board; and

“(2) require coordination between the chiefs of staff of the Armed Forces and the service acquisition executives, as appropriate (or their designees), and the Director of Small Business Programs in each military department as early as practical in the relevant acquisition processes.”

#### CHAPTER 5—JOINT CHIEFS OF STAFF

Sec. 151.	Joint Chiefs of Staff: composition; functions.
152.	Chairman: appointment; grade and rank.
153.	Chairman: functions.
154.	Vice Chairman.
155.	Joint Staff.
[155a.]	Repealed.]
156.	Legal Counsel to the Chairman of the Joint Chiefs of Staff.

##### PRIOR PROVISIONS

A prior chapter 5 related to Joint Chiefs of Staff, prior to the general revision of this chapter by Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1004, consisted of sections 141 to 143 as follows:

Section 141, acts Aug. 10, 1956, ch. 1041, 70A Stat. 6; Aug. 6, 1958, Pub. L. 85-599, §7, 72 Stat. 519; Sept. 7, 1962, Pub. L. 87-651, title II, §204, 76 Stat. 519; Oct. 20, 1978, Pub. L. 95-485, title VIII, §807, 92 Stat. 1622, provided for composition and functions of Joint Chiefs. See section 151 of this title.

Section 142, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Sept. 7, 1962, Pub. L. 87-649, §14c(1), 76 Stat. 501; Oct. 19, 1984, Pub. L. 98-525, title XIII, §1301(b), 98 Stat. 2611, provided for appointment and duties of Chairman of Joint Chiefs. See sections 152 and 153 of this title.

Section 143, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Aug. 6, 1958, Pub. L. 85-599, §5(a), 72 Stat. 517; Oct. 19,

1984, Pub. L. 98-525, title XIII, §1301(c), 98 Stat. 2611, provided for a Joint Staff. See section 155 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328, div. A, title V, §502(a)(2), Dec. 23, 2016, 130 Stat. 2102, struck out item 155a “Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters”.

2013—Pub. L. 112-239, div. A, title V, §511(b), Jan. 2, 2013, 126 Stat. 1718, added item 155a.

2008—Pub. L. 110-417, [div. A], title X, §1061(a)(2), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 156.

Pub. L. 110-181, div. A, title V, §543(e)(2), Jan. 28, 2008, 122 Stat. 115, added item 156.

1987—Pub. L. 100-180, div. A, title XIII, §1314(b)(1)(B), Dec. 4, 1987, 101 Stat. 1175, substituted “grade and rank” for “rank” in item 152.

1986—Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1005, amended chapter 5 heading and analysis generally, substituting items 151-155 for items 141-143.

#### § 151. Joint Chiefs of Staff: composition; functions

(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

- (1) The Chairman.
- (2) The Vice Chairman.
- (3) The Chief of Staff of the Army.
- (4) The Chief of Naval Operations.
- (5) The Chief of Staff of the Air Force.
- (6) The Commandant of the Marine Corps.
- (7) The Chief of the National Guard Bureau.

(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense.

(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense as specified in subsection (d).

(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as necessary, consult with and seek the advice of—

- (A) the other members of the Joint Chiefs of Staff; and
- (B) the commanders of the unified and specified combatant commands.

(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) After first informing the Secretary of Defense and the Chairman, the members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisors, may provide advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of De-

fense on a particular matter on the judgment of the military member.

(2) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be.

(3) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

[ (e) Repealed. Pub. L. 114-328, div. A, title IX, §921(a)(2)(C), Dec. 23, 2016, 130 Stat. 2351.]

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

(A) preside over the Joint Chiefs of Staff;

(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

(Added Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1005; amended Pub. L. 102-484, div. A, title IX, §911(a), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 109-163, div. A, title IX, §908(a), Jan. 6, 2006, 119 Stat. 3403; Pub. L. 112-81, div. A, title V, §512(a), Dec. 31, 2011, 125 Stat. 1393; Pub. L. 114-328, div. A, title IX, §921(a), Dec. 23, 2016, 130 Stat. 2351.)

#### AMENDMENTS

2016—Subsec. (b)(2). Pub. L. 114-328, §921(a)(2)(A), substituted “subsection (d)” for “subsections (d) and (e)”.  
Subsec. (c)(1). Pub. L. 114-328, §921(a)(1), substituted “as necessary” for “as he considers appropriate” in introductory provisions.

Subsec. (d). Pub. L. 114-328, §921(a)(2)(B), added par. (1) and redesignated former pars. (1) and (2) as (2) and (3), respectively.

Subsec. (e). Pub. L. 114-328, §921(a)(2)(C), struck out subsec. (e) which required members of the Joint Chiefs of Staff to provide advice on request to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense.



2011—Subsec. (a)(7). Pub. L. 112-81 added par. (7).

2006—Subsecs. (b), (c)(2), (d), (e). Pub. L. 109-163 inserted “the Homeland Security Council,” after “the National Security Council,” wherever appearing.

1992—Subsec. (a)(2) to (6). Pub. L. 102-484 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

#### § 152. Chairman: appointment; grade and rank

(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

(A) the Vice Chairman of the Joint Chiefs of Staff;

(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or

(C) the commander of a unified or specified combatant command.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1006; amended Pub. L. 100-180, div. A, title XIII, §1314(b)(1)(A), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 114-328, div. A, title IX, §921(b)(1), Dec. 23, 2016, 130 Stat. 2351.)

#### AMENDMENT OF SUBSECTION (a)

*Pub. L. 114-328, div. A, title IX, §921(b), Dec. 23, 2016, 130 Stat. 2351, provided that, effective Jan. 1, 2019, and applicable to individuals appointed as Chairman of the Joint Chiefs of Staff*

*on or after that date, subsection (a) of this section is amended as follows:*

*(1) in paragraph (1), by striking “two years, beginning on October 1 of odd-numbered years” and all that follows and inserting “four years, beginning on October 1 of an odd-numbered year. The limitation does not apply in time of war.”; and*

*(2) by striking paragraph (3) and inserting the following new paragraph (3):*

*“(3) The President may extend to eight years the combined period of service of an officer as Chairman and Vice Chairman if the President determines that such action is in the national interest. The limitation in this paragraph does not apply in time of war.”*

*See 2016 Amendment notes below.*

#### AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-328, §921(b)(1)(A), substituted “four years, beginning on October 1 of an odd-numbered year. The limitation does not apply in time of war.” for “two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.”

Subsec. (a)(3). Pub. L. 114-328, §921(b)(1)(B), added par. (3) and struck out former par. (3) which read as follows: “An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.”

1987—Pub. L. 100-180 substituted “grade and rank” for “rank” in section catchline.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title IX, §921(b)(2), Dec. 23, 2016, 130 Stat. 2351, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 2019, and shall apply to individuals appointed as Chairman of the Joint Chiefs of Staff on or after that date.”

#### § 153. Chairman: functions

(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary in providing for the strategic direction of the armed forces.

(2) STRATEGIC AND CONTINGENCY PLANNING.—In matters relating to strategic and contingency planning—

(A) developing strategic frameworks and preparing strategic plans, as required, to guide the use and employment of military force and related activities across all geographic regions and military functions and domains, and to sustain military efforts over different durations of time, as necessary;

(B) advising the Secretary on the production of the national defense strategy required by section 113(g) of this title and the national security strategy required by section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(C) preparing military analysis, options, and plans, as the Chairman considers appropriate, to recommend to the President and the Secretary;

(D) providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary; and

(E) preparing joint logistic and mobility plans to support national defense strategies and recommending the assignment of responsibilities to the armed forces in accordance with such plans.

(3) GLOBAL MILITARY INTEGRATION.—In matters relating to global military strategic and operational integration—

(A) providing advice to the President and the Secretary on ongoing military operations; and

(B) advising the Secretary on the allocation and transfer of forces among geographic and functional combatant commands, as necessary, to address transregional, multi-domain, and multifunctional threats.

(4) COMPREHENSIVE JOINT READINESS.—In matters relating to comprehensive joint readiness—

(A) evaluating the overall preparedness of the joint force to perform the responsibilities of that force under national defense strategies and to respond to significant contingencies worldwide;

(B) assessing the risks to United States missions, strategies, and military personnel that stem from shortfalls in military readiness across the armed forces, and developing risk mitigation options;

(C) advising the Secretary on critical deficiencies and strengths in joint force capabilities (including manpower, logistics, and mobility support) identified during the preparation and review of national defense strategies and contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans;

(D) advising the Secretary on the missions and functions that are likely to require contractor or other external support to meet national security objectives and policy and strategy, and the risks associated with such support; and

(E) establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform system of evaluating the preparedness of each such command, and groups of commands collectively, to carry out missions assigned to the command or commands.

(5) JOINT CAPABILITY DEVELOPMENT.—In matters relating to joint capability development—

(A) identifying new joint military capabilities based on advances in technology and concepts of operation needed to maintain the technological and operational superiority of the armed forces, and recommending investments and experiments in such capabilities to the Secretary;

(B) performing military net assessments of the joint capabilities of the armed forces of

the United States and its allies in comparison with the capabilities of potential adversaries;

(C) advising the Secretary under section 163(b)(2) of this title on the priorities of the requirements identified by the commanders of the unified and specified combatant commands;

(D) advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in national defense strategies and with the priorities established for the requirements of the unified and specified combatant commands;

(E) advising the Secretary on new and alternative joint military capabilities, and alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in subparagraph (D);

(F) assessing joint military capabilities and identifying, approving, and prioritizing gaps in such capabilities to meet national defense strategies, pursuant to section 181 of this title; and

(G) recommending to the Secretary appropriate trade-offs among life-cycle cost, schedule, performance, and procurement quantity objectives in the acquisition of materiel and equipment to support the strategic and contingency plans required by this paragraph in the most effective and efficient manner.

(6) JOINT FORCE DEVELOPMENT ACTIVITIES.—In matters relating to joint force development activities—

(A) developing doctrine for the joint employment of the armed forces;

(B) formulating policies and technical standards, and executing actions, for the joint training of the armed forces;

(C) formulating policies for coordinating the military education of members of the armed forces;

(D) formulating policies for concept development and experimentation for the joint employment of the armed forces;

(E) formulating policies for gathering, developing, and disseminating joint lessons learned for the armed forces; and

(F) advising the Secretary on development of joint command, control, communications, and cybercapability, including integration and interoperability of such capability, through requirements, integrated architectures, data standards, and assessments.

(7) OTHER MATTERS.—In other matters—

(A) recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command;

(B) providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations; and

(C) performing such other duties as may be prescribed by law or by the President or the Secretary.

(b) NATIONAL MILITARY STRATEGY.—

(1) NATIONAL MILITARY STRATEGY.—(A) The Chairman shall determine each even-numbered year whether to prepare a new National Military Strategy in accordance with this paragraph or to update a strategy previously prepared in accordance with this paragraph. The Chairman shall provide such National Military Strategy or update to the Secretary of Defense in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion in the report of the Secretary of Defense, if any, under paragraph (4).

(B) Each National Military Strategy (or update) under this paragraph shall be based on a comprehensive review conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified combatant commands. Each update shall address only those parts of the most recent National Military Strategy for which the Chairman determines, on the basis of the review, that a modification is needed.

(C) Each National Military Strategy (or update) submitted under this paragraph shall describe how the military will support the objectives of the United States as articulated in—

(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 3043);

(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title;

(iii) the most recent national defense strategy presented by the Secretary of Defense pursuant to section 113 of this title;

(iv) the most recent policy guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(v) any other national security or defense strategic guidance issued by the President or the Secretary of Defense.

(D) At a minimum, each National Military Strategy (or update) submitted under this paragraph shall—

(i) assess the strategic environment, threats, opportunities, and challenges that affect the national security of the United States;

(ii) assess military ends, ways, and means to support the objectives referred to in subparagraph (C);

(iii) provide the framework for the assessment by the Chairman of military strategic and operational risks, and for the development of risk mitigation options;

(iv) develop military options to address threats and opportunities;

(v) assess joint force capabilities, capacities, and resources; and

(vi) establish military guidance for the development of the joint force and the total force building on guidance by the President and the Secretary of Defense as referred to in subparagraph (C).

(2) RISK ASSESSMENT.—(A) The Chairman shall prepare each year an assessment of the risks associated with the most current National Military Strategy (or update) under paragraph (1). The risk assessment shall be known as the ‘Risk Assessment of the Chairman of the Joint Chiefs of Staff’. The Chairman shall complete preparation of the Risk Assessment in time for transmittal to Congress pursuant to paragraph (3), including in time for inclusion in the report of the Secretary of Defense, if any, under paragraph (4).

(B) The Risk Assessment shall do the following:

(i) As the Chairman considers appropriate, update any changes to the strategic environment, threats, objectives, force planning and sizing constructs, assessments, and assumptions that informed the National Military Strategy (or update) required by this section.

(ii) Identify and define the military strategic and operational risks to United States interests and the military strategic and operational risks in executing the National Military Strategy (or update).

(iii) Identify and define levels of risk, including an identification of what constitutes ‘significant’ risk in the judgment of the Chairman.

(iv)(I) Identify and assess risk in the National Military Strategy (or update) by category and level and the ways in which risk might manifest itself, including how risk is projected to increase, decrease, or remain stable over time; and

(II) for each category of risk, assess the extent to which current or future risk increases, decreases, or is stable as a result of budgetary priorities, tradeoffs, or fiscal constraints or limitations as currently estimated and applied in the current future-years defense program under section 221 of this title.

(v) Identify and assess risk associated with the assumptions or plans of the National Military Strategy (or update) about the contributions of external support, as appropriate.

(vi) Identify and assess the critical deficiencies and strengths in force capabilities (including manpower, logistics, intelligence, and mobility support) identified during the preparation and review of the contingency plans of each unified combatant command, and identify and assess the effect of such deficiencies and strengths for the National Military Strategy (or update).

(3) SUBMITTAL OF NATIONAL MILITARY STRATEGY AND RISK ASSESSMENT TO CONGRESS.—(A) Not later than February 15 of each even-numbered year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the National Military Strategy or update, if any, prepared under paragraph (1) in such year.

(B) Not later than February 15 each year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Rep-

representatives the Risk Assessment prepared under paragraph (2) in such year.

(C) The National Military Strategy (or update) and Risk Assessment submitted under this subsection shall be classified in form, but shall include an unclassified summary.

(4) SECRETARY OF DEFENSE REPORTS TO CONGRESS.—(A) In transmitting a National Military Strategy (or update) or Risk Assessment to Congress pursuant to paragraph (3), the Secretary of Defense shall include in the transmittal such comments of the Secretary thereon, if any, as the Secretary considers appropriate.

(B) If the Risk Assessment transmitted under paragraph (3) in a year includes an assessment that a risk or risks associated with the National Military Strategy (or update) are significant, or that critical deficiencies in force capabilities exist for a contingency plan described in paragraph (2)(B)(vi), the Secretary shall include in the transmittal of the Risk Assessment the plan of the Secretary for mitigating such risk or deficiency. A plan for mitigating risk of deficiency under this subparagraph shall—

(i) address the risk assumed in the National Military Strategy (or update) concerned, and the additional actions taken or planned to be taken to address such risk using only current technology and force structure capabilities; and

(ii) specify, for each risk addressed, the extent of, and a schedule for expected mitigation of, such risk, and an assessment of the potential for residual risk, if any, after mitigation.

(c) ANNUAL REPORT ON COMBATANT COMMAND REQUIREMENTS.—(1) Not later than 25 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, the Chairman shall submit to the congressional defense committees a report on the requirements of the combatant commands established under section 161 of this title.

(2) Each report under paragraph (1) shall contain the following:

(A) A consolidation of the integrated priority lists of requirements of the combatant commands.

(B) The Chairman's views on the consolidated lists.

(C) A description of the extent to which the most recent future-years defense program (under section 221 of this title) addresses the requirements on the consolidated lists.

(D) A description of the funding proposed in the President's budget for the next fiscal year, and for the subsequent fiscal years covered by the most recent future-years defense program, to address each deficiency in readiness identified during the joint readiness review conducted under section 117 of this title for the first quarter of the current fiscal year.

(Added Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1007; amended Pub. L. 106-65, div. A, title X, §1033, Oct. 5, 1999, 113 Stat. 751; Pub. L. 106-398, §1 [div. A], title IX, §905, Oct. 30, 2000, 114 Stat. 1654, 1654A-226; Pub. L. 107-107, div. A,

title IX, §921(b), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107-314, div. A, title X, §1062(a)(1), Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108-136, div. A, title IX, §903, title X, §1043(b)(2), Nov. 24, 2003, 117 Stat. 1558, 1610; Pub. L. 112-81, div. A, title VIII, §820(b), title IX, §941, Dec. 31, 2011, 125 Stat. 1501, 1548; Pub. L. 112-239, div. A, title VIII, §845(b), title IX, §§951(a), 952, Jan. 2, 2013, 126 Stat. 1848, 1891, 1892; Pub. L. 113-66, div. A, title IX, §905, Dec. 26, 2013, 127 Stat. 817; Pub. L. 113-291, div. A, title X, §1071(c)(2), (g)(3), Dec. 19, 2014, 128 Stat. 3508, 3511; Pub. L. 114-92, div. A, title IX, §901, title X, §1081(a)(3), Nov. 25, 2015, 129 Stat. 956, 1000; Pub. L. 114-328, div. A, title IX, §§921(c), 943, title X, §1064(c), Dec. 23, 2016, 130 Stat. 2351, 2369, 2409; Pub. L. 115-91, div. A, title X, §1081(a)(8), (d)(10), Dec. 12, 2017, 131 Stat. 1594, 1600.)

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, §1081(d)(10), made technical amendment to directory language of Pub. L. 114-328, §921(c). See 2016 Amendment note below.

Pub. L. 115-91, §1081(a)(8), in introductory provisions, inserted colon after “the following”.

2016—Subsec. (a). Pub. L. 114-328, §921(c), as amended by Pub. L. 115-91, §1081(d)(10), amended the text of subsec. (a) generally. Prior to amendment, subsec. (a) related to Chairman's functions of planning, advice, and policy formulation.

Subsec. (b)(1). Pub. L. 114-328, §943(a), amended par. (1) generally. Prior to amendment, par. (1) consisted of subpars. (A) to (F) and related to national military strategy.

Subsec. (b)(2)(A). Pub. L. 114-328, §943(b)(1), substituted “in the report” for “of the report” in third sentence.

Subsec. (b)(2)(B). Pub. L. 114-328, §943(b)(2)(A), inserted “(or update)” after “National Military Strategy” wherever appearing.

Subsec. (b)(2)(B)(ii). Pub. L. 114-328, §943(b)(2)(B), substituted “military strategic and operational risks to United States interests and the military strategic and operational risks in executing the National Military Strategy (or update).” for “strategic risks to United States interests and the military risks in executing the missions of the National Military Strategy (or update).”

Subsec. (b)(2)(B)(iii). Pub. L. 114-328, §943(b)(2)(C), struck out “distinguishing between the concepts of probability and consequences” after “levels of risk”.

Subsec. (b)(2)(B)(iv)(II). Pub. L. 114-328, §943(b)(2)(D), struck out “most” before “current future-years defense program”.

Subsec. (b)(2)(B)(v). Pub. L. 114-328, §943(b)(2)(E), substituted “of external support, as appropriate.” for “or support of—

“(I) other departments and agencies of the United States Government (including their capabilities and availability);

“(II) alliances, allies, and other friendly nations (including their capabilities, availability, and interoperability); and

“(III) contractors.”

Subsec. (b)(3)(C). Pub. L. 114-328, §943(c), added subpar. (C).

Subsec. (c)(1). Pub. L. 114-328, §1064(c), substituted “Not later than 25 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31” for “At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31”.

2015—Subsec. (a)(5). Pub. L. 114-92, §1081(a)(3), substituted “Joint Force Development Activities” for “Joint force development activities” in heading.

Subsec. (a)(5)(F). Pub. L. 114-92, §901, added subpar. (F).

2014—Subsec. (a)(5). Pub. L. 113-291, §1071(g)(3), amended Pub. L. 113-66, §905(b). See 2013 Amendment note below.

Subsec. (b)(1)(C)(i). Pub. L. 113-291, §1071(c)(2), substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Subsec. (a)(3)(F). Pub. L. 112-239, §845(b), added subpar. (F).

Subsec. (a)(4)(F), (G). Pub. L. 112-239, §951(a), added subpars. (F) and (G) and struck out former subpar. (F) which read as follows: “Assessing military requirements for defense acquisition programs.”

Subsec. (a)(5). Pub. L. 113-66, §905(b), as amended by Pub. L. 113-291, §1071(g)(3), which directed substitution of “JOINT FORCE DEVELOPMENT ACTIVITIES” for “DOCTRINE, TRAINING, AND EDUCATION” in heading, was executed by making the substitution for “DOCTRINE, TRAINING, AND EDUCATION” to reflect the probable intent of Congress.

Subsec. (a)(5)(B). Pub. L. 113-66, §905(a)(1), inserted “and technical standards, and executing actions,” after “policies”.

Subsec. (a)(5)(C). Pub. L. 113-66, §905(a)(2), struck out “and training” after “education”.

Subsec. (a)(5)(D), (E). Pub. L. 113-66, §905(a)(3), added subpars. (D) and (E).

Subsec. (b). Pub. L. 112-239, §952(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to risks under National Military Strategy.

Subsec. (d). Pub. L. 112-239, §952(b), struck out subsec. (d) which related to biennial review of National Military Strategy.

2011—Subsec. (a)(3)(C) to (E). Pub. L. 112-81, §820(b)(1), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (a)(4)(E). Pub. L. 112-81, §820(b)(2), inserted “and contractor support” after “area of manpower”.

Subsec. (b)(1). Pub. L. 112-81, §941(1), substituted “assessment of—” for “assessment of the nature and magnitude of the strategic and military risks associated with executing the missions called for under the current National Military Strategy.” and added subpars. (A) and (B).

Subsec. (b)(2). Pub. L. 112-81, §941(2), inserted “or that critical deficiencies in force capabilities exist for a contingency plan,” after “National Military Strategy is significant,” and “or deficiency” before period at end.

Subsec. (d)(2)(I). Pub. L. 112-81, §820(b)(3)(A), added subpar. (I).

Subsec. (d)(3)(B). Pub. L. 112-81, §820(b)(3)(B), substituted “the levels of support from allies and other friendly nations, and the levels of contractor support” for “and the levels of support from allies and other friendly nations”.

2003—Subsec. (b)(1). Pub. L. 108-136, §903(b), substituted “of each odd-numbered year” for “each year”.

Subsec. (c). Pub. L. 108-136, §1043(b)(2), in par. (1), substituted “congressional defense committees” for “committees of Congress named in paragraph (2)”, designated the second sentence of par. (1) as par. (2), in par. (2), substituted “Each report under paragraph (1)” for “The report”, and struck out former par. (2) which read as follows: “The committees of Congress referred to in paragraph (1) are the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.”

Subsec. (d). Pub. L. 108-136, §903(a), added subsec. (d).

2002—Pub. L. 107-314 inserted subsec. (a) heading and redesignated subsecs. (c) and (d) as (b) and (c), respectively.

2001—Subsec. (a). Pub. L. 107-107, §921(b)(1), struck out “(a) PLANNING; ADVICE; POLICY FORMULATION.—” before “Subject to the authority”.

Subsec. (b). Pub. L. 107-107, §921(b)(2), struck out heading and text of subsec. (b) which read as follows:

“(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chair-

man shall consider (among other matters) the following:

“(A) Changes in the nature of the threats faced by the United States.

“(B) Unnecessary duplication of effort among the armed forces.

“(C) Changes in technology that can be applied effectively to warfare.

“(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.”

2000—Subsec. (d)(1). Pub. L. 106-398, §1 [[div. A], title IX, §905(b)], substituted “At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31,” for “Not later than August 15 of each year,” in introductory provisions.

Subsec. (d)(1)(C), (D). Pub. L. 106-398, §1 [[div. A], title IX, §905(a)], added subpars. (C) and (D).

1999—Subsecs. (c), (d). Pub. L. 106-65 added subsecs. (c) and (d).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1081(d), Dec. 12, 2017, 131 Stat. 1599, provided that the amendment made by section 1081(d)(10) is effective as of Dec. 23, 2016, and as if included in Pub. L. 114-328 as enacted.

#### EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title X, §1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(3) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113-66 as enacted.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### INCLUSION OF ASSESSMENT OF JOINT MILITARY TRAINING AND FORCE ALLOCATIONS IN QUADRENNIAL DEFENSE REVIEW AND NATIONAL MILITARY STRATEGY

Pub. L. 112-81, div. A, title III, §348, Dec. 31, 2011, 125 Stat. 1375, provided that: “The assessments of the National Military Strategy conducted by the Chairman of the Joint Chiefs of Staff under section 153(b) of this title [sic; probably means Title 10, Armed Forces], and the quadrennial roles and missions review pursuant to [former] section 118b of this title [sic], shall include an assessment of joint military training and force allocations to determine—

“(1) the compliance of the military departments with the joint training, doctrine, and resource allocation recommendations promulgated by the Joint Chiefs of Staff; and

“(2) the effectiveness of the Joint Staff in carrying out the missions of planning and experimentation formerly accomplished by Joint Forces Command.”

#### COMMON MEASUREMENT OF OPERATIONS TEMPO AND PERSONNEL TEMPO

Pub. L. 105-85, div. A, title III, §326, Nov. 18, 1997, 111 Stat. 1679, provided that:

“(a) MEANS FOR MEASUREMENT.—The Chairman of the Joint Chiefs of Staff shall, to the maximum extent practicable, develop (1) a common means of measuring the operations tempo (OPTEMPO) of each of the Armed Forces, and (2) a common means of measuring the personnel tempo (PERSTEMPO) of each of the Armed Forces. The Chairman shall consult with the other members of the Joint Chiefs of Staff in developing those common means of measurement.

“(b) PERSTEMPO MEASUREMENT.—The measurement of personnel tempo developed by the Chairman shall include a means of identifying the rate of deployment for individual members of the Armed Forces in addition to the rate of deployment for units.”

## ANNUAL ASSESSMENT OF FORCE READINESS

Pub. L. 103-160, div. A, title III, § 376, Nov. 30, 1993, 107 Stat. 1637, provided for an annual assessment of readiness and capability of the Armed Forces by the Chairman of the Joint Chiefs of Staff to be submitted to Congress not later than March 1 of each of 1994, 1995, and 1996 and for interim assessments between annual submissions in the event of a significant change in readiness or capability of the Armed Forces.

## REPORT OF CHAIRMAN OF JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF ARMED FORCES

Pub. L. 102-484, div. A, title IX, § 901, Oct. 23, 1992, 106 Stat. 2469, provided for the Secretary of Defense to transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that was submitted by the Chairman of the Joint Chiefs of Staff under subsec. (b) of this section after Jan. 1, 1992, and directed the Chairman to include in the report comments and recommendations.

## TRANSITION PROVISIONS

Pub. L. 99-433, title II, § 204(a), (b), Oct. 1, 1986, 100 Stat. 1011, provided dates for establishment of the uniform system of evaluating the preparedness of each unified and specified combatant command and for submission of the first report.

**§ 154. Vice Chairman**

(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(f)<sup>1</sup> of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) DUTIES.—The Vice Chairman performs the duties prescribed for him as a member of the Joint Chiefs of Staff and such other duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the of-

fices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

(f) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99-433, title II, § 201, Oct. 1, 1986, 100 Stat. 1008; amended Pub. L. 100-456, div. A, title V, § 519(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102-484, div. A, title IX, § 911(b)(1), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 114-328, div. A, title IX, § 921(d)(1), (2), Dec. 23, 2016, 130 Stat. 2354.)

## AMENDMENT OF SUBSECTION (a)

*Pub. L. 114-328, div. A, title IX, § 921(d), Dec. 23, 2016, 130 Stat. 2354, provided that, effective on Jan. 1, 2021, and applicable to individuals appointed as Vice Chairman of the Joint Chiefs of Staff on or after that date, subsection (a) of this section is amended as follows:*

*(1) in paragraph (3), by striking “for a term of two years” and all that follows and inserting “for a single term of four years, beginning on October 1 of an odd-numbered year, except that the term may not begin in the same year as the term of a Chairman. In time of war, there is no limit on the number of reappointments.”; and*

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

*“(4)(A) The Vice Chairman shall not be eligible for promotion to the position of Chairman or any other position in the armed forces.*

*“(B) The President may waive subparagraph (A) if the President determines such action is necessary in the national interest.”*

*See 2016 Amendment notes below.*

## REFERENCES IN TEXT

Section 664(f) of this title, referred to in subsec. (b)(1)(B), was redesignated as section 664(d) of this title by Pub. L. 114-328, div. A, title V, § 510(g)(1), Dec. 23, 2016, 130 Stat. 2111.

## AMENDMENTS

2016—Subsec. (a)(3). Pub. L. 114-328, § 921(d)(1), substituted “for a single term of four years, beginning on October 1 of an odd-numbered year, except that the term may not begin in the same year as the term of a Chairman. In time of war, there is no limit on the number of reappointments.” for “for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.”

Subsec. (a)(4). Pub. L. 114-328, § 921(d)(2), added par. (4).

1992—Subsec. (c). Pub. L. 102-484, § 911(b)(1)(A), substituted “the duties prescribed for him as a member of the Joint Chiefs of Staff and such other” for “such”.

Subsecs. (f), (g). Pub. L. 102-484, § 911(b)(1)(B), (C), redesignated subsec. (g) as (f) and struck out former sub-

<sup>1</sup> See References in Text note below.

sec. (f) which read as follows: “PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.”

1988—Subsec. (b)(1)(B). Pub. L. 100-456 substituted “completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)” for “served in at least one joint duty assignment (as defined under section 668(b) of this title)”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title IX, §921(d)(3), Dec. 23, 2016, 130 Stat. 2354, provided that: “The amendments made by this subsection [amending this section] shall take effect on January 1, 2021, and shall apply to individuals appointed as Vice Chairman of the Joint Chiefs of Staff on or after that date.”

#### EXTENSION OF TERM OF OFFICE OF VICE CHAIRMAN OF JOINT CHIEFS OF STAFF

Pub. L. 100-526, title I, §107, Oct. 24, 1988, 102 Stat. 2625, authorized President to extend until June 1, 1989, term of office of officer serving as Vice Chairman of Joint Chiefs of Staff for term which began on Feb. 6, 1987.

#### WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JOINT CHIEFS OF STAFF

Pub. L. 99-433, title II, §204(c), Oct. 1, 1986, 100 Stat. 1011, authorized President, until Oct. 1, 1990, to waive certain requirements otherwise applicable for appointment of an officer as Vice Chairman of Joint Chiefs of Staff.

### § 155. Joint Staff

(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff in carrying out their responsibilities.

(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

- (A) the Army;
- (B) the Navy and the Marine Corps; and
- (C) the Air Force.

(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman prescribes and shall perform such duties under such procedures as the Chairman prescribes.

(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 3002) to provide—

- (1) for the unified strategic direction of the combatant forces;
- (2) for their operation under unified command; and
- (3) for their integration into an efficient team of land, naval, and air forces.

(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

(4) Paragraphs (1) and (3) do not apply—

- (A) in time of war; or
- (B) during a national emergency declared by the President or Congress.

(g) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.

(Added Pub. L. 99-433, title II, §201, Oct. 1, 1986, 100 Stat. 1009; amended Pub. L. 100-180, div. A, title XIII, §1314(b)(2), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101-510, div. A, title IX, §902, Nov. 5, 1990, 104 Stat. 1620; Pub. L. 102-484, div. A, title IX, §911(b)(2), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 103-35, title II, §202(a)(8), May 31, 1993, 107 Stat. 101; Pub. L. 113-291, div. A, title X, §1071(c)(1), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114-328, div. A, title IX, §903(b)(1), Dec. 23, 2016, 130 Stat. 2344.)

#### AMENDMENT OF SECTION

*Pub. L. 114-328, div. A, title IX, §903(b), Dec. 23, 2016, 130 Stat. 2344, provided that, effective Dec. 31, 2019, this section is amended by adding at the end the following new subsection:*

(h) *Personnel Limitations.*—(1) *The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty for the Joint Staff may not exceed 2,069.*

(2) *Not more than 1,500 members of the armed forces on the active-duty list may be assigned or detailed to permanent duty for the Joint Staff.*

(3) *The limitations in paragraphs (1) and (2) do not apply in time of war.*

(4) *Each limitation in paragraphs (1) and (2) may be exceeded by a number equal to 15 percent of such limitation in time of national emergency.*

See 2016 Amendment note below.

#### AMENDMENTS

2016—Subsec. (h). Pub. L. 114-328 added subsec. (h).

2014—Subsec. (d). Pub. L. 113-291 substituted “(50 U.S.C. 3002)” for “(50 U.S.C. 401)” in introductory provisions.

1993—Subsec. (a)(1). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 102-484. See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102-484, as amended by Pub. L. 103-35, struck out “and the Vice Chairman” before “in carrying out”.

1990—Subsecs. (g), (h). Pub. L. 101-510 redesignated subsec. (h) as (g) and struck out former subsec. (g) which read as follows: “LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

“(2) Paragraph (1) does not apply—

“(A) in time of war; or

“(B) during a national emergency declared by the President or Congress.”

1987—Subsec. (f)(4)(B). Pub. L. 100-180, § 1314(b)(2)(A), inserted “or Congress” after “by the President”.

Subsec. (g)(2)(B). Pub. L. 100-180, § 1314(b)(2)(B), inserted “the President or” after “declared by”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title IX, § 903(b)(2), Dec. 23, 2016, 130 Stat. 2344, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on December 31, 2019.”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-35, title II, § 202(b), May 31, 1993, 107 Stat. 102, provided that: “The amendments made by this section [amending this section, sections 1079, 1086a, 1174a, 1463, 2323, 2347, 2391, and 2410d of this title, and sections 5013 and 5113 of former Title 36, Patriotic Societies and Observances, and amending provisions set out as notes under sections 664, 2350a, 2431, 2501, 2505, 10105, and 12681 of this title and section 5611 of Title 15, Commerce and Trade] shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484).”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### ESTABLISHMENT OF CHAIRMAN'S CONTROLLED ACTIVITY WITHIN JOINT STAFF FOR INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE

Pub. L. 115-91, div. A, title XVI, § 1627, Dec. 12, 2017, 131 Stat. 1734, provided that:

“(a) CHAIRMAN'S CONTROLLED ACTIVITY.—The Chairman of the Joint Chiefs of Staff shall—

“(1) undertake the roles, missions, and responsibilities of, and preserve an equal or greater number of personnel billets than the amount of such billets previously prescribed for, the Joint Functional Component Command for Intelligence, Surveillance, and Reconnaissance of the United States Strategic Command; and

“(2) not later than 30 days after the date of the enactment of this Act [Dec. 12, 2017], establish an organization within the Joint Staff—

“(A) that is designated as the Joint Staff Intelligence, Surveillance, and Reconnaissance Directorate and Supporting Chairman's Controlled Activity;

“(B) for which the Chairman of the Joint Chiefs of Staff shall serve as the joint functional manager; and

“(C) that shall synchronize cross-combatant command intelligence, surveillance, and reconnaissance plans and develop strategies integrating all intelligence, surveillance, and reconnaissance capabilities provided by joint services, the National Reconnaissance Office, combat support intelligence agencies of the Department of Defense, and allies, to satisfy the intelligence needs of the combatant commands for the Department of Defense.

“(b) LEAD AGENT.—The Secretary of Defense shall designate the Secretary of the Air Force as the lead agent and sponsor for funding for the organization established under subsection (a)(2).

“(c) DATA COLLECTION AND ANALYSIS TO SUPPORT ISR ALLOCATION AND SYNCHRONIZATION PROCESSES.—In coordination with the Director of Cost Analysis and Program Evaluation, the Chairman of the Joint Chiefs of Staff shall issue guidance to the commanders of the geographical combatant commands that requires the commanders to collect sufficient and relevant data regarding the effectiveness of intelligence, surveillance, and reconnaissance measures in a manner that will—

“(1) enable the standardized, objective evaluation and analysis of that data with respect to the use and effectiveness of the intelligence, surveillance, and reconnaissance capabilities provided to the commanders; and

“(2) support recommendations made by the organization established under subsection (a)(2) to the Secretary of Defense regarding the allocation of intelligence, surveillance, and reconnaissance resources of the Department of Defense.”

#### INCREASED FLEXIBILITY IN USE OF FUNDS FOR JOINT STAFF EXERCISES

Pub. L. 109-364, div. A, title X, § 1052, Oct. 17, 2006, 120 Stat. 2396, provided that:

“(a) IN GENERAL.—Amounts available to the Chairman of the Joint Chiefs of Staff for joint staff exercises may be available for any expenses as follows:

“(1) Expenses of the Armed Forces in connection with such exercises, including expense relating to self-deploying watercraft under the jurisdiction of a military department.

“(2) Expenses relating to the costs of port support activities in connection with such exercises, including transportation and port handling.

“(3) Expenses relating to the breakout and operation of prepositioned watercraft and lighterage for joint logistics and over the shore exercises in connection with such exercises.

“(b) SUPPLEMENT NOT SUPPLANT.—Any amounts made available by the Chairman of the Joint Chiefs of Staff under subsection (a) for expenses covered by that subsection are in addition to any other amounts available under law for such expenses.”

#### ASSISTANTS TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD MATTERS AND FOR RESERVE MATTERS

Pub. L. 105-85, div. A, title IX, § 901, Nov. 18, 1997, 111 Stat. 1853, as amended by Pub. L. 109-163, div. A, title



V, §515(h), Jan. 6, 2006, 119 Stat. 3237, which established the positions of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters and Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters within the Joint Staff, was repealed and restated as former section 155a of this title by Pub. L. 112-239, §511(a), (c), Jan. 2, 2013, 126 Stat. 1717, 1718.

**[§ 155a. Repealed. Pub. L. 114-328, div. A, title V, § 502(a)(1), Dec. 23, 2016, 130 Stat. 2102]**

Section, added Pub. L. 112-239, div. A, title V, §511(a), Jan. 2, 2013, 126 Stat. 1717, related to Assistants to the Chairman of the Joint Chiefs of Staff for National Guard matters and Reserve matters.

PRIOR PROVISIONS

Provisions similar to those formerly contained in this section were contained in Pub. L. 105-85, div. A, title IX, §901, Nov. 18, 1997, 111 Stat. 1853, which was set out as a note under section 155 of this title, prior to repeal by Pub. L. 112-239, §511(c).

RETENTION OF GRADE OF INCUMBENTS IN POSITIONS ON EFFECTIVE DATE

Pub. L. 114-328, div. A, title V, §502(tt), as added by Pub. L. 115-91, div. A, title V, §506(a)(1), Dec. 12, 2017, 131 Stat. 1374, provided that: “The grade of service of an officer serving as of the date of the enactment of this Act [Dec. 23, 2016, see below] in a position whose statutory grade is affected by an amendment made by this section [see Tables for classification] may not be reduced after that date by reason of such amendment as long as the officer remains in continuous service in such position after that date.”

[Pub. L. 115-91, div. A, title V, §506(a)(2), Dec. 12, 2017, 131 Stat. 1374, provided that: “The amendment made by paragraph (1) [enacting section 502(tt) of Pub. L. 114-328, set out above] shall take effect as of December 23, 2016, and be treated as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328).”]

**§ 156. Legal Counsel to the Chairman of the Joint Chiefs of Staff**

(a) IN GENERAL.—There is a Legal Counsel to the Chairman of the Joint Chiefs of Staff.

(b) SELECTION FOR APPOINTMENT.—Under regulations prescribed by the Secretary of Defense, the officer selected for appointment to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be recommended by a board of officers convened by the Secretary of Defense that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(c) DUTIES.—(1) The Legal Counsel of the Chairman of the Joint Chiefs of Staff shall perform such legal duties in support of the responsibilities of the Chairman of the Joint Chiefs of Staff as the Chairman may prescribe.

(2) No officer or employee of the Department of Defense may interfere with the ability of the Legal Counsel to give independent legal advice to the Chairman of the Joint Chiefs of Staff and to the Joint Chiefs of Staff.

(Added Pub. L. 110-181, div. A, title V, §543(e)(1), Jan. 28, 2008, 122 Stat. 115; amended Pub. L. 110-417, [div. A], title V, §591, Oct. 14, 2008, 122 Stat. 4474; Pub. L. 111-84, div. A, title V, §501(a), Oct. 28, 2009, 123 Stat. 2272; Pub. L. 114-328, div. A, title V, §502(b), Dec. 23, 2016, 130 Stat. 2102.)

AMENDMENTS

2016—Subsecs. (c), (d). Pub. L. 114-328 redesignated subsec. (d) as (c) and struck out former subsec. (c).

Prior to amendment, text of subsec. (c) read as follows: “An officer appointed to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be appointed in the regular grade of brigadier general or rear admiral (lower half).”

2009—Subsec. (c). Pub. L. 111-84 substituted “be appointed in the regular” for “, while so serving, hold the”.

2008—Subsec. (d). Pub. L. 110-417 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title V, §501(b), Oct. 28, 2009, 123 Stat. 2272, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to individuals appointed as Legal Counsel to the Chairman of the Joint Chiefs of Staff on or after that date.”

**CHAPTER 6—COMBATANT COMMANDS**

Sec.	
161.	Combatant commands: establishment.
162.	Combatant commands: assigned forces; chain of command.
163.	Role of Chairman of Joint Chiefs of Staff.
164.	Commanders of combatant commands: assignment; powers and duties.
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166a.	Combatant commands: funding through the Chairman of Joint Chiefs of Staff.
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167.	Unified combatant command for special operations forces.
167a.	Unified combatant command for joint war-fighting experimentation: acquisition authority.
167b.	Unified combatant command for cyber operations.
[168.	Repealed.]

PRIOR PROVISIONS

Prior to enactment of this chapter by Pub. L. 99-433, provisions relating to combat commands were contained in section 124 of this title.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title IX, §923(b), title XII, §1253(a)(2)(A), Dec. 23, 2016, 130 Stat. 2358, 2532, added item 167b and struck out item 168 “Military-to-military contacts and comparable activities”.

2003—Pub. L. 108-136, div. A, title VIII, §848(a)(2), Nov. 24, 2003, 117 Stat. 1555, added item 167a.

2001—Pub. L. 107-107, div. A, title XV, §1512(b), Dec. 28, 2001, 115 Stat. 1273, added item 166b.

1994—Pub. L. 103-337, div. A, title XIII, §1316(a)(2), Oct. 5, 1994, 108 Stat. 2899, added item 168.

1991—Pub. L. 102-190, div. A, title IX, §902(b), Dec. 5, 1991, 105 Stat. 1451, added item 166a.

1986—Pub. L. 99-500, §101(c) [title IX, §9115(b)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-124, and Pub. L. 99-591, §101(c) [title IX, §9115(b)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-124; Pub. L. 99-661, div. A, title XIII, §1311(b)(2), Nov. 14, 1986, 100 Stat. 3985, amended analysis identically adding item 167.

Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012, added chapter 6 heading and analysis.

**§ 161. Combatant commands: establishment**

(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

(1) establish unified combatant commands and specified combatant commands to perform military missions; and

(2) prescribe the force structure of those commands.

(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

(2) Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

(A) establishing a new combatant command; or

(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command.

(c) DEFINITIONS.—In this chapter:

(1) The term “unified combatant command” means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

(2) The term “specified combatant command” means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

(3) The term “combatant command” means a unified combatant command or a specified combatant command.

(Added Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012.)

MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF UNIFIED COMBATANT COMMANDS

Pub. L. 104-201, div. A, title IX, §905, Sept. 23, 1996, 110 Stat. 2619, required the Chairman of the Joint Chiefs of Staff to consider, as part of the next periodic review after Sept. 23, 1996, pursuant to subsec. (b) of this section: (1) whether there was an adequate distribution of responsibilities among the regional unified combatant commands; (2) whether fewer or differently configured commands would permit the United States to better execute warfighting plans; (3) whether any assets or activities were redundant; (4) whether warfighting requirements were adequate to justify current commands; (5) whether exclusion of certain nations from the Areas of Responsibility presented difficulties with respect to national security objectives in those areas; and (6) whether the boundary between the United States Central and European Commands could create command conflicts in the context of a major regional conflict in the Middle East.

INITIAL REVIEW OF COMBATANT COMMANDS

Pub. L. 99-433, title II, §212, Oct. 1, 1986, 100 Stat. 1017, set out 10 areas to be covered in first review of missions, responsibilities, and force structure of unified combatant commands under subsec. (b) of this section, and directed that first report to President be made not later than Oct. 1, 1987.

DISESTABLISHMENT OF UNITED STATES JOINT FORCES COMMAND

Memorandum of President of the United States, Jan. 6, 2011, 76 F.R. 1977, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as Commander in Chief and under 10 U.S.C. 161, I hereby accept the recom-

mendations of the Secretary of Defense and Chairman of the Joint Chiefs of Staff and approve the disestablishment of United States Joint Forces Command, effective on a date to be determined by the Secretary of Defense. I direct this action be reflected in the 2010 Unified Command Plan.

Pursuant to 10 U.S.C. 161(b)(2) and 3 U.S.C. 301, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

UNIFIED COMMAND PLAN 2011

Memorandum of President of the United States, Apr. 6, 2011, 76 F.R. 19893, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as Commander in Chief, I hereby approve and direct the implementation of the revised Unified Command Plan.

Consistent with title 10, United States Code, section 161(b)(2) and title 3, United States Code, section 301, you are directed to notify the Congress on my behalf. You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

**§ 162. Combatant commands: assigned forces; chain of command**

(a) ASSIGNMENT OF FORCES.—(1) As directed by the Secretary of Defense, the Secretaries of the military departments shall assign specified forces under their jurisdiction to unified and specified combatant commands or to the United States element of the North American Aerospace Defense Command to perform missions assigned to those commands. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

(2) A force not assigned to a combatant command or to the United States element of the North American Aerospace Defense Command under paragraph (1) shall remain assigned to the military department concerned for carrying out the responsibilities of the Secretary of the military department concerned as specified in section 3013, 5013, or 8013 of this title, as applicable.

(3) A force assigned to a combatant command or to the United States element of the North American Aerospace Defense Command under this section may be transferred from the command to which it is assigned only—

(A) by authority of the Secretary of Defense; and

(B) under procedures prescribed by the Secretary and approved by the President.

(4) Except as otherwise directed by the Secretary of Defense, all forces assigned to a unified combatant command shall be under the command of the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

(1) from the President to the Secretary of Defense; and

(2) from the Secretary of Defense to the commander of the combatant command.

(Added Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012; amended Pub. L. 100-180, div.

A, title XIII, § 1313, Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100-456, div. A, title VII, § 711, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 104-201, div. A, title X, § 1073(a), Sept. 23, 1996, 110 Stat. 2657; Pub. L. 114-328, div. A, title IX, § 924, Dec. 23, 2016, 130 Stat. 2358; Pub. L. 115-91, div. A, title X, § 1081(a)(9), Dec. 12, 2017, 131 Stat. 1594.)

#### AMENDMENTS

2017—Subsec. (a)(4). Pub. L. 115-91 struck out comma after “command of”.

2016—Subsec. (a)(1). Pub. L. 114-328, § 924(1), substituted “As directed by the Secretary of Defense” for “Except as provided in paragraph (2)” and “specified forces” for “all forces” and struck out “Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned.” before “The Secretary of Defense”.

Subsec. (a)(2). Pub. L. 114-328, § 924(2), added par. (2) and struck out former par. (2) which read as follows: “Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands or to the United States element of the North American Aerospace Defense Command under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title or forces assigned to multinational peacekeeping organizations.”

Subsec. (a)(4). Pub. L. 114-328, § 924(3)(B), struck out “assigned to, and” before “under the command”.

Pub. L. 114-328, § 924(3)(A), which directed striking out “operating with the geographic area”, was executed by striking out “operating within the geographic area” after “all forces” to reflect the probable intent of Congress.

1996—Subsec. (a)(1) to (3). Pub. L. 104-201 substituted “North American Aerospace Defense Command” for “North American Air Defense Command”.

1988—Subsec. (a)(1) to (3). Pub. L. 100-456 inserted “or to the United States element of the North American Air Defense Command”.

1987—Subsec. (a)(2). Pub. L. 100-180 inserted before period at end “or forces assigned to multinational peacekeeping organizations”.

#### IMPLEMENTATION OF ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Pub. L. 99-433, title II, § 214(a), Oct. 1, 1986, 100 Stat. 1018, provided that section 162(a) of this title shall be implemented not later than 90 days after Oct. 1, 1986.

### § 163. Role of Chairman of Joint Chiefs of Staff

(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES.—Subject to the limitations in section 152(c) of this title, the President may—

(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the com-

manders of the combatant commands prescribed in section 164(b)(2) of this title.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

(B) evaluate and integrate such information;

(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

(Added Pub. L. 99-433, title II, § 211(a), Oct. 1, 1986, 100 Stat. 1013.)

### § 164. Commanders of combatant commands: assignment; powers and duties

(a) ASSIGNMENT AS COMBATANT COMMANDER.—

(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(d) of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

(2) Subject to the direction of the President, the commander of a combatant command—

(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

(3) Among the full range of command responsibilities specified in subsection (c) and as provided for in section 161 of this title, the primary duties of the commander of a combatant command shall be as follows:

(A) To produce plans for the employment of the armed forces to execute national defense strategies and respond to significant military contingencies.

(B) To take actions, as necessary, to deter conflict.

(C) To command United States armed forces as directed by the Secretary and approved by the President.

(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the

President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

(B) prescribing the chain of command to the commands and forces within the command;

(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

(E) assigning command functions to subordinate commanders;

(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the Secretary considers necessary to carry out missions assigned to the command.

(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

(d) **AUTHORITY OVER SUBORDINATE COMMANDERS.**—Unless otherwise directed by the President or the Secretary of Defense—

(1) commanders of commands and forces assigned to a combatant command are under the authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the

combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

(e) **SELECTION OF SUBORDINATE COMMANDERS.**—

(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of the combatant command; and

(B) in accordance with procedures established by the Secretary of Defense.

(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

(3) The commander of a combatant command shall—

(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

(4) At least one deputy commander of the combatant command the geographic area of responsibility of which includes the United States shall be a qualified officer of a reserve component of the armed forces who is eligible for promotion to the grade of O-9, unless a reserve component officer is serving as commander of that combatant command.

(f) **COMBATANT COMMAND STAFF.**—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of impor-

tance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of such command; and

(B) in accordance with procedures established by the Secretary of Defense.

(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

(g) **AUTHORITY TO SUSPEND SUBORDINATES.**—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

(h) **SUPPORT TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF.**—The commander of a combatant command shall provide such information to the Chairman of the Joint Chiefs of Staff as may be necessary for the Chairman to perform the duties of the Chairman under section 153 of this title.

(Added Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1013; amended Pub. L. 100-456, div. A, title V, §519(a)(2), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 110-181, div. A, title XVIII, §1824(b), Jan. 28, 2008, 122 Stat. 501; Pub. L. 114-328, div. A, title V, §516, title IX, §921(e), Dec. 23, 2016, 130 Stat. 2113, 2354; Pub. L. 115-91, div. A, title X, §1081(a)(10), Dec. 12, 2017, 131 Stat. 1594.)

#### AMENDMENTS

2017—Subsec. (a)(1)(B). Pub. L. 115-91 substituted “section 664(d)” for “section 664(f)”.

2016—Subsec. (b)(3). Pub. L. 114-328, §921(e)(1), added par. (3).

Subsec. (e)(4). Pub. L. 114-328, §516, substituted “a reserve component of the armed forces” for “the National Guard” and “a reserve component officer” for “a National Guard officer”.

Subsec. (h). Pub. L. 114-328, §921(e)(2), added subsec. (h).

2008—Subsec. (e)(4). Pub. L. 110-181 added par. (4).

1988—Subsec. (a)(1)(B). Pub. L. 100-456 substituted “completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)” for “served in at least one joint duty assignment (as defined under section 668(b) of this title)”.

#### EFFECTIVE DATE

Pub. L. 99-433, title II, §214(c), Oct. 1, 1986, 100 Stat. 1019, provided that: “Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 1, 1986], or on such earlier date as may be prescribed by the Secretary of Defense.”

#### CONSIDERATION OF RESERVE COMPONENT OFFICERS FOR APPOINTMENT TO CERTAIN COMMAND POSITIONS

Pub. L. 112-81, div. A, title V, §518, Dec. 31, 2011, 125 Stat. 1397, provided that: “Whenever officers of the Armed Forces are considered for appointment to the position of Commander, Army North Command or Commander, Air Force North Command, fully qualified officers of the National Guard and the Reserves shall be considered for appointment to such position.”

#### SENSE OF CONGRESS

Pub. L. 110-181, div. A, title XVIII, §1824(a), Jan. 28, 2008, 122 Stat. 501, provided that: “It is the sense of Congress that, whenever officers of the Armed Forces are considered for promotion to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active duty list, officers in the reserve components of the Armed Forces who are eligible for promotion to such grade should be considered for promotion to such grade.”

#### WAIVER OF QUALIFICATIONS FOR ASSIGNMENT AS COMBATANT COMMANDER

Pub. L. 99-433, title II, §214(b), Oct. 1, 1986, 100 Stat. 1018, authorized President, until Oct. 1, 1990, to waive, on a case-by-case basis, certain requirements provided for in subsec. (a) of this section relating to assignment of commanders of combatant commands.

#### § 165. Combatant commands: administration and support

(a) **IN GENERAL.**—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

(b) **RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.**—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

(c) **ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.**—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

(Added Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1016.)

#### § 166. Combatant commands: budget proposals

(a) **COMBATANT COMMAND BUDGETS.**—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for such activities of each of the unified and specified combatant commands as may be determined under subsection (b).

(b) **CONTENT OF PROPOSALS.**—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

- (1) Joint exercises.
- (2) Force training.
- (3) Contingencies.
- (4) Selected operations.

(c) SOF TRAINING WITH FOREIGN FORCES.—A funding proposal for force training under subsection (b)(2) may include amounts for training expense payments authorized in section 322 of this title.

(Added Pub. L. 99-433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1016; amended Pub. L. 102-190, div. A, title X, §1052(b), Dec. 5, 1991, 105 Stat. 1471; Pub. L. 115-91, div. A, title X, §1081(a)(11), Dec. 12, 2017, 131 Stat. 1594.)

#### AMENDMENTS

2017—Subsec. (c). Pub. L. 115-91 substituted “section 322” for “section 2011”.

1991—Subsec. (c). Pub. L. 102-190 added subsec. (c).

#### EFFECTIVE DATE

Pub. L. 99-433, title II, §214(d), Oct. 1, 1986, 100 Stat. 1019, provided that: “Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989.”

### § 166a. Combatant commands: funding through the Chairman of Joint Chiefs of Staff

(a) COMBATANT COMMANDER INITIATIVE FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the “Combatant Commander Initiative Fund”, the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for any of the activities named in subsection (b).

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

- (1) Force training.
- (2) Contingencies.
- (3) Selected operations.
- (4) Command and control.
- (5) Joint exercises (including activities of participating foreign countries).
- (6) Humanitarian and civic assistance, in coordination with the relevant chief of mission to the extent practicable, to include urgent and unanticipated humanitarian relief and reconstruction assistance.

(7) Military education and training to military and related civilian personnel of foreign countries (including transportation, translation, and administrative expenses).

(8) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

- (9) Force protection.
- (10) Joint warfighting capabilities.

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combatant Commander Initiative Fund, should give priority consideration to—

- (1) requests for funds to be used for activities that would enhance the war fighting capa-

bility, readiness, and sustainability of the forces assigned to the commander requesting the funds;

(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States; and

(3) the provision of funds to be used for urgent and unanticipated humanitarian relief and reconstruction assistance, particularly in a foreign country where the armed forces are engaged in a contingency operation.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff during any fiscal year out of the Combatant Commander Initiative Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATIONS.—(1) Of funds made available under this section for any fiscal year—

(A) not more than \$20,000,000 may be used to purchase items with a unit cost in excess of \$250,000;

(B) not more than \$10,000,000 may be used to pay for any expenses of foreign countries participating in joint exercises as authorized by subsection (b)(5); and

(C) not more than \$5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).

(2) Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(f) INCLUSION OF NORAD.—For purposes of this section, the Commander, United States Element, North American Aerospace Defense Command shall be considered to be a commander of a combatant command.

(Added Pub. L. 102-190, div. A, title IX, §902(a), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 102-396, title IX, §9128, Oct. 6, 1992, 106 Stat. 1935; Pub. L. 102-484, div. A, title IX, §934, Oct. 23, 1992, 106 Stat. 2477; Pub. L. 103-35, title II, §201(a), May 31, 1993, 107 Stat. 97; Pub. L. 105-85, div. A, title IX, §902, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 108-136, div. A, title IX, §902(a)(2), (b), (c), Nov. 24, 2003, 117 Stat. 1558; Pub. L. 109-364, div. A, title IX, §902, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111-84, div. A, title IX, §904, Oct. 28, 2009, 123 Stat. 2424; Pub. L. 114-328, div. A, title VIII, §833(b)(1)(C), Dec. 23, 2016, 130 Stat. 2284.)

#### AMENDMENTS

2016—Subsec. (e)(1)(A). Pub. L. 114-328 substituted “\$250,000” for “the investment unit cost threshold in effect under section 2245a of this title”.

2009—Subsec. (b)(6). Pub. L. 111-84, §904(b), inserted “in coordination with the relevant chief of mission to the extent practicable,” after “assistance,”.

Subsec. (e)(1)(A). Pub. L. 111-84, §904(a), substituted “\$20,000,000” for “\$10,000,000” and “the investment unit cost threshold in effect under section 2245a of this title” for “\$15,000”.

2006—Subsec. (b)(6). Pub. L. 109-364, §902(a), substituted “civic assistance, to include urgent and unan-

anticipated humanitarian relief and reconstruction assistance” for “civil assistance”.

Subsec. (c)(3). Pub. L. 109-364, §902(b), added par. (3). 2003—Subsec. (a). Pub. L. 108-136, §902(a)(2), substituted “COMBATANT COMMANDER INITIATIVE FUND” for “CINC INITIATIVE FUND” in heading and “Combatant Commander Initiative Fund” for “CINC Initiative Fund” in first sentence.

Subsec. (b)(10). Pub. L. 108-136, §902(b), added par. (10). Subsecs. (c), (d). Pub. L. 108-136, §902(a)(2)(B), substituted “Combatant Commander Initiative Fund” for “CINC Initiative Fund”.

Subsec. (e)(1)(A). Pub. L. 108-136, §902(c)(1), substituted “\$10,000,000” for “\$7,000,000”.

Subsec. (e)(1)(B). Pub. L. 108-136, §902(c)(2), substituted “\$10,000,000” for “\$1,000,000”.

Subsec. (e)(1)(C). Pub. L. 108-136, §902(c)(3), substituted “\$5,000,000” for “\$2,000,000”.

1997—Subsec. (b)(9). Pub. L. 105-85 added par. (9).

1993—Subsec. (a). Pub. L. 103-35, §201(a)(1), substituted “the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose” for “the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.”

Subsec. (b)(7). Pub. L. 103-35, §201(a)(2), struck out second of two identical parenthetical phrases at end of par. (7) which read as follows: “(including transportation, translation, and administrative expenses)”.

1992—Subsec. (a). Pub. L. 102-484, §934(a), which directed substitution of “funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose.” for “funds, upon request,” and all that follows through the period, could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102-396, §9128(a). See below.

Pub. L. 102-396, §9128(a), substituted “funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.” for “funds, upon request, to the commanders of the combatant commands.”

Subsec. (b)(7). Pub. L. 102-396, §9128(b), and Pub. L. 102-484, §934(b), both inserted before period at end “(including transportation, translation, and administrative expenses)”.

Subsec. (c). Pub. L. 102-484, §934(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund, should give priority consideration to requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds (c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

“(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

“(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or other-

wise increase, the national security of the United States..[sic]”

Pub. L. 102-396, §9128(c), inserted before period at end “(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

“(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

“(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.”

Subsec. (e)(1)(C). Pub. L. 102-484, §934(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “not more than \$5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).”

Pub. L. 102-396, §9128(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “not more than \$500,000 may be used to provide military education and training to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).”

#### REDESIGNATION OF CINC INITIATIVE FUND

Pub. L. 108-136, div. A, title IX, §902(a)(1), (3), Nov. 24, 2003, 117 Stat. 1558, provided that:

“(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the ‘Combatant Commander Initiative Fund’.

“(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.”

#### § 166b. Combatant commands: funding for combating terrorism readiness initiatives

(a) COMBATING TERRORISM READINESS INITIATIVES FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the “Combating Terrorism Readiness Initiatives Fund”, the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for initiating any activity named in subsection (b) and for maintaining and sustaining the activity for the fiscal year in which initiated and one additional fiscal year.

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

(1) Procurement and maintenance of physical security equipment.

(2) Improvement of physical security sites.

(3) Under extraordinary circumstances—

(A) physical security management planning;

(B) procurement and support of security forces and security technicians;

(C) security reviews and investigations and vulnerability assessments; and

(D) any other activity relating to physical security.

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combating Terrorism Readiness Initiatives Fund, should give priority consideration to emergency or emergent unforeseen high-priority requirements for combating terrorism.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff for a fiscal year out of the Combating Terrorism Readiness Initiatives Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATION.—Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(Added Pub. L. 107-107, div. A, title XV, § 1512(a), Dec. 28, 2001, 115 Stat. 1272.)

**§ 167. Unified combatant command for special operations forces**

(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the “special operations command”). The principal function of the command is to prepare special operations forces to carry out assigned missions.

(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities.

(2) Subject to the authority, direction, and control of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the commander of such command shall be re-

sponsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):

(A) Developing strategy, doctrine, and tactics.

(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

(C) Exercising authority, direction, and control over the expenditure of funds—

(i) for forces assigned to the special operations command; and

(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.

(D) Training assigned forces.

(E) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(F) Validating requirements.

(G) Establishing priorities for requirements.

(H) Ensuring the interoperability of equipment and forces.

(I) Formulating and submitting requirements for intelligence support.

(J) Monitoring the promotions of special operations forces and coordinating with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of special operations forces.

(3) The commander of the special operations command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the special operations command; and

(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

(i) Development and acquisition of special operations-peculiar equipment.

(ii) Acquisition of special operations-peculiar material, supplies, and services.

(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

(C)(i) The staff of the commander shall include a command acquisition executive, who shall be responsible for the overall supervision of acquisition matters for the special operations command. The command acquisition executive shall have the authority to—

(I) negotiate memoranda of agreement with the military departments to carry out the ac-



quisition of equipment, material, supplies, and services described in subparagraph (A) on behalf of the command;

(II) supervise the acquisition of equipment, material, supplies, and services described in subparagraph (A), regardless of whether such acquisition is carried out by the command, or by a military department pursuant to a delegation of authority by the command;

(III) represent the command in discussions with the military departments regarding acquisition programs for which the command is a customer; and

(IV) work with the military departments to ensure that the command is appropriately represented in any joint working group or integrated product team regarding acquisition programs for which the command is a customer.

(ii) The command acquisition executive of the special operations command shall be responsible to the commander for rapidly delivering acquisition solutions to meet validated special operations-peculiar requirements, subordinate to the Defense Acquisition Executive in matters of acquisition, subject to the same oversight as the service acquisition executives, and included on the distribution list for acquisition directives and instructions of the Department of Defense.

(D) The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.

(f) ADMINISTRATIVE CHAIN OF COMMAND.—(1) Unless otherwise directed by the President, the administrative chain of command to the special operations command runs—

(A) from the President to the Secretary of Defense;

(B) from the Secretary of Defense to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; and

(C) from the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict to the commander of the special operations command.

(2) For purposes of this subsection, administrative chain of command refers to the exercise of authority, direction and control with respect to the special operations-peculiar administration and support of the special operations command, including the readiness and organization of special operations forces, resources and equipment, and civilian personnel. It does not refer to the exercise of authority, direction, and control of operational matters that are subject to the operational chain of command of the commanders of combatant commands or the exercise of authority, direction, and control of personnel, resources, equipment, and other matters that are not special operations-peculiar that are the purview of the armed forces.

(g) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

(1) development and acquisition of special operations-peculiar equipment; and

(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

(h) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

(i) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

(j) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

(C) are designated as special operations forces by the Secretary of Defense.

(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

(k) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

(1) Direct action.

(2) Strategic reconnaissance.

(3) Unconventional warfare.

(4) Foreign internal defense.

(5) Civil affairs.

(6) Military information support operations.

(7) Counterterrorism.

(8) Humanitarian assistance.

(9) Theater search and rescue.

(10) Such other activities as may be specified by the President or the Secretary of Defense.

(l) BUDGET SUPPORT FOR RESERVE ELEMENTS.—

(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.

(Added Pub. L. 99-500, §101(c) [title IX, §9115(b)(1)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-122, and Pub. L. 99-591, §101(c) [title IX, §9115(b)(1)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-122; Pub. L. 99-661, div. A, title XIII, §1311(b)(1), Nov. 14, 1986, 100 Stat. 3983; amended Pub. L. 100-180, div. A, title XII, §1211(d), Dec. 4, 1987, 101 Stat. 1156; Pub. L. 100-456, div. A, title VII, §712, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 102-88, title VI, §602(c)(3), Aug. 14, 1991, 105 Stat. 444; Pub. L. 103-337, div. A, title IX, §925, Oct. 5, 1994, 108 Stat. 2832; Pub. L. 110-181, div. A, title VIII, §810, Jan. 28, 2008, 122 Stat. 217; Pub. L. 112-81, div. A, title X, §1086(1), Dec. 31, 2011, 125 Stat. 1603; Pub. L. 113-66, div. A, title IX, §903, Dec. 26, 2013, 127 Stat. 816; Pub. L. 113-291, div. A, title X, §1071(c)(3), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114-328, div. A, title IX, §922(c), Dec. 23, 2016, 130 Stat. 2356.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (h), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of Title 50. For complete classification of this Act to the Code, see Tables.

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500. Pub. L. 99-661 and Pub. L. 99-500 added identical sections.

#### AMENDMENTS

2016—Subsec. (e)(2). Pub. L. 114-328, §922(c)(1)(A), substituted “Subject to the authority, direction, and control of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, the commander” for “The commander” in introductory provisions.

Subsec. (e)(2)(J). Pub. L. 114-328, §922(c)(1)(B), added subpar. (J) and struck out former subpar. (J) which read as follows: “Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.”

Subsecs. (f) to (l). Pub. L. 114-328, §922(c)(2), added subsec. (f) and redesignated former subsecs. (f) to (k) as (g) to (l), respectively.

2014—Subsec. (g). Pub. L. 113-291 substituted “(50 U.S.C. 3091 et seq.)” for “(50 U.S.C. 413 et seq.)”.

2013—Subsec. (e)(4)(C)(ii). Pub. L. 113-66 inserted “responsible to the commander for rapidly delivering acquisition solutions to meet validated special operations-peculiar requirements, subordinate to the Defense Acquisition Executive in matters of acquisition, subject to the same oversight as the service acquisition executives, and” after “shall be”.

2011—Subsec. (j)(6). Pub. L. 112-81 added par. (6) and struck out former par. (6) which read as follows: “Psychological operations.”

2008—Subsec. (e)(4)(C), (D). Pub. L. 110-181 added subpar. (C) and redesignated former subpar. (C) as (D).

1994—Subsec. (k). Pub. L. 103-337 added subsec. (k).

1991—Subsec. (g). Pub. L. 102-88 substituted “would require a notice” for “would require—

“(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

“(2) a notice” and “title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)” for “section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413)”.

1988—Subsec. (e). Pub. L. 100-456 revised and restated subsec. (e). Prior to amendment, subsec. (e) read as follows:

“(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

“(A) Developing strategy, doctrine, and tactics.

“(B) Training assigned forces.

“(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

“(D) Validating requirements.

“(E) Establishing priorities for requirements.

“(F) Ensuring combat readiness.

“(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

“(H) Ensuring the interoperability of equipment and forces.

“(I) Formulating and submitting requirements for intelligence support.

“(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

“(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

“(3) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under paragraph (1)(G), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.”

1987—Subsec. (e)(3). Pub. L. 100-180 added par. (3).

#### EFFECTIVE DATE

Pub. L. 99-500, §101(c) [title IX, §9115(i)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-125, Pub. L. 99-591, §101(c) [title IX, §9115(i)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-125, and Pub. L. 99-661, div. A, title XIII, §1311(i), Nov. 14, 1986, 100 Stat. 3986, provided that: “Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act [Oct. 18, 1986].”

#### MEMORANDA OF AGREEMENT ON IDENTIFICATION AND DEDICATION OF ENABLING CAPABILITIES OF GENERAL PURPOSE FORCES TO FULFILL CERTAIN REQUIREMENTS OF SPECIAL OPERATIONS FORCES

Pub. L. 112-81, div. A, title IX, §904, Dec. 31, 2011, 125 Stat. 1533, provided that:

“(a) REQUIREMENT.—By not later than 180 days after the date of the enactment of this Act [Dec. 31, 2011] and annually thereafter, each Secretary of a military department shall enter into a memorandum of agreement with the Commander of the United States Special Operations Command that identifies or establishes processes and associated milestones by which numbers and types of enabling capabilities of the general purpose forces of the Armed Forces under the jurisdiction of such Secretary can be identified and dedicated to fulfill the training and operational requirements of special operations forces under the United States Special Operations Command.

“(b) **FORMAT.**—Such agreements may be accomplished in an annex to existing memoranda of agreement or through separate memoranda of agreement.”

**COUNTERTERRORISM OPERATIONAL BRIEFING  
REQUIREMENT**

Pub. L. 112–81, div. A, title X, §1031, Dec. 31, 2011, 125 Stat. 1570, required the Secretary of Defense, beginning not later than March 1, 2012, to provide to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives quarterly briefings outlining Department of Defense counterterrorism operations and related activities involving special operations forces, prior to repeal by Pub. L. 113–66, div. A, title X, §1042(b), Dec. 26, 2013, 127 Stat. 857.

**ANNUAL REPORTS ON USE OF COMBAT MISSION  
REQUIREMENTS FUNDS**

Pub. L. 111–383, div. A, title I, §123, Jan. 7, 2011, 124 Stat. 4158, as amended by Pub. L. 112–81, div. A, title I, §145, Dec. 31, 2011, 125 Stat. 1326; Pub. L. 114–328, div. A, title I, §145, Dec. 23, 2016, 130 Stat. 2042, provided that:

“(a) **ANNUAL REPORTS REQUIRED.**—

“(1) **IN GENERAL.**—Not later than 30 days after the end of each fiscal year, the commander of the United States Special Operations Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of Combat Mission Requirements funds during the preceding fiscal year.

“(2) **COMBAT MISSION REQUIREMENTS FUNDS.**—For purposes of this section, Combat Mission Requirements funds are amounts available to the Department of Defense for Defense-wide procurement in the Combat Mission Requirements subaccount of the Defense-wide Procurement account.

“(b) **ELEMENTS.**—Each report under subsection (a) shall include, for the fiscal year covered by such report, the following:

“(1) The balance of the Combat Mission Requirements subaccount at the beginning of such year.

“(2) The balance of the Combat Mission Requirements subaccount at the end of such year.

“(3) Any transfer of funds into or out of the Combat Mission Requirements subaccount during such year, including the source of any funds transferred into the subaccount, and the objective of any transfer of funds out of the subaccount.

“(4) A description of any requirement—

“(A) approved for procurement using Combat Mission Requirements funds during such year; or

“(B) procured using such funds during such year.

“(5) With respect to each description of a requirement under paragraph (4), the amount of Combat Mission Requirements funds committed to the procurement or approved procurement of such requirement.

“(6) A table setting forth the Combat Mission Requirements approved during the fiscal year in which such report is submitted and the two preceding fiscal years, including for each such Requirement—

“(A) the title of such Requirement;

“(B) the date of approval of such Requirement; and

“(C) the amount of funding approved for such Requirement, and the source of such approved funds.

“(7) A statement of the amount of any unspent Combat Mission Requirements funds from the fiscal year in which such report is submitted and the two preceding fiscal years.

“(c) **FORM.**—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 123 of Pub. L. 111–383, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

**RESOURCES FOR CINCSOF**

Pub. L. 100–180, div. A, title XII, §1211(b), Dec. 4, 1987, 101 Stat. 1155, as amended by Pub. L. 104–106, div. A,

title IX, §903(f)(5), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617, provided that: “The Secretary of Defense shall provide sufficient resources for the commander of the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code, to carry out his duties and responsibilities, including particularly his duties and responsibilities relating to the following functions:

“(1) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

“(2) Providing advice and assistance to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the Assistant Secretary’s overall supervision of the preparation and justification of the program recommendations and budget proposals for special operations forces.

“(3) Managing assigned resources from the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense (as required to be created pursuant to subsection (e)).”

**MAJOR FORCE PROGRAM CATEGORY; PROGRAM AND  
BUDGET EXECUTION; GRADE FOR COMMANDERS OF  
CERTAIN AREA SPECIAL OPERATIONS COMMANDS**

Pub. L. 102–484, div. A, title IX, §936(a), (b), Oct. 23, 1992, 106 Stat. 2479, provided that, during the period beginning on Feb. 1, 1993, and ending on Feb. 1, 1995, the provisions of Pub. L. 99–661, §1311(e), set out below, would apply as if the Secretary of Defense had designated the United States Southern Command and the United States Central Command for the purposes of that section, and required the Secretary of Defense to submit to Congress a report setting forth the Secretary’s recommendations for the grade structure for the special operations forces component commander for each unified command not later than Mar. 1, 1994.

Pub. L. 100–180, div. A, title XII, §1211(e), Dec. 4, 1987, 101 Stat. 1156, directed that the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense created pursuant to Pub. L. 99–661, §1311(c), set out below, was to be created not later than 30 days after Dec. 4, 1987, and required the Secretary of Defense to submit to committees of Congress on such date a report explaining the program recommendations and budget proposals included in such category and a certification that all program recommendations and budget proposals for special operations forces had been included.

Pub. L. 99–661, div. A, title XIII, §1311(c)–(e), Nov. 14, 1986, 100 Stat. 3985, 3986, provided that:

“(c) **MAJOR FORCE PROGRAM CATEGORY.**—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

“(d) **PROGRAM AND BUDGET EXECUTION.**—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

“(e) **GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.**—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.”

[Identical provisions were contained in section 101(c) [§9115(c)–(e)] of Pub. L. 99–500 and Pub. L. 99–591, which

was repealed by Pub. L. 102-484, div. A, title IX, §936(c), Oct. 23, 1992, 106 Stat. 2479.]

REPORT ON CAPABILITIES OF UNITED STATES TO CONDUCT SPECIAL OPERATIONS AND ENGAGE IN LOW INTENSITY CONFLICTS

Pub. L. 99-500, §101(c) [title IX, §9115(h)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-125, Pub. L. 99-591, §101(c) [title IX, §9115(h)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-125, and Pub. L. 99-661, div. A, title XIII, §1311(h)(2), Nov. 14, 1986, 100 Stat. 3986, required President, not later than one year after the date of enactment, to transmit to Congress a report on capabilities of United States to conduct special operations and engage in low intensity conflicts, the report to include a description of deficiencies in such capabilities, actions being taken throughout executive branch to correct such deficiencies, the principal low intensity conflict threats to interests of United States, and the actions taken and to be taken to implement this section.

**§ 167a. Unified combatant command for joint warfighting experimentation: acquisition authority**

(a) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—The Secretary of Defense may delegate to the commander of the unified combatant command referred to in subsection (b) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop, acquire, and maintain equipment described in subsection (c). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.

(b) COMMAND DESCRIBED.—The commander to whom authority is delegated under subsection (a) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.

(c) EQUIPMENT.—The equipment referred to in subsection (a) is as follows:

(1) Equipment for battle management command, control, communications, and intelligence.

(2) Any other equipment that the commander referred to in subsection (b) determines necessary and appropriate for—

(A) facilitating the use of joint forces in military operations; or

(B) enhancing the interoperability of equipment used by the various components of joint forces.

(d) EXCEPTIONS.—The authority delegated under subsection (a) does not apply to the development or acquisition of a system for which—

(1) the total expenditure for research, development, test, and evaluation is estimated to be \$10,000,000 or more; or

(2) the total expenditure for procurement is estimated to be \$50,000,000 or more.

(e) INTERNAL AUDITS AND INSPECTIONS.—The commander referred to in subsection (b) shall require the inspector general of that command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).

(f) LIMITATION ON AUTHORITY TO MAINTAIN EQUIPMENT.—The authority delegated under subsection (a) to maintain equipment is subject to

the availability of funds authorized and appropriated specifically for that purpose.

(g) TERMINATION.—The Secretary may delegate the authority referred to in subsection (a) only during fiscal years 2004 through 2010, and any authority so delegated shall not be in effect after September 30, 2010.

(Added Pub. L. 108-136, div. A, title VIII, §848(a)(1), Nov. 24, 2003, 117 Stat. 1554; amended Pub. L. 109-163, div. A, title VIII, §846(a), Jan. 6, 2006, 119 Stat. 3391; Pub. L. 110-181, div. A, title VIII, §825, Jan. 28, 2008, 122 Stat. 227.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181, §825(a)(1), substituted “, acquire, and maintain” for “and acquire”.

Subsec. (f). Pub. L. 110-181, §825(a)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110-181, §825(a)(2), (b), redesignated subsec. (f) as (g) and substituted “through 2010” for “through 2008” and “September 30, 2010” for “September 30, 2008”.

2006—Subsec. (f). Pub. L. 109-163 substituted “through 2008” for “through 2006” and “September 30, 2008” for “September 30, 2006”.

COMPTROLLER GENERAL REPORT

Pub. L. 108-136, div. A, title VIII, §848(b), Nov. 24, 2003, 117 Stat. 1555, required the Comptroller General to review the implementation of this section and submit to Congress a report on such review not later than two years after Nov. 24, 2003.

**§ 167b. Unified combatant command for cyber operations**

(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for cyber operations forces (hereinafter in this section referred to as the “cyber command”). The principal function of the command is to prepare cyber operations forces to carry out assigned missions.

(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve cyber operations forces of the armed forces stationed in the United States shall be assigned to the cyber command.

(c) GRADE OF COMMANDER.—The commander of the cyber command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating that officer’s permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(d) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the cyber command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to cyber operations activities.

(2)(A) Subject to the authority, direction, and control of the Principal Cyber Advisor, the commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to cyber operations activities (whether or not relating to the cyber command):

(i) Developing strategy, doctrine, and tactics.

(ii) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for cyber operations forces and for other forces assigned to the cyber command.

(iii) Exercising authority, direction, and control over the expenditure of funds—

(I) for forces assigned directly to the cyber command; and

(II) for cyber operations forces assigned to unified combatant commands other than the cyber command, with respect to all matters covered by section 807 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 886; 10 U.S.C. 2224 note) and, with respect to a matter not covered by such section, to the extent directed by the Secretary of Defense.

(iv) Training and certification of assigned joint forces.

(v) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(vi) Validating requirements.

(vii) Establishing priorities for requirements.

(viii) Ensuring the interoperability of equipment and forces.

(ix) Formulating and submitting requirements for intelligence support.

(x) Monitoring the promotion of cyber operation forces and coordinating with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of cyber operation forces.

(B) The authority, direction, and control exercised by the Principal Cyber Advisor for purposes of this section is authority, direction, and control with respect to the administration and support of the cyber command, including readiness and organization of cyber operations forces, cyber operations-peculiar equipment and resources, and civilian personnel.

(C) Nothing in this section shall be construed as providing the Principal Cyber Advisor authority, direction, and control of operational matters that are subject to the operational chain of command of the combatant commands or the exercise of authority, direction, and control of personnel, resources, equipment, and other matters that are not cyber-operations peculiar and that are in the purview of the armed forces.

(3) The commander of the cyber command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the cyber command; and

(B) monitoring the preparedness to carry out assigned missions of cyber forces assigned to unified combatant commands other than the cyber command.

(C) The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the cyber operations command and such other inspector general functions as may be assigned.

(e) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.).

(Added Pub. L. 114-328, div. A, title IX, §923(a), Dec. 23, 2016, 130 Stat. 2357; amended Pub. L. 115-91, div. A, title X, §1081(a)(12), title XVI, §1635, Dec. 12, 2017, 131 Stat. 1595, 1741.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of this title. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2017—Subsec. (d). Pub. L. 115-91, §1635, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to command of activity or mission.

Subsec. (e). Pub. L. 115-91, §1635(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2)(A)(iii)(II). Pub. L. 115-91, §1081(a)(12), substituted “Fiscal Year 2016” for “Fiscal Year 2014”.

Subsec. (f). Pub. L. 115-91, §1635(2), redesignated subsec. (f) as (e).

#### ELEVATION OF U.S. CYBER COMMAND TO A UNIFIED COMBATANT COMMAND

Memorandum of President of the United States, Aug. 15, 2017, 82 F.R. 39953, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as the Commander in Chief and under sections 161 and 167b of title 10, United States Code, and in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, I direct that U.S. Cyber Command be established as a Unified Combatant Command. I also direct the Secretary of Defense to recommend an officer for my nomination and Senate confirmation as commander in order to establish U.S. Cyber Command as a Unified Combatant Command.

I assign to U.S. Cyber Command: (1) all the general responsibilities of a Unified Combatant Command; (2) the cyberspace-related responsibilities previously assigned to the Commander, U.S. Strategic Command; (3) the responsibilities of Joint Force Provider and Joint Force Trainer; and (4) all other responsibilities identified in section 167b of title 10, United States Code. The comprehensive list of authorities and responsibilities for U.S. Cyber Command will be included in the next update to the Unified Command Plan.

I further direct that the Secretary of Defense, in coordination with the Director of National Intelligence, provide a recommendation and, as appropriate, a plan to me regarding the future command relationship between the U.S. Cyber Command and the National Security Agency.

Consistent with section 161(b)(2) of title 10, United States Code, and section 301 of title 3, United States Code, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

**[§ 168. Repealed. Pub. L. 114-328, div. A, title XII, § 1253(a)(1)(A), Dec. 23, 2016, 130 Stat. 2532]**

Section, added Pub. L. 103-337, div. A, title XIII, §1316(a)(1), Oct. 5, 1994, 108 Stat. 2898; amended Pub. L.

104-106, div. A, title IV, §416, Feb. 10, 1996, 110 Stat. 289; Pub. L. 108-375, div. A, title IV, §416(e), Oct. 28, 2004, 118 Stat. 1868; Pub. L. 110-181, div. A, title XII, §1201, Jan. 28, 2008, 122 Stat. 363; Pub. L. 110-417, [div. A], title XII, §1202(a), Oct. 14, 2008, 122 Stat. 4622, related to military-to-military contacts and comparable activities.

UPDATE OF POLICY GUIDANCE ON AUTHORITY FOR ASSIGNMENT OF CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE AS ADVISORS TO FOREIGN MINISTRIES OF DEFENSE AND REGIONAL ORGANIZATIONS

Pub. L. 113-291, div. A, title X, §1047(b), Dec. 19, 2014, 128 Stat. 3495, required the Under Secretary of Defense for Policy to issue an update of the policy of the Department of Defense for assignment of civilian employees of the Department as advisors to foreign ministries of defense and regional organizations under the authority in section 1081 of Pub. L. 112-81, formerly set out as a note under this section.

Pub. L. 113-66, div. A, title X, §1094(a)(2), Dec. 26, 2013, 127 Stat. 878, required the Under Secretary of Defense for Policy to issue an update of the policy of the Department of Defense for assignment of civilian employees of the Department as advisors to foreign ministries of defense under the authority in section 1081 of Pub. L. 112-81, formerly set out as a note under this section.

DEFENSE INSTITUTION CAPACITY BUILDING PROGRAM

Pub. L. 112-81, div. A, title X, §1081, Dec. 31, 2011, 125 Stat. 1599, as amended by Pub. L. 113-66, div. A, title X, §1094(a)(1), (3)-(5), Dec. 26, 2013, 127 Stat. 878; Pub. L. 113-291, div. A, title X, §1047(a), (c), Dec. 19, 2014, 128 Stat. 3494, 3495; Pub. L. 114-92, div. A, title X, §1055(a)-(d)(1), Nov. 25, 2015, 129 Stat. 982, 983, which related to the Defense Institution Capacity Building Program, was repealed by Pub. L. 114-328, div. A, title XII, §1241(c)(3), Dec. 23, 2016, 130 Stat. 2500.

AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES

Pub. L. 111-84, div. A, title XII, §1207, Oct. 28, 2009, 123 Stat. 2514, as amended by Pub. L. 112-239, div. A, title XII, §1202, Jan. 2, 2013, 126 Stat. 1980; Pub. L. 114-92, div. A, title XII, §1204, Nov. 25, 2015, 129 Stat. 1039, which related to authority for non-reciprocal exchanges of defense personnel between the United States and foreign countries, was repealed by Pub. L. 114-328, div. A, title XII, §1242(c)(2), Dec. 23, 2016, 130 Stat. 2513.

AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN UNITED STATES AND FOREIGN COUNTRIES

Pub. L. 104-201, div. A, title X, §1082, Sept. 23, 1996, 110 Stat. 2672, which related to agreements for exchange of defense personnel between the United States and foreign countries, was repealed by Pub. L. 114-328, div. A, title XII, §1242(c)(1), Dec. 23, 2016, 130 Stat. 2513. See section 311 of this title.

**CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES**

Sec.  
171. Armed Forces Policy Council.  
171a. Council on Oversight of the National Leadership Command, Control, and Communications System.  
172. Explosive safety board.  
173. Advisory personnel.  
174. Advisory personnel: research and development.  
175. Reserve Forces Policy Board.  
176. Armed Forces Institute of Pathology.  
177. American Registry of Pathology.  
178. The Henry M. Jackson Foundation for the Advancement of Military Medicine.  
179. Nuclear Weapons Council.  
180. Service academy athletic programs: review board.

Sec.  
181. Joint Requirements Oversight Council.  
182. Center for Excellence in Disaster Management and Humanitarian Assistance.  
183. Department of Defense Board of Actuaries.  
183a. Military Aviation and Installation Assurance Siting Clearinghouse for review of mission obstructions.<sup>1</sup>  
[184 to 186. Renumbered or Repealed.]  
187. Strategic Materials Protection Board.  
188. Interagency Council on the Strategic Capability of the National Laboratories.  
189. Communications Security Review and Advisory Board.  
190. Defense Cost Accounting Standards Board.

AMENDMENTS

2017—Pub. L. 115-91, div. A, title III, §§311(b)(4), 341(b)(2), Dec. 12, 2017, 131 Stat. 1348, 1361, substituted “Explosive safety board” for “Ammunition storage board” in item 172 and added item 183a.

2016—Pub. L. 114-328, div. A, title VIII, §820(b)(2), title IX, §904(b), title XII, §1241(o)(3), Dec. 23, 2016, 130 Stat. 2276, 2345, 2512, struck out items 184 “Regional Centers for Security Studies” and 185 “Financial Management Modernization Executive Committee” and, effective Oct. 1, 2018, added item 190.

2014—Pub. L. 113-291, div. A, title IX, §901(l)(2), title X, §1071(f)(3), Dec. 19, 2014, 128 Stat. 3468, 3510, struck out item 186 “Defense Business System Management Committee” and inserted period at end of item 189.

2013—Pub. L. 113-66, div. A, title II, §261(b), title X, §1052(a)(2), Dec. 26, 2013, 127 Stat. 725, 861, added items 171a and 189.

Pub. L. 112-239, div. A, title X, §1040(b), Jan. 2, 2013, 126 Stat. 1930, added item 188.

2008—Pub. L. 110-417, [div. A], title X, §1061(a)(3), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 183.

Pub. L. 110-181, div. A, title IX, §906(a)(2), Jan. 28, 2008, 122 Stat. 277, added item 183.

2006—Pub. L. 109-364, div. A, title VIII, §843(b), title IX, §904(a)(2), Oct. 17, 2006, 120 Stat. 2339, 2353, substituted “Regional Centers for Security Studies” for “Department of Defense regional centers for security studies” in item 184 and added item 187.

2004—Pub. L. 108-375, div. A, title III, §332(b)(2), Oct. 28, 2004, 118 Stat. 1855, added item 186.

2002—Pub. L. 107-314, div. A, title X, §1041(a)(1)(B), Dec. 2, 2002, 116 Stat. 2645, struck out item 183 “Advisory committees: annual justification required”.

2001—Pub. L. 107-107, div. A, title X, §1009(a)(2), Dec. 28, 2001, 115 Stat. 1208, added item 185.

2000—Pub. L. 106-398, §1 [[div. A], title IX, §912(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A-229, added item 184.

1997—Pub. L. 105-85, div. A, title III, §382(a)(2), title IX, §904(b), Nov. 18, 1997, 111 Stat. 1711, 1855, added items 182 and 183.

1996—Pub. L. 104-106, div. A, title IX, §905(a)(2), Feb. 10, 1996, 110 Stat. 404, added item 181.

1991—Pub. L. 102-190, div. A, title V, §513(b), Dec. 5, 1991, 105 Stat. 1361, added item 180.

1986—Pub. L. 99-661, div. C, title I, §3137(a)(2), Nov. 14, 1986, 100 Stat. 4066, added item 179.

1983—Pub. L. 98-132, §2(a)(2), Oct. 17, 1983, 97 Stat. 849, inserted “The Henry M. Jackson” before “Foundation” in item 178.

Pub. L. 98-36, §2(b), May 27, 1983, 97 Stat. 201, added item 178.

1976—Pub. L. 94-361, title VIII, §811(c), July 14, 1976, 90 Stat. 936, added items 176 and 177.

**§ 171. Armed Forces Policy Council**

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) the Secretary of Defense, as Chairman, with the power of decision;

<sup>1</sup> So in original. Does not conform to section catchline.

- (2) the Deputy Secretary of Defense;
- (3) the Under Secretary of Defense for Acquisition, Technology, and Logistics;
- (4) the Secretary of the Army;
- (5) the Secretary of the Navy;
- (6) the Secretary of the Air Force;
- (7) the Under Secretary of Defense for Policy;
- (8) the Deputy Under Secretary of Defense for Acquisition and Technology;
- (9) the Chairman of the Joint Chiefs of Staff;
- (10) the Chief of Staff of the Army;
- (11) the Chief of Naval Operations;
- (12) the Chief of Staff of the Air Force; and
- (13) the Commandant of the Marine Corps.

(b) The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 85-599, §9(c), Aug. 6, 1958, 72 Stat. 521; Pub. L. 92-596, §5, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95-140, §3(b), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 98-94, title XII, §1213, Sept. 24, 1983, 97 Stat. 687; Pub. L. 99-500, §101(c) [title X, §903(e)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-133, and Pub. L. 99-591, §101(c) [title X, §903(e)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-133; Pub. L. 99-661, div. A, title IX, formerly title IV, §903(e), Nov. 14, 1986, 100 Stat. 3912, renumbered title IX, Pub. L. 100-26, §3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103-160, div. A, title IX, §904(d)(1), (3), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107-107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
171(a) .....	5:171e (less last sentence).	July 26, 1947, ch. 343, §210; restated Aug. 10, 1949, ch. 412, §7(a), 63 Stat. 581.
171(b) .....	5:171e (last sentence).	

#### CODIFICATION

Pub. L. 99-591 is a corrected version of Pub. L. 99-500.

#### AMENDMENTS

2001—Subsec. (a)(3). Pub. L. 107-107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

1993—Subsec. (a)(3). Pub. L. 103-160, §904(d)(1), substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

Subsec. (a)(8). Pub. L. 103-160, §904(d)(3), substituted “Deputy Under Secretary of Defense for Acquisition and Technology” for “Deputy Under Secretary of Defense for Acquisition”.

1986—Subsec. (a)(3) to (13). Pub. L. 99-500, Pub. L. 99-591, and Pub. L. 99-661 amended subsec. (a) identically, redesignating pars. (3) to (11) as (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively, adding new pars. (3) and (8), and substituting “the Under Secretary of Defense for Acquisition” for “the Under Secretaries of Defense” in par. (7).

1983—Subsec. (a)(11). Pub. L. 98-94 added par. (11).

1977—Subsec. (a)(2). Pub. L. 95-140, §3(b)(1), substituted “the Deputy” for “a Deputy”.

Subsec. (a)(6). Pub. L. 95-140, §3(b)(2), substituted “the Under Secretaries of Defense;” for “the Director of Defense Research and Engineering;”.

1972—Subsec. (a)(2). Pub. L. 92-596 substituted “a Deputy Secretary” for “the Deputy Secretary”.

1958—Subsec. (a)(6) to (10). Pub. L. 85-599 added par. (6) and redesignated former pars. (6) to (9) as (7) to (10), respectively.

#### SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-36, §1, May 27, 1983, 97 Stat. 200, provided: “That this Act [enacting section 178 of this title and amending section 2113 of this title] may be cited as the ‘Foundation for the Advancement of Military Medicine Act of 1983.’”

### § 171a. Council on Oversight of the National Leadership Command, Control, and Communications System

(a) ESTABLISHMENT.—There is within the Department of Defense a council to be known as the “Council on Oversight of the National Leadership Command, Control, and Communications System” (in this section referred to as the “Council”).

(b) MEMBERSHIP.—The members of the Council shall be as follows:

- (1) The Under Secretary of Defense for Policy.
- (2) The Under Secretary of Defense for Acquisition, Technology, and Logistics.
- (3) The Vice Chairman of the Joint Chiefs of Staff.
- (4) The Commander of the United States Strategic Command.
- (5) The Director of the National Security Agency.
- (6) The Chief Information Officer of the Department of Defense.
- (7) Such other officers of the Department of Defense as the Secretary may designate.

(c) CO-CHAIR.—The Council shall be co-chaired by the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Vice Chairman of the Joint Chiefs of Staff.

(d) RESPONSIBILITIES.—(1) The Council shall be responsible for oversight of the command, control, and communications system for the national leadership of the United States, including nuclear command, control, and communications, and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense.

(2) In carrying out the responsibility for oversight of the command, control, and communications system as specified in paragraph (1), the Council shall be responsible for the following:

- (A) Oversight of performance assessments (including interoperability).
- (B) Vulnerability identification and mitigation.
- (C) Architecture development (including space system architectures and associated user terminals and ground segments).
- (D) Resource prioritization.
- (E) Such other responsibilities as the Secretary of Defense shall specify for purposes of this section.

(e) ANNUAL REPORTS.—During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of

title 31, and from time to time after such period at the discretion of the Council, the Council shall submit to the congressional defense committees a report on the activities of the Council. Each report shall include the following:

(1) A description and assessment of the activities of the Council during the previous fiscal year.

(2) A description of the activities proposed to be undertaken by the Council during the period covered by the current future-years defense program under section 221 of this title.

(3) Any changes to the requirements of the command, control, and communications system for the national leadership of the United States made during the previous year, along with an explanation for why the changes were made and a description of the effects of the changes to the capability of the system.

(4) A breakdown of each program element in such budget that relates to the system, including how such program element relates to the operation and sustainment, research and development, procurement, or other activity of the system.

(5) An assessment of the threats and vulnerabilities described in the reports and assessments collected under subsection (f) during the previous year, including any plans to address such threats and vulnerabilities.

(6) An assessment of the readiness of the command, control, and communications system for the national leadership of the United States and of each layer of the system, as that layer relates to nuclear command, control, and communications.

(f) COLLECTION OF ASSESSMENTS ON CERTAIN THREATS.—The Council shall collect and assess (consistent with the provision of classified information and intelligence sources and methods) all reports and assessments otherwise conducted by the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) regarding foreign threats, including cyber threats, to the command, control, and communications system for the national leadership of the United States and the vulnerabilities of such system to such threats.

(g) BUDGET AND FUNDING MATTERS.—(1) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(A) whether such budget allows the Federal Government to meet the required capabilities of the command, control, and communications system for the national leadership of the United States during the fiscal year covered by the budget and the four subsequent fiscal years; and

(B) if the Commander determines that such budget does not allow the Federal Government to meet such required capabilities, a description of the steps being taken to meet such required capabilities.

(2) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of

the United States Strategic Command under paragraph (1), the Chairman shall submit to the congressional defense committees—

(A) such assessment as it was submitted to the Chairman; and

(B) any comments of the Chairman.

(3) If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the command, control, and communications system for the national leadership of the United States that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.

(h) NOTIFICATION OF ANOMALIES.—(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system for the national leadership of the United States that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

(2) In this subsection, the term “anomaly” means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.

(i) REPORTS ON SPACE ARCHITECTURE DEVELOPMENT.—(1) Not less than 90 days before each of the dates on which a system described in paragraph (2) achieves Milestone A or Milestone B approval, the Under Secretary of Defense for Acquisitions, Technology, and Logistics shall submit to the congressional defense committees a report prepared by the Council detailing the implications of any changes to the architecture of such a system with respect to the systems, capabilities, and programs covered under subsection (d).

(2) A system described in this paragraph is any of the following:

(A) Advanced extremely high frequency satellites.

(B) The space-based infrared system.

(C) The integrated tactical warning and attack assessment system and its command and control system.

(D) The enhanced polar system.

(3) In this subsection, the terms “Milestone A approval” and “Milestone B approval” have the meanings given such terms in sections 2366(e) and 2366a(d) of this title.

(j) NOTIFICATION OF REDUCTION OF CERTAIN WARNING TIME.—(1) None of the funds authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year may be used to change any command, control, and communications system described in subsection (d)(1) in a manner that reduces the warning time provided to the national leadership of the United States with respect to a warning of a strategic missile attack on the United States unless—

(A) the Secretary of Defense notifies the congressional defense committees of such proposed change and reduction; and

(B) a period of one year elapses following the date of such notification.



(2) Not later than March 1, 2017, and each year thereafter, the Council shall determine whether the integrated tactical warning and attack assessment system and its command and control system have met all warfighter requirements for operational availability, survivability, and endurability. If the Council determines that such systems have not met such requirements, the Secretary of Defense and the Chairman of the Joint Chiefs of Staff shall jointly submit to the congressional defense committees—

(A) an explanation for such negative determination;

(B) a description of the mitigations that are in place or being put in place as a result of such negative determination; and

(C) the plan of the Secretary and the Chairman to ensure that the Council is able to make a positive determination in the following year.

(k) STATUS OF ACQUISITION PROGRAMS.—(1) On a quarterly basis, each program manager of a covered acquisition program shall transmit to the co-chairs of the Council, acting through the senior steering group of the Council, a report that identifies—

(A) the covered acquisition program;

(B) the requirements of the program;

(C) the development timeline of the program; and

(D) the status of the program, including whether the program is delayed and, if so, whether such delay will result in a program schedule delay.

(2) Not later than seven days after the end of each semiannual period, the co-chairs of the Council shall submit to the congressional defense committees a report that identifies, with respect to the reports transmitted to the Council under paragraph (1) for the two quarters in such period—

(A) each covered acquisition program that is delayed more than 180 days; and

(B) any covered acquisition program that should have been included in such reports but was excluded, and the reasons for such exclusion.

(3) In this subsection, the term “covered acquisition program” means each acquisition program of the Department of Defense that materially contributes to—

(A) the nuclear command, control, and communications systems of the United States; or

(B) the continuity of government systems of the United States.

(l) NATIONAL LEADERSHIP OF THE UNITED STATES DEFINED.—In this section, the term “national leadership of the United States” means the following:

(1) The President.

(2) The Vice President.

(3) Such other civilian officials of the United States Government as the President shall designate for purposes of this section.

(Added Pub. L. 113-66, div. A, title X, § 1052(a)(1), Dec. 26, 2013, 127 Stat. 859; amended Pub. L. 114-92, div. A, title XVI, § 1651, Nov. 25, 2015, 129 Stat. 1121; Pub. L. 114-328, div. A, title XVI, § 1661, Dec. 23, 2016, 130 Stat. 2613; Pub. L. 115-91,

div. A, title X, § 1081(a)(13), title XVI, § 1654(a)(1), Dec. 12, 2017, 131 Stat. 1595, 1758.)

#### AMENDMENTS

2017—Subsec. (f). Pub. L. 115-91, § 1081(a)(13)(A), substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 3003(4))”.

Subsec. (i)(3). Pub. L. 115-91, § 1081(a)(13)(B), substituted “sections 2366(e) and 2366a(d)” for “section 2366(e)”.

Subsecs. (k), (l). Pub. L. 115-91, § 1654(a)(1), added subsec. (k) and redesignated former subsec. (k) as (l).

2016—Subsec. (d)(1). Pub. L. 114-328, § 1661(a)(1), inserted “, and including with respect to the integrated tactical warning and attack assessment systems, processes, and enablers, and continuity of the governmental functions of the Department of Defense” before period at end.

Subsec. (d)(2)(C). Pub. L. 114-328, § 1661(a)(2), inserted “(including space system architectures and associated user terminals and ground segments)” before period at end.

Subsec. (e). Pub. L. 114-328, § 1661(c)(1), substituted “During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council,” for “At the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31,” in introductory provisions.

Subsec. (e)(6). Pub. L. 114-328, § 1661(c)(2), added par. (6).

Subsecs. (i) to (k). Pub. L. 114-328, § 1661(b), added subsecs. (i) and (j) and redesignated former subsec. (i) as (k).

2015—Subsec. (e)(5). Pub. L. 114-92, § 1651(3), added par. (5).

Subsecs. (f) to (i). Pub. L. 114-92, § 1651(1), (2), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

#### DEPARTMENT OF DEFENSE INSTRUCTION

Pub. L. 115-91, div. A, title XVI, § 1654(a)(2), Dec. 12, 2017, 131 Stat. 1759, provided that: “The Secretary of Defense shall issue a Department of Defense Instruction, or revise such an Instruction, to ensure that program managers carry out subsection (k)(1) of section 171a of title 10, United States Code, as added by paragraph (1).”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (e) and (g)(2) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### EXECUTION AND PROGRAMMATIC OVERSIGHT

Pub. L. 115-91, div. A, title XVI, § 1654(b), Dec. 12, 2017, 131 Stat. 1759, provided that:

“(1) DATABASE.—Not later than one year after the date of the enactment of this Act [Dec. 12, 2017], the Chief Information Officer of the Department of Defense, as Executive Secretary of the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of title 10, United States Code (or a successor to the Chief Information Officer assigned responsibility for policy, oversight, guidance, and coordination for nuclear command and control systems), shall, in coordination with the Under Secretary of Defense for Acquisition and Sustainment, develop a database relating to the execution of all nuclear command, control, and communications acquisition programs of the Department of Defense with an approved Materiel Development Decision. The database shall be updated not less frequently than annually and upon completion of a major program element of such a program.

“(2) DATABASE ELEMENTS.—The database required by paragraph (1) shall include, at a minimum, the follow-

ing elements for each program described in that paragraph, consistent with Department of Defense Instruction 5000.02:

- “(A) Projected dates for Milestones A, B, and C, including cost thresholds and objectives for major elements of life cycle cost.
- “(B) Projected dates for program design reviews and critical design reviews.
- “(C) Projected dates for developmental and operation tests.
- “(D) Projected dates for initial operational capability and final operational capability.
- “(E) An acquisition program baseline.
- “(F) Program acquisition unit cost and average procurement unit cost.
- “(G) Contract type.
- “(H) Key performance parameters.
- “(I) Key system attributes.
- “(J) A risk register.
- “(K) Technology readiness levels.
- “(L) Manufacturing readiness levels.
- “(M) Integration readiness levels.
- “(N) Any other critical elements that affect the stability of the program.

“(3) BRIEFINGS.—The co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System shall brief the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] on the status of the database required by paragraph (1)—

- “(A) not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017]; and
- “(B) upon completion of the database.”

**§ 172. Explosive safety board**

(a) IN GENERAL.—The Secretary of Defense, acting through a joint board that includes members selected by the Secretaries of the military departments, composed of military officers designated as the chair and voting members of the board for each military department, and other civilian officers and employees of the Department of Defense, as necessary, shall provide oversight on storage and transportation of supplies of ammunition and components thereof for use of the Army, Navy, Air Force, and Marine Corps, with particular regard to keeping those supplies properly dispersed and stored and to preventing hazardous conditions from arising to endanger life and property inside or outside of storage reservations.

(b) OVERSIGHT BY SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the military departments shall provide research, development, test, evaluation, and manufacturing oversight for energetic materials supporting military requirements.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 104–201, div. A, title IX, §909, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 111–383, div. A, title X, §1075(b)(7), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 115–91, div. A, title III, §341(a), (b)(1), Dec. 12, 2017, 131 Stat. 1361.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
172(a) .....	50:83 (less last sentence).	May 29, 1928, ch. 853 (last par. under “Ordnance Establishment”), 45 Stat. 928.
172(b) .....	50:83 (last sentence).	

In subsection (a), the words “informed on stored” are substituted for the words “advised of storage”. The

words “particular regard” are substituted for the words “special reference”. The words “inside or outside of” are substituted for the words “within or without”. The word “selected” is substituted for the word “appointed”, since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the words “in carrying out” are substituted for the words “in the execution of”.

AMENDMENTS

2017—Pub. L. 115–91, §341(b)(1), substituted “Explosive safety” for “Ammunition storage” in section catchline.

Pub. L. 115–91, §341(a)(1)–(8), designated existing provisions as subsec. (a) and inserted heading, inserted “that includes members” after “joint board”, substituted “selected by the Secretaries of the military departments” for “selected by them”, inserted “military” before “officers”, “designated as the chair and voting members of the board for each military department” after “officers”, and “and other” before “civilian officers”, and substituted “as necessary” for “or both” and “provide oversight on storage and transportation of” for “keep informed on stored”.

Subsec. (b). Pub. L. 115–91, §341(a)(9), added subsec. (b).

2011—Pub. L. 111–383 struck out subsec. (a) designation before “The Secretaries” and struck out subsec. (b) which read as follows: “The board shall confer with and advise the Secretaries of the military departments in carrying out the recommendations in House Document No. 199 of the Seventieth Congress.”

1996—Subsec. (a). Pub. L. 104–201 substituted “a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both” for “a joint board of officers selected by them”.

**§ 173. Advisory personnel**

(a) The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 89–718, §2, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 104–106, div. A, title X, §1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
173(a) .....	5:171j(a) (1st sentence, as applicable to Secretary of Defense).	July 26, 1947, ch. 343, §303 (as applicable to Secretary of Defense); Aug. 10, 1949, ch. 412, §10(c) (as applicable to Secretary of Defense); Sept. 3, 1954, ch. 1263, §8 (as applicable to Secretary of Defense), 68 Stat. 1228.
173(b) .....	5:171j(a) (less 1st sentence, as applicable to Secretary of Defense).	
173(c) .....	5:171j(b) (as applicable to Secretary of Defense).	

In subsection (a), the words “consistent with other provisions of sections 171–171n, 172–172j, 181–1, 181–2, 411a, 411b, and 626–626d of this title and sections 401–405 of Title 50” are omitted as surplusage. The word “establish” is substituted for the word “appoint”, since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the word “Secretary” is substituted for the words “appointing authority”.

In subsection (c), the words “as a part-time adviser” are substituted for the words “in any other part-time capacity for a department or agency” to conform to subsections (a) and (b).

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted “Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.” for “Other members and part-time advisers may serve without compensation or may be paid not more than \$50 for each day of service, as the Secretary determines.”

1966—Subsec. (c). Pub. L. 89–718 repealed subsec. (c) which provided that sections 281, 283, and 284 of title 18 did not apply to a person because of his service on a committee or as a part-time advisor under subsec. (a) of this section unless the unlawful act related to a matter directly involving a department or agency which he was advising or to a matter in which that department or agency was directly interested.

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 174. Advisory personnel: research and development

(a) The Secretary of each military department may establish such advisory committees and panels as are necessary for the research and development activities of his department and may employ such part-time advisers as he considers necessary to carry out those activities.

(b) A person who serves as a member of such a committee or panel may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(c) The Secretary concerned may delegate any authority under this section to—

- (1) the Under Secretary of his department;
  - (2) an Assistant Secretary of his department;
- or

- (3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 104–106, div. A, title X, § 1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
174(a) .....	5:235b (1st sentence). 5:475g (1st sentence). 5:628b (1st sentence).	July 16, 1952, ch. 882, §§ 1, 7 (as applicable to § 1), 66 Stat. 725, 726.
174(b) .....	5:235b (less 1st sentence). 5:475g (less 1st sentence). 5:628b (less 1st sentence).	

#### HISTORICAL AND REVISION NOTES—CONTINUED

Revised section	Source (U.S. Code)	Source (Statutes at Large)
174(c) .....	5:235h (as applicable to 5:235b). 5:475m (as applicable to 5:475g). 5:628h (as applicable to 5:628b).	

In subsection (a), the words “the conduct of” are omitted as surplusage.

In subsection (b), the words “or panel” are inserted for clarity. The words “Secretary concerned” are substituted for the words “appointing authority”.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted “Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.” for “Other members and part-time advisers may serve without compensation or may be paid not more than \$50 for each day of service, as the Secretary concerned determines.”

#### TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 175. Reserve Forces Policy Board

There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 90–168, § 2(3), (4), Dec. 1, 1967, 81 Stat. 521; Pub. L. 98–94, title XII, § 1212(b), Sept. 24, 1983, 97 Stat. 687; Pub. L. 98–525, title XIII, § 1306, title XIV, § 1405(4), Oct. 19, 1984, 98 Stat. 2613, 2622; Pub. L. 98–557, § 21, Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99–433, title V, § 531(a)(1), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103–337, div. A, title IX, § 921, title XVI, § 1661(b)(3), Oct. 5, 1994, 108 Stat. 2829, 2981.)

#### HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
175(a) .....	50:1008(a).	July 9, 1952, ch. 608, § 257 (less (e)), 66 Stat. 497.
175(b) .....	50:1008(b).	
175(c) .....	50:1008(c).	
175(d) .....	50:1008(d) (less proviso).	
175(e) .....	50:1008(d) (proviso).	

In subsection (a), the word “are” is substituted for the words “is established”, to make clear the continuing authority of the organization established by the source statute. Clauses (3), (4), and (5) are substituted for 50:1008(a)(iii) for clarity. In clauses (6), (7), (8), and (9), the word “designated” is substituted for the word “appointed”, in 50:1008(iv), (v), (vi), and (vii), to make it clear that the positions described are not constitutional offices.

In subsection (b), the words “Regular Coast Guard or Coast Guard Reserve” are substituted for the words “Regular or Reserve \* \* \* Coast Guard”.

#### AMENDMENTS

1994—Pub. L. 103–337, § 1661(b)(3), amended section generally, substituting single undesignated par. for

former subsecs. (a) to (f) relating to establishment, composition, functions, and powers of Reserve Forces Policy Board.

Subsec. (a)(4). Pub. L. 103-337, §921(1), substituted “and an officer of the Regular Marine Corps each” for “or Regular Marine Corps”.

Subsec. (a)(10). Pub. L. 103-337, §921(2)–(4), added par. (10).

1986—Subsec. (d). Pub. L. 99-433 substituted “3021” and “8021” for “3033” and “8033”, respectively.

1984—Subsec. (b). Pub. L. 98-557 substituted “Regular or Reserve, to serve as voting members” for “regular or reserve, to serve as a voting member”.

Pub. L. 98-525, §1306, substituted “two officers of the Coast Guard, regular or reserve” for “an officer of the Regular Coast Guard or the Coast Guard Reserve”.

Subsec. (c). Pub. L. 98-525, §1405(4), inserted a comma following “Reserve Affairs”.

1983—Subsec. (c). Pub. L. 98-94 substituted “Assistant Secretary of Defense for Reserve Affairs” for “Assistant Secretary of Defense for Manpower and Reserve Affairs”.

1967—Subsec. (a)(2). Pub. L. 90-168, §2(3), substituted “the Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs” for “the Secretary, the Under Secretary, or an Assistant Secretary designated under section 264(b) of this title, of each of the military departments”.

Subsec. (b). Pub. L. 90-168, §2(4), substituted “Secretary of Transportation” for “Secretary of the Treasury” as the Secretary empowered to designate officers to serve on the Board and substituted “serve as a voting member” for “serve without vote as a member” in the description of the officer’s service on the Board.

Subsec. (c). Pub. L. 90-168, §2(4), substituted “Assistant Secretary of Defense for Manpower and Reserve Affairs” for “Assistant Secretary of Defense designated under section 264(a) of this title”.

Subsec. (d). Pub. L. 90-168, §2(4), inserted references to sections 5251 and 5252 of this title.

Subsec. (e). Pub. L. 90-168, §2(4), substituted “member of a committee or board prescribed under a section listed in subsection (d)” for “member of a committee under section 3033 or 8033 of this title”.

Subsec. (f). Pub. L. 90-168, §2(4), added subsec. (f).

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1661(b)(3) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98-94 effective Oct. 1, 1983, see section 1212(e) of Pub. L. 98-94 set out as a note under section 138 of this title.

#### EFFECTIVE DATE OF 1967 AMENDMENT

For effective date of amendment by Pub. L. 90-168, see section 7 of Pub. L. 90-168, set out as a note under section 138 of this title.

### § 176. Armed Forces Institute of Pathology

(a)(1) There is in the Department of Defense an Institute to be known as the Armed Forces Institute of Pathology (hereinafter in this section referred to as the “Institute”), which has the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors,

and a staff of such professional, technical, and clerical personnel as may be required.

(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health and Human Services for Health, the Surgeons General of the Army, Navy, and Air Force, the Under Secretary for Health of the Department of Veterans Affairs, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

(4) The Director and the Deputy Directors shall be appointed by the Secretary of Defense.

(b)(1) In carrying out the provisions of this section, the Institute is authorized to—

(A) contract with the American Registry of Pathology (established under section 177 of this title) for cooperative enterprises in medical research, consultation, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

(B) make available at no cost to the American Registry of Pathology such space, facilities, equipment, and support services within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

(2) No contract may be entered into under paragraph (1) which obligates the Institute to make outlays in advance of the enactment of budget authority for such outlays.

(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative positions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law. The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense.

(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

(Added Pub. L. 94-361, title VIII, §811(b), July 14, 1976, 90 Stat. 933; amended Pub. L. 96-513, title V, §511(6), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 101-189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 103-160, div. A, title VII, §733, Nov. 30, 1993, 107 Stat. 1697; Pub. L.

104-106, div. A, title IX, §903(f)(1), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104-201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 107-107, div. A, title X, §1048(a)(4), Dec. 28, 2001, 115 Stat. 1222.)

#### AMENDMENTS

2001—Subsec. (a)(3). Pub. L. 107-107 substituted “Under Secretary for Health” for “Chief Medical Director”.

1996—Subsec. (a)(3). Pub. L. 104-106, §903(a), (f)(1), which directed amendment of subsec. (a)(3), eff. Jan. 31, 1997, by substituting “official in the Department of Defense with principal responsibility for health affairs” for “Assistant Secretary of Defense for Health Affairs” and “Under Secretary for Health of the Department of Veterans Affairs” for “Chief Medical Director of the Department of Veterans Affairs”, was repealed by Pub. L. 104-201.

1993—Subsec. (c). Pub. L. 103-160 inserted at end “The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense.”

1989—Subsec. (a)(3). Pub. L. 101-189 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1980—Subsec. (a)(3). Pub. L. 96-513, §511(6)(A), substituted “Secretary of Health and Human Services” for “Secretary of Health, Education, and Welfare”.

Subsec. (b)(1)(A). Pub. L. 96-513, §511(6)(B), inserted “of this title” after “177”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

#### ESTABLISHMENT OF JOINT PATHOLOGY CENTER

Pub. L. 110-181, div. A, title VII, §722, Jan. 28, 2008, 122 Stat. 199, provided that:

“(a) FINDINGS.—Congress makes the following findings:

“(1) The Secretary of Defense proposed to disestablish all elements of the Armed Forces Institute of Pathology, except the National Medical Museum and the Tissue Repository, as part of the recommendations of the Secretary for the closure of Walter Reed Army Medical Center in the 2005 round of defense base closure and realignment.

“(2) The Defense Base Closure and Realignment Commission altered, but did not reject, the proposal of the Secretary of Defense to disestablish the Armed Forces Institute of Pathology.

“(3) The Commission’s recommendation that the Armed Forces Institute of Pathology’s ‘capabilities not specified in this recommendation will be absorbed into other DOD, Federal, or civilian facilities’ provides the flexibility to retain a Joint Pathology Center as a Department of Defense or Federal entity.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the Armed Forces Institute of Pathology has provided important medical benefits to the Armed Forces and to the United States and that the Federal Government should retain a Joint Pathology Center.

“(c) ESTABLISHMENT.—

“(1) ESTABLISHMENT REQUIRED.—The President shall establish and maintain a Joint Pathology Center that shall function as the reference center in pathology for the Federal Government.

“(2) ESTABLISHMENT WITHIN DOD.—Except as provided in paragraph (3), the Joint Pathology Center shall be established in the Department of Defense, consistent with the final recommendations of the 2005 Defense Base Closure and Realignment Commission, as approved by the President.

“(3) ESTABLISHMENT IN ANOTHER DEPARTMENT.—If the President makes a determination, within 180 days after the date of the enactment of this Act [Jan. 28, 2008], that the Joint Pathology Center cannot be established in the Department of Defense, the Joint Pathology Center shall be established as an element of a Federal agency other than the Department of Defense. The President shall incorporate the selection of such agency into the determination made under this paragraph.

“(d) SERVICES.—The Joint Pathology Center shall provide, at a minimum, the following:

“(1) Diagnostic pathology consultation services in medicine, dentistry, and veterinary sciences.

“(2) Pathology education, to include graduate medical education, including residency and fellowship programs, and continuing medical education.

“(3) Diagnostic pathology research.

“(4) Maintenance and continued modernization of the Tissue Repository and, as appropriate, utilization of the Repository in conducting the activities described in paragraphs (1) through (3).”

#### NATIONAL MUSEUM OF HEALTH AND MEDICINE

Pub. L. 103-337, div. A, title X, §1067, Oct. 5, 1994, 108 Stat. 2851, as amended by Pub. L. 105-78, title VII, §702, Nov. 13, 1997, 111 Stat. 1524, provided that:

“(a) PURPOSE.—It is the purpose of this section—

“(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

“(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine.

“(b) DESIGNATION.—The public facility of the Armed Forces Institute of Pathology shall also be known as the National Museum of Health and Medicine.”

#### CONGRESSIONAL FINDINGS AND DECLARATION

Pub. L. 94-361, title VIII, §811(a), July 14, 1976, 90 Stat. 933, provided that:

“(1) The Congress hereby finds and declares that—

“(A) the Armed Forces Institute of Pathology offers unique pathologic support to national and international medicine;

“(B) the Institute contains the Nation’s most comprehensive collection of pathologic specimens for study and a staff of prestigious pathologists engaged in consultation, education, and research;

“(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Forces of the United States;

“(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

“(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

“(F) it is important to the health of the American people and of the members of the Armed Forces of the United States that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

“(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation.”

#### § 177. American Registry of Pathology

(a)(1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the

provisions of this section and, to the extent not inconsistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-501 et seq.).

(2) The American Registry of Pathology shall have a Board of Members (hereinafter in this section referred to as the "Board") consisting of not less than eleven individuals who are representatives of the professional societies and organizations that support the activities of the American Registry of Pathology, of whom one shall be elected annually by the Board to serve as chairman.

(3) The American Registry of Pathology shall have a Director, who shall be appointed by the Board, and such other officers as may be named and appointed by the Board. Such officers shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(4) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by paragraph (1).

(5) The term of office of each member of the Board shall be four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment and to the maximum extent practicable, one fourth at the end of one year, one fourth at the end of two years, one fourth at the end of three years, and one fourth at the end of four years, and (C) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve more than two consecutive terms of four years each.

(6) Any vacancy in the Board shall not affect its powers, but such vacancy shall be filled in the manner in which the original appointment was made.

(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

(1) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of fascicles of tumor pathology, atlases, and other material;

(2) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

(3) enter into agreements with professional societies for the establishment and maintenance of Registries of Pathology; and

(4) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board deems appropriate to conduct the

activities of the American Registry of Pathology; and

(2) charge such fees for professional services as the Board deems reasonable and appropriate.

(d) The American Registry of Pathology may transmit annually to its Board and supporting organizations referred to in subsection (a)(2) a comprehensive and detailed report of its operations, activities, and accomplishments.

(Added Pub. L. 94-361, title VIII, §811(b), July 14, 1976, 90 Stat. 934; amended Pub. L. 98-525, title XIV, §1405(5), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 112-239, div. A, title V, §585, Jan. 2, 2013, 126 Stat. 1768.)

#### REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a)(1), (4), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

#### AMENDMENTS

2013—Subsec. (a)(2). Pub. L. 112-239, §585(1)(A), substituted "the professional societies and organizations that support the activities of the American Registry of Pathology" for "those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology" and struck out at end "Each such sponsor shall appoint one member to the Board for a term of four years."

Subsec. (a)(3). Pub. L. 112-239, §585(1)(B), struck out "with the concurrence of the Director of the Armed Forces Institute of Pathology" after "shall be appointed by the Board".

Subsec. (b). Pub. L. 112-239, §585(2), redesignated pars. (2) to (5) as (1) to (4), respectively, and struck out former par. (1) which read as follows: "enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their cooperative enterprises;"

Subsec. (d). Pub. L. 112-239, §585(3), substituted "annually to its Board and supporting organizations referred to in subsection (a)(2)" for "to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a)(2) annually, and at such other times as it deems desirable,"

1984—Subsec. (a)(1). Pub. L. 98-525 substituted "sec. 29-501" for "sec. 29-1001".

#### § 178. The Henry M. Jackson Foundation for the Advancement of Military Medicine

(a) There is authorized to be established a nonprofit corporation to be known as the Henry M. Jackson Foundation for the Advancement of Military Medicine (hereinafter in this section referred to as the "Foundation") which shall not for any purpose be an agency or instrumentality of the United States Government. The Foundation shall be subject to the provisions of this section and, to the extent not inconsistent with this section, the Corporations and Associations Articles of the State of Maryland.

(b) It shall be the purpose of the Foundation (1) to carry out medical research and education projects under cooperative arrangements with the Uniformed Services University of the Health Sciences, (2) to serve as a focus for the interchange between military and civilian medical personnel, and (3) to encourage the participation of the medical, dental, nursing, veterinary, and

other biomedical sciences in the work of the Foundation for the mutual benefit of military and civilian medicine.

(c)(1) The Foundation shall have a Council of Directors (hereinafter in this section referred to as the "Council") composed of—

(A) the Chairmen and ranking minority members of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives (or their designees from the membership of such committees), who shall be ex officio members,

(B) the Dean of the Uniformed Services University of the Health Sciences, who shall be an ex officio member, and

(C) four members appointed by the ex officio members of the Council designated in clauses (A) and (B).

(2) The term of office of each member of the Council appointed under clause (C) of paragraph (1) shall be four years, except that—

(A) any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of office of members first taking office shall expire, as designated by the ex officio members of the Council at the time of the appointment, two at the end of two years and two at the end of four years.

(3) The Council shall elect a chairman from among its members.

(d)(1) The Foundation shall have an Executive Director who shall be appointed by the Council and shall serve at the pleasure of the Council. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Council shall prescribe.

(2) The rate of compensation of the Executive Director shall be fixed by the Council.

(e) The initial members of the Council shall serve as incorporators and take whatever actions as are necessary to establish under the Corporations and Associations Articles of the State of Maryland the corporation authorized by subsection (a).

(f) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original designation or appointment was made.

(g) In order to carry out the purposes of this section, the Foundation is authorized to—

(1) enter into contracts with, accept grants from, and make grants to the Uniformed Services University of the Health Sciences for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education, including contracts for provision of such personnel and services as may be necessary to carry out such cooperative enterprises;

(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(3) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(4) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(5) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation;

(6) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; and

(7) charge such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

(h) A person who is a full-time or part-time employee of the Foundation may not be an employee (full-time or part-time) of the Federal Government.

(i) The Council shall transmit to the President annually, and at such other times as the Council considers desirable, a report on the operations, activities, and accomplishments of the Foundation.

(Added Pub. L. 98-36, §2(a), May 27, 1983, 97 Stat. 200; amended Pub. L. 98-132, §2(a)(1), Oct. 17, 1983, 97 Stat. 849; Pub. L. 101-189, div. A, title VII, §726(b)(2), Nov. 29, 1989, 103 Stat. 1480; Pub. L. 104-106, div. A, title XV, §1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106-65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774.)

#### AMENDMENTS

1999—Subsec. (c)(1)(A). Pub. L. 106-65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

1996—Subsec. (c)(1)(A). Pub. L. 104-106 substituted "Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives" for "Committees on Armed Services of the Senate and the House of Representatives".

1989—Subsec. (g)(1). Pub. L. 101-189 inserted " , accept grants from, and make grants to" after "contracts with".

1983—Pub. L. 98-132, §2(a)(1)(A), inserted "The Henry M. Jackson" before "Foundation" in section catchline.

Subsec. (a). Pub. L. 98-132, §2(a)(1)(B), inserted "Henry M. Jackson".

#### CHANGE OF NAME

Pub. L. 98-132, §1, Oct. 17, 1983, 97 Stat. 849, provided: "That (a) the Foundation for the Advancement of Military Medicine established pursuant to section 178 of title 10, United States Code, shall be designated and hereafter known as the 'Henry M. Jackson Foundation for the Advancement of Military Medicine', in honor of the late Henry M. Jackson, United States Senator from the State of Washington. Any reference to the Foundation for the Advancement of Military Medicine in any law, regulation, document, record, or other paper of the United States shall be held and considered to be a reference to the 'Henry M. Jackson Foundation for the Advancement of Military Medicine'.

"(b) The Council of Directors referred to in subsection (c) of section 178 of such title shall take such action as is necessary under the Corporations and Associations Articles of the State of Maryland to amend the corporate name of the Foundation for the Advancement of Military Medicine established under such section to reflect the designation made by the first sentence of subsection (a)."

### § 179. Nuclear Weapons Council

(a) ESTABLISHMENT; MEMBERSHIP.—There is a Nuclear Weapons Council (hereinafter in this section referred to as the “Council”) operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:

- (1) The Under Secretary of Defense for Acquisition, Technology, and Logistics.
- (2) The Vice Chairman of the Joint Chiefs of Staff.
- (3) The Under Secretary for Nuclear Security of the Department of Energy.
- (4) The Under Secretary of Defense for Policy.
- (5) The Commander of the United States Strategic Command.

(b) CHAIRMAN; MEETINGS.—(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member designated under subsection (a)(1).

(2) A meeting of the Council shall be chaired by the Under Secretary for Nuclear Security of the Department of Energy whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

(3) The Council shall meet not less often than once every three months. To the extent possible, not later than seven days before a meeting, the Chairman shall disseminate to each member of the Council the agenda and documents for such meeting.

(c) STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

(2) The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall be the Staff Director of the Council.

(3)(A) Whenever the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs has been vacant a period of more than 6 months, the Secretary of Energy shall designate a qualified individual to serve as acting staff director of the Council until the position of Assistant Secretary is filled.

(B) An individual designated under subparagraph (A) shall possess substantial technical and policy experience relevant to the management and oversight of nuclear weapons programs.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

- (1) Preparing the annual Nuclear Weapons Stockpile Memorandum.
- (2) Developing nuclear weapons stockpile options and the costs of such options and alternatives.
- (3) Coordinating and approving programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.
- (4) Identifying various options for cost-effective schedules for nuclear weapons production.
- (5) Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts.

(6) Ensuring that adequate consideration is given to design, performance, and cost trade-offs for all proposed new nuclear weapons programs.

(7) Providing specific guidance regarding priorities for research on nuclear weapons and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration.

(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.

(9) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

(10) Coordinating and approving the annual budget proposals of the National Nuclear Security Administration.

(11) Providing—

(A) broad guidance regarding priorities for research on improved conventional weapons, and

(B) comments on annual proposals for budget levels for research on improved conventional weapons,

and transmitting such guidance and comments to the Secretary of Defense before the preparation of the annual budget request of the Department of Defense.

(e) REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—The Council shall submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.

(f) BUDGET AND FUNDING MATTERS.—(1) The Council shall submit to Congress each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105(a) of title 31, a certification whether or not the amounts requested for the National Nuclear Security Administration in such budget, and anticipated over the four fiscal years following such budget, meets nuclear stockpile and stockpile stewardship program requirements for such fiscal year and over such four fiscal years. If a member of the Council does not concur in a certification, the certification shall include the reasons for the member’s non-concurrence.

(2) If a House of Congress adopts a bill authorizing or appropriating funds for the National Nuclear Security Administration for nuclear stockpile and stockpile stewardship program activities or other activities that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.



(3)(A) With respect to the preparation of a budget for a fiscal year to be submitted by the President to Congress under section 1105(a) of title 31, the Secretary of Defense may not agree to a proposed transfer of estimated nuclear budget request authority unless the Secretary of Defense submits to the congressional defense committees a report described in subparagraph (B).

(B) A report described in this subparagraph is a report that includes the following:

(i) Except as provided by subparagraph (C), certification that, during the fiscal year prior to the fiscal year covered by the budget for which the report is submitted, the Secretary of Energy obligated or expended any amounts covered by a proposed transfer of estimated nuclear budget request authority made for such prior fiscal year in a manner consistent with a memorandum of agreement that was developed by the Nuclear Weapons Council and entered into by the Secretary of Defense and the Secretary of Energy.

(ii) A detailed assessment by the Nuclear Weapons Council regarding how the Administrator for Nuclear Security implemented any agreements and decisions of the Council made during such prior fiscal year.

(iii) An assessment from each of the Chairman of the Joint Chiefs of Staff and the Commander of the United States Strategic Command regarding any effects to the military during such prior fiscal year that were caused by the delay or failure of the Administrator to implement any agreements or decisions described in clause (ii).

(C) With respect to a report described in subparagraph (B), the Secretary may waive the requirement to include the certification described in clause (i) of such subparagraph if the Secretary—

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

(ii) instead of the certification described in such clause (i), includes as part of such report—

(I) a copy of the agreement that the Secretary has entered into with the Secretary of Energy regarding the manner and the purpose for which the Secretary of Energy will obligate or expend any amounts covered by a proposed transfer of estimated nuclear budget request authority for the fiscal year covered by the budget for which such report is submitted; and

(II) an explanation for why the Secretary did not include such certification in such report.

(4) The Secretary of Defense shall include with the defense budget materials for a fiscal year the memorandum of agreement described in subparagraph (B)(i) of paragraph (3), or the agreement described in subparagraph (C) of such paragraph, as the case may be, that covers such fiscal year.

(5)(A) Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Com-

mand shall submit to the Chairman of the Joint Chiefs of Staff an assessment of—

(i) whether such budget allows the Federal Government to meet the nuclear stockpile and stockpile stewardship program requirements during the fiscal year covered by the budget and the four subsequent fiscal years; and

(ii) if the Commander determines that such budget does not allow the Federal Government to meet such requirements, a description of the steps being taken to meet such requirements.

(B) Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command under subparagraph (A), the Chairman shall submit to the congressional defense committees—

(i) such assessment as it was submitted to the Chairman; and

(ii) any comments of the Chairman.

(6) If a House of Congress adopts a bill authorizing or appropriating funds for the Department of Defense that, as determined by the Council, provides funds in an amount that will result in a delay in the nuclear certification or delivery of F-35A dual-capable aircraft, the Council shall notify the congressional defense committees of the determination.

(7) In this subsection:

(A) The term “budget” has the meaning given that term in section 231(f) of this title.

(B) The term “defense budget materials” has the meaning given that term in section 231(f) of this title.

(C) The term “proposed transfer of estimated nuclear budget request authority” means, in preparing a budget, a request for the Secretary of Defense to transfer an estimated amount of the proposed budget authority of the Secretary to the Secretary of Energy for purposes relating to nuclear weapons.

(Added Pub. L. 99-661, div. C, title I, §3137(a)(1), Nov. 14, 1986, 100 Stat. 4065; amended Pub. L. 100-180, div. A, title XII, §1231(2), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 100-456, div. A, title XII, §1233(h), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 102-484, div. C, title XXXI, §3133, Oct. 23, 1992, 106 Stat. 2639; Pub. L. 103-160, div. A, title IX, §904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103-337, div. C, title XXXI, §3152, Oct. 5, 1994, 108 Stat. 3090; Pub. L. 104-106, div. A, title IX, §904(b)(1), title XV, §1502(a)(7), Feb. 10, 1996, 110 Stat. 403, 502; Pub. L. 106-65, div. A, title X, §1067(1), div. C, title XXXI, §3163(a), (c), Oct. 5, 1999, 113 Stat. 774, 944; Pub. L. 106-398, §1 [div. C, title XXXI, §3152(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-464; Pub. L. 107-107, div. A, title X, §1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107-314, div. D, title XLII, §4213(c), formerly Pub. L. 104-201, div. C, title XXXI, §3159(c), Sept. 23, 1996, 110 Stat. 2842, renumbered §4213(c) of Pub. L. 107-314 by Pub. L. 108-136, div. C, title XXXI, §3141(e)(14), Nov. 24, 2003, 117 Stat. 1760; Pub. L. 108-375, div. A, title IX, §902(a)-(d), Oct. 28, 2004, 118 Stat. 2025; Pub. L. 109-364, div. A, title IX, §903, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111-383, div. A, title IX, §901(j)(1), Jan. 7, 2011, 124 Stat. 4324; Pub. L. 112-239, div. A, title X, §1039, Jan. 2, 2013, 126 Stat. 1927; Pub. L. 113-66, div. A, title

X, §§1053, 1091(a)(3), Dec. 26, 2013, 127 Stat. 861, 875; Pub. L. 113-291, div. A, title XVI, §1641, Dec. 19, 2014, 128 Stat. 3648; Pub. L. 114-92, div. A, title X, §1076(a), Nov. 25, 2015, 129 Stat. 997; Pub. L. 115-91, div. A, title X, §1081(a)(14), title XVI, §1653, Dec. 12, 2017, 131 Stat. 1595, 1758.)

## AMENDMENTS

2017—Subsec. (f)(3)(B)(iii). Pub. L. 115-91, §1081(a)(14), substituted “Joint” for “Joints”.

Subsec. (f)(6), (7). Pub. L. 115-91, §1653, added par. (6) and redesignated former par. (6) as (7).

2015—Subsec. (g). Pub. L. 114-92 struck out subsec. (g) which related to annual report.

2014—Subsec. (f)(3) to (6). Pub. L. 113-291 added pars. (3) to (6).

2013—Subsec. (a)(5). Pub. L. 113-66, §1091(a)(3), substituted “Commander” for “commander”.

Subsec. (b)(3). Pub. L. 112-239, §1039(c), inserted at end “To the extent possible, not later than seven days before a meeting, the Chairman shall disseminate to each member of the Council the agenda and documents for such meeting.”

Subsec. (d)(2). Pub. L. 112-239, §1039(a)(1), inserted “and alternatives” before period at end.

Subsec. (d)(3). Pub. L. 112-239, §1039(a)(2), inserted “and approving” after “Coordinating”.

Subsec. (d)(7). Pub. L. 112-239, §1039(a)(3), substituted “specific” for “broad” and inserted before period at end “and priorities among activities, including production, surveillance, research, construction, and any other programs within the National Nuclear Security Administration”.

Subsec. (d)(10). Pub. L. 113-66, §1053(a), redesignated par. (11) as (10) and struck out former par. (10) which read as follows: “Coordinating and providing guidance and oversight on nuclear command, control, and communications systems.”

Pub. L. 112-239, §1039(a)(5), added par. (10). Former par. (10) redesignated (12).

Subsec. (d)(11). Pub. L. 113-66, §1053(a)(2), redesignated par. (12) as (11).

Pub. L. 112-239, §1039(b)(1), added par. (11).

Subsec. (d)(12). Pub. L. 113-66, §1053(a)(2), redesignated par. (12) as (11).

Pub. L. 112-239, §1039(a)(4), redesignated par. (10) as (12).

Subsec. (f). Pub. L. 112-239, §1039(b)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 113-66, §1053(c), substituted “that includes the following” for “on the following” in introductory provisions.

Pub. L. 112-239, §1039(b)(2), redesignated subsec. (f) as (g).

Subsec. (g)(6). Pub. L. 113-66, §1053(b), added par. (6).

2011—Subsec. (c)(2). Pub. L. 111-383, §901(j)(1)(A), substituted “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs” for “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs”.

Subsec. (c)(3)(A). Pub. L. 111-383 substituted “Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs” for “Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs” and “Assistant Secretary” for “that Assistant to the Secretary”.

2006—Subsec. (a)(5). Pub. L. 109-364 added par. (5).

2004—Subsec. (a). Pub. L. 108-375, §902(b), (d)(1), inserted heading and, in introductory provisions, struck out “Joint” before “Nuclear Weapons Council” and substituted “operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:” for “composed of three members as follows:”.

Subsec. (a)(4). Pub. L. 108-375, §902(a), added par. (4).

Subsec. (b). Pub. L. 108-375, §902(d)(2), inserted heading.

Subsec. (c). Pub. L. 108-375, §902(d)(3), inserted heading.

Subsec. (c)(3)(B). Pub. L. 108-375, §902(c)(1), substituted “designated” for “appointed”.

Subsec. (d). Pub. L. 108-375, §902(d)(4), inserted heading.

Subsec. (e). Pub. L. 108-375, §902(c)(2), (d)(5), inserted heading and substituted “The Council shall” for “In addition to the responsibilities set forth in subsection (d), the Council shall also” in text.

Subsec. (f). Pub. L. 108-375, §902(c)(3), (d)(6), inserted heading and substituted “congressional defense committees” for “Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives” in introductory provisions.

2001—Subsec. (a)(1). Pub. L. 107-107 substituted “Under Secretary of Defense for Acquisition, Technology, and Logistics” for “Under Secretary of Defense for Acquisition and Technology”.

2000—Subsec. (a)(3). Pub. L. 106-398, §1 [div. C, title XXXI, §3152(a)(1)], added par. (3) and struck out former par. (3) which read as follows: “One senior representative of the Department of Energy designated by the Secretary of Energy.”

Subsec. (b)(2). Pub. L. 106-398, §1 [div. C, title XXXI, §3152(a)(2)], substituted “the Under Secretary for Nuclear Security of the Department of Energy” for “the representative designated under subsection (a)(3)”.

1999—Subsec. (b)(3). Pub. L. 106-65, §3163(a)(1), added par. (3).

Subsec. (c)(3). Pub. L. 106-65, §3163(a)(2), added par. (3).

Subsec. (f). Pub. L. 106-65, §1067(1), substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

Subsec. (f)(3) to (5). Pub. L. 106-65, §3163(c), added pars. (3) to (5).

1996—Subsec. (c)(2). Pub. L. 104-106, §904(b)(1), substituted “Nuclear and Chemical and Biological Defense Programs” for “Atomic Energy”.

Subsec. (e). Pub. L. 107-314, §4213(c)(2), formerly Pub. L. 104-201, §3159(c)(2), as renumbered by Pub. L. 108-136, added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 104-106, §1502(a)(7), substituted “to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the” for “to the Committees on Armed Services and Appropriations of the Senate and”.

Subsec. (f). Pub. L. 107-314, §4213(c)(1), formerly Pub. L. 104-201, §3159(c)(1), as renumbered by Pub. L. 108-136, redesignated subsec. (e) as (f).

1994—Subsecs. (a)(3), (b). Pub. L. 103-337, §3152(c), substituted “designated” for “appointed” wherever appearing.

Subsec. (d)(8) to (10). Pub. L. 103-337, §3152(a), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (e). Pub. L. 103-337, §3152(b), added subsec. (e).

1993—Subsec. (a)(1). Pub. L. 103-160 substituted “Under Secretary of Defense for Acquisition and Technology” for “Under Secretary of Defense for Acquisition”.

1992—Subsec. (a)(1). Pub. L. 102-484 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The Director of Defense Research and Engineering.”

1988—Subsec. (e). Pub. L. 100-456 struck out subsec. (e) which read as follows: “The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President’s Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987.”

1987—Subsec. (e). Pub. L. 100-180 realigned margins of subsec. (e).

## EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111-383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111-383, set out as a note under section 131 of this title.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (f) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

## CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS

Pub. L. 99-661, div. C, title I, §3137(b), Nov. 14, 1986, 100 Stat. 4066, provided that, if on Nov. 14, 1986, the position of Vice Chairman of the Joint Chiefs of Staff had not been established by law, the Chairman of the Joint Chiefs of Staff would be a member of the Nuclear Weapons Council established by section 179 of this title, and would remain a member of such Council until an individual had been appointed Vice Chairman of the Joint Chiefs of Staff.

**§ 180. Service academy athletic programs: review board**

(a) INDEPENDENT REVIEW BOARD.—The Secretary of Defense shall appoint a board to review the administration of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

(b) COMPOSITION OF BOARD.—The Secretary shall appoint the members of the board from among distinguished administrators of institutions of higher education, members of Congress, members of the Boards of Visitors of the academies, and other experts in collegiate athletics programs. The Superintendents of the three academies shall be members of the board. The Secretary shall designate one member of the board, other than a Superintendent of an academy, as Chairman.

(c) DUTIES.—The board shall, on an annual basis—

(1) review all aspects of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, including—

(A) the policies relating to the administration of such programs;

(B) the appropriateness of the balance between the emphasis placed by each academy on athletics and the emphasis placed by such academy on academic pursuits; and

(C) the extent to which all athletes in all sports are treated equitably under the athletics program of each academy; and

(2) determine ways in which the administration of the athletics programs at the academies can serve as models for the administration of athletics programs at civilian institutions of higher education.

(d) ADMINISTRATIVE PROVISIONS.—(1) Each member of the board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Executive Schedule Level IV under section 5315 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the board. Members of

the board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the board.

(Added Pub. L. 102-190, div. A, title V, §513(a), Dec. 5, 1991, 105 Stat. 1360; amended Pub. L. 106-65, div. A, title X, §1066(a)(2), Oct. 5, 1999, 113 Stat. 770; Pub. L. 106-398, §1 [[div. A], title X, §1087(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-290.)

## AMENDMENTS

2000—Subsec. (d). Pub. L. 106-398 substituted “section 5315” for “section 5376”.

1999—Subsec. (d)(1). Pub. L. 106-65 substituted “Executive Schedule Level IV under section 5376 of title 5” for “grade GS-18 of the General Schedule under section 5332 of title 5”.

**§ 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) assessing joint military capabilities, and identifying, approving, and prioritizing gaps in such capabilities, to meet applicable requirements in the national defense strategy under section 113(g) of this title;

(2) reviewing and validating whether a capability proposed by an armed force, Defense Agency, or other entity of the Department of Defense fulfills a gap in joint military capabilities;

(3) developing recommendations, in consultation with the advisors to the Council under subsection (d), for program cost and fielding targets pursuant to section 2448a of this title that—

(A) require a level of resources that is consistent with the level of priority assigned to the associated capability gap; and

(B) have an estimated period of time for the delivery of an initial operational capability that is consistent with the urgency of the associated capability gap;

(4) establishing and approving joint performance requirements that—

(A) ensure interoperability, where appropriate, between and among joint military capabilities; and

(B) are necessary, as designated by the Chairman of the Joint Chiefs of Staff, to fulfill capability gaps of more than one armed force, Defense Agency, or other entity of the Department;

(5) reviewing performance requirements for any existing or proposed capability that the Chairman of the Joint Chiefs of Staff determines should be reviewed by the Council;

(6) identifying new joint military capabilities based on advances in technology and concepts of operation; and

(7) identifying alternatives to any acquisition program that meets approved joint military capability requirements for the purposes of sections 2366a(b), 2366b(a)(4), and 2433(e)(2) 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 or joint performance requirements.

(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.

(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.

(C) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

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

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

(F) The Director of Operational Test and Evaluation.

(G) 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 consider input from the commanders of the combatant commands in carrying out its mission under paragraphs (1) and (2) of subsection (b).

(3) INPUT FROM CHIEFS OF STAFF.—The Council shall seek, and strongly consider, the views of the Chiefs of Staff of the armed forces, in their roles as customers of the acquisition system, on matters pertaining to a capability proposed by an armed force, Defense Agency, or other entity of the Department of Defense under subsection (b)(2) and joint performance requirements pursuant to subsection (b)(3).

(e) PERFORMANCE REQUIREMENTS AS RESPONSIBILITY OF ARMED FORCES.—The Chief of Staff of an armed force is responsible for all performance requirements for that armed force and, except for performance requirements specified in subsections (b)(4) and (b)(5), such performance requirements do not need to be validated by the Joint Requirements Oversight Council.

(f) ANALYTIC SUPPORT.—The Secretary of Defense shall ensure that analytical organizations within the Department of Defense, such as the Office of Cost Assessment and Program Evaluation, provide resources and expertise in operations research, systems analysis, and cost estimation to the Joint Requirements Oversight Council to assist the Council in performing the mission in subsection (b).

(g) AVAILABILITY OF OVERSIGHT INFORMATION TO CONGRESSIONAL DEFENSE COMMITTEES.—The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman of the Joint Chiefs of Staff to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.

(h) DEFINITIONS.—In this section:

(1) The term “joint military capabilities” means the collective capabilities across the joint force, including both joint and force-specific capabilities, that are available to conduct military operations.

(2) The term “performance requirement” means a performance attribute of a particular system considered critical or essential to the development of an effective military capability.

(3) The term “joint performance requirement” means a performance requirement that is critical or essential to ensure interoperability or fulfill a capability gap of more than one armed force, Defense Agency, or other entity of the Department of Defense, or impacts the joint force in other ways such as logistics.

(4) The term “oversight information” means information and materials comprising analysis and justification that are prepared to support a recommendation that is made to, and approved by, the Secretary of Defense.

(Added Pub. L. 104–106, div. A, title IX, §905(a)(1), Feb. 10, 1996, 110 Stat. 403; amended Pub. L. 104–201, div. A, title IX, §908, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, §1043(b)(3), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 110–181, div. A, title IX, §942(a)–(d), Jan. 28, 2008, 122 Stat. 287, 288; Pub. L. 110–417, [div. A], title VIII, §813(d)(1), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–23, title I, §§101(d)(1), 105(a),

title II, § 201(b), May 22, 2009, 123 Stat. 1709, 1717, 1719; Pub. L. 111-383, div. A, title VIII, § 841, title X, § 1075(b)(8), Jan. 7, 2011, 124 Stat. 4281, 4369; Pub. L. 112-239, div. A, title IX, § 951(b), Jan. 2, 2013, 126 Stat. 1891; Pub. L. 114-92, div. A, title VIII, § 802(d)(1), Nov. 25, 2015, 129 Stat. 879; Pub. L. 114-328, div. A, title IX, § 925(a), Dec. 23, 2016, 130 Stat. 2359; Pub. L. 115-91, div. A, title X, § 1081(a)(15), Dec. 12, 2017, 131 Stat. 1595.)

## AMENDMENTS

2017—Subsec. (b)(1). Pub. L. 115-91 substituted “section 113(g)” for “section 118”.

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section related to Joint Requirements Oversight Council and consisted of its establishment, mission, composition, advisors, organization, availability of oversight information to Congressional defense committees, and definitions.

2015—Subsec. (d)(3). Pub. L. 114-92 added par. (3).

2013—Subsec. (b)(1)(C). Pub. L. 112-239, § 951(b)(1), substituted “in ensuring that appropriate trade-offs are made among life-cycle cost, schedule, and performance objectives, and procurement quantity objectives, in the establishment and approval of military requirements” for “in ensuring the consideration of trade-offs among cost, schedule, and performance objectives for joint military requirements”.

Subsec. (b)(3). Pub. L. 112-239, § 951(b)(2), substituted “the total cost of such resources” for “such resource level”.

2011—Subsec. (a). Pub. L. 111-383, § 841(d), substituted “There is” for “The Secretary of Defense shall establish”.

Subsec. (b)(3). Pub. L. 111-383, § 1075(b)(8), which directed substitution of “Program Evaluation” for “Performance Evaluation”, could not be executed because of the amendment by Pub. L. 111-383, § 841(c)(2). See below.

Pub. L. 111-383, § 841(c)(2), substituted “advisors to the Council under subsection (d)” for “Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation”.

Subsec. (c)(1)(A). Pub. L. 111-383, § 841(a)(1), inserted “Vice” before “Chairman of the Joint Chiefs of Staff”.

Subsec. (c)(1)(F). Pub. L. 111-383, § 841(b), added subpar. (F).

Subsec. (c)(2). Pub. L. 111-383, § 841(a)(2), substituted “under subparagraphs (B), (C), (D), and (E) of paragraph (1)” for “, other than the Chairman of the Joint Chiefs of Staff,”.

Subsec. (c)(3). Pub. L. 111-383, § 841(a)(3), struck out par. (3) which read as follows: “The functions of the Chairman of the Joint Chiefs of Staff as chairman of the Council may only be delegated to the Vice Chairman of the Joint Chiefs of Staff.”

Subsec. (d)(1). Pub. L. 111-383, § 841(c)(1), substituted “The following officials of the Department of Defense shall serve as advisors to the Council on matters within their authority and expertise:” for “The Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Director of Cost Assessment and Program Evaluation shall serve as advisors to the Council on matters within their authority and expertise.” and added subpars. (A) to (F).

2009—Subsec. (b)(1)(C). Pub. L. 111-23, § 201(b)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 111-23, § 201(b)(2)(A), inserted “, in consultation with the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation,” after “assist the Chairman”.

Subsec. (b)(5). Pub. L. 111-23, § 201(b)(2)(B)-(4), added par. (5).

Subsec. (d). Pub. L. 111-23, § 105(a), designated existing provisions as par. (1) and added par. (2).

Pub. L. 111-23, § 101(d)(1), substituted “Director of Cost Assessment and Program Evaluation” for “Director of the Office of Program Analysis and Evaluation”.

2008—Subsec. (b). Pub. L. 110-181, § 942(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to mission of Joint Requirements Oversight Council.

Subsec. (b)(4). Pub. L. 110-417 substituted “section 2366a(b), section 2366b(a)(4),” for “section 2366a(a)(4), section 2366b(b),”.

Subsec. (d). Pub. L. 110-181, § 942(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 110-181, § 942(c), added subsec. (e).

Subsec. (f). Pub. L. 110-181, § 942(b)(1), redesignated subsec. (d) as (f).

Subsec. (g). Pub. L. 110-181, § 942(d), added subsec. (g).

2003—Subsec. (d)(2). Pub. L. 108-136 substituted “subsection, the term ‘oversight’ for ‘subsection:’, struck out “(A) The term ‘oversight’ before ‘information’ means”, and struck out subpar. (B) which read as follows: “The term ‘congressional defense committees’ means—

“(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

1999—Subsec. (d)(2)(B)(ii). Pub. L. 106-65 substituted “Committee on Armed Services” for “Committee on National Security”.

1996—Subsec. (d). Pub. L. 104-201 added subsec. (d).

## EFFECTIVE DATE

Pub. L. 104-106, div. A, title IX, § 905(b), Feb. 10, 1996, 110 Stat. 404, provided that: “The amendments made by this section [enacting this section] shall take effect on January 31, 1997.”

## INPUT FROM COMMANDERS OF COMBATANT COMMANDS

Pub. L. 111-23, title I, § 105(b), May 22, 2009, 123 Stat. 1718, provided that: “The Joint Requirements Oversight Council in the Department of Defense shall seek and consider input from the commanders of combatant commands, in accordance with section 181(d) of title 10, United States Code (as amended by subsection (a)). Such input may include, but is not limited to, an assessment of the following:

“(1) Any current or projected missions or threats in the theater of operations of the commander of a combatant command that would inform the assessment of a new joint military requirement.

“(2) The necessity and sufficiency of a proposed joint military requirement in terms of current and projected missions or threats.

“(3) The relative priority of a proposed joint military requirement in comparison with other joint military requirements within the theater of operations of the commander of a combatant command.

“(4) The ability of partner nations in the theater of operations of the commander of a combatant command to assist in meeting the joint military requirement or the benefit, if any, of a partner nation assisting in development or use of technologies developed to meet the joint military requirement.”

## REVIEW OF JOINT MILITARY REQUIREMENTS

Pub. L. 111-23, title II, § 201(c), May 22, 2009, 123 Stat. 1720, provided that: “The Secretary of Defense shall ensure that each new joint military requirement recommended by the Joint Requirements Oversight Council is reviewed to ensure that the Joint Requirements Oversight Council has, in making such recommendation—

“(1) taken appropriate action to seek and consider input from the commanders of the combatant commands, in accordance with the requirements of section 181(d) of title 10, United States Code (as amended by section 105(a) of this Act);

“(2) engaged in consideration of trade-offs among cost, schedule, and performance objectives in accordance with the requirements of section 181(b)(1)(C) of title 10, United States Code (as added by subsection (b)); and

“(3) engaged in consideration of issues of joint portfolio management, including alternative material and non-material solutions, as provided in Department of Defense instructions for the development of joint military requirements.”

#### STUDY GUIDANCE FOR ANALYSES OF ALTERNATIVES

Pub. L. 111-23, title II, §201(d), May 22, 2009, 123 Stat. 1720, provided that: “The Director of Cost Assessment and Program Evaluation shall take the lead in the development of study guidance for an analysis of alternatives for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council is the validation authority. In developing the guidance, the Director shall solicit the advice of appropriate officials within the Department of Defense and ensure that the guidance requires, at a minimum—

“(1) full consideration of possible trade-offs among cost, schedule, and performance objectives for each alternative considered; and

“(2) an assessment of whether or not the joint military requirement can be met in a manner that is consistent with the cost and schedule objectives recommended by the Joint Requirements Oversight Council.”

#### DEADLINES FOR INCLUSION OF CORE MISSION REFERENCES IN DOCUMENTS

Pub. L. 110-181, div. A, title IX, §942(f), Jan. 28, 2008, 122 Stat. 288, provided that: “Effective June 1, 2009, all joint military requirements documents of the Joint Requirements Oversight Council produced to carry out its mission under section 181(b)(1) of title 10, United States Code, shall reference the core mission areas organized and defined under [former] section 118b of such title. Not later than October 1, 2009, all such documents produced before June 1, 2009, shall reference such structure.”

#### REPORTS ON JOINT REQUIREMENTS OVERSIGHT COUNCIL REFORM INITIATIVE

Pub. L. 106-398, §1 [[div. A], title IX, §916], Oct. 30, 2000, 114 Stat. 1654, 1654A-231, as amended by Pub. L. 107-107, div. A, title IX, §923, Dec. 28, 2001, 115 Stat. 1199, directed the Chairman of the Joints Chiefs of Staff to submit reports to committees of Congress not later than Mar. 1, 2001, Sept. 1, 2001, Mar. 1, 2002, and Mar. 1, 2003, on the progress made on the initiative of the Chairman to reform and refocus the Joint Requirements Oversight Council.

### § 182. Center for Excellence in Disaster Management and Humanitarian Assistance

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Disaster Management and Humanitarian Assistance (in this section referred to as the “Center”).

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations, particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between the Department of Defense and other agencies.

(2) The Center shall be used to make available high-quality disaster management and humanitarian assistance in response to disasters.

(3) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of nuclear, biological, and chemical events.

(B) Management of the consequences of terrorism.

(C) Appropriate roles for the reserve components in the management of such consequences and in disaster management and humanitarian assistance in response to natural disasters.

(D) Meeting requirements for information in connection with regional and global disasters, including the use of advanced communications technology as a virtual library.

(E) Tropical medicine, particularly in relation to the medical readiness requirements of the Department of Defense.

(4) The Center shall develop a repository of disaster risk indicators for the Asia-Pacific region.

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for joint operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or members of the armed forces, to carry out any responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(Added Pub. L. 105-85, div. A, title III, §382(a)(1), Nov. 18, 1997, 111 Stat. 1709.)

PAYMENTS FOR EDUCATION AND TRAINING OF  
PERSONNEL OF FOREIGN COUNTRIES

Pub. L. 107-248, title VIII, § 8093, Oct. 23, 2002, 116 Stat. 1558, provided that: "During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance [probably should be Center for Excellence in Disaster Management and Humanitarian Assistance] may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107-117, div. A, title VIII, § 8109, Jan. 10, 2002, 115 Stat. 2272.

Pub. L. 106-259, title VIII, § 8109, Aug. 9, 2000, 114 Stat. 698.

Pub. L. 106-79, title VIII, § 8139, Oct. 25, 1999, 113 Stat. 1269.

**§ 183. Department of Defense Board of Actuaries**

(a) IN GENERAL.—There shall be in the Department of Defense a Department of Defense Board of Actuaries (hereinafter in this section referred to as the "Board").

(b) MEMBERS.—(1) The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(2) The members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the member's predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the member's term until the member's successor takes office.

(3) A member of the Board may be removed by the Secretary of Defense only for misconduct or failure to perform functions vested in the Board.

(4) A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5 for each day the member is engaged in the performance of the duties of the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of that title in connection with such duties.

(c) DUTIES.—The Board shall have the following duties:

(1) To review valuations of the Department of Defense Military Retirement Fund in accordance with section 1465(c) of this title and submit to the President and Congress, not less often than once every four years, a report on the status of that Fund, including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis.

(2) To review valuations of the Department of Defense Education Benefits Fund in accordance with section 2006(e) of this title and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board con-

siders appropriate to maintain that Fund on a sound actuarial basis.

(3) To review valuations of such other funds as the Secretary of Defense shall specify for purposes of this section and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis.

(d) RECORDS.—The Secretary of Defense shall ensure that the Board has access to such records regarding the funds referred to in subsection (c) as the Board shall require to determine the actuarial status of such funds.

(e) REPORTS.—(1) The Board shall submit to the Secretary of Defense on an annual basis a report on the actuarial status of each of the following:

(A) The Department of Defense Military Retirement Fund.

(B) The Department of Defense Education Benefits Fund.

(C) Each other fund specified by Secretary under subsection (c)(3).

(2) The Board shall also furnish its advice and opinion on matters referred to it by the Secretary.

(Added Pub. L. 110-181, div. A, title IX, § 906(a)(1), Jan. 28, 2008, 122 Stat. 275.)

PRIOR PROVISIONS

A prior section 183, added Pub. L. 105-85, div. A, title IX, § 904(a), Nov. 18, 1997, 111 Stat. 1854, required the Secretary of Defense to report annually on the justification or requirement and projected costs of Department of Defense advisory committees, prior to repeal by Pub. L. 107-314, div. A, title X, § 1041(a)(1)(A), Dec. 2, 2002, 116 Stat. 2645.

INITIAL SERVICE AS BOARD MEMBERS

Pub. L. 110-181, div. A, title IX, § 906(a)(3), Jan. 28, 2008, 122 Stat. 277, provided that: "Each member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries as of the date of the enactment of this Act [Jan. 28, 2008] shall serve as an initial member of the Department of Defense Board of Actuaries under section 183 of title 10, United States Code (as added by paragraph (1)), from that date until the date otherwise provided for the completion of such individual's term as a member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as the case may be, unless earlier removed by the Secretary of Defense."

**§ 183a. Military Aviation and Installation Assurance Clearinghouse for review of mission obstructions**

(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Military Aviation and Installation Assurance Siting Clearinghouse (in this section referred to as the "Clearinghouse").

(2) The Clearinghouse shall be—

(A) organized under the authority, direction, and control of an Assistant Secretary of Defense designated by the Secretary; and

(B) assigned such personnel and resources as the Secretary considers appropriate to carry out this section.

(b) FUNCTIONS.—(1) The Clearinghouse shall coordinate Department of Defense review of ap-

plications for energy projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 and received by the Department of Defense from the Secretary of Transportation. In performing such coordination, the Clearinghouse shall provide procedures to ensure affected local military installations are consulted.

(2) The Clearinghouse shall accelerate the development of planning tools necessary to determine the acceptability to the Department of Defense of proposals included in an application for an energy project submitted pursuant to such section.

(3) The Clearinghouse shall perform such other functions as the Secretary of Defense assigns.

(c) REVIEW OF PROPOSED ACTIONS.—(1) Not later than 60 days after receiving from the Secretary of Transportation a proper application for an energy project under section 44718 of title 49 that may have an adverse impact on military operations and readiness, the Clearinghouse shall conduct a preliminary review of such application. The review shall—

(A) assess the likely scope, duration, and level of risk of any adverse impact of such energy project on military operations and readiness; and

(B) identify any feasible and affordable actions that could be taken by the Department, the developer of such energy project, or others to mitigate the adverse impact and to minimize risks to national security while allowing the energy project to proceed with development.

(2) If the Clearinghouse finds under paragraph (1) that an energy project will have an adverse impact on military operations and readiness, the Clearinghouse shall issue to the applicant a notice of presumed risk that describes the concerns identified by the Department in the preliminary review and requests a discussion of possible mitigation actions.

(3) At the same time that the Clearinghouse issues to the applicant a notice of presumed risk under paragraph (2), the Clearinghouse shall provide the same notice to the governor of the State in which the project is located and request that the governor provide the Clearinghouse any comments the governor believes of relevance to the application. The Secretary of Defense shall consider the comments of the governor in the Secretary's evaluation of whether the project presents an unacceptable risk to the national security of the United States and shall include the comments with the finding provided to the Secretary of Transportation pursuant to section 44718(f) of title 49.

(4) The Clearinghouse shall develop, in coordination with other departments and agencies of the Federal Government, an integrated review process to ensure timely notification and consideration of energy projects filed with the Secretary of Transportation pursuant to section 44718 of title 49 that may have an adverse impact on military operations and readiness.

(5) The Clearinghouse shall establish procedures for the Department of Defense for the coordinated consideration of and response to a request for a review received from another Federal agency, a State government, an Indian trib-

al government, a local government, a landowner, or the developer of an energy project, including guidance to personnel at each military installation in the United States on how to initiate such procedures and ensure a coordinated Department response.

(6) The Clearinghouse shall develop procedures for conducting early outreach to parties carrying out energy projects that could have an adverse impact on military operations and readiness and to clearly communicate to such parties actions being taken by the Department of Defense under this section. The procedures shall provide for filing by such parties of a project area and preliminary project layout at least one year before expected construction of any project proposed within a military training route or within line-of-sight of any air route surveillance radar or airport surveillance radar operated or used by the Department of Defense in order to provide adequate time for analysis and negotiation of mitigation options. Material marked as proprietary or competition sensitive by a party filing for this preliminary review shall be protected from public release by the Department of Defense.

(d) COMPREHENSIVE REVIEW.—(1) The Secretary of Defense shall develop a comprehensive strategy for addressing the impacts upon the military of projects filed with the Secretary of Transportation pursuant to section 44718 of title 49.

(2) In developing the strategy required by paragraph (1), the Secretary shall—

(A) assess the magnitude of interference posed by projects filed with the Secretary of Transportation pursuant to section 44718 of title 49;

(B) solely for the purpose of informing preliminary reviews under subsection (c)(1) and early outreach efforts under subsection (c)(5), identify distinct geographic areas selected as proposed locations for projects filed, or for projects that are reasonably expected to be filed in the near future, with the Secretary of Transportation pursuant to section 44718 of title 49 where the Secretary of Defense can demonstrate such projects could have an adverse impact on military operations and readiness, including military training routes, and categorize the risk of adverse impact in such areas;

(C) develop procedures for the initial identification of such geographic areas identified under subparagraph (B), to include a process to provide notice and seek public comment prior to making a final designation of the geographic areas, including maps of the area and the basis for identification;

(D) develop procedures to periodically review and modify, consistent with the notice and public comment process under subparagraph (C), geographic areas identified under subparagraph (B) and to solicit and identify additional geographic areas as appropriate;

(E) at the conclusion of the notice and public comment period conducted under subparagraph (C), make a final finding on the designation of a geographic area of concern or delegate the authority to make such finding to a Deputy Secretary of Defense, an Under Sec-



retary of Defense, or a Principal Deputy Under Secretary of Defense; and

(F) specifically identify feasible and affordable long-term actions that may be taken to mitigate adverse impacts of projects filed, or which may be filed in the future, with the Secretary of Transportation pursuant to section 44718 of title 49, on military operations and readiness, including—

(i) investment priorities of the Department of Defense with respect to research and development;

(ii) modifications to military operations to accommodate applications for such projects;

(iii) recommended upgrades or modifications to existing systems or procedures by the Department of Defense;

(iv) acquisition of new systems by the Department and other departments and agencies of the Federal Government and timelines for fielding such new systems; and

(v) modifications to the projects for which such applications are filed with the Secretary of Transportation pursuant to section 44718 of title 49, including changes in size, location, or technology.

(3) The Clearinghouse shall make access to data reflecting geographic areas identified under subparagraph (B) of paragraph (2) and reviewed and modified under subparagraph (C) of such paragraph available online.

(e) DEPARTMENT OF DEFENSE FINDING OF UNACCEPTABLE RISK.—(1) The Secretary of Defense may not object to an energy project filed with the Secretary of Transportation pursuant to section 44718 of title 49, except in a case in which the Secretary of Defense determines, after giving full consideration to mitigation actions identified pursuant to this section, that such project, in isolation or cumulatively with other projects, would result in an unacceptable risk to the national security of the United States. The Secretary of Defense's finding of unacceptable risk to national security shall be transmitted to the Secretary of Transportation for inclusion in the report required under section 44718(b)(2) of title 49.

(2)(A) Not later than 30 days after making a finding of unacceptable risk under paragraph (1), the Secretary of Defense shall submit to the congressional defense committees, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a report on such finding and the basis for such finding. Such report shall include an explanation of the operational impact that led to the finding, a discussion of the mitigation options considered, and an explanation of why the mitigation options were not feasible or did not resolve the conflict. The report may include a classified annex. Unclassified reports shall also be provided to the project proponent. The Secretary of Defense may provide public notice through the Federal Register of the finding.

(B) The Secretary of Defense shall notify the appropriate State agency of a finding made under paragraph (1).

(3) The Secretary of Defense may only delegate the responsibility for making a finding of unacceptable risk under paragraph (1) to the

Deputy Secretary of Defense, an under secretary of defense, or a deputy under secretary of defense.

(4) The Clearinghouse shall develop procedures for making a finding of unacceptable risk, including with respect to how to implement cumulative effects analysis. Such procedures shall be subject to public comment prior to finalization.

(f) AUTHORITY TO ACCEPT CONTRIBUTIONS OF FUNDS.—The Secretary of Defense is authorized to request and accept a voluntary contribution of funds from an applicant for a project filed with the Secretary of Transportation pursuant to section 44718 of title 49. Amounts so accepted shall remain available until expended for the purpose of offsetting the cost of measures undertaken by the Secretary of Defense to mitigate adverse impacts of such a project on military operations and readiness or to conduct studies of potential measures to mitigate such impacts.

(g) EFFECT OF DEPARTMENT OF DEFENSE HAZARD ASSESSMENT.—An action taken pursuant to this section shall not be considered to be a substitute for any assessment or determination required of the Secretary of Transportation under section 44718 of title 49.

(h) DEFINITIONS.—In this section:

(1) The term “adverse impact on military operations and readiness” means any adverse impact upon military operations and readiness, including flight operations, research, development, testing, and evaluation, and training, that is demonstrable and is likely to impair or degrade the ability of the armed forces to perform their warfighting missions.

(2) The term “energy project” means a project that provides for the generation or transmission of electrical energy.

(3) The term “landowner” means a person that owns a fee interest in real property on which a proposed energy project is planned to be located.

(4) The term “military installation” has the meaning given that term in section 2801(c)(4) of this title.

(5) The term “military readiness” includes any training or operation that could be related to combat readiness, including testing and evaluation activities.

(6) The term “military training route” means a training route developed as part of the Military Training Route Program, carried out jointly by the Federal Aviation Administration and the Secretary of Defense, for use by the armed forces for the purpose of conducting low-altitude, high-speed military training.

(7) The term “unacceptable risk to the national security of the United States” means the construction, alteration, establishment, or expansion, or the proposed construction, alteration, establishment, or expansion, of a structure or sanitary landfill, that the Secretary of Defense can demonstrate would—

(A) endanger safety in air commerce directly related to the activities of the Department of Defense;

(B) interfere with the efficient use of the navigable airspace directly related to the activities of the Department of Defense; or

(C) significantly impair or degrade the capability of the Department of Defense to

conduct training, research, development, testing, and evaluation, and operations or to maintain military readiness.

(Added Pub. L. 115–91, div. A, title III, §311(a), Dec. 12, 2017, 131 Stat. 1343.)

APPLICABILITY OF EXISTING RULES AND REGULATIONS

Pub. L. 115–91, div. A, title III, §311(c), Dec. 12, 2017, 131 Stat. 1348, provided that: “Notwithstanding the amendments made by subsection (a) [enacting this section], any rule or regulation promulgated to carry out section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 [Pub. L. 111–383] (49 U.S.C. 44718 note), that is in effect on the day before the date of the enactment of this Act [Dec. 12, 2017] shall continue in effect and apply to the extent such rule or regulation is consistent with the authority under section 183a of title 10, United States Code, as added by subsection (a), until such rule or regulation is otherwise amended or repealed.”

DEADLINE FOR INITIAL IDENTIFICATION OF GEOGRAPHIC AREAS

Pub. L. 115–91, div. A, title III, §311(d), Dec. 12, 2017, 131 Stat. 1348, provided that: “The initial identification of geographic areas under section 183a(d)(2)(B) of title 10, United States Code, as added by subsection (a), shall be completed not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017].”

**[§ 184. Renumbered § 342]**

**[§ 185. Repealed. Pub. L. 114–328, div. A, title IX, §904(a), Dec. 23, 2016, 130 Stat. 2345]**

Section, added Pub. L. 107–107, div. A, title X, §1009(a)(1), Dec. 28, 2001, 115 Stat. 1206; amended Pub. L. 107–314, div. A, title X, §1004(h)(2), Dec. 2, 2002, 116 Stat. 2631, related to Financial Management Modernization Executive Committee.

**[§ 186. Repealed. Pub. L. 113–291, div. A, title IX, §901(c), Dec. 19, 2014, 128 Stat. 3463]**

Section, added Pub. L. 108–375, div. A, title III, §332(b)(1), Oct. 28, 2004, 118 Stat. 1854; amended Pub. L. 110–417, [div. A], title IX, §904, Oct. 14, 2008, 122 Stat. 4567; Pub. L. 111–383, div. A, title X, §1075(b)(9), Jan. 7, 2011, 124 Stat. 4369, related to Defense Business System Management Committee.

**§ 187. Strategic Materials Protection Board**

(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Strategic Materials Protection Board.

(2) The Board shall be composed of the following:

(A) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy, who shall be the chairman of the Board.

(B) The Administrator of the Defense Logistics Agency Strategic Materials, or any successor organization, who shall be the vice chairman of the Board.

(C) A designee of the Assistant Secretary of the Army for Acquisition, Technology, and Logistics.

(D) A designee of the Assistant Secretary of the Navy for Research, Development, and Acquisition.

(E) A designee of the Assistant Secretary of the Air Force for Acquisition.<sup>1</sup>

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

(1) determine the need to provide a long term secure supply of materials designated as critical to national security to ensure that national defense needs are met;

(2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the nonavailability of such material would have;

(3) recommend a strategy to the Secretary to ensure a secure supply of materials designated as critical to national security;

(4) recommend such other strategies to the Secretary as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security; and

(5) publish not less frequently than once every two years in the Federal Register recommendations regarding materials critical to national security, including a list of specialty metals, if any, recommended for addition to, or removal from, the definition of “specialty metal” for purposes of section 2533b of this title.

(c) MEETINGS.—The Board shall meet as determined necessary by the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy but not less frequently than once every two years to make recommendations regarding materials critical to national security as described in subsection (b)(5).

(d) REPORTS.—(1) Subject to paragraph (2), after each meeting of the Board, the Board shall prepare a report containing the results of the meeting and such recommendations as the Board determines appropriate. Each such report shall be submitted to the congressional defense committees, together with comments and recommendations from the Secretary of Defense, not later than 90 days after the meeting covered by the report.

(2) In any year in which the Board meets more than once, each report prepared by the Board as required by paragraph (1) may be combined into one annual report and submitted as provided by paragraph (1) not later than 90 days after the last meeting of the year.

(e) DEFINITIONS.—In this section:

(1) The term “materials critical to national security” means materials—

(A) upon which the production or sustenance of military equipment is dependent; and

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

(2) The term “military equipment” means equipment used directly by the armed forces to carry out military operations.

(3) The term “secure supply”, with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.

(Added Pub. L. 109–364, div. A, title VIII, §843(a), Oct. 17, 2006, 120 Stat. 2338; amended Pub. L. 111–383, div. A, title VIII, §829, Jan. 7, 2011, 124

<sup>1</sup> See Change of Name note below.

Stat. 4272; Pub. L. 112-239, div. A, title IX, §901(c), Jan. 2, 2013, 126 Stat. 1864; Pub. L. 114-328, div. A, title X, §1081(a)(2), Dec. 23, 2016, 130 Stat. 2417.)

#### AMENDMENTS

2016—Subsec. (a)(2)(C). Pub. L. 114-328 substituted “Acquisition, Technology, and Logistics” for “Acquisition, Logistics, and Technology”.

2013—Subsec. (a)(2). Pub. L. 112-239, §901(c)(1), amended par. (2) generally. Prior to amendment, par. (2) related to composition of the Strategic Materials Protection Board.

Subsec. (b)(3), (4). Pub. L. 112-239, §901(c)(2), substituted “Secretary” for “President”.

Subsec. (c). Pub. L. 112-239, §901(c)(3), substituted “Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy” for “Secretary of Defense”.

Subsec. (d). Pub. L. 112-239, §901(c)(4), amended subsec. (d) generally. Prior to amendment, text read as follows: “After each meeting of the Board, the Board shall prepare and submit to Congress a report containing the results of the meeting and such recommendations as the Board determines appropriate.”

2011—Subsec. (b). Pub. L. 111-383, §829(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to duties of the Strategic Materials Protection Board.

Subsec. (e). Pub. L. 111-383, §829(a), added subsec. (e).

#### CHANGE OF NAME

Reference to the Assistant Secretary of the Air Force for Acquisition deemed to be a reference to the Assistant Secretary of the Air Force for Acquisition, Technology, and Logistics, see section 934(b) of Pub. L. 114-328, set out as a note under section 8016 of this title.

#### FIRST MEETING OF BOARD

Pub. L. 109-364, div. A, title VIII, §843(c), Oct. 17, 2006, 120 Stat. 2339, provided that: “The first meeting of the Strategic Materials Protection Board, established by section 187 of title 10, United States Code (as added by subsection (a)) shall be not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].”

### § 188. Interagency Council on the Strategic Capability of the National Laboratories

(a) ESTABLISHMENT.—There is an Interagency Council on the Strategic Capability of the National Laboratories (in this section referred to as the “Council”).

(b) MEMBERSHIP.—The membership of the Council is comprised of the following:

- (1) The Secretary of Defense.
- (2) The Secretary of Energy.
- (3) The Secretary of Homeland Security.
- (4) The Director of National Intelligence.
- (5) The Administrator for Nuclear Security.
- (6) Such other officials as the President considers appropriate.

(c) STRUCTURE AND PROCEDURES.—The President may determine the chair, structure, staff, and procedures of the Council.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

- (1) Identifying and considering the science, technology, and engineering capabilities of the national laboratories that could be leveraged by each participating agency to support national security missions.
- (2) Reviewing and assessing the adequacy of the national security science, technology, and engineering capabilities of the national laboratories for supporting national security missions throughout the Federal Government.

oratories for supporting national security missions throughout the Federal Government.

(3) Establishing and overseeing means of ensuring that—

(A) capabilities identified by the Council under paragraph (1) are sustained to an appropriate level; and

(B) each participating agency provides the appropriate level of institutional support to sustain such capabilities.

(4) In accordance with acquisition rules regarding federally funded research and development centers, establishing criteria for when each participating agency should seek to use the services of the national laboratories, including the identification of appropriate mission areas and capabilities.

(5) Making recommendations to the President and Congress regarding regulatory or statutory changes needed to better support—

(A) the strategic capabilities of the national laboratories; and

(B) the use of such laboratories by each participating agency.

(6) Other actions the Council considers appropriate with respect to—

(A) the sustainment of the national laboratories; and

(B) the use of the strategic capabilities of such laboratories.

(e) STREAMLINED PROCESS.—With respect to the participating agency for which a member of the Council is the head of, each member of the Council shall—

(1) establish processes to streamline the consideration and approval of procuring the services of the national laboratories on appropriate matters; and

(2) ensure that such processes are used in accordance with the criteria established under subsection (d)(4).

(f) DEFINITIONS.—In this section:

(1) The term “participating agency” means a department or agency of the Federal Government that is represented on the Council by a member under subsection (b).

(2) The term “national laboratories” means—

(A) each national security laboratory (as defined in section 3281(1) of the National Nuclear Security Administration Act (50 U.S.C. 2471(1))); and

(B) each national laboratory of the Department of Energy.

(Added Pub. L. 112-239, div. A, title X, §1040(a), Jan. 2, 2013, 126 Stat. 1928.)

#### CONSTRUCTION

Pub. L. 112-239, div. A, title X, §1040(d), Jan. 2, 2013, 126 Stat. 1931, provided that: “Nothing in section 188 of title 10, United States Code, as added by subsection (a), shall be construed to limit section 309 of the Homeland Security Act of 2002 (6 U.S.C. 189).”

#### REPORT

Pub. L. 112-239, div. A, title X, §1040(c), Jan. 2, 2013, 126 Stat. 1930, provided that:

“(1) IN GENERAL.—Not later than September 30, 2013, the Interagency Council on the Strategic Capability of the National Laboratories established under section 188

of title 10, United States Code, as added by subsection (a), shall submit to the appropriate congressional committees a report describing and assessing the following:

“(A) The actions taken to implement the requirements of such section 188 and the charter titled ‘Governance Charter for an Interagency Council on the Strategic Capability of DOE National Laboratories as National Security Assets’ signed by the Secretary of Defense, the Secretary of Energy, the Secretary of Homeland Security, and the Director of National Intelligence in July 2010.

“(B) The effectiveness of the Council in accomplishing the purpose and objectives of such section and such Charter.

“(C) Efforts to strengthen work-for-others programs at the national laboratories.

“(D) Efforts to make work-for-others opportunities at the national laboratories more cost-effective.

“(E) Ongoing and planned measures for increasing cost-sharing and institutional support investments at the national laboratories from other agencies.

“(F) Any regulatory or statutory changes recommended to improve the ability of such other agencies to leverage expertise and capabilities at the national laboratories.

“(G) The strategic capabilities and core competencies of laboratories and engineering centers operated by the Department of Defense, including identification of mission areas and functions that should be carried out by such laboratories and engineering centers.

“(H) Consistent with the protection of sources and methods, the level of funding and general description of programs that were funded during fiscal year 2012 by—

“(i) the Department of Defense and carried out at the national laboratories; and

“(ii) the Department of Energy and the national laboratories and carried out at the laboratories and engineering centers of the Department of Defense.

“(2) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

“(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ‘appropriate congressional committees’ means the following:

“(A) The congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

“(B) The Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

“(C) The Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(D) The Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(E) The Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

### § 189. Communications Security Review and Advisory Board

(a) ESTABLISHMENT.—There shall be in the Department of Defense a Communications Security Review and Advisory Board (in this section referred to as the “Board”) to review and assess the communications security, cryptographic modernization, and related key management activities of the Department and provide advice to the Secretary with respect to such activities.

(b) MEMBERS.—(1) The Secretary shall determine the number of members of the Board.

(2) The Chief Information Officer of the Department of Defense shall serve as chairman of the Board.

(3) The Secretary shall appoint officers in the grade of general or admiral and civilian employees of the Department of Defense in the Senior Executive Service to serve as members of the Board.

(c) RESPONSIBILITIES.—The Board shall—

(1) monitor the overall communications security, cryptographic modernization, and key management efforts of the Department, including activities under major defense acquisition programs (as defined in section 2430(a) of this title), by—

(A) requiring each Chief Information Officer of each military department to report the communications security activities of the military department to the Board;

(B) tracking compliance of each military department with respect to communications security modernization efforts;

(C) validating lifecycle communications security modernization plans for major defense acquisition programs;

(2) validate the need to replace cryptographic equipment based on the expiration dates of the equipment and evaluate the risks of continuing to use cryptographic equipment after such expiration dates;

(3) convene in-depth program reviews for specific cryptographic modernization developments with respect to validating requirements and identifying programmatic risks;

(4) develop a long-term roadmap for communications security to identify potential issues and ensure synchronization with major planning documents; and

(5) advise the Secretary on the cryptographic posture of the Department, including budgetary recommendations.

(d) EXCLUSION OF CERTAIN PROGRAMS.—The Board shall not include the consideration of programs funded under the National Intelligence Program (as defined in section 3(6) of the National Security Act of 1947 (50 U.S.C. 3003(6))) in carrying out this section.

(Added Pub. L. 113–66, div. A, title II, §261(a), Dec. 26, 2013, 127 Stat. 724; amended Pub. L. 113–291, div. A, title X, §1071(f)(4), Dec. 19, 2014, 128 Stat. 3510.)

#### AMENDMENTS

2014—Subsec. (c)(1). Pub. L. 113–291 substituted “2430(a)” for “139c” in introductory provisions.

### § 190. Defense Cost Accounting Standards Board

(a) ORGANIZATION.—The Defense Cost Accounting Standards Board is an independent board in the Office of the Secretary of Defense.

(b) MEMBERSHIP.—(1) The Board consists of seven members. One member is the Chief Financial Officer of the Department of Defense or a designee of the Chief Financial Officer, who serves as Chairman. The other six members, all of whom shall have experience in contract pricing, finance, or cost accounting, are as follows:

(A) Three representatives of the Department of Defense appointed by the Secretary of Defense; and

(B) Three individuals from the private sector, each of whom is appointed by the Secretary of Defense, and—

(i) one of whom is a representative of a nontraditional defense contractor (as defined in section 2302(9) of this title); and

(ii) one of whom is a representative from a public accounting firm.

(2) A member appointed under paragraph (1)(A) may not continue to serve after ceasing to be an officer or employee of the Department of Defense.

(c) DUTIES OF THE CHAIRMAN.—The Chief Financial Officer of the Department of Defense, after consultation with the Defense Cost Accounting Standards Board, shall prescribe rules and procedures governing actions of the Board under this section.

(d) DUTIES.—The Defense Cost Accounting Standards Board—

(1) shall review cost accounting standards established under section 1502 of title 41 and recommend changes to such cost accounting standards to the Cost Accounting Standards Board established under section 1501 of such title;

(2) has exclusive authority, with respect to the Department of Defense, to implement such cost accounting standards to achieve uniformity and consistency in the standards governing measurement, assignment, and allocation of costs to contracts with the Department of Defense; and

(3) shall develop standards to ensure that commercial operations performed by Government employees at the Department of Defense adhere to cost accounting standards (based on cost accounting standards established under section 1502 of title 41 or Generally Accepted Accounting Principles) that inform managerial decisionmaking.

(e) COMPENSATION.—(1) Members of the Defense Cost Accounting Standards Board who are officers or employees of the Department of Defense shall not receive additional compensation for services but shall continue to be compensated by the Department of Defense.

(2) Each member of the Board appointed from the private sector shall receive compensation at a rate not to exceed the daily equivalent of the rate for level IV of the Executive Schedule for each day (including travel time) in which the member is engaged in the actual performance of duties vested in the Board.

(3) While serving away from home or regular place of business, Board members and other individuals serving on an intermittent basis shall be allowed travel expenses in accordance with section 5703 of title 5.

(Added Pub. L. 114-328, div. A, title VIII, §820(b)(1), Dec. 23, 2016, 130 Stat. 2274; amended Pub. L. 115-91, div. A, title VIII, §804, Dec. 12, 2017, 131 Stat. 1456.)

#### REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (e)(2), is set out in section 5315 of Title 5, Government Organization and Employees.

#### AMENDMENTS

2017—Subsec. (f). Pub. L. 115-91 struck out subsec. (f) which related to auditing requirements.

#### EFFECTIVE DATE

Pub. L. 114-328, div. A, title VIII, §820(d), Dec. 23, 2016, 130 Stat. 2276, provided that: “The amendments made by this section [enacting this section and amending sections 1501 and 1502 of Title 41, Public Contracts] shall take effect on October 1, 2018.”

### CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

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#### SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

Sec.	
191.	Secretary of Defense: authority to provide for common performance of supply or service activities.
192.	Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.
193.	Combat support agencies: oversight.
194.	Limitations on personnel.
195.	Defense Automated Printing Service: applicability of Federal printing requirements.
196.	Department of Defense Test Resource Management Center.
197.	Defense Logistics Agency: fees charged for logistics information.

#### AMENDMENTS

2004—Pub. L. 108-375, div. A, title X, §1010(b), Oct. 28, 2004, 118 Stat. 2038, added item 197.

2002—Pub. L. 107-314, div. A, title II, §231(a)(2), Dec. 2, 2002, 116 Stat. 2489, added item 196.

1997—Pub. L. 105-85, div. A, title III, §383(b), Nov. 18, 1997, 111 Stat. 1711, added item 195.

1986—Pub. L. 99-433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1019, inserted “AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES” in chapter heading, added subchapter analysis and subchapter I analysis, and struck out former chapter analysis consisting of item 191 “Unauthorized use of Defense Intelligence Agency name, initials, or seal”.

1985—Pub. L. 99-145, title XIII, §1302(a)(2), Nov. 8, 1985, 99 Stat. 737, redesignated item 192 “Benefits for certain employees of the Defense Intelligence Agency” as item 1605 and transferred it to chapter 83 of this title.

1983—Pub. L. 98-215, title V, §501(b), Dec. 9, 1983, 97 Stat. 1479, added item 192.

1982—Pub. L. 97-269, title V, §501(a), Sept. 27, 1982, 96 Stat. 1144, added chapter 8 heading and analysis of sections for chapter 8, consisting of a single item 191.

#### § 191. Secretary of Defense: authority to provide for common performance of supply or service activities

(a) AUTHORITY.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

(b) DESIGNATION OF COMMON SUPPLY OR SERVICE AGENCY.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

(Added Pub. L. 99-433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1019; amended Pub. L. 100-26, §7(i)(1), Apr. 21, 1987, 101 Stat. 282.)

#### REFERENCES IN TEXT

Subsection (d) of section 125 of this title, referred to in subsec. (b), was repealed by section 301(b)(1) of Pub. L. 99-433.

#### PRIOR PROVISIONS

A prior section 191 was renumbered section 202 of this title and subsequently repealed.

#### AMENDMENTS

1987—Subsec. (b). Pub. L. 100-26 substituted “October 1, 1986” for “the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986”.

#### COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE LOGISTICS AGENCY

Pub. L. 106-398, §1 [[div. A], title IX, §917], Oct. 30, 2000, 114 Stat. 1654, 1654A-232, directed the Comptroller General to review the operations of the Defense Logistics Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General’s findings not later than Feb. 1, 2002.

#### COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE INFORMATION SYSTEMS AGENCY

Pub. L. 106-398, §1 [[div. A], title IX, §918], Oct. 30, 2000, 114 Stat. 1654, 1654A-232, directed the Comptroller General to review the operations of the Defense Information Systems Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General’s findings not later than Feb. 1, 2002.

#### REASSESSMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Pub. L. 99-433, title III, §303, Oct. 1, 1986, 100 Stat. 1023, directed Secretary of Defense to conduct a study of functions and organizational structure of Defense Agencies and Department of Defense Field Activities to determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, with Secretary to submit a report to Congress not later than Oct. 1, 1987. The report was to include a study of improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for rapid replacement, where necessary, of existing automated data processing equipment with new equipment, and plans to achieve reductions in total number of members of Armed Forces and civilian employees assigned or detailed to permanent duty in Defense Agencies and Department of Defense Field Activities (other than National Security Agency) by 5 percent, 10 percent, and 15 percent of total number of such members and employees projected to be assigned or detailed to such duty on Sept. 30, 1988, together with a discussion of implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

### § 192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

(a) OVERALL SUPERVISION.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

(B) to the Chairman of the Joint Chiefs of Staff.

(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

(b) PROGRAM AND BUDGET REVIEW.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

(c) PERIODIC REVIEW.—(1) Periodically (and not less often than every two years), the Secretary of Defense shall review the services and supplies provided by each Defense Agency and Department of Defense Field Activity to ensure that—

(A) there is a continuing need for each such agency and activity; and

(B) the provision of those services and supplies by each such agency and activity, rather than by the military departments, is a more effective, economical, or efficient manner of providing those services and supplies or of meeting the requirements for combat readiness of the armed forces.

(2) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of National Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after October 17, 1998.

(e) SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Director of the Agency shall report directly to the Deputy Chief Management Officer of the Department of Defense.<sup>1</sup>

(Added Pub. L. 99-433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 105-261, div. A, title III, §361(a), Oct. 17, 1998, 112 Stat. 1984; Pub. L. 106-65, div. A, title X, §1066(a)(3), Oct. 5,

<sup>1</sup> See References in Text note below.

1999, 113 Stat. 770; Pub. L. 109–163, div. A, title III, § 371, Jan. 6, 2006, 119 Stat. 3209; Pub. L. 110–181, div. A, title IX, §§ 904(c), 931(a)(1), Jan. 28, 2008, 122 Stat. 274, 285; Pub. L. 113–291, div. A, title IX, § 901(n)(1), Dec. 19, 2014, 128 Stat. 3469; Pub. L. 115–91, div. A, title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597.)

#### REFERENCES IN TEXT

The Deputy Chief Management Officer of the Department of Defense, referred to in subsec. (e)(2), was established by section 132a of this title prior to the general amendment of that section by Pub. L. 115–91, div. A, title IX, § 910(a)(1), Dec. 12, 2017, 131 Stat. 1516. As amended by Pub. L. 115–91, section 132a of this title established the Chief Management Officer of the Department of Defense.

#### PRIOR PROVISIONS

A prior section 192, Pub. L. 98–215, title V, § 501(a), Dec. 9, 1983, 97 Stat. 1478, which related to benefits for certain personnel of the Defense Intelligence Agency, was redesignated as section 1605 of this title and amended by Pub. L. 99–145, title XIII, § 1302(a)(1), Nov. 8, 1985, 99 Stat. 737. Provisions of prior section 192 as related to members of the armed forces were enacted as section 431 (now 491) of Title 37, Pay and Allowances of the Uniformed Services, by section 1302(b)(1) of Pub. L. 99–145.

#### AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110–181, § 931(a)(1), substituted “Director of National Intelligence” for “Director of Central Intelligence”.

Subsec. (e)(2). Pub. L. 110–181, § 904(c), substituted “that the Director of the Agency shall report directly to the Deputy Chief Management Officer of the Department of Defense.” for “that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.”

2006—Subsec. (e). Pub. L. 109–163 added subsec. (e).

1999—Subsec. (d). Pub. L. 106–65 substituted “October 17, 1998” for “the date of the enactment of this subsection”.

1998—Subsec. (d). Pub. L. 105–261 added subsec. (d).

#### CHANGE OF NAME

Reference to “Deputy Chief Management Officer of the Department of Defense” in subsec. (e)(2) was to be deemed to refer to “Under Secretary of Defense for Business Management and Information” after Feb. 1, 2017, pursuant to section 901(n)(1) of Pub. L. 113–291, formerly set out as a References note under section 131 of this title. Section 901(a)(1) of Pub. L. 113–291, which amended section 132a of this title, effective Feb. 1, 2017, to establish the Under Secretary of Defense for Business Management and Information, was repealed by Pub. L. 114–328, div. A, title IX, § 901(d), Dec. 23, 2016, 130 Stat. 2342, effective Dec. 23, 2016. Section 901(n)(1) of Pub. L. 113–291 was repealed by Pub. L. 115–91, div. A, title X, § 1081(b)(1)(D), Dec. 12, 2017, 131 Stat. 1597, effective Dec. 23, 2016.

#### FIRST REVIEW OF DEFENSE AGENCIES BY SECRETARY OF DEFENSE

Pub. L. 99–433, title III, § 304(a), Oct. 1, 1986, 100 Stat. 1024, required the first review under subsec. (c) of this section to be completed not later than two years after the date that the report under Pub. L. 99–433, § 303(e), formerly set out as a note under section 191 of this title, was required to be submitted to Congress (Oct. 1, 1987).

### § 193. Combat support agencies: oversight

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chair-

man of the Joint Chiefs of Staff shall submit to the Secretary of Defense and the congressional defense committees a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall—

(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their support missions with respect to a war or threat to national security; and

(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security.

(d) REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency and the National Geospatial-Intelligence Agency, but only with respect to combat support functions that the agencies perform for the Department of Defense.

(2) The Secretary, after consulting with the Director of National Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency and the National Geospatial-Intelligence Agency.

(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, AND NGA.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, and the National Geospatial-Intelligence Agency to accomplish assigned missions in support of military combat operations.

(f) DEFINITION OF COMBAT SUPPORT AGENCY.—In this section, the term “combat support agency” means any of the following Defense Agencies:

- (1) The Defense Information Systems Agency.
- (2) The Defense Intelligence Agency.
- (3) The Defense Logistics Agency.
- (4) The National Geospatial-Intelligence Agency.
- (5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

(Added Pub. L. 99-433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 104-201, div. A, title XI, §1112(c), Sept. 23, 1996, 110 Stat. 2683; Pub. L. 105-85, div. A, title X, §1073(a)(5), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108-136, div. A, title IX, §921(d)(3), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 109-364, div. A, title IX, §907, Oct. 17, 2006, 120 Stat. 2354; Pub. L. 110-181, div. A, title IX, §931(a)(2), (3), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, §932(a)(1), (2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113-66, div. A, title X, §1082, Dec. 26, 2013, 127 Stat. 871.)

#### AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 113-66 inserted “and the congressional defense committees” after “the Secretary of Defense” in introductory provisions.

2009—Subsecs. (d)(2), (e). Pub. L. 111-84 repealed Pub. L. 110-417, §932(a)(1), (2). See 2008 Amendment note below.

2008—Subsecs. (d)(2), (e). Pub. L. 110-181 and Pub. L. 110-417, §932(a)(1), (2), made identical amendments, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110-417, §932(a)(1), (2), was repealed by Pub. L. 111-84.

2006—Subsec. (f)(1). Pub. L. 109-364 substituted “Defense Information Systems Agency” for “Defense Communications Agency”.

2003—Subsec. (d). Pub. L. 108-136, §921(d)(3)(B), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in heading.

Subsec. (d)(1), (2). Pub. L. 108-136, §921(d)(3)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

Subsec. (e). Pub. L. 108-136, §921(d)(3)(A), (C), substituted “NGA” for “NIMA” in heading and “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in text.

Subsec. (f)(4). Pub. L. 108-136, §921(d)(3)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1997—Subsec. (d)(1). Pub. L. 105-85 substituted “agencies perform” for “agencies performs”.

1996—Subsec. (d). Pub. L. 104-201, §1112(c)(1)(A), substituted “Review of National Security Agency and National Imagery and Mapping Agency” for “Review of National Security Agency” in heading.

Subsec. (d)(1). Pub. L. 104-201, §1112(c)(1)(B), inserted “and the National Imagery and Mapping Agency” after “the National Security Agency” and substituted “that the agencies” for “the Agency”.

Subsec. (d)(2). Pub. L. 104-201, §1112(c)(1)(C), inserted “and the National Imagery and Mapping Agency” after “the National Security Agency”.

Subsec. (e). Pub. L. 104-201, §1112(c)(2), substituted “DIA, NSA, and NIMA” for “DIA and NSA” in heading and “, the National Security Agency, and the National Imagery and Mapping Agency” for “and the National Security Agency” in text.

Subsec. (f)(4). Pub. L. 104-201, §1112(c)(3), substituted “The National Imagery and Mapping Agency” for “Defense Mapping Agency”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-201, div. A, title XI, §1124, Sept. 23, 1996, 110 Stat. 2688, provided that: “This title [enacting section 424 and chapter 22 of this title and sections 3045 and 3046 of Title 50, War and National Defense, amending this section, sections 201 and 451 to 455 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44, Public Printing and Documents, and sections 3003 and 3038 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under section 441 of this title, and amending provisions set out as a note under section 501 of Title 44] and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act [Sept. 23, 1996], whichever is later.”

#### FIRST REPORT AND OTHER ACTIONS BY CHAIRMAN OF JOINT CHIEFS OF STAFF

Section 304(b) of Pub. L. 99-433 required the first report under subsec. (a) of section 193 of this title to be submitted and subsecs. (b) and (c) of section 193 to be implemented not later than one year after Oct. 1, 1986, and a report on implementation to be submitted to Congress for 1988 under section 113(c) of this title.

#### § 194. Limitations on personnel

(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(b) CAP ON OTHER PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by re-categorizing or redefining duties, functions, offices, or organizations.

(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

(e) WAIVER.—The limitations in this section do not apply—

- (1) in time of war; or
- (2) during a national emergency declared by the President or Congress.



(f) DEFINITIONS.—In this section, the terms “management headquarters activities” and “management headquarters support activities” have the meanings given those terms in Department of Defense Instruction 5100.73, titled “Major DoD Headquarters Activities”.

(Added Pub. L. 99-433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1021; amended Pub. L. 100-180, div. A, title XIII, §1314(b)(3), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101-189, div. A, title XVI, §1622(h)(1), Nov. 29, 1989, 103 Stat. 1605; Pub. L. 113-66, div. A, title IX, §906, Dec. 26, 2013, 127 Stat. 818.)

#### AMENDMENTS

2013—Subsec. (f). Pub. L. 113-66 substituted “Instruction 5100.73, titled ‘Major DoD Headquarters Activities.’” for “Directive 5100.73, entitled ‘Department of Defense Management Headquarters and Headquarters Support Activities’ and dated January 7, 1985.”

1989—Subsecs. (a), (b). Pub. L. 101-189 substituted “The” for “After September 30, 1989, the”.

1987—Subsec. (e)(2). Pub. L. 100-180 inserted “the President or” after “declared by”.

#### EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009 and fiscal years thereafter, see section 1111 of Pub. L. 110-417, set out as a note under section 143 of this title.

#### REDUCTIONS IN DEFENSE INTELLIGENCE AGENCY PERSONNEL

Pub. L. 100-202, §101(b) [title VIII, §8122], Dec. 22, 1987, 101 Stat. 1329-43, 1329-85, provided that nothing in section 102d(1) of Public Law 100-178, 101 Stat. 1010, section 601(b)(2)(A) of Public Law 99-433, 100 Stat. 1065 [set out below], or section 601(d) of Public Law 99-433, 100 Stat. 1065 [set out below], shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency, prior to repeal by Pub. L. 100-456, div. A, title XII, §1213, Sept. 29, 1988, 102 Stat. 2053.

#### REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Pub. L. 99-433, title VI, §601, Oct. 1, 1986, 100 Stat. 1064, as amended by Pub. L. 100-180, div. A, title XIII, §1312, Dec. 4, 1987, 101 Stat. 1174; Pub. L. 101-189, div. A, title XVI, §1622(h)(2), Nov. 29, 1989, 103 Stat. 1606, provided that:

“(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) The total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2) may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

“(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

“(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

“(A) The Office of the Secretary of the Army and the Army Staff.

“(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

“(C) The Office of the Secretary of the Air Force and the Air Staff.

“(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

“(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

“(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

“(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

“(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

“(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

“(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

“(3) If after the date of the enactment of this Act [Oct. 1, 1986] and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

“(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

“(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

“(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management

headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

“(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

“(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act [see Short Title of 1986 Amendment note set out under section 111 of the title].

“(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.

“(g) DEFINITIONS.—For purposes of this section, the terms ‘management headquarters activities’ and ‘management headquarters support activities’ have the meanings given those terms in Department of Defense Directive 5100.73, entitled ‘Department of Defense Management Headquarters and Headquarters Support Activities’ and dated January 7, 1985.’”

#### **§ 195. Defense Automated Printing Service: applicability of Federal printing requirements**

The Defense Automated Printing Service shall comply fully with the requirements of section 501 of title 44 relating to the production and procurement of printing, binding, and blank-book work.

(Added Pub. L. 105–85, div. A, title III, §383(a), Nov. 18, 1997, 111 Stat. 1711.)

##### **AUTHORITY TO PROCURE SERVICES FROM GOVERNMENT PUBLISHING OFFICE**

Pub. L. 105–85, div. A, title III, §387(c), Nov. 18, 1997, 111 Stat. 1713, as amended by Pub. L. 113–235, div. H, title I, §1301(b), Dec. 16, 2014, 128 Stat. 2537, provided that: “Consistent with section 501 of title 44, United States Code, the Secretary of a military department or head of a Defense Agency may contract directly with the Government Publishing Office for printing and duplication services otherwise available through the Defense Automated Printing Service.”

#### **§ 196. Department of Defense Test Resource Management Center**

(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the “Center”). The Secretary shall designate the Center as a Department of Defense Field Activity.

(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.

(2) There shall be a Deputy Director of the Center, selected by the Secretary from among

individuals who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

(c) DUTIES OF DIRECTOR.—(1) The Director shall have the following duties:

(A) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

(i) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

(ii) all other test and evaluation facilities and resources within and outside of the Department of Defense, other than budgets and expenditures for activities described in section 139(j) of this title.

(B) To review proposed significant changes to the test and evaluation facilities and resources of the Major Range and Test Facility Base, including with respect to the expansion, divestment, consolidation, or curtailment of activities, before they are implemented by the Secretaries of the military departments or the heads of the Defense Agencies with test and evaluation responsibilities and advise the Secretary of Defense and the Under Secretary of Acquisition, Technology, and Logistics of the impact of such changes on the adequacy of such test and evaluation facilities and resources to meet the test and evaluation requirements of the Department.

(C) To complete and maintain the strategic plan required by subsection (d).

(D) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

(E) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

(2) The Director shall have access to such records and data of the Department of Defense (including the appropriate records and data of each military department and Defense Agency) that are necessary in order to carry out the duties of the Director under this section.

(d) STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources, including modeling and simulation capabilities. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements.

(2) The strategic plan shall include the following:

(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

(C) An assessment of the test and evaluation facilities and resources that will be needed to meet such requirements and satisfy such performance measures.

(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

(E) An assessment of plans and business case analyses supporting any significant modification of the test and evaluation facilities and resources of the Department projected, proposed, or recommended by the Secretary of a military department or the head of a Defense Agency for such period, including with respect to the expansion, divestment, consolidation, or curtailment of activities.

(F) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

(G) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

(3) Upon completing a strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

(e) **CERTIFICATION OF BUDGETS.**—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's or Defense Agency head's proposed budget for test and evaluation activities, including modeling and simulation activities, for a fiscal year and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the

Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) **APPROVAL OF CERTAIN MODIFICATIONS.**—(1) The Secretary of a military department or the head of a Defense Agency with test and evaluation responsibilities may not implement a projected, proposed, or recommended significant modification of the test and evaluation facilities and resources of the Department, including with respect to the expansion, divestment, consolidation, or curtailment of activities, until—

(A) the Secretary or the head, as the case may be, submits to the Director a business case analysis for such modification; and

(B) the Director reviews such analysis and approves such modification.

(2) The Director shall submit to the Secretary of Defense an annual report containing the comments of the Director with respect to each business case analysis reviewed under paragraph (1)(B) during the year covered by the report.

(g) **SUPERVISION OF DIRECTOR BY UNDER SECRETARY.**—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(h) **ADMINISTRATIVE SUPPORT OF CENTER.**—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(i) **DEFINITION.**—In this section, the term "Major Range and Test Facility Base" means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107-314, div. A, title II, § 231(a)(1), Dec. 2, 2002, 116 Stat. 2487; amended Pub. L. 108-136, div. A, title II, § 212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109-163, div. A, title II, § 258(a), title IX, § 902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111-84, div. A, title II, § 251, Oct. 28, 2009, 123 Stat. 2241; Pub. L. 113-291, div. A, title II, § 214, Dec. 19, 2014, 128 Stat. 3326; Pub. L. 114-328,

div. A, title V, §502(c), title X, §1081(a)(3), Dec. 23, 2016, 130 Stat. 2102, 2417; Pub. L. 115–91, div. A, title II, §222, Dec. 12, 2017, 131 Stat. 1333.)

#### AMENDMENTS

2017—Subsec. (d)(1). Pub. L. 115–91, §222(1), inserted “, including modeling and simulation capabilities” after “and resources” in the first sentence.

Subsec. (e)(1). Pub. L. 115–91, §222(2), inserted “, including modeling and simulation activities,” after “evaluation activities”.

2016—Subsec. (b)(1). Pub. L. 114–328, §502(c), struck out second and third sentences which read as follows: “A commissioned officer serving as the Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral. A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.”

Subsec. (c)(1)(A)(ii). Pub. L. 114–328, §1081(a)(3), substituted “section 139(j)” for “section 139(i)”.

2014—Subsec. (c)(1)(B). Pub. L. 113–291, §214(a), inserted “, including with respect to the expansion, divestment, consolidation, or curtailment of activities,” after “Base”.

Subsec. (d)(2)(E) to (G). Pub. L. 113–291, §214(b), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively.

Subsec. (e)(1). Pub. L. 113–291, §214(c), inserted “and for the period covered by the future-years defense program submitted to Congress under section 221 of this title for that fiscal year” after “activities for a fiscal year”.

Subsecs. (f) to (i). Pub. L. 113–291, §214(d), added subsec. (f) and redesignated former subsecs. (f) to (h) as (g) to (i), respectively.

2009—Subsec. (c). Pub. L. 111–84 inserted par. (1) designation before “The Director”, redesignated former par. (1) as subpar. (A) and former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), added subpar. (B), redesignated former pars. (2) to (4) as subpars. (C) to (E), respectively, and added par. (2).

2006—Subsec. (b)(1). Pub. L. 109–163, §902(a), substituted “individuals who have substantial experience in the field of test and evaluation.” for “commissioned officers of the armed forces on active duty or from among senior civilian officers and employees of the Department of Defense.”

Subsec. (b)(2). Pub. L. 109–163, §902(b), substituted “individuals” for “senior civilian officers and employees of the Department of Defense”.

Subsec. (h). Pub. L. 109–163, §258(a), substituted “Secretary of Defense” for “Director of Operational Test and Evaluation”.

2003—Subsec. (b)(1). Pub. L. 108–136, §212(a), substituted “on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director” for “on active duty. The Director” and inserted at end “A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.”

Subsec. (c)(1)(B). Pub. L. 108–136, §212(b)(1), inserted “, other than budgets and expenditures for activities described in section 139(i) of this title” after “Department of Defense”.

Subsec. (e)(1). Pub. L. 108–136, §212(b)(2), struck out “, the Director of Operational Test and Evaluation,” after “each military department” and substituted “or Defense Agency head’s” for “, Director’s, or head’s”.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsecs. (d)(1), (4) and (e)(3) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### ADMINISTRATION OF PROGRAMS TO BEGIN AFTER FIRST STRATEGIC PLAN

Pub. L. 107–314, div. A, title II, §231(b), (c), Dec. 2, 2002, 116 Stat. 2489, directed that the first strategic plan required to be completed under subsec. (d)(1) of this section was to be completed not later than six months after Dec. 2, 2002, and that the duty of the Director of the Department of Defense Test Resource Management Center to administer the programs specified in subsec. (c)(4) of this section would take effect upon the beginning of the first fiscal year that began after the report on the first strategic plan was transmitted to committees of Congress.

#### § 197. Defense Logistics Agency: fees charged for logistics information

(a) AUTHORITY.—The Secretary of Defense may charge fees for providing information in the Federal Logistics Information System through Defense Logistics Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person.

(b) AMOUNT.—The fee or fees prescribed under subsection (a) shall be such amount or amounts as the Secretary of Defense determines appropriate for recovering the costs of providing information as described in such subsection.

(c) RETENTION OF FEES.—Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation with which merged.

(d) DEFENSE LOGISTICS INFORMATION SERVICES DEFINED.—In this section, the term “Defense Logistics Information Services” means the organization within the Defense Logistics Agency that is known as Defense Logistics Information Services.

(Added Pub. L. 108–375, div. A, title X, §1010(a), Oct. 28, 2004, 118 Stat. 2038.)

#### SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

- |              |   |
|--------------|---|
| Sec.<br>201. | Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance. |
| [202, 203.   | Repealed.]  |
| 204.         | Small Business Ombudsman for defense audit agencies.  |
| 205.         | Missile Defense Agency.   |

#### AMENDMENTS

2017—Pub. L. 115–91, div. A, title XVI, §1676(c)(2), Dec. 12, 2017, 131 Stat. 1773, added item 205.

2016—Pub. L. 114–328, div. A, title V, §502(d)(2), Dec. 23, 2016, 130 Stat. 2102, which directed amendment of the “table of sections at the beginning of chapter 8” of this title by striking item 203, was executed by striking item 203 “Director of Missile Defense Agency” in the analysis preceding subchapter II of chapter 8 of this title to reflect the probable intent of Congress.

2013—Pub. L. 112–239, div. A, title XVI, §1612(b), Jan. 2, 2013, 126 Stat. 2065, added item 204.

2002—Pub. L. 107–314, div. A, title II, §225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization” in item 203.

1997—Pub. L. 105–107, title V, §503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 “Unauthorized use of Defense Intelligence Agency name, initials, or seal”.

Pub. L. 105–85, div. A, title II, §235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

1996—Pub. L. 104–201, div. A, title XI, §1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in item 201.

1991—Pub. L. 102–190, div. A, title IX, §922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

1986—Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

**§ 201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance**

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 3041(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary’s consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102–190, div. A, title IX, §922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104–201, div. A, title XI, §1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108–136, div. A, title IX, §921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, §931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(4), Dec. 19, 2014, 128 Stat. 3508.)

**PRIOR PROVISIONS**

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

**AMENDMENTS**

2014—Subsec. (b)(1). Pub. L. 113–291 substituted “(50 U.S.C. 3041(b))” for “(50 U.S.C. 403–6(b))”.

2009—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(3)–(5). See 2008 Amendment notes below.

2008—Subsec. (a). Pub. L. 110–181, §931(a)(4), and Pub. L. 110–417, §932(a)(3), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, §932(a)(3), was repealed by Pub. L. 111–84.

Subsec. (b)(1). Pub. L. 110–417, §932(a)(4), which directed substitution of “Director of National Intelligence” for “Director of Central Intelligence”, could not be executed because of the intervening amendment by Pub. L. 110–181, §931(c)(2)(A), and was repealed by Pub. L. 111–84.

Pub. L. 110–181, §931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director’s concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.”

Subsec. (c)(1). Pub. L. 110–181, §931(c)(2)(B), substituted “National Intelligence Program” for “National Foreign Intelligence Program”.

Pub. L. 110–181, §931(a)(5), and Pub. L. 110–417, §932(a)(5), amended par. (1) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, §932(a)(5), was repealed by Pub. L. 111–84.

2003—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104–201 substituted “Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance” for “Consultation regarding appointment of certain intelligence officials” in section catchline and amended text generally. Prior to amendment, text read as follows: “Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.”

**EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

**DEFENSE INTELLIGENCE AGENCY**

Pub. L. 102–190, div. A, title IX, §921, Dec. 5, 1991, 105 Stat. 1452, as amended by Pub. L. 103–337, div. A, title X, §1070(d)(1), Oct. 5, 1994, 108 Stat. 2858, provided that, during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, the Assistant Secretary of Defense referred to in section 138(b)(3) of this title could be assigned supervision of the Defense Intelligence Agency other than day-to-day operational control over the Agency, set forth the responsibilities of the Director of the Defense Intelligence Agency during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, and directed the Secretary of the Army and the Director of the Defense Intelligence Agency to take all required actions in order to transfer the Armed Forces Medical

Intelligence Center and the Missile and Space Intelligence Center from the Department of the Army to the control of the Defense Intelligence Agency not later than Jan. 1, 1992.

JOINT INTELLIGENCE CENTER

Pub. L. 102-190, div. A, title IX, §923, Dec. 5, 1991, 105 Stat. 1453, provided that:

“(a) REQUIREMENT FOR CENTER.—The Secretary of Defense shall direct the consolidation of existing single-service current intelligence centers that are located within the District of Columbia or its vicinity into a joint intelligence center that is responsible for preparing current intelligence assessments (including indications and warning). The joint intelligence center shall be located within the District of Columbia or its vicinity. As appropriate for the support of military operations, the joint intelligence center shall provide for and manage the collection and analysis of intelligence.

“(b) MANAGEMENT.—The center shall be managed by the Defense Intelligence Agency in its capacity as the intelligence staff activity of the Chairman of the Joint Chiefs of Staff.

“(c) RESPONSIVENESS TO COMMAND AUTHORITIES.—The Secretary shall ensure that the center is fully responsive to the intelligence needs of the Secretary, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.”

**[§ 202. Repealed. Pub. L. 105-107, title V, § 503(c), Nov. 20, 1997, 111 Stat. 2262]**

Section, added Pub. L. 97-269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, §191; amended Pub. L. 98-525, title XIV, §1405(6), Oct. 19, 1984, 98 Stat. 2622; renumbered §201, Pub. L. 99-433, title III, §301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered §202, Pub. L. 102-190, div. A, title IX, §922(a)(1), Dec. 5, 1991, 105 Stat. 1453; Pub. L. 105-107, title V, §503(b), Nov. 20, 1997, 111 Stat. 2262, related to unauthorized use of Defense Intelligence Agency name, initials, or seal, after amendment by Pub. L. 105-107, which transferred subsec. (b) to end of section 425.

**[§ 203. Repealed. Pub. L. 114-328, div. A, title V, § 502(d)(1), Dec. 23, 2016, 130 Stat. 2102]**

Section, added Pub. L. 105-85, div. A, title II, §235(a), Nov. 18, 1997, 111 Stat. 1665; amended Pub. L. 107-314, div. A, title II, §225(b)(1)(A), (B)(i), Dec. 2, 2002, 116 Stat. 2486, related to appointment of Director of Missile Defense Agency.

**§ 204. Small Business Ombudsman for defense audit agencies**

(a) SMALL BUSINESS OMBUDSMAN.—The Secretary of Defense shall designate within each defense audit agency an official as the Small Business Ombudsman to have the duties described in subsection (b) and such other responsibilities as may be determined by the Secretary.

(b) DUTIES.—The Small Business Ombudsman of a defense audit agency shall—

(1) advise the Director of the defense audit agency on policy issues related to small business concerns;

(2) serve as the defense audit agency’s primary point of contact and source of information for small business concerns;

(3) collect and monitor relevant data regarding the defense audit agency’s conduct of audits of small business concerns, including—

(A) data regarding the timeliness of audit closeouts for small business concerns; and

(B) data regarding the responsiveness of the defense audit agency to issues or other matters raised by small business concerns; and

(4) make recommendations to the Director regarding policies, processes, and procedures related to the timeliness of audits of small business concerns and the responsiveness of the defense audit agency to issues or other matters raised by small business concerns.

(c) AUDIT INDEPENDENCE.—The Small Business Ombudsman of a defense audit agency shall be segregated from ongoing audits in the field and shall not engage in activities with regard to particular audits that could compromise the independence of the defense audit agency or undermine compliance with applicable audit standards.

(d) DEFENSE AUDIT AGENCY DEFINED.—In this section, the term “defense audit agency” means the Defense Contract Audit Agency and the Defense Contract Management Agency.

(Added Pub. L. 112-239, div. A, title XVI, §1612(a), Jan. 2, 2013, 126 Stat. 2064.)

**§ 205. Missile Defense Agency**

(a) TERM OF DIRECTOR.—The Director of the Missile Defense Agency shall be appointed for a six-year term.

(b) REPORTING.—The Missile Defense Agency shall be under the authority, direction, and control of the Under Secretary of Defense for Research and Engineering.

(Added Pub. L. 115-91, div. A, title XVI, §1676(c)(1), Dec. 12, 2017, 131 Stat. 1773.)

APPLICATION

Pub. L. 115-91, div. A, title XVI, §1676(c)(3), Dec. 12, 2017, 131 Stat. 1773, provided that:

“(A) TERMS.—Subsection (a) of section 205 of title 10, United States Code, as added by paragraph (1), shall apply the day following the date on which the present incumbent in the office of the Director of the Missile Defense Agency, as of the date of the enactment of this Act [Dec. 12, 2017], ceases to serve as such.

“(B) REPORTING.—Subsection (b) of such section 205 shall apply beginning on February 1, 2018. In carrying out such subsection, the Missile Defense Agency shall be under the authority, direction, and control of the Under Secretary of Defense for Research and Engineering in the same manner as the Missile Defense Agency was under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics pursuant to Department of Defense Directive 5134.09. Any reference in such Instruction to the Under Secretary of Defense for Acquisition, Technology, and Logistics shall be deemed to be a reference to the Under Secretary of Defense for Research and Engineering, including with respect to the Under Secretary serving as the chairman of the Missile Defense Executive Board.”

**CHAPTER 9—DEFENSE BUDGET MATTERS**

Sec.	
221.	Future-years defense program: submission to Congress; consistency in budgeting.
222.	Future-years mission budget.
222a.	Unfunded priorities of the armed forces and combatant commands: annual report.
223.	Ballistic missile defense programs: program elements.
223a.	Ballistic missile defense programs: procurement.
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225.	Acquisition accountability reports on the ballistic missile defense system.

- Sec.  
[226 to 228] Repealed.]
229. Programs for combating terrorism: display of budget information.
- [230. Repealed.]
231. Budgeting for construction of naval vessels: annual plan and certification.
- 231a. Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification.
- [232. Repealed.]
233. Operation and maintenance budget presentation.
234. POW/MIA activities: display of budget information.
235. Procurement of contract services: specification of amounts requested in budget.
236. Personal protection equipment procurement: display of budget information.
237. Embedded mental health providers of the reserve components: display of budget information.
238. Cyber mission forces: program elements.
239. National security space programs: major force program and budget assessment.
- 239a. Missile defense and defeat programs: major force program and budget assessment.

## AMENDMENTS

2017—Pub. L. 115-91, div. A, title XVI, §1676(a)(2), Dec. 12, 2017, 131 Stat. 1772, added item 239a.

2016—Pub. L. 114-328, div. A, title X, §1064(a)(2), Dec. 23, 2016, 130 Stat. 2409, added item 222a.

2015—Pub. L. 114-92, div. A, title X, §1073(a)(2), title XVI, §1601(a)(2), Nov. 25, 2015, 129 Stat. 995, 1096, struck out item 228 “Biannual reports on allocation of funds within operation and maintenance budget subactivities” and added item 239.

2014—Pub. L. 113-291, div. A, title XVI, §1631(a)(2), Dec. 19, 2014, 128 Stat. 3638, added item 238.

2013—Pub. L. 113-66, div. A, title I, §141(b), title VII, §721(b), title X, §1091(a)(4), Dec. 26, 2013, 127 Stat. 697, 799, 875, added items 236 and 237 and inserted a period at end of item 231.

Pub. L. 112-239, div. A, title X, §§1076(f)(6), 1081(1)(B), Jan. 2, 2013, 126 Stat. 1952, 1960, transferred item 225 to appear after item 224 and struck out item 232 “United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts”.

2011—Pub. L. 112-81, div. A, title X, §§1011(b), 1061(3)(B), 1064(4)(B)(ii), 1069(c), Dec. 31, 2011, 125 Stat. 1560, 1583, 1587, 1592, struck out item 226 “Scoring of outlays”, added item 228 and struck out former item 228 “Quarterly reports on allocation of funds within operation and maintenance budget subactivities”, added item 231 and struck out former item 231 “Long-range plan for construction of naval vessels”, and amended item 231a generally. Prior to amendment, item 231a read as follows: “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Pub. L. 112-81, div. A, title II, §231(a)(2), Dec. 31, 2011, 125 Stat. 1339, added item 225 at the end of this analysis.

Pub. L. 111-383, div. A, title X, §1023(b), Jan. 7, 2011, 124 Stat. 4350, added item 231 and struck out former item 231 “Budgeting for construction of naval vessels: annual plan and certification”.

2009—Pub. L. 111-84, div. A, title VIII, §803(a)(2), Oct. 28, 2009, 123 Stat. 2402, added item 235.

2008—Pub. L. 110-417, [div. A], title I, §141(b), Oct. 14, 2008, 122 Stat. 4380, added item 231a.

2006—Pub. L. 109-364, div. A, title V, §563(b), Oct. 17, 2006, 120 Stat. 2222, added item 234.

2004—Pub. L. 108-375, div. A, title II, §214(b), title X, §1003(a)(2), Oct. 28, 2004, 118 Stat. 1834, 2035, added items 232 and 233.

2003—Pub. L. 108-136, div. A, title II, §223(a)(2), title X, §1031(a)(6)(B)(ii), Nov. 24, 2003, 117 Stat. 1420, 1596, added item 223a and substituted “Quarterly” for “Monthly” in item 228.

2002—Pub. L. 107-314, div. A, title X, §§1022(b), 1041(a)(2)(B), Dec. 2, 2002, 116 Stat. 2640, 2645, struck out item 230 “Amounts for declassification of records” and added item 231.

2001—Pub. L. 107-107, div. A, title II, §231(b)(2), Dec. 28, 2001, 115 Stat. 1037, substituted “research, development, test, and evaluation” for “procurement” in item 224.

1999—Pub. L. 106-65, div. A, title IX, §932(b)(2), title X, §1041(a)(2), Oct. 5, 1999, 113 Stat. 728, 758, added items 229 and 230.

1998—Pub. L. 105-261, div. A, title II, §235(a)(2), Oct. 17, 1998, 112 Stat. 1953, added item 223.

1997—Pub. L. 105-85, div. A, title II, §232(a)(2), title III, §321(a)(2), Nov. 18, 1997, 111 Stat. 1663, 1673, added items 224 and 228.

1996—Pub. L. 104-106, div. A, title X, §1061(f)(2), Feb. 10, 1996, 110 Stat. 443, struck out item 227 “Recruiting costs”.

1993—Pub. L. 103-160, div. A, title III, §374(b), Nov. 30, 1993, 107 Stat. 1637, added item 227.

1992—Pub. L. 102-484, div. A, title X, §1002(d)(2), Oct. 23, 1992, 106 Stat. 2481, added items 221 and 222 and redesignated former item 221 as 226.

1991—Pub. L. 102-190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, substituted “DEFENSE BUDGET MATTERS” for “REGULAR COMPONENTS” in chapter heading and added item 221.

### § 221. Future-years defense program: submission to Congress; consistency in budgeting

(a) The Secretary of Defense shall submit to Congress each year, not later than five days after the date on which the President’s budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years defense program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

(c) Nothing in this section shall be construed to prohibit the inclusion in the future-years defense program of amounts for management contingencies, subject to the requirements of subsection (b).

(d)(1) The Secretary of Defense shall make available to Congress, the Congressional Budget Office, the Comptroller General of the United States, and the Congressional Research Service

each future-years defense program under this section as follows:

(A) By making such program available electronically in the form of an unclassified electronic database.

(B) By delivering printed copies of such program to the congressional defense committees.

(2) In the event inclusion of classified material in a future-years defense program would otherwise render the totality of the program classified for purposes of this subsection—

(A) such program shall be made available to Congress in unclassified form, with such material attached as a classified annex; and

(B) such annex shall be submitted to the congressional defense committees, the Congressional Budget Office, the Comptroller General of the United States, and the Congressional Research Service.

(e) Each future-years defense program under this subsection shall be accompanied by a certification by the Under Secretary of Defense (Comptroller), in the case of the Department of Defense, and the comptroller of each military department, in the case of such military department, that any information entered into the Standard Data Collection System of the Department of Defense, the Comptroller Information System, or any other data system, as applicable, for purposes of assembling such future-years defense program was accurate.

(Added Pub. L. 101-189, div. A, title XVI, §1602(a)(1), Nov. 29, 1989, 103 Stat. 1596, §114a; amended Pub. L. 101-510, div. A, title XIV, §1402(a)(1)–(3)(A), Nov. 5, 1990, 104 Stat. 1674; renumbered §221 and amended Pub. L. 102-484, div. A, title X, §1002(c), Oct. 23, 1992, 106 Stat. 2480; Pub. L. 115-91, div. A, title X, §1042(a)–(c), Dec. 12, 2017, 131 Stat. 1553, 1554.)

#### PRIOR PROVISIONS

A prior section 221 was renumbered section 226 of this title.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, §1042(a), substituted “not later than five days after the date on which” for “at or about the time that”.

Subsec. (d). Pub. L. 115-91, §1042(b), added subsec. (d).

Subsec. (e). Pub. L. 115-91, §1042(c), added subsec. (e).

1992—Pub. L. 102-484 renumbered section 114a of this title as this section, amended section catchline generally, and substituted “future-years” for “multiyear” wherever appearing in text.

1990—Pub. L. 101-510, §1402(a)(3)(A), which directed amendment of section catchline by substituting “Multiyear” for “Five-year”, was executed by substituting “Multiyear” for “Five-Year” as the probable intent of Congress.

Subsec. (a). Pub. L. 101-510, §1402(a)(1), (2), substituted “a multiyear” for “the current five-year” and inserted at end “Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.”

Subsecs. (b)(2)(A), (c). Pub. L. 101-510, §1402(a)(2)(A), substituted “multiyear” for “five-year”.

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title X, §1042(d), Dec. 12, 2017, 131 Stat. 1554, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 12, 2017],

and shall apply to future-years defense programs submitted at the time of budgets of the President for fiscal years beginning after fiscal year 2018.”

#### DoD GUIDANCE

Pub. L. 115-91, div. A, title X, §1042(e), Dec. 12, 2017, 131 Stat. 1554, provided that: “The Secretary of Defense shall, in coordination with the Under Secretary of Defense (Comptroller), update Department of Defense Financial Management Regulation 7000.14-R, and any other appropriate instructions and guidance, to ensure that the Department of Defense takes appropriate actions to comply with the amendments made by this section [amending this section] in the submittal of future-years defense programs in calendar years after calendar year 2017.”

#### REVIEW OF SUPPORT PROVIDED BY DEFENSE INTELLIGENCE ELEMENTS TO ACQUISITION ACTIVITIES OF THE DEPARTMENT

Pub. L. 115-91, div. A, title XVI, §1626, Dec. 12, 2017, 131 Stat. 1733, provided that:

“(a) REVIEW.—The Secretary of Defense shall review the support provided by Defense intelligence elements to the acquisition activities conducted by the Secretary, with a specific focus on such support—

“(1) consisting of planning, prioritizing, and resourcing relating to developmental weapon systems; and

“(2) for existing weapon systems throughout the program lifecycle of such systems.

“(b) BUDGET STRUCTURE.—The Secretary shall develop a specific budget structure for a sustainable funding profile to ensure the support provided by Defense intelligence elements described in subsection (a). The Secretary shall implement such structure beginning with the defense budget materials for fiscal year 2020.

“(c) BRIEFING.—Not later than May 1, 2018, the Secretary of Defense shall provide to the appropriate congressional committees a briefing on the results of the review under subsection (a) and a plan to carry out subsection (b).

“(d) CONSTRUCTION.—Nothing in this section may be construed to relieve the Director of National Intelligence of the responsibility to support the acquisition activities of the Department of Defense through the National Intelligence Program.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘defense budget materials’ has the meaning given that term in section 231(f) of title 10, United States Code.

“(3) The term ‘Defense intelligence element’ means any of the agencies, offices, and elements of the Department of Defense included within the definition of ‘intelligence community’ under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).”

#### REPORTING OF BALANCES CARRIED FORWARD BY THE DEPARTMENT OF DEFENSE AT THE END OF EACH FISCAL YEAR

Pub. L. 113-291, div. A, title X, §1003, Dec. 19, 2014, 128 Stat. 3482, provided that: “Not later March 1 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], and make publicly available on the Internet website of the Department of Defense, the following information:

“(1) The total dollar amount, by account, of all balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.



“(2) The total dollar amount, by account, of all unobligated balances carried forward by the Department of Defense at the end of the fiscal year preceding the fiscal year during which such information is submitted.

“(3) The total dollar amount, by account, of any balances (both obligated and unobligated) that have been carried forward by the Department of Defense for five years or more as of the end of the fiscal year preceding the fiscal year during which such information is submitted.”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1003 of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

#### BUDGET DOCUMENTATION REQUIREMENT

Pub. L. 113–66, div. A, title II, §213(c), Dec. 26, 2013, 127 Stat. 704, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2015, and each subsequent fiscal year, the Secretary shall include individual project lines for each program segment of the unmanned carrier-launched surveillance and strike system, within program element 0604404N, that articulate all costs, contractual actions, and other information associated with technology development for each such program segment.”

#### EVALUATION AND ASSESSMENT OF THE DISTRIBUTED COMMON GROUND SYSTEM

Pub. L. 113–66, div. A, title II, §219, Dec. 26, 2013, 127 Stat. 708, provided that:

“(a) PROJECT CODES FOR BUDGET SUBMISSIONS.—In the budget submitted by the President to Congress under section 1105 of title 31, United States Code, for fiscal year 2015 and each subsequent fiscal year, each capability component within the distributed common ground system program shall be set forth as a separate project code within the program element line, and each covered official shall submit supporting justification for the project code within the program element descriptive summary.

“(b) ANALYSIS.—

“(1) REQUIREMENT.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall conduct an analysis of capability components that are compliant with the intelligence community data standards and could be used to meet the requirements of the distributed common ground system program.

“(2) ELEMENTS.—The analysis required under paragraph (1) shall include the following:

“(A) Revalidation of the distributed common ground system program requirements based on current program needs, recent operational experience, and the requirement for nonproprietary solutions that adhere to open-architecture principles.

“(B) Market research of current commercially available tools to determine whether any such tools could potentially satisfy the requirements described in subparagraph (A).

“(C) Analysis of the competitive acquisition options for any tools identified in subparagraph (B).

“(3) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Under Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the results of the analysis conducted under paragraph (1).

“(c) COVERED OFFICIAL DEFINED.—In this section, the term ‘covered official’ means the following:

“(1) The Secretary of the Army, with respect to matters concerning the Army.

“(2) The Secretary of the Navy, with respect to matters concerning the Navy.

“(3) The Secretary of the Air Force, with respect to matters concerning the Air Force.

“(4) The Commandant of the Marine Corps, with respect to matters concerning the Marine Corps.

“(5) The Commander of the United States Special Operations Command, with respect to matters concerning the United States Special Operations Command.”

#### CONSOLIDATED BUDGET JUSTIFICATION DISPLAY FOR AEROSPACE CONTROL ALERT MISSION

Pub. L. 112–239, div. A, title III, §352(a), Jan. 2, 2013, 126 Stat. 1701, provided that: “The Secretary of Defense shall establish a consolidated budget justification display that fully identifies the baseline aerospace control alert budget for each of the military services and encompasses all programs and activities of the aerospace control alert mission for each of the following functions:

“(1) Procurement.

“(2) Operation and maintenance.

“(3) Research, development, testing, and evaluation.

“(4) Military construction.”

#### BUDGET JUSTIFICATION DOCUMENTS; BUDGET FOR FULL-SPECTRUM MILITARY CYBERSPACE OPERATIONS

Pub. L. 112–239, div. A, title X, §1079(c), Jan. 2, 2013, 126 Stat. 1959, which required Secretary of Defense to submit dedicated budget documentation materials with budget submissions for fiscal year 2015 and subsequent fiscal years, was repealed by Pub. L. 115–91, div. A, title X, §1051(r)(7), Dec. 12, 2017, 131 Stat. 1565.

#### SEPARATE PROCUREMENT LINE ITEM FOR CERTAIN LITTORAL COMBAT SHIP MISSION MODULES

Pub. L. 112–81, div. A, title I, §122, Dec. 31, 2011, 125 Stat. 1319, provided that:

“(a) IN GENERAL.—In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2013, and each subsequent fiscal year, the Secretary shall ensure that a separate, dedicated procurement line item is designated for each covered module that includes the quantity and cost of each such module requested.

“(b) FORM.—The Secretary shall ensure that any classified components of covered modules not included in a procurement line item under subsection (a) shall be included in a classified annex.

“(c) COVERED MODULE.—In this section, the term ‘covered module’ means, with respect to mission modules of the Littoral Combat Ship, the following modules:

“(1) Surface warfare.

“(2) Mine countermeasures.

“(3) Anti-submarine warfare.”

#### DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS

Pub. L. 112–81, div. A, title X, §1003A, Dec. 31, 2011, 125 Stat. 1556, provided that: “Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program.”

#### DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR ORGANIZATIONAL CLOTHING AND INDIVIDUAL EQUIPMENT

Pub. L. 112–81, div. A, title X, §1094, Dec. 31, 2011, 125 Stat. 1607, provided that:

“(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2013 and each subsequent

fiscal year, the Secretary of Defense shall submit to the President, for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a budget justification display that covers all programs and activities associated with the procurement of organizational clothing and individual equipment.

“(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget justification display under subsection (a) for a fiscal year shall include the following:

“(1) The funding requirements in each budget activity and for each Armed Force for organizational clothing and individual equipment.

“(2) The amount in the budget for each of the Armed Forces for organizational clothing and equipment for that fiscal year.

“(c) DEFINITION.—In this section, the term ‘organizational clothing and individual equipment’ means an item of organizational clothing or equipment prescribed for wear or use with the uniform.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF JOINT LIGHT TACTICAL VEHICLE

Pub. L. 111-383, div. A, title II, §213, Jan. 7, 2011, 124 Stat. 4163, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2012, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of the Army and the Navy a separate, dedicated program element is assigned to the Joint Light Tactical Vehicle.”

SEPARATE PROCUREMENT LINE ITEM FOR BODY ARMOR

Pub. L. 111-84, div. A, title I, §141(b), Oct. 28, 2009, 123 Stat. 2223, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each military department procurement account, a separate, dedicated procurement line item is designated for body armor.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF INDIVIDUAL BODY ARMOR AND ASSOCIATED COMPONENTS

Pub. L. 111-84, div. A, title II, §216, Oct. 28, 2009, 123 Stat. 2227, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of each military department a separate, dedicated program element is assigned to the research and development of individual body armor and associated components.”

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR THE F-35B AND F-35C JOINT STRIKE FIGHTER AIRCRAFT

Pub. L. 111-84, div. A, title II, §217, Oct. 28, 2009, 123 Stat. 2228, provided that: “In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within the Navy research, development, test, and evaluation account and the Navy aircraft procurement account, a separate, dedicated line item and program element is assigned to each of the F-35B aircraft and the F-35C aircraft, to the

extent that such accounts include funding for each such aircraft.”

GUIDANCE ON BUDGET JUSTIFICATION MATERIALS DESCRIBING FUNDING REQUESTED FOR OPERATION, SUSTAINMENT, MODERNIZATION, AND PERSONNEL OF MAJOR RANGES AND TEST FACILITIES

Pub. L. 111-84, div. A, title II, §220, Oct. 28, 2009, 123 Stat. 2229, provided that:

“(a) GUIDANCE ON BUDGET JUSTIFICATION MATERIALS.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and the Director of the Department of Defense Test Resource Management Center, shall issue guidance clarifying and standardizing the information required in budget justification materials describing amounts to be requested in the budget of the President for a fiscal year (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) for funding for each facility and resource of the Major Range and Test Facility Base in connection with each of the following:

- “(1) Operation.
- “(2) Sustainment.
- “(3) Investment and modernization.
- “(4) Government personnel.
- “(5) Contractor personnel.

“(b) APPLICABILITY.—The guidance issued under subsection (a) shall apply with respect to budgets of the President for fiscal years after fiscal year 2010.

“(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section, the term ‘Major Range and Test Facility Base’ has the meaning given that term in section 196(h) [now 196(i)] of title 10, United States Code.”

MILITARY MUNITIONS RESPONSE PROGRAM AND INSTALLATION RESTORATION PROGRAM

Pub. L. 111-84, div. A, title III, §318(b), Oct. 28, 2009, 123 Stat. 2250, provided that: “As part of the annual budget submission of the Secretary of Defense to Congress, the Secretary shall include the funding levels requested for the Military Munitions Response Program and the Installation Restoration Program.”

SEPARATE PROCUREMENT LINE ITEMS FOR FUTURE COMBAT SYSTEMS PROGRAM

Pub. L. 110-417, [div. A], title I, §111, Oct. 14, 2008, 122 Stat. 4373, provided that: “Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2011 and for each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated procurement line item is designated for each of the following elements of the Future Combat Systems program (in this section referred to as ‘FCS’), to the extent the budget includes funding for such elements:

- “(1) FCS Manned Ground Vehicles.
- “(2) FCS Unmanned Ground Vehicles.
- “(3) FCS Unmanned Aerial Systems.
- “(4) FCS Unattended Ground Systems.
- “(5) Other FCS elements.”

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR SKY WARRIOR UNMANNED AERIAL SYSTEMS PROJECT

Pub. L. 110-417, [div. A], title II, §214, Oct. 14, 2008, 122 Stat. 4386, provided that: “Effective for fiscal year 2010 and for each fiscal year thereafter, the Secretary of Defense shall ensure that, in the annual budget submission of the Department of Defense to the President, within both the account for procurement and the account for research, development, test, and evaluation, a separate, dedicated line item and program element is designated for the Sky Warrior Unmanned Aerial Systems project, to the extent such accounts include funding for such project.”

DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION

Pub. L. 110-417, [div. A], title III, §354, Oct. 14, 2008, 122 Stat. 4426, which required the Secretary of Defense

to submit to the President a display of annual budget requirements for the Air Sovereignty Alert Mission of the Air Force, was repealed by Pub. L. 113-188, title IV, § 401(a), Nov. 26, 2014, 128 Stat. 2019.

[Pub. L. 113-291, div. A, title X, § 1060(b), Dec. 19, 2014, 128 Stat. 3502, which directed repeal of section 354 of Pub. L. 110-417, formerly set out above, could not be executed because of the prior repeal by Pub. L. 113-188, title IV, § 401(a), Nov. 26, 2014, 128 Stat. 2019.]

REQUIREMENT FOR SEPARATE DISPLAY OF BUDGETS FOR AFGHANISTAN AND IRAQ

Pub. L. 110-417, [div. A], title XV, § 1502, Oct. 14, 2008, 122 Stat. 4649, provided that:

“(a) OPERATIONS IN IRAQ AND AFGHANISTAN.—In any annual or supplemental budget request for the Department of Defense that is submitted to Congress after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall set forth separately any funding requested in such budget request for—

“(1) operations of the Department of Defense in Afghanistan; and

“(2) operations of the Department of Defense in Iraq.

“(b) SPECIFICITY OF DISPLAY.—Each budget request covered by subsection (a) shall, for any funding requested for operations in Iraq or Afghanistan—

“(1) clearly display the amount of such funding at the appropriation account level and at the program, project, or activity level; and

“(2) include a detailed description of the assumptions underlying the funding for the period covered by the budget request, including the anticipated troop levels, the operations intended to be carried out, and the equipment reset requirements necessary to support such operations.”

REPORT ON FUNDING OF THE DEPARTMENT OF DEFENSE FOR HEALTH CARE

Pub. L. 110-181, div. A, title VII, § 718, Jan. 28, 2008, 122 Stat. 197, provided that:

“(a) REPORT.—If the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, and the aggregate amount included in that budget for the Department of Defense for health care for such fiscal year is less than the aggregate amount provided by Congress for the Department for health care for the preceding fiscal year, and, in the case of the Department, the total allocation from the Defense Health Program to any military department is less than the total of such allocation in the preceding fiscal year, the President shall submit to Congress a report on—

“(1) the reasons for the determination that inclusion of a lesser aggregate amount or allocation to any military department is in the national interest; and

“(2) the anticipated effects of the inclusion of such lesser aggregate amount or allocation to any military department on the access to and delivery of medical and support services to members of the Armed Forces and their family members.

“(b) TERMINATION.—The section shall not be in effect after December 31, 2017.”

SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES

Pub. L. 110-181, div. A, title VIII, § 806, Jan. 28, 2008, 122 Stat. 213, which required that materials submitted to Congress in support of the Defense Department budget identify clearly and separately the amounts requested in each budget account for procurement of contract services, was repealed and restated as section 235 of this title by Pub. L. 111-84, div. A, title VIII, § 803(a)(1), (3), Oct. 28, 2009, 123 Stat. 2402.

REPORT ON MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES PERSONNEL

Pub. L. 110-181, div. A, title IX, § 901(b), (c), Jan. 28, 2008, 122 Stat. 272, which required that the Secretary of

Defense include a report with the defense budget materials for each fiscal year concerning the number of military personnel and civilian employees of the Department of Defense assigned to major headquarters activities for each component of the Department, any increase in personnel assigned to major headquarters activities attributable to certain reasons, and any cost savings associated with the elimination of contracts for the performance of major headquarters activities, was repealed by Pub. L. 111-84, div. A, title XI, § 1109(b)(3), Oct. 28, 2009, 123 Stat. 2493.

MAJOR FORCE PROGRAM CATEGORY FOR SPACE

Pub. L. 112-10, div. A, title VIII, § 8092, Apr. 15, 2011, 125 Stat. 77, provided that: “The Secretary of Defense shall create a major force program category for space for each future-years defense program of the Department of Defense submitted to Congress under section 221 of title 10, United States Code, during fiscal year 2011. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 111-118, div. A, title VIII, § 8099, Dec. 19, 2009, 123 Stat. 3450.

Pub. L. 110-329, div. C, title VIII, § 8104, Sept. 30, 2008, 122 Stat. 3644.

Pub. L. 110-116, div. A, title VIII, § 8111, Nov. 13, 2007, 121 Stat. 1339.

REQUEST FOR FUNDS FOR ONGOING MILITARY OPERATION OVERSEAS

Pub. L. 110-116, div. A, title VIII, § 8116, Nov. 13, 2007, 121 Stat. 1340, provided that: “Any request for funds for a fiscal year after fiscal year 2008 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, shall be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.”

ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM

Pub. L. 109-364, div. A, title III, § 347(a), (b), Oct. 17, 2006, 120 Stat. 2158, which required that the Secretary of Defense include in budget justification documents for each fiscal year a report on future requirements of the Department of Defense concerning Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service, was repealed by Pub. L. 112-81, div. A, title X, § 1062(d)(1), Dec. 31, 2011, 125 Stat. 1585.

BUDGETING FOR ONGOING MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

Pub. L. 109-364, div. A, title X, § 1008, Oct. 17, 2006, 120 Stat. 2374, provided that: “The President’s budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2007 shall include—

“(1) a request for the appropriation of funds for such fiscal year for ongoing military operations in Afghanistan and Iraq;

“(2) an estimate of all funds expected to be required in that fiscal year for such operations; and

“(3) a detailed justification of the funds requested.”

SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM

Pub. L. 109-163, div. A, title II, § 214, Jan. 6, 2006, 119 Stat. 3168, provided that:

“(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under

section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following systems development and demonstration projects of the Armored Systems Modernization program:

“(1) Manned Ground Vehicles.

“(2) Systems of Systems Engineering and Program Management.

“(3) Future Combat Systems Reconnaissance Platforms and Sensors.

“(4) Future Combat Systems Unmanned Ground Vehicles.

“(5) Unattended Sensors.

“(6) Sustainment.

“(b) EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

“(c) TECHNOLOGY INSERTION TO CURRENT FORCE.—

“(1) REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

“(2) DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program.”

#### ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS

Pub. L. 107-314, div. A, title III, §351, Dec. 2, 2002, 116 Stat. 2516, as amended by Pub. L. 110-417, [div. A], title X, §1051, Oct. 14, 2008, 122 Stat. 4604; Pub. L. 113-66, div. A, title III, §333, Dec. 26, 2013, 127 Stat. 739, which related to annual submission of information regarding information technology capital assets, was repealed by Pub. L. 114-92, div. A, title X, §1079(h), Nov. 25, 2015, 129 Stat. 1000.

#### DEPARTMENT OF DEFENSE REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS

Pub. L. 107-249, §131, Oct. 23, 2002, 116 Stat. 1586, provided that:

“(a) REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2003, the amount requested for environmental restoration, waste management, and environmental compliance activities in such fiscal year with respect to military installations approved for closure or realignment under the base closure laws shall accurately reflect the anticipated cost of such activities in such fiscal year.

“(b) BASE CLOSURE LAWS DEFINED.—In this section, the term ‘base closure laws’ means the following:

“(1) Section 2687 of title 10, United States Code.

“(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

“(3) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).”

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107-64, §131, Nov. 5, 2001, 115 Stat. 482.

#### BUDGET JUSTIFICATION DOCUMENTS FOR COSTS OF ARMED FORCES’ PARTICIPATION IN CONTINGENCY OPERATIONS

Pub. L. 107-248, title VIII, §8132, Oct. 23, 2002, 116 Stat. 1568, provided that: “The budget of the President for fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces’ participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003.”

Similar provisions were contained in the following appropriation acts:

Pub. L. 115-31, div. C, title VIII, §8076, May 5, 2017, 131 Stat. 265.

Pub. L. 114-113, div. C, title VIII, §8075, Dec. 18, 2015, 129 Stat. 2370.

Pub. L. 113-235, div. C, title VIII, §8078, Dec. 16, 2014, 128 Stat. 2272.

Pub. L. 113-76, div. C, title VIII, §8075, Jan. 17, 2014, 128 Stat. 123.

Pub. L. 113-6, div. C, title VIII, §8075, Mar. 26, 2013, 127 Stat. 315.

Pub. L. 112-74, div. A, title VIII, §8077, Dec. 23, 2011, 125 Stat. 824.

Pub. L. 112-10, div. A, title VIII, §8077, Apr. 15, 2011, 125 Stat. 74.

Pub. L. 111-118, div. A, title VIII, §8083, Dec. 19, 2009, 123 Stat. 3447.

Pub. L. 110-329, div. C, title VIII, §8086, Sept. 30, 2008, 122 Stat. 3641.

Pub. L. 110-116, div. A, title VIII, §8091, Nov. 13, 2007, 121 Stat. 1335.

Pub. L. 109-289, div. A, title VIII, §8089, Sept. 29, 2006, 120 Stat. 1294.

Pub. L. 109-148, div. A, title VIII, §8100, Dec. 30, 2005, 119 Stat. 2721.

Pub. L. 108-287, title VIII, §8116, Aug. 5, 2004, 118 Stat. 998.

Pub. L. 108-87, title VIII, §8115, Sept. 30, 2003, 117 Stat. 1099.

Pub. L. 107-117, div. A, title VIII, §8097, Jan. 10, 2002, 115 Stat. 2268.

Pub. L. 106-259, title VIII, §8097, Aug. 9, 2000, 114 Stat. 695.

Pub. L. 106-79, title VIII, §8110, Oct. 25, 1999, 113 Stat. 1257.

#### BUDGET SUBMISSIONS ON ACTIVE AND RESERVE MILITARY PERSONNEL ACCOUNTS

Pub. L. 105-262, title VIII, §8093, Oct. 17, 1998, 112 Stat. 2319, provided that: “At the time the President submits

his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] a budget justification document for the active and reserve Military Personnel accounts, to be known as the ‘M-1’, which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year.’

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105-56, title VIII, §8104, Oct. 8, 1997, 111 Stat. 1243.

#### MODIFICATION OF BUDGET DATA EXHIBITS

Pub. L. 105-85, div. A, title III, §324(c), Nov. 18, 1997, 111 Stat. 1678, provided that: “The Under Secretary of Defense (Comptroller) shall ensure that aircraft budget data exhibits of the Department of Defense that are submitted to Congress display total numbers of active aircraft where numbers of primary aircraft or primary authorized aircraft are displayed in those exhibits.”

#### INCLUSION OF AIR FORCE DEPOT MAINTENANCE AS OPERATION AND MAINTENANCE BUDGET LINE ITEMS

Pub. L. 105-85, div. A, title III, §327, Nov. 18, 1997, 111 Stat. 1679, provided that: “For fiscal year 1999 and each fiscal year thereafter, Air Force depot-level maintenance of materiel shall be displayed as one or more separate line items under each subactivity within the authorization request for operation and maintenance, Air Force, in the proposed budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, United States Code.”

#### IDENTIFICATION IN PRESIDENT’S BUDGET OF NATO COSTS

Pub. L. 106-79, title VIII, §8091, Oct. 25, 1999, 113 Stat. 1253, provided that: “The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as ‘subactivities’) in all appropriations accounts provided in this Act [see Tables for classification], as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2001, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-262, title VIII, §8095, Oct. 17, 1998, 112 Stat. 2319.

Pub. L. 105-56, title VIII, §8116, Oct. 8, 1997, 111 Stat. 1245.

#### PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 104-106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which required that in budget justification materials submitted to Congress in support of Department of Defense budget, the amount requested for activities of the Ballistic Missile Defense Organization be set forth in accordance with specified program elements, was repealed and restated as section 223 of this title by Pub. L. 105-261, div. A, title II, §235(a)(1), (b), Oct. 17, 1998, 112 Stat. 1953.

#### BUDGET SUBMISSIONS ON SALARIES AND EXPENSES RELATED TO ADMINISTRATIVE ACTIVITIES

Pub. L. 109-148, div. A, title VIII, §8032, Dec. 30, 2005, 119 Stat. 2705, provided that: “The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-287, title VIII, §8036, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108-87, title VIII, §8036, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107-248, title VIII, §8036, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107-117, div. A, title VIII, §8039, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106-259, title VIII, §8039, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106-79, title VIII, §8042, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105-262, title VIII, §8042, Oct. 17, 1998, 112 Stat. 2306.

Pub. L. 105-56, title VIII, §8046, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8047], Sept. 30, 1996, 110 Stat. 3009-71, 3009-98.

Pub. L. 104-61, title VIII, §8058, Dec. 1, 1995, 109 Stat. 663.

Pub. L. 103-335, title VIII, §8069, Sept. 30, 1994, 108 Stat. 2635.

Pub. L. 103-139, title VIII, §8082, Nov. 11, 1993, 107 Stat. 1458.

Pub. L. 102-396, title IX, §9132, Oct. 6, 1992, 106 Stat. 1936.

#### SUBMISSION OF MULTIYEAR DEFENSE PROGRAM

Pub. L. 101-510, div. A, title XIV, §1402(b), Nov. 5, 1990, 104 Stat. 1674, provided for limitations on obligation by Secretary of Defense of fiscal year 1991 advance procurement funds if, as of end of 90-day period beginning on date on which President’s budget for fiscal year 1992 was submitted to Congress, the Secretary had not submitted to Congress fiscal year 1992 multiyear defense program.

#### MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN BUDGET

Pub. L. 101-510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, directed President to submit with budget submitted to Congress each year of programs of Department of Defense, a budget that organizes programs within major functional category 050 (National Defense) on basis of major roles and missions of Department of Defense, prior to repeal by Pub. L. 102-484, div. A, title X, §1002(b), Oct. 23, 1992, 106 Stat. 2480. See section 222 of this title.

### § 222. Future-years mission budget

(a) FUTURE-YEARS MISSION BUDGET.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.

(b) CONSISTENCY WITH FUTURE-YEARS DEFENSE PROGRAM.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of major force programs.

(c) RELATIONSHIP TO OTHER DEFENSE BUDGET FORMATS.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year.

(Added Pub. L. 102-484, div. A, title X, §1002(a)(2), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103-337, div. A, title X, §1004, Oct. 5, 1994, 108 Stat. 2834; Pub. L. 110-181, div. A, title IX, §944(a), (b), Jan. 28, 2008, 122 Stat. 289, 290; Pub. L. 115-91, div. A, title X, §1081(a)(16), Dec. 12, 2017, 131 Stat. 1595.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101-510, div. A, title XIV, §1404, Nov. 5, 1990, 104 Stat. 1675, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102-484, §1002(b).

#### AMENDMENTS

2017—Subsec. (b). Pub. L. 115-91 substituted “major force programs.” for “both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.”

2008—Subsec. (a). Pub. L. 110-181, §944(a), amended last sentence generally. Prior to amendment, last sentence read as follows: “That budget shall be submitted for any fiscal year not later than 60 days after the date on which the President’s budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.”

Subsec. (b). Pub. L. 110-181, §944(b), substituted “on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.” for “on the basis of major roles, missions, or forces of the Department of Defense.”

1994—Subsec. (a). Pub. L. 103-337 substituted “not later than 60 days after the date on which” for “at the same time that”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title IX, §944(c), Jan. 28, 2008, 122 Stat. 290, provided that: “The amendments made by this section [amending this section] shall apply with respect to the future-years mission budget for fiscal year 2010 and each fiscal year thereafter.”

### § 222a. Unfunded priorities of the armed forces and combatant commands: annual report

(a) ANNUAL REPORT.—Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, each officer specified in subsection (b) shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees, a report on the unfunded priorities of the armed force or forces or combatant command under the jurisdiction or command of such officer.

(b) OFFICERS.—The officers specified in this subsection are the following:

- (1) The Chief of Staff of the Army.
- (2) The Chief of Naval Operations.
- (3) The Chief of Staff of the Air Force.
- (4) The Commandant of the Marine Corps.
- (5) The commanders of the combatant commands established under section 161 of this title.

(c) ELEMENTS.—

(1) IN GENERAL.—Each report under this subsection shall specify, for each unfunded priority covered by such report, the following:

(A) A summary description of such priority, including the objectives to be achieved if such priority is funded (whether in whole or in part).

(B) The additional amount of funds recommended in connection with the objectives under subparagraph (A).

(C) Account information with respect to such priority, including the following (as applicable):

(i) Line Item Number (LIN) for applicable procurement accounts.

(ii) Program Element (PE) number for applicable research, development, test, and evaluation accounts.

(iii) Sub-activity group (SAG) for applicable operation and maintenance accounts.

(2) PRIORITIZATION OF PRIORITIES.—Each report shall present the unfunded priorities covered by such report in order of urgency of priority.

(d) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority”, in the case of a fiscal year, means a program, activity, or mission requirement that—

(1) is not funded in the budget of the President for the fiscal year as submitted to Congress pursuant to section 1105 of title 31;

(2) is necessary to fulfill a requirement associated with an operational or contingency plan of a combatant command or other validated requirement; and

(3) would have been recommended for funding through the budget referred to in paragraph (1) by the officer submitting the report required by subsection (a) in connection with the budget if—

(A) additional resources been<sup>1</sup> available for the budget to fund the program, activity, or mission requirement; or

(B) the program, activity, or mission requirement has emerged since the budget was formulated.

(Added Pub. L. 114-328, div. A, title X, §1064(a)(1), Dec. 23, 2016, 130 Stat. 2408.)

#### ANNUAL REPORT ON UNFUNDED REQUIREMENTS FOR LABORATORY MILITARY CONSTRUCTION PROJECTS

Pub. L. 115-91, div. B, title XXVIII, §2806, Dec. 12, 2017, 131 Stat. 1847, provided that: “The Under Secretary of Defense for Research and Engineering, in coordination with the Assistant Secretary of Defense for Energy, Installations, and Environment, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] each year, at the time the budget of the President for the fiscal year beginning in such year is submitted to Congress under section 1105(a) of title 31, United States Code, a reporting listing unfunded requirements on major and minor military construction projects for Department of Defense science and technology laboratories and facilities and test and evaluation facilities, and shall include a Department of Defense Form DD1391 for each major

<sup>1</sup> So in original. Probably should be preceded by “had”.

and minor military construction project included in the report.”

**§ 223. Ballistic missile defense programs: program elements**

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency shall be set forth in accordance with such program elements as the President may specify.

(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTURING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term “engineering and manufacturing development” means the period in the course of an acquisition program during which the primary objectives are to—

(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

(Added Pub. L. 105–261, div. A, title II, §235(a)(1), Oct. 17, 1998, 112 Stat. 1953; amended Pub. L. 107–107, div. A, title II, §232(a), (b), Dec. 28, 2001, 115 Stat. 1037; Pub. L. 107–314, div. A, title II, §225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, §221(a), (b)(1), (c)(1), Nov. 24, 2003, 117 Stat. 1419.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 104–106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 105–261, §235(b).

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §221(a), inserted “by President” after “Specified” in heading, substituted “such program elements as the President may specify.” for “program elements governing functional areas as follows:” in introductory provisions, and struck out pars. (1) to (6), which read as follows:

“(1) Technology.

“(2) Ballistic Missile Defense System.

“(3) Terminal Defense Segment.

“(4) Midcourse Defense Segment.

“(5) Boost Defense Segment.

“(6) Sensors Segment.”

Subsec. (b)(2). Pub. L. 108–136, §221(c)(1), substituted “means the period in the course of an acquisition program during which the” for “means the development phase whose”.

Subsec. (c). Pub. L. 108–136, §221(b)(1), substituted “for a fiscal year for any program element specified for

that fiscal year pursuant to subsection (a)” for “for each program element specified in subsection (a)”.

2002—Subsec. (a). Pub. L. 107–314 substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization”.

2001—Subsec. (a). Pub. L. 107–107, §232(a), substituted “in accordance with program elements governing functional areas as follows:” for “in accordance with the following program elements:” in introductory provisions, added pars. (1) to (6), and struck out former pars. (1) to (12) which read as follows:

“(1) The Patriot system.

“(2) The Navy Area system.

“(3) The Theater High-Altitude Area Defense system.

“(4) The Navy Theater Wide system.

“(5) The Medium Extended Air Defense System.

“(6) Joint Theater Missile Defense.

“(7) National Missile Defense.

“(8) Support Technologies.

“(9) Family of Systems Engineering and Integration.

“(10) Ballistic Missile Defense Technical Operations.

“(11) Threat and Countermeasures.

“(12) International Cooperative Programs.”

Subsec. (b). Pub. L. 107–107, §232(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.”

ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 111–383, div. A, title II, §225, Jan. 7, 2011, 124 Stat. 4170, related to acquisition baselines, elements of baselines, and annual reports, prior to repeal by Pub. L. 112–81, div. A, title II, §231(b)(1), Dec. 31, 2011, 125 Stat. 1339.

BUDGET AND ACQUISITION REQUIREMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES

Pub. L. 110–181, div. A, title II, §223, Jan. 28, 2008, 122 Stat. 39, as amended by Pub. L. 112–81, div. A, title II, §231(b)(2), Dec. 31, 2011, 125 Stat. 1339, provided that:

“(a) REVISED BUDGET STRUCTURE.—The budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall set forth separately amounts requested for the Missile Defense Agency for each of the following:

“(1) Research, development, test, and evaluation.

“(2) Procurement.

“(3) Operation and maintenance.

“(4) Military construction.

“(b) REVISED BUDGET STRUCTURE FOR FISCAL YEAR 2009.—The budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall—

“(1) identify all known and estimated operation and support costs; and

“(2) set forth separately amounts requested for the Missile Defense Agency for each of the following:

“(A) Research, development, test, and evaluation.

“(B) Procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

“(C) Military construction.

“(c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL YEAR 2009.—Upon approval by the Secretary of Defense, and consistent with the plan submitted under subsection (f), funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2009 for research, development, test, and evaluation for the Missile Defense Agency—

“(1) may be used for the fielding of ballistic missile defense capabilities approved previously by Congress; and

“(2) may not be used for—

“(A) military construction activities; or

“(B) procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

“(d) FULL FUNDING REQUIREMENT NOT APPLICABLE TO USE OF PROCUREMENT FUNDS FOR FISCAL YEARS 2009 AND 2010.—In any case in which funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement for the Missile Defense Agency for fiscal years 2009 and 2010 are used for the fielding of ballistic missile defense capabilities, the funds may be used for the fielding of those capabilities on an ‘incremental’ basis, notwithstanding any law or policy of the Department of Defense that would otherwise require a ‘full funding’ basis.

“(e) RELATIONSHIP TO OTHER LAW.—Nothing in this provision shall be construed to alter or otherwise affect in any way the applicability of the requirements and other provisions of section 234(a) through (d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1837; 10 U.S.C. 2431 note).

“(f) PLAN REQUIRED.—Not later than March 1, 2008, the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for transitioning the Missile Defense Agency from using exclusively research, development, test, and evaluation funds to using procurement, military construction, operations and maintenance, and research, development, test, and evaluation funds for the appropriate budget activities, and for transitioning from incremental funding to full funding for fiscal years after fiscal year 2010.”

#### REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 107–314, div. A, title II, § 225(a), Dec. 2, 2002, 116 Stat. 2486, provided that: “Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency.”

#### COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM ELEMENT

Pub. L. 105–85, div. A, title II, § 233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107–314, div. A, title II, § 225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, provided that:

“(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Missile Defense Agency, to be referred to as the ‘Cooperative Ballistic Missile Defense Program’, to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

“(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act [Nov. 18, 1997] is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

“(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Missile Defense Agency required under

section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 233; [former] 10 U.S.C. 221 note).”

#### § 223a. Ballistic missile defense programs: procurement

(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(Added Pub. L. 108–136, div. A, title II, § 223(a)(1), Nov. 24, 2003, 117 Stat. 1420; amended Pub. L. 113–291, div. A, title X, § 1060(a)(1), Dec. 19, 2014, 128 Stat. 3502.)

#### AMENDMENTS

2014—Subsec. (d). Pub. L. 113–291 struck out subsec. (d). Text read as follows: “The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY OF TEST PLANS

Pub. L. 108–136, div. A, title II, § 223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

#### § 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title



31 for any fiscal year for research, development, test, and evaluation for the integration of a ballistic missile defense element into the overall ballistic missile defense architecture shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation and, within that account, under the subaccount (or other budget activity level) for the Missile Defense Agency.

(b) **TRANSFER CRITERIA.**—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

(A) The technical maturity of the program.

(B) The availability of facilities for production.

(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

(c) **NOTIFICATION OF TRANSFER.**—Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

(d) **CONFORMING BUDGET AND PLANNING TRANSFERS.**—When a ballistic missile defense program is transferred from the Missile Defense Agency to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

(e) **FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.**—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly delineated.

(Added Pub. L. 105–85, div. A, title II, §232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107–107, div. A, title II, §231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107–314, div. A, title II, §§222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108–136, div. A, title II, §226, title X, §1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611.)

## AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §226(b), substituted “the integration of a ballistic missile defense element into the overall ballistic missile defense architecture” for “a Department of Defense missile defense program described in subsection (b)”.

Subsec. (e). Pub. L. 108–136, §226(a), substituted “before a” for “for each”, inserted “is” before “transferred”, and substituted “roles and responsibilities” for “responsibility” and “are clearly delineated” for “remains with the Director”.

Subsec. (f). Pub. L. 108–136, §1043(b)(4), struck out heading and text of subsec. (f). Text read as follows: “In this section, the term ‘congressional defense committees’ means the following:

“(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

“(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

2002—Subsecs. (a), (b)(1), (c), (d). Pub. L. 107–314, §225(b)(1)(A), substituted “Missile Defense Agency” for “Ballistic Missile Defense Organization”.

Subsec. (e). Pub. L. 107–314 substituted “for each” for “before a”, “transferred” for “is transferred”, “Missile Defense Agency” for “Ballistic Missile Defense Organization”, and “responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director” for “roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined”.

2001—Pub. L. 107–107, §231(b)(1), substituted “research, development, test, and evaluation” for “procurement” in section catchline.

Subsec. (a). Pub. L. 107–107, §231(a)(1), substituted “research, development, test, and evaluation” for “procurement” in two places.

Subsecs. (b) to (f). Pub. L. 107–107, §231(a)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) and (c) which related to covered programs and core theater ballistic missile defense program, respectively.

### § 225. Acquisition accountability reports on the ballistic missile defense system

(a) **BASELINES REQUIRED.**—(1) In accordance with paragraph (2), the Director of the Missile Defense Agency shall establish and maintain an acquisition baseline for—

(A) each program element of the ballistic missile defense system, as specified in section 223 of this title; and

(B) each designated major subprogram of such program elements.

(2) The Director shall establish an acquisition baseline required by paragraph (1) before the date on which the program element or major subprogram enters—

(A) engineering and manufacturing development (or its equivalent); and

(B) production and deployment.

(3) Except as provided by subsection (d), the Director may not adjust or revise an acquisition baseline established under this section.

(b) **ELEMENTS OF BASELINES.**—Each acquisition baseline required by subsection (a) for a program element or major subprogram shall include the following:

(1) A comprehensive schedule, including—

(A) research and development milestones;

(B) acquisition milestones, including design reviews and key decision points;

(C) key test events, including ground and flight tests and ballistic missile defense system tests;

- (D) delivery and fielding schedules;
- (E) quantities of assets planned for acquisition and delivery in total and by fiscal year; and
- (F) planned contract award dates.

(2) A detailed technical description of—

- (A) the capability to be developed, including hardware and software;

- (B) system requirements, including performance requirements;

- (C) how the proposed capability satisfies a capability identified by the commanders of the combatant commands on a prioritized capabilities list;

- (D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and

- (E) how the Director plans to improve the capability over time.

(3) A cost estimate, including—

- (A) a life-cycle cost estimate that separately identifies the costs regarding research and development, procurement, military construction, operations and sustainment, and disposal;

- (B) program acquisition unit costs for the program element;

- (C) average procurement unit costs and program acquisition costs for the program element; and

- (D) an identification of when the document regarding the program joint cost analysis requirements description is scheduled to be approved.

- (4) A test baseline summarizing the comprehensive test program for the program element or major subprogram outlined in the integrated master test plan.

(c) ANNUAL REPORTS ON ACQUISITION BASELINES.—(1) Not later than February 15 of each year, the Director shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a).

(2)(A) The first report under paragraph (1) shall set forth each acquisition baseline required by subsection (a) for a program element or major subprogram.

(B) Each subsequent report under paragraph (1) shall include—

- (i) any new acquisition baselines required by subsection (a) for a program element or major subprogram; and

- (ii) with respect to an acquisition baseline that was previously included in a report under paragraph (1), an identification of any changes or variances made to the elements described in subsection (b) for such acquisition baseline, as compared to—

- (I) the initial acquisition baseline for such program element or major subprogram; and

- (II) the acquisition baseline for such program element or major subprogram that was submitted in the report during the previous year.

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

(d) EXCEPTION TO LIMITATION ON REVISION.—The Director may adjust or revise an acquisition

baseline established under this section if the Director submits to the congressional defense committees notification of—

- (1) a justification for such adjustment or revision;

- (2) the specific adjustments or revisions made to the acquisition baseline, including to the elements described in subsection (b); and

- (3) the effective date of the adjusted or revised acquisition baseline.

(e) OPERATIONS AND SUSTAINMENT COST ESTIMATES.—The Director shall ensure that each life-cycle cost estimate included in an acquisition baseline pursuant to subsection (b)(3)(A) includes—

- (1) all of the operations and sustainment costs for which the Director is responsible; and

- (2) a description of the operations and sustainment functions and costs for which a military department is responsible.

(Added Pub. L. 112–81, div. A, title II, §231(a)(1), Dec. 31, 2011, 125 Stat. 1337; amended Pub. L. 113–66, div. A, title II, §231(b), Dec. 26, 2013, 127 Stat. 711.)

#### AMENDMENTS

2013—Subsec. (e). Pub. L. 113–66 added subsec. (e).

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### IMPROVEMENT TO OPERATIONS AND SUSTAINMENT COST ESTIMATES

Pub. L. 113–66, div. A, title II, §231(a), Dec. 26, 2013, 127 Stat. 710, provided that: “In preparing the acquisition accountability reports on the ballistic missile defense system required by section 225 of title 10, United States Code, the Director of the Missile Defense Agency shall improve the quality of cost estimates relating to operations and sustainment that are included in such reports under subsection (b)(3)(A) of such section, including with respect to the confidence levels of such cost estimates.”

#### **[§ 226. Repealed. Pub. L. 112–81, div. A, title X, § 1061(3)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, added Pub. L. 102–190, div. A, title X, §1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, §221; renumbered §226, Pub. L. 102–484, div. A, title X, §1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–160, div. A, title XI, §1104, Nov. 30, 1993, 107 Stat. 1749; Pub. L. 108–136, div. A, title X, §1031(a)(5), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 109–364, div. A, title X, §1007, Oct. 17, 2006, 120 Stat. 2373, related to scoring of outlays by the Director of the Office of Management and Budget and the Director of the Congressional Budget Office.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, §5(a), Nov. 29, 1989, 103 Stat. 1364, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102–190, §1002(b)(1).

#### **[§ 227. Repealed. Pub. L. 104–106, div. A, title X, § 1061(f)(1), Feb. 10, 1996, 110 Stat. 443]**

Section, added Pub. L. 103–160, div. A, title III, §374(a), Nov. 30, 1993, 107 Stat. 1636, directed Secretary of Defense to include recruiting costs in budget justification documents submitted to Congress each year in connection with submission of budget.

**[§ 228. Repealed. Pub. L. 114-92, div. A, title X, § 1073(a)(1), Nov. 25, 2015, 129 Stat. 995]**

Section, added Pub. L. 105-85, div. A, title III, § 321(a)(1), Nov. 18, 1997, 111 Stat. 1672; amended Pub. L. 107-314, div. A, title III, § 361, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108-136, div. A, title X, §§ 1031(a)(6)(A), (B)(i), 1043(b)(5), Nov. 24, 2003, 117 Stat. 1596, 1611; Pub. L. 112-81, div. A, title X, § 1064(4)(A), (B)(i), Dec. 31, 2011, 125 Stat. 1587, related to biannual reports on allocation of funds within operation and maintenance budget sub-activities.

**§ 229. Programs for combating terrorism: display of budget information**

(a) **SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.**—The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President’s annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.

(b) **REQUIREMENTS FOR BUDGET DISPLAY.**—The budget display under subsection (a) shall include—

(1) the amount requested, by appropriation and functional area, for each of the program elements, projects, and initiatives that support the Department of Defense combating terrorism program, with supporting narrative descriptions and rationale for the funding levels requested; and

(2) a summary, to the program element and project level of detail, of estimated expenditures for the current year, funds requested for the budget year, and budget estimates through the completion of the current future-years defense plan for the Department of Defense combating terrorism program.

(c) **EXPLANATION OF INCONSISTENCIES.**—As part of the budget display under subsection (a) for any fiscal year, the Secretary shall identify and explain—

(1) any inconsistencies between (A) the information submitted under subsection (b) for that fiscal year, and (B) the information provided to the Director of the Office of Management and Budget in support of the annual report of the President to Congress on funding for executive branch counterterrorism and antiterrorism programs and activities for that fiscal year in accordance with section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998 (31 U.S.C. 1113 note); and

(2) any inconsistencies between (A) the execution, during the previous fiscal year and the current fiscal year, of programs and activities of the Department of Defense combating terrorism program, and (B) the funding and specification for such programs and activities for those fiscal years in the manner provided by Congress (both in statutes and in relevant legislative history).

(d) **DEPARTMENT OF DEFENSE COMBATING TERRORISM PROGRAM.**—In this section, the term “Department of Defense combating terrorism program” means the programs, projects, and activities of the Department of Defense related to combating terrorism inside and outside the United States.

(e) **TERMINATION.**—The requirement to submit a budget justification display under this section shall terminate on December 31, 2020.

(Added Pub. L. 106-65, div. A, title IX, § 932(b)(1), Oct. 5, 1999, 113 Stat. 727; amended Pub. L. 108-136, div. A, title X, § 1043(b)(6), Nov. 24, 2003, 117 Stat. 1611; Pub. L. 114-92, div. A, title X, § 1044, Nov. 25, 2015, 129 Stat. 977; Pub. L. 115-91, div. A, title X, § 1032, Dec. 12, 2017, 131 Stat. 1550.)

REFERENCES IN TEXT

Section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(1), is section 1051(b) of Pub. L. 105-85, which is set out as a note under section 1113 of Title 31, Money and Finance.

AMENDMENTS

2017—Subsec. (e). Pub. L. 115-91 added subsec. (e).

2015—Subsecs. (d), (e). Pub. L. 114-92 redesignated subsec. (e) as (d) and struck out former subsec. (d). Prior to amendment, text of subsec. (d) read as follows: “The Secretary shall submit to the congressional defense committees a semiannual report on the obligation and expenditure of funds for the Department of Defense combating terrorism program. Such reports shall be submitted not later than April 15 each year, with respect to the first half of a fiscal year, and not later than November 15 each year, with respect to the second half of a fiscal year. Each such report shall compare the amounts of those obligations and expenditures to the amounts authorized and appropriated for the Department of Defense combating terrorism program for that fiscal year, by budget activity, sub-budget activity, and program element or line item. The second report for a fiscal year shall show such information for the second half of the fiscal year and cumulatively for the whole fiscal year. The report shall be submitted in unclassified form, but may have a classified annex.”

2003—Subsec. (f). Pub. L. 108-136 struck out heading and text of subsec. (f). Text read as follows: “In this section, the term ‘congressional defense committees’ means—

“(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

PRIORITIZATION OF FUNDS FOR EQUIPMENT READINESS AND STRATEGIC CAPABILITY

Pub. L. 109-364, div. A, title III, § 323, Oct. 17, 2006, 120 Stat. 2146, as amended by Pub. L. 110-181, div. A, title III, § 353, Jan. 28, 2008, 122 Stat. 72; Pub. L. 111-383, div. A, title III, § 332(a)-(f), Jan. 7, 2011, 124 Stat. 4185, 4187; Pub. L. 113-66, div. A, title III, § 332, Dec. 26, 2013, 127 Stat. 739, provided that:

“(a) **PRIORITIZATION OF FUNDS.**—The Secretary of Defense shall take such steps as may be necessary through the planning, programming, budgeting, and execution systems of the Department of Defense to ensure that financial resources are provided for each fiscal year as necessary to enable—

“(1) the Secretary of each military department to meet the requirements of that military department for that fiscal year for the repair, recapitalization, and replacement of equipment used in overseas contingency operations; and

“(2) the Secretary of the Army to meet the requirements of the Army, and the Secretary of the Navy to meet the requirements of the Marine Corps, for that fiscal year, in addition to the requirements under

paragraph (1), for the reconstitution of equipment and materiel in prepositioned stocks in accordance with requirements under the policy or strategy implemented under the guidelines in section 2229 of title 10, United States Code.

“(b) SUBMISSION OF BUDGET INFORMATION.—

“(1) SUBMISSION OF INFORMATION.—As part of the budget justification materials submitted to Congress in support of the President’s budget for a fiscal year or a request for supplemental appropriations, the Secretary of Defense shall include the following:

“(A) The information described in paragraph (2) for the fiscal year for which the budget justification materials are submitted, the fiscal year during which the materials are submitted, and the preceding fiscal year.

“(B) The information described in paragraph (2) for each of the fiscal years covered by the future-years defense program for the fiscal year in which the report is submitted based on estimates of any amounts required to meet each of the requirements under subsection (a) that are not met for that fiscal year and are deferred to the future-years defense program.

“(C) A consolidated budget justification summary of the information submitted under subparagraphs (A) and (B).

“(2) INFORMATION DESCRIBED.—The information described in this paragraph is information that clearly and separately identifies, by appropriations account, budget activity, activity group, sub-activity group, and program element or line item, the amounts requested for the programs, projects, and activities of—

“(A) each of the military departments for the repair, recapitalization, or replacement of equipment used in overseas contingency operations; and

“(B) the Army and the Marine Corps for the reconstitution of equipment and materiel in prepositioned stocks.

“(c) CONTINGENCY OPERATION DEFINED.—In this section, the term ‘contingency operation’ has the meaning given that term in section 101(a)(13) of title 10, United States Code.”

**QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM**

Pub. L. 108–375, div. A, title X, §1041, Oct. 28, 2004, 118 Stat. 2048, which required the Secretary of Defense to submit quarterly reports on Operation Iraqi Freedom, Operation Enduring Freedom, Operation Noble Eagle, and any other operation designated by the President as being an operation of the Global War on Terrorism, was repealed by Pub. L. 112–81, div. A, title X, §1062(f)(2), Dec. 31, 2011, 125 Stat. 1585.

**[§ 230. Repealed. Pub. L. 107–314, div. A, title X, § 1041(a)(2)(A), Dec. 2, 2002, 116 Stat. 2645]**

Section, added Pub. L. 106–65, div. A, title X, §1041(a)(1), Oct. 5, 1999, 113 Stat. 758; amended Pub. L. 106–398, §1 [[div. A], title X, §1075(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, related to inclusion in the budget justification materials submitted to Congress of specific identification of amounts required for declassification of records.

**§ 231. Budgeting for construction of naval vessels: annual plan and certification**

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year each of the following:

(1) A plan for the construction of naval vessels developed in accordance with this section for each of the following classes of ships: and<sup>1</sup>

(A) Combatant and support vessels.

(B) Auxiliary vessels.

(2) A certification by the Secretary that both the budget for that 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 construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1) shall be designed so that the naval vessel force provided for under that plan supports the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan shall be designed so that the naval vessel force provided for under that plan supports the ship force structure recommended in the report of the most recent quadrennial defense review.

(2) Each such naval vessel construction plan shall include the following:

(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

(B) A detailed program for the construction of auxiliary vessels for the Navy over the next 30 fiscal years.

(C) A description of the necessary naval vessel force structure and capabilities to meet the requirements of the national security strategy of the United States or the most recent quadrennial defense review, whichever is applicable under paragraph (1).

(D) The estimated levels of annual funding by ship class in both graphical and tabular form necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

(E) The estimated total cost of construction for each vessel used to determine estimated levels of annual funding under subparagraph (D).

(c) ASSESSMENT WHEN ANNUAL NAVAL VESSEL CONSTRUCTION PLAN DOES NOT MEET FORCE STRUCTURE REQUIREMENTS.—If the annual naval vessel construction plan for a fiscal year under subsection (b) does not result in a force structure or capabilities that meet the requirements identified in subsection (b)(2)(B), the Secretary shall include with the defense budget materials for that fiscal year an assessment of the extent of the strategic and operational risk to national security associated with the reduced force structure of naval vessels over the period of time that the required force structure or capabilities are not achieved. Such assessment shall include an

<sup>1</sup> So in original.

analysis of whether the risks are acceptable, and plans to mitigate such risks. Such assessment shall be coordinated in advance with the commanders of the combatant commands and the Nuclear Weapons Council under section 179 of this title.

(d) CBO EVALUATION.—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a)(1), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which the plan is submitted and the future-years defense program submitted under section 221 of this title.

(e) LIMITATION ON AVAILABILITY OF FUNDS FOR FISCAL YEARS WITHOUT PLAN AND CERTIFICATION.—(1) If the Secretary of Defense does not include with the defense budget materials for a fiscal year the plan and certification under subsection (a), the Secretary of the Navy may not use more than 50 percent of the funds described in paragraph (2) during the fiscal year in which such materials are submitted until the date on which such plan and certification are submitted to the congressional defense committees.

(2) The funds described in this paragraph are funds made available to the Secretary of the Navy for operation and maintenance, Navy, for emergencies and extraordinary expenses.

(f) DEFINITIONS.—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term “quadrennial defense review” means the review of the defense programs and policies of the United States that is carried out every four years under section 118<sup>1</sup> of this title.

(4) The term “combatant and support vessel” means any commissioned ship built or armed for naval combat or any naval ship designed to provide support to combatant ships and other naval operations. Such term does not include patrol coastal ships, non-commissioned combatant craft specifically designed for combat roles, or ships that are designated for potential mobilization.

(5) The term “auxiliary vessel” means any ship designed to operate in the open ocean in a variety of sea states to provide general support to either combatant forces or shore based establishments.

(Added Pub. L. 107-314, div. A, title X, §1022(a)(1), Dec. 2, 2002, 116 Stat. 2639; amended Pub. L. 111-383, div. A, title X, §1023(a), Jan. 7, 2011, 124 Stat. 4349; Pub. L. 112-81, div. A, title X, §1011(a), Dec. 31, 2011, 125 Stat. 1558; Pub. L. 112-239, div. A, title X, §1014(a), Jan. 2, 2013, 126 Stat. 1908; Pub. L. 113-66, div. A, title X, §1021,

Dec. 26, 2013, 127 Stat. 844; Pub. L. 113-291, div. A, title X, §§1021, 1071(c)(2), Dec. 19, 2014, 128 Stat. 3486, 3508; Pub. L. 114-92, div. A, title X, §1021, Nov. 25, 2015, 129 Stat. 965; Pub. L. 115-91, div. A, title X, §1021(d), Dec. 12, 2017, 131 Stat. 1547.)

#### REFERENCES IN TEXT

Section 118 of this title, referred to in subsec. (f)(3), was repealed by Pub. L. 114-328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367. For provisions related to national defense strategy similar to those contained in former section 118, see section 113(g) of this title.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, §1021(d)(1)(A), substituted “year each of the following:” for “year—” in introductory provisions.

Subsec. (a)(1). Pub. L. 115-91, §1021(d)(1)(B), substituted “A plan for the construction of naval vessels developed in accordance with this section for each of the following classes of ships:” for “a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section;” and added subpars. (A) and (B).

Subsec. (a)(2). Pub. L. 115-91, §1021(d)(1)(C), substituted “A certification” for “a certification”.

Subsec. (b)(2)(B) to (D). Pub. L. 115-91, §1021(d)(2)(A), (B), added subpar. (B) and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (b)(2)(E). Pub. L. 115-91, §1021(d)(2)(C), substituted “subparagraph (D)” for “subparagraph (C)”.

Pub. L. 115-91, §1021(d)(2)(A), redesignated subpar. (D) as (E).

Subsec. (f)(5). Pub. L. 115-91, §1021(d)(3), added par. (5).

2015—Subsec. (b)(2)(C). Pub. L. 114-92 inserted “by ship class in both graphical and tabular form” after “The estimated levels of annual funding”.

2014—Subsec. (b)(1). Pub. L. 113-291, §1071(c)(2), substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

Subsec. (f)(4). Pub. L. 113-291, §1021, added par. (4).

2013—Subsec. (b)(1). Pub. L. 113-66, §1021(a)(1), substituted “shall be designed” for “should be designed” in two places and “supports” for “is capable of supporting” in two places.

Subsec. (b)(2)(B). Pub. L. 113-66, §1021(a)(2)(A), inserted “and capabilities” after “naval vessel force structure”.

Subsec. (b)(2)(D). Pub. L. 113-66, §1021(a)(2)(B), added subpar. (D).

Subsec. (c). Pub. L. 113-66, §1021(b), added subsec. (c) and struck out former subsec. (c). Text read as follows: “If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.”

Subsecs. (e), (f). Pub. L. 112-239 added subsec. (e) and redesignated former subsec. (e) as (f).

2011—Pub. L. 112-81 amended section generally. Prior to amendment, section related to submission of a long-range plan for construction of combatant and support naval vessels that supports the force structure recommendations of a quadrennial defense review.

Pub. L. 111-383 amended section generally. Prior to amendment, section related to submission of an annual plan for construction of naval vessels and certification that the budget for the current fiscal year and the future-years defense program is sufficient for procurement of vessels provided for in the plan.

<sup>1</sup> See References in Text note below.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

**§ 231a. Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification**

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—Not later than 45 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—

(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy, the Department of the Army, and the Department of the Air Force developed in accordance with this section; and

(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)(1) 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 security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 3043), except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

(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 Navy, the Department of the Army, and the Department of the Air Force over the next 30 fiscal years.

(B) A description of the necessary aviation force structure to meet the requirements of the national military strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

(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 or derived from the cost estimate position of the Cost Analysis and Program Evaluation office of the Secretary of Defense;

(ii) if the cost estimate position of the military department and the cost estimate position of the Cost Analysis and Program Evaluation office differ by more than .5 percent for any aircraft program, an annotated cost estimate difference and sufficient rationale to explain the difference; and

(iii) the confidence or certainty level associated with the cost estimate for each aircraft program.

(F) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Navy, the Department of the Army, and the Department of the Air Force meet the national security requirements of the United States.

(3) For any cost estimate required by paragraph (2)(C) or (D), for any aircraft program for which the Secretary is required to include in a report under section 2432 of this title, the source of the cost information used to prepare the annual aircraft plan, shall be sourced 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 plan is prepared.

(4) The annual aircraft procurement plan shall be submitted in unclassified form and shall contain a classified annex.

(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy, the Department of the Army, 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 Depart-

ment for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

(e) DEFINITIONS.—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “Quadrennial Defense Review” means the review of the defense programs and policies of the United States that is carried out every 4 years under section 118<sup>1</sup> of this title.

(Added Pub. L. 110–417, [div. A], title I, §141(a), Oct. 14, 2008, 122 Stat. 4379; amended Pub. L. 112–81, div. A, title X, §1069(a), (b), Dec. 31, 2011, 125 Stat. 1589, 1591; Pub. L. 113–66, div. A, title X, §1091(a)(5), Dec. 26, 2013, 127 Stat. 875; Pub. L. 113–291, div. A, title X, §1071(c)(2), Dec. 19, 2014, 128 Stat. 3508; Pub. L. 114–328, div. A, title I, §137, Dec. 23, 2016, 130 Stat. 2039.)

#### REFERENCES IN TEXT

Section 118 of this title, referred to in subsec. (e)(2), was repealed by Pub. L. 114–328, div. A, title IX, §941(b)(1), Dec. 23, 2016, 130 Stat. 2367. For provisions related to national defense strategy similar to those contained in former section 118 prior to repeal, see section 113(g) of this title.

#### AMENDMENTS

2016—Subsecs. (e), (f). Pub. L. 114–328 redesignated subsec. (f) as (e) and struck out former subsec. (e), which required the Secretary of Defense to include a report on the aircraft in the inventory of the Department of Defense as part of the annual plan and certification required to be submitted under this section.

2014—Subsec. (c)(1). Pub. L. 113–291 substituted “(50 U.S.C. 3043)” for “(50 U.S.C. 404a)”.

2013—Subsec. (a). Pub. L. 113–66 substituted “fiscal year, the Secretary of Defense” for “fiscal year of Defense” in introductory provisions.

2011—Pub. L. 112–81, §1069(b), amended section catchline generally, substituting “Budgeting for life-cycle cost of aircraft for the Navy, Army, and Air Force: annual plan and certification” for “Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification”.

Subsec. (a). Pub. L. 112–81, §1069(a)(1)(A), substituted “Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year” for “The Secretary” and “submit to the congressional defense committees” for “include with the defense budget materials for each fiscal year” in introductory provisions.

Subsec. (a)(1). Pub. L. 112–81, §1069(a)(1)(B), inserted “, the Department of the Army,” after “Navy”.

Subsec. (b)(4). Pub. L. 112–81, §1069(a)(2)(A), substituted “Intertheater” for “Strategic”.

Subsec. (b)(8) to (11). Pub. L. 112–81, §1069(a)(2)(B), (C), added pars. (8) to (10) and redesignated former par. (8) as (11).

Subsec. (c)(1). Pub. L. 112–81, §1069(a)(3)(A), substituted “national military strategy of the United States” for “national security strategy of the United States”.

Subsec. (c)(2)(A). Pub. L. 112–81, §1069(a)(3)(B)(i), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(2)(B). Pub. L. 112–81, §1069(a)(3)(B)(ii), substituted “national military strategy of the United States” for “national security strategy of the United States”.

Subsec. (c)(2)(C). Pub. L. 112–81, §1069(a)(3)(B)(iii)(II), (III), substituted “each aircraft program” for “the program” and inserted before period at end “, set forth in aggregate for the Department of Defense and in aggregate for each military department”.

Pub. L. 112–81, §1069(a)(3)(B)(iii)(I), which directed the insertion of “investment” before “funding”, was executed by inserting “investment” before “funding” both places it appeared, to reflect the probable intent of Congress.

Subsec. (c)(2)(D) to (F). Pub. L. 112–81, §1069(a)(3)(B)(iv)–(vi), added subpars. (D) and (E), redesignated former subpar. (D) as (F), and, in subpar. (F), inserted “, the Department of the Army,” after “Navy”.

Subsec. (c)(3), (4). Pub. L. 112–81, §1069(a)(3)(C), added pars. (3) and (4).

Subsec. (d). Pub. L. 112–81, §1069(a)(4), inserted “, the Department of the Army,” after “Navy”.

Subsec. (e). Pub. L. 112–81, §1069(a)(6), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 112–81, §1069(a)(5), (7), redesignated subsec. (e) as (f), redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### § 232. Repealed. Pub. L. 112–239, div. A, title X, § 1081(1)(A), Jan. 2, 2013, 126 Stat. 1960]

Section, added Pub. L. 108–375, div. A, title II, §214(a), Oct. 28, 2004, 118 Stat. 1834, provided that amounts for research, development, test, and evaluation for the United States Joint Forces Command would be derived only from Defense-wide amounts and required a separate display for such amounts in the budget.

#### § 233. Operation and maintenance budget presentation

(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President’s budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

(c) DEFINITIONS.—In this section:

(1) The term “O&M justification documents” means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the

<sup>1</sup> See References in Text note below.

congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

(2) The term "President's budget" means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

(3) The term "current year" means the fiscal year during which the President's budget is submitted in any year.

(Added Pub. L. 108-375, div. A, title X, §1003(a)(1), Oct. 28, 2004, 118 Stat. 2035.)

**§ 234. POW/MIA activities: display of budget information**

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

(3) The amount in the budget for that organization.

(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph (1), when compared to the amount shown pursuant to paragraph (3).

(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term "Department of Defense POW/MIA accounting and recovery organization" means any of the following (and any successor organization):

(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

(2) The Joint POW/MIA Accounting Command (JPAC).

(3) The Armed Forces DNA Identification Laboratory (AFDIL).

(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

(d) OTHER DEFINITIONS.—In this section:

(1) The term "defense budget materials", with respect to a fiscal year, means the mate-

rials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(2) The term "budget", with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(Added Pub. L. 109-364, div. A, title V, §563(a), Oct. 17, 2006, 120 Stat. 2221.)

**§ 235. Procurement of contract services: specification of amounts requested in budget**

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include the information described in subsection (b) with respect to the procurement of contract services.

(b) INFORMATION PROVIDED.—For each budget account, the materials submitted shall clearly and separately identify—

(1) the amount requested for the procurement of contract services for each Department of Defense component, installation, or activity; and

(2) the number of full-time contractor employees (or the equivalent of full-time in the case of part-time contractor employees) projected and justified for each Department of Defense component, installation, or activity based on the inventory of contracts for services required by subsection (c) of section 2330a of this title and the review required by subsection (e) of such section.

(c) CONTRACT SERVICES DEFINED.—In this section, the term "contract services"—

(1) means services from contractors; but

(2) excludes services relating to research and development and services relating to military construction.

(Added Pub. L. 111-84, div. A, title VIII, §803(a)(1), Oct. 28, 2009, 123 Stat. 2401.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 110-181, div. A, title VIII, §806, Jan. 28, 2008, 122 Stat. 213, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 111-84, §803(a)(3).

**§ 236. Personal protection equipment procurement: display of budget information**

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2014, a consolidated budget justification display that covers all programs and activities associated with the procurement of personal protection equipment during the period covered by the future-years defense program submitted in that fiscal year under section 221.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The consolidated budget justification display under subsection (a) for a fiscal year shall include the following:

(1) The amount for personal protection equipment included in both the base budget of



the President and any overseas contingency operations budget of the President.

(2) A brief description of each category of personal protection equipment for each military department planned to be procured and developed.

(3) For each category planned to be procured using funds made available for operation and maintenance (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, budget activity, and subactivity group for the category; and

(B) the funding profile for the fiscal year as requested, including cost and quantities, and an estimate of projected investments or procurements for each of the subsequent five fiscal years.

(4) For each category planned to be developed using funds made available for research, development, test, and evaluation (whether under the base budget or any overseas contingency operations budget)—

(A) the relevant appropriations account, program, project or activity; program element number, and line number; and

(B) the funding profile for the fiscal year as requested and an estimate of projected investments for each of the subsequent five fiscal years.

(c) DEFINITIONS.—In this section:

(1) The terms “budget” and “defense budget materials” have the meaning given those terms in section 234 of this title.

(2) The term “category of personal protection equipment” means the following:

(A) Body armor components.

(B) Combat helmets.

(C) Combat protective eyewear.

(D) Other items as determined appropriate by the Secretary.

(Added Pub. L. 113-66, div. A, title I, § 141(a), Dec. 26, 2013, 127 Stat. 696.)

**§ 237. Embedded mental health providers of the reserve components: display of budget information**

The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President’s annual budget for the Department of Defense, a budget justification display with respect to embedded mental health providers within each reserve component, including the amount requested for each such component.

(Added Pub. L. 113-66, div. A, title VII, § 721(a), Dec. 26, 2013, 127 Stat. 799.)

**§ 238. Cyber mission forces: program elements**

(a) BUDGET JUSTIFICATION DISPLAY.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for fiscal year 2017 and each fiscal year thereafter, a budget justification display that includes—

(1) a major force program category for the five-year defense plan of the Department of Defense for the training, manning, and equipment of the cyber mission forces; and

(2) program elements for the cyber mission forces.

(b) WAIVER.—The Secretary may waive the requirement under subsection (a) for fiscal year 2017 if the Secretary—

(1) determines the Secretary is unable to comply with such requirement for fiscal year 2017; and

(2) establishes a plan to implement the requirement for fiscal year 2018.

(Added Pub. L. 113-291, div. A, title XVI, § 1631(a)(1), Dec. 19, 2014, 128 Stat. 3637.)

**TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective Dec. 31, 2021, of provisions of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

**§ 239. National security space programs: major force program and budget assessment**

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for national security space programs pursuant to section 222(b) of this title to prioritize national security space activities in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2017 through 2020 a report on the budget for national security space programs of the Department of Defense.

(2) Each report on the budget for national security space programs of the Department of Defense under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title, and the amounts appropriated for such programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(Added Pub. L. 114-92, div. A, title XVI, § 1601(a)(1), Nov. 25, 2015, 129 Stat. 1095.)

PLAN TO CARRY OUT UNIFIED MAJOR FORCE PROGRAM DESIGNATION

Pub. L. 114-92, div. A, title XVI, §1601(b), Nov. 25, 2015, 129 Stat. 1096, provided that: “Not later than 180 days after the date of the enactment of this Act [Nov. 25, 2015], the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan to carry out the unified major force program designation required by section 239(a) of title 10, United States Code, as added by subsection (a)(1), including any recommendations for legislative action the Secretary determines appropriate.”

**§ 239a. Missile defense and defeat programs: major force program and budget assessment**

(a) ESTABLISHMENT OF MAJOR FORCE PROGRAM.—The Secretary of Defense shall establish a unified major force program for missile defense and defeat programs pursuant to section 222(b) of this title to prioritize missile defense and defeat programs in accordance with the requirements of the Department of Defense and national security.

(b) BUDGET ASSESSMENT.—(1) The Secretary shall include with the defense budget materials for each of fiscal years 2019 through 2023 a report on the budget for missile defense and defeat programs of the Department of Defense.

(2) Each report on the budget for missile defense and defeat programs of the Department under paragraph (1) shall include the following:

(A) An overview of the budget, including—

(i) a comparison between that budget, the previous budget, the most recent and prior future-years defense program submitted to Congress under section 221 of this title (such comparison shall exclude the responsibility for research and development of the continuing improvement of such missile defense and defeat program), and the amounts appropriated for such missile defense and defeat programs during the previous fiscal year; and

(ii) the specific identification, as a budgetary line item, for the funding under such programs.

(B) An assessment of the budget, including significant changes, priorities, challenges, and risks.

(C) Any additional matters the Secretary determines appropriate.

(3) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) The term “budget”, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term “defense budget materials”, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term “missile defense and defeat programs” means active and passive ballistic missile defense programs, cruise missile defense programs for the homeland, and missile defeat programs.

(Added Pub. L. 115-91, div. A, title XVI, §1676(a)(1), Dec. 12, 2017, 131 Stat. 1771.)

**CHAPTER 9A—AUDIT**

Sec.	
251.	Audit of Department of Defense financial statements.
252.	Financial Improvement and Audit Remediation Plan.
253.	Audit: consolidated corrective action plan; centralized reporting system.
254.	Audits: audit of financial statements of Department of Defense components by independent external auditors.
254a.	Audits: use of commercial data integration and analysis products in preparing audits.
254b.	Audits: selection of service providers for audit services.

CODIFICATION

Chapter enacted and added after chapter 9 of this title by Pub. L. 115-91, div. A, title X, §1002(a)(1), Dec. 12, 2017, 131 Stat. 1537, resulting in out-of-sequence numbering. Sections numbered 251 to 254 also appear in chapter 13 of this title.

**§ 251.<sup>1</sup> Audit of Department of Defense financial statements**

(a) ANNUAL AUDIT REQUIRED.—The Secretary of Defense shall ensure that a full audit is performed on the financial statements of the Department of Defense for each fiscal year as required by section 3521(e) of title 31.

(b) ANNUAL REPORT ON AUDIT.—The Secretary shall submit to Congress the results of the audit performed in accordance with subsection (a) for a fiscal year by not later than March 31 of the following fiscal year.

(Added Pub. L. 115-91, div. A, title X, §1002(b)(1), Dec. 12, 2017, 131 Stat. 1538.)

REVIEW AND RECOMMENDATIONS ON EFFORTS TO OBTAIN AUDIT OPINION ON FULL FINANCIAL STATEMENTS

Pub. L. 115-91, div. A, title X, §1006, Dec. 12, 2017, 131 Stat. 1544, provided that:

“(a) IN GENERAL.—The Secretary of Defense may establish within the Department of Defense a team of distinguished, private sector experts with experience conducting financial audits of large public or private sector organizations to review and make recommendations to improve the efforts of the Department to obtain an audit opinion on its full financial statements.

“(b) SCOPE OF ACTIVITIES.—A team established pursuant to subsection (a) shall—

“(1) identify impediments to the progress of the Department in obtaining an audit opinion on its full financial statements, including an identification of the organizations or elements that are lagging in their efforts toward obtaining such audit opinion;

“(2) estimate when an audit opinion on the full financial statements of the Department will be obtained; and

“(3) consider mechanisms and incentives to support efficient achievement by the Department of its audit goals, including organizational mechanisms to transfer direction and management control of audit activities from subordinate organizations to the Office of the Secretary of Defense, individual personnel incentives, workforce improvements (including in senior leadership positions), business process, technology, and systems improvements (including the use of data analytics), and metrics by which the Secretary and Congress may measure and assess progress toward achievement of the audit goals of the Department.

<sup>1</sup> Another section 251 is set out in chapter 13 of this title.

## “(c) REPORTS.—

“(1) REPORT ON ESTABLISHMENT OF TEAM.—If the Secretary takes action pursuant to subsection (a), the Secretary shall, not later than September 30, 2019, submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the team established pursuant to that subsection, including a description of the actions taken and to be taken by the team pursuant to subsection (b).

“(2) REPORT ON DETERMINATION NOT TO ESTABLISH TEAM.—If as of June 1, 2019, the Secretary has determined not to establish a team authorized by subsection (a), the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives on that date a report on the determination, including an explanation and justification for the determination.”

### § 252.<sup>1</sup> Financial Improvement and Audit Remediation Plan

(a) FINANCIAL IMPROVEMENT AND AUDIT REMEDIATION PLAN.—

(1) IN GENERAL.—The Chief Management Officer of the Department of Defense shall, in consultation with the Under Secretary of Defense (Comptroller), maintain a plan to be known as the “Financial Improvement and Audit Remediation Plan”.

(2) ELEMENTS.—The plan required by paragraph (1) shall—

(A) describe specific actions to be taken, including interim milestones with a detailed description of the subordinate activities required, and estimate the costs associated with—

(i) correcting the financial management deficiencies that impair the ability of the Department of Defense to prepare timely, reliable, and complete financial management information;

(ii) ensuring the financial statements of the Department of Defense go under full financial statement audit, and that the Department leadership makes every effort to reach an unmodified opinion as soon as possible;

(iii)<sup>2</sup> ensuring the audit of the financial statements of the Department of Defense for fiscal year 2018 occurs by not later than March 31, 2019.

(iii)<sup>2</sup> achieving an unqualified audit opinion for each major element of the statement of budgetary resources of the Department of Defense; and

(iv) addressing the existence and completeness of each major category of Department of Defense assets; and

(B) systematically tie the actions described under subparagraph (A) to business process and control improvements and business systems modernization efforts described in section 2222 of this title.

(b) REPORT AND BRIEFING REQUIREMENTS.—

(1) ANNUAL REPORT.—

(A) IN GENERAL.—Not later than June 30, 2019, and annually thereafter, the Under Secretary of Defense (Comptroller) shall submit

to the congressional defense committees a report on the status of the implementation by the Department of Defense of the Financial Improvement and Audit Remediation Plan under subsection (a).

(B) ELEMENTS.—Each report under subparagraph (A) shall include the following:

(i) An analysis of the consolidated corrective action plan management summary prepared pursuant to section 253a<sup>3</sup> of this title.

(ii) Current Department of Defense-wide information on the status of corrective actions plans related to critical capabilities and material weaknesses, including the standard data elements recommended in the implementation guide for Office of Management and Budget Circular A-123, for the armed forces, military departments, and Defense Agencies.

(iii) A current description of the work undertaken and planned to be undertaken by the Department of Defense, and the military departments, Defense Agencies, and other organizations and elements of the Department, to test and verify transaction data pertinent to obtaining an unqualified audit of their financial statements, including from feeder systems.

(iv) A current projected timeline of the Department in connection with the audit of the full financial statements of the Department, to be submitted to Congress annually not later than six months after the submittal to Congress of the budget of the President for a fiscal year under section 1105 of title 31, including the following:

(I) The date on which the Department projects the beginning of an audit of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(II) The date on which the Department projects the completions of audits of the full financial statements of the Department, and the military departments, Defense Agencies, and other organizations and elements of the Department, for a fiscal year.

(III) The dates on which the Department estimates it will obtain an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year.

(v) A current estimate of the anticipated annual costs of maintaining an unqualified audit opinion on the full financial statements of the Department, the military departments, the Defense Agencies, and other organizations and elements of the Department for a fiscal year after an unqualified audit opinion on such full financial statements for a fiscal year is first obtained.

<sup>1</sup> Another section 252 is set out in chapter 13 of this title.

<sup>2</sup> So in original. Two cls. (iii) have been enacted.

<sup>3</sup> So in original. Probably should be “section 253”.

(vi) A certification of the results of the audit of the financial statements of the Department performed for the preceding fiscal year, and a statement summarizing, based on such results, the current condition of the financial statements of the Department.

(2) SEMIANNUAL BRIEFINGS.—Not later than January 31 and June 30 each year, the Under Secretary of Defense (Comptroller) and the comptrollers of the military departments shall provide a briefing to the congressional defense committees on the status of the corrective action plan.

(3) CRITICAL CAPABILITIES DEFINED.—In this subsection, the term “critical capabilities” means the critical capabilities described in the Department of Defense report titled “Financial Improvement and Audit Readiness (FIAR) Plan Status Report” and dated May 2016.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(c)(1)–(3), Dec. 12, 2017, 131 Stat. 1538.)

#### CODIFICATION

Subsec. (a) of this section, as added by Pub. L. 115–91, is based on text of subsec. (a) of section 1003 of Pub. L. 111–84, div. A, title X, Oct. 28, 2009, 123 Stat. 2439, which was formerly set out as a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(c)(4), Dec. 12, 2017, 131 Stat. 1540.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91, §1002(c)(3)(A), which directed substitution of “Financial Improvement and Audit Remediation Plan” for “Financial Improvement and Audit Readiness Plan” in heading, was executed by making the substitution for “Financial Improvement Audit Readiness Plan” to reflect the probable intent of Congress.

Subsec. (a)(1). Pub. L. 115–91, §1002(c)(3)(B)(i), substituted “Financial Improvement and Audit Remediation Plan” for “Financial Improvement and Audit Readiness Plan”.

Pub. L. 115–91, §1002(c)(2)(A), struck out “develop and” before “maintain”.

Subsec. (a)(2)(A). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(aa), in introductory provisions, substituted “describe specific actions to be taken, including interim milestones with a detailed description of the subordinate activities required, and estimate the costs associated with” for “describe specific actions to be taken and the costs associated with”.

Subsec. (a)(2)(A)(ii). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(bb), substituted “go under full financial statement audit, and that the Department leadership makes every effort to reach an unmodified opinion as soon as possible;” for “are validated as ready for audit by not later than September 30, 2017, and the statement of budgetary resources of the Department of Defense is validated as ready for audit by not later than September 30, 2014; and”.

Subsec. (a)(2)(A)(iii), (iv). Pub. L. 115–91, §1002(c)(3)(B)(ii)(I)(cc), added cl. (iii), related to unqualified audit opinion, and cl. (iv).

Subsec. (a)(2)(B). Pub. L. 115–91, §1002(c)(3)(B)(ii)(II), inserted “business” before “process and control”, struck out “the business enterprise architecture and transition plan required by” before “section 2222” and substituted period for semicolon at end.

Pub. L. 115–91, §1002(c)(2)(B), substituted “of this title” for “of title 10, United States Code”.

Subsec. (a)(2)(C), (D). Pub. L. 115–91, §1002(c)(3)(B)(ii)(III), struck out subpars. (C) and (D) which read as follows:

“(C) prioritize—

“(i) improving the budgetary information of the Department of Defense, in order to achieve an unqualified audit opinion on the Department’s statements of budgetary resources; and

“(ii) as a secondary goal, improving the accuracy and reliability of management information on the Department’s mission-critical assets (military and general equipment, real property, inventory, and operating materials and supplies) and validating its accuracy through existence and completeness audits; and

“(D) include interim goals, including—

“(i) the objective of ensuring that the financial statement of each of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Logistics Agency is validated as ready for audit; and

“(ii) a schedule setting forth milestones for elements of the military departments and financial statements of the military departments to be made ready for audit as part of the progress required to meet the objectives established pursuant to clause (i) of this subparagraph and clause (ii) of subparagraph (A) of this paragraph.”

Subsec. (b). Pub. L. 115–91, §1002(c)(3)(C), added subsec. (b).

#### § 253.1 Audit: consolidated corrective action plan; centralized reporting system

The Under Secretary of Defense (Comptroller) shall—

(1) on a bimonthly basis, prepare a consolidated corrective action plan management summary on the status of key corrective actions plans related to critical capabilities for the armed forces and for the components of the Department of Defense that support the armed forces; and

(2) develop and maintain a centralized monitoring and reporting process that captures and maintains up-to-date information, including the standard data elements recommended in the implementation guide for Office of Management and Budget Circular A–123, for key corrective action plans and findings and recommendations Department-wide that pertain to critical capabilities.

(Added Pub. L. 115–91, div. A, title X, §1002(d), Dec. 12, 2017, 131 Stat. 1540.)

#### § 254.1 Audits: audit of financial statements of Department of Defense components by independent external auditors

(a) AUDITS REQUIRED.—For purposes of satisfying the requirement under section 3521(e) of title 31 for audits of financial statements of Department of Defense components identified by the Director of the Office of Management and Budget under section 3515(c) of such title, the Inspector General of the Department of Defense shall obtain each year audits of the financial statements of each such component by an independent external auditor.

(b) SELECTION OF AUDITORS.—The selection of independent external auditors for purposes of subsection (a) shall be based, among other appropriate criteria, on their qualifications, independence, and capacity to conduct audits described in subsection (a) in accordance with ap-

<sup>1</sup> Another section 253 is set out in chapter 13 of this title.

<sup>1</sup> Another section 254 is set out in chapter 13 of this title.

plicable generally accepted government auditing standards. The Inspector General shall participate in the selection of the independent external auditors.

(c) MONITORING AUDITS.—The Inspector General shall monitor the conduct of all audits by independent external auditors under subsection (a).

(d) REPORTS ON AUDITS.—

(1) IN GENERAL.—The Inspector General shall require the independent external auditors conducting audits under subsection (a) to submit a report on their audits each year to—

(A) the Under Secretary of Defense (Comptroller) as the Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31 and the Chief Management Officer of the Department of Defense;

(B) the Controller of the Office of Federal Financial Management in the Office of Management and Budget;

(C) the head of each component audited; and

(D) the appropriate committees of Congress.

(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term “appropriate committees of Congress” means—

(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives.

(e) RELATIONSHIP TO EXISTING LAW.—The requirements of this section—

(1) shall not be construed to alter the requirement under section 3521(e) of title 31 that the financial statements of the Department of Defense as a whole be audited by the Inspector General or by an independent external auditor, as determined by the Inspector General; and

(2) shall not be construed to limit or alter the authorities of the Comptroller General of the United States under section 3521(g) of title 31.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(e)(1)–(3), Dec. 12, 2017, 131 Stat. 1541.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 1005 of Pub. L. 114–92, div. A, title X, Nov. 25, 2015, 129 Stat. 961, which was formerly set out as a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(e)(4), Dec. 12, 2017, 131 Stat. 1541.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91, §1002(e)(2)(B), struck out “, United States Code,” after “title 31”.

Subsec. (d)(1)(A). Pub. L. 115–91, §1002(e)(3)(A)(i), inserted “and the Chief Management Officer of the Department of Defense” before semicolon.

Pub. L. 115–91, §1002(e)(2)(A), struck out “, United States Code” after “title 31”.

Subsec. (d)(1)(C), (D). Pub. L. 115–91, §1002(e)(3)(A)(ii)–(iv), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (e)(1). Pub. L. 115–91, §1002(e)(3)(B), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: “shall be implemented in a manner that is consistent with the requirements of section 1008 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 10 U.S.C. 113 note);”.

Subsec. (e)(2). Pub. L. 115–91, §1002(e)(3)(B)(ii), redesignated par. (3) as (2). Former par. (2) redesignated (1). Pub. L. 115–91, §1002(e)(2)(B), struck out “, United States Code,” after “title 31”.

Subsec. (e)(3). Pub. L. 115–91, §1002(e)(3)(B)(ii), redesignated par. (3) as (2).

Pub. L. 115–91, §1002(e)(2)(A), struck out “, United States Code” after “title 31”.

#### §254a. Audits: use of commercial data integration and analysis products in preparing audits

(a) DEPLOYMENT OF DATA ANALYTICS CAPABILITIES.—The Secretary of Defense shall use competitive procedures under chapter 137 of this title to procure or develop technologies or services, including those based on commercially available information technologies and services to improve data collection and analyses to support preparation of auditable financial statements for the Department of Defense.

(b) USE OF FUNDING AND RESOURCES.—The Secretary of Defense may use science and technology funding, prototypes, and test and evaluation resources as appropriate in support of deployment of technologies and services as described in subsection (a).

(Added and amended Pub. L. 115–91, div. A, title X, §1002(f)(1), (2), Dec. 12, 2017, 131 Stat. 1541, 1542.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of subssecs. (a) and (b) of section 1003 of Pub. L. 114–328, div. A, title X, Dec. 23, 2016, 130 Stat. 2380, which were formerly set out in a note under section 2222 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(f)(3), Dec. 12, 2017, 131 Stat. 1542.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115–91, §1002(f)(2)(A), substituted “of this title” for “of title 10, United States Code,” and struck out “, as soon as practicable,” after “develop”.

Subsec. (b). Pub. L. 115–91, §1002(f)(2)(B), substituted “deployment of technologies and services as described in subsection (a)” for “this deployment”.

#### §254b. Audits: selection of service providers for audit services

The Department of Defense shall select service providers for auditing services based on the best value to the Department, as determined by the resource sponsor for an auditing contract, rather than based on the lowest price technically acceptable service provider.

(Added and amended Pub. L. 115–91, div. A, title X, §1002(g)(1), (2), Dec. 12, 2017, 131 Stat. 1542.)

#### CODIFICATION

Text of section, as added by Pub. L. 115–91, is based on text of section 892 of Pub. L. 114–328, div. A, title VIII, Dec. 23, 2016, 130 Stat. 2324, which was formerly set out as a note under section 2331 of this title, prior to repeal by Pub. L. 115–91, div. A, title X, §1002(g)(3), Dec. 12, 2017, 131 Stat. 1542.

#### AMENDMENTS

2017—Pub. L. 115–91, §1002(g)(2), struck out “and audit readiness services” after “auditing services”.

NOTIFICATION REQUIREMENT FOR CERTAIN CONTRACTS FOR AUDIT SERVICES

Pub. L. 115-91, div. A, title X, §1007, Dec. 12, 2017, 131 Stat. 1545, provided that:

“(a) NOTIFICATION TO CONGRESS.—If the Under Secretary of Defense (Comptroller) makes a written finding that a delay in performance of a covered contract while a protest is pending would hinder the annual preparation of audited financial statements for the Department of Defense, and the head of the procuring activity responsible for the award of the covered contract does not authorize the award of the contract (pursuant to section 3553(c)(2) of title 31, United States Code) or the performance of the contract (pursuant to section 3553(d)(3)(C) of such title), the Secretary of Defense shall—

“(1) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 10 days after such finding is made; and

“(2) describe any steps the Department of Defense plans to take to mitigate any hindrance identified in such finding to the annual preparation of audited financial statements for the Department.

“(b) COVERED CONTRACT DEFINED.—In this section, the term ‘covered contract’ means a contract for services to perform an audit to comply with the requirements of section 3515 of title 31, United States Code.”

CHAPTER 11—RESERVE COMPONENTS

Sec. 261.1

Reference to chapters 1003, 1005, and 1007.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title XVI, §1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2979, added item 261 and struck out former items 261 to 281.

1993—Pub. L. 103-160, div. A, title VIII, §828(c)(1), Nov. 30, 1993, 107 Stat. 1714, added item 279.

1984—Pub. L. 98-525, title XIV, §1405(7)(C), Oct. 19, 1984, 98 Stat. 2622, in item 264 substituted “armed force” for “military department” and “Reserves” for “reserves” and struck out “; reports to Congress” at end.

1978—Pub. L. 95-485, title IV, §406(b)(2), Oct. 20, 1978, 92 Stat. 1616, struck out item 279 “Training reports”.

1967—Pub. L. 90-168, §2(7), Dec. 1, 1967, 81 Stat. 522, substituted “designation of general or flag officers of each military department; personnel and logistic support for reserves; reports to Congress” for “responsibility for” in item 264.

1960—Pub. L. 86-559, §1(2)(D), June 30, 1960, 74 Stat. 264, added item 281.

1958—Pub. L. 85-861, §1(6), Sept. 2, 1958, 72 Stat. 1439, added items 270, 271, 272 and 279.

§ 241. Reference to chapters 1003, 1005, and 1007

Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2980, §261; renumbered §241, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 261 of this title as this section.

<sup>1</sup> So in original. Probably should be section “241”. Section renumbered by Pub. L. 114-328 without corresponding amendment of chapter analysis.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

CHAPTER 12—THE MILITIA

Sec. 246.

Militia: composition and classes.

247.

Militia duty: exemptions.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 13 of this title “THE MILITIA” as chapter 12, redesignated item 311 “Militia: composition and classes” as item 246, and redesignated item 312 “Militia duty: exemptions” as item 247.

§ 246. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.

(b) The classes of the militia are—

(1) the organized militia, which consists of the National Guard and the Naval Militia; and

(2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 14, §311; Pub. L. 85-861, §1(7), Sept. 2, 1958, 72 Stat. 1439; Pub. L. 103-160, div. A, title V, §524(a), Nov. 30, 1993, 107 Stat. 1656; renumbered §246, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
311(a) .....	32:1 (less last 19 words).	June 3, 1916, ch. 134, §57, 39 Stat. 197; June 28, 1947, ch. 162, §7 (as applicable to §57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192.
311(b) .....	32:1 (last 19 words).	

In subsection (a), the words “who have made a declaration of intention” are substituted for the words “who have or shall have declared their intention”. The words “at least 17 years of age and \* \* \* under 45 years of age” are substituted for the words “who shall be more than seventeen years of age and \* \* \* not more than forty-five years of age”. The words “except as provided in section 313 of title 32” are substituted for the words “except as hereinafter provided”, to make explicit the exception as to maximum age.

In subsection (b), the words “The organized militia, which consists of the National Guard and the Naval Militia” are substituted for the words “the National Guard, the Naval Militia”, since the National Guard and the Naval Militia constitute the organized militia.

1958 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
311(a) .....	32 App.:1.	July 30, 1956, ch. 789, §1, 70 Stat. 729.

The words “appointed as . . . under section 4 of this title” are omitted as surplusage.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 311 of this title as this section.

1993—Subsec. (a). Pub. L. 103-160 substituted “members” for “commissioned officers”.

1958—Subsec. (a). Pub. L. 85-861 included female citizens of the United States who are commissioned officers of the National Guard.

§ 247. Militia duty: exemptions

(a) The following persons are exempt from militia duty:

- (1) The Vice President.
(2) The judicial and executive officers of the United States, the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.
(3) Members of the armed forces, except members who are not on active duty.
(4) Customhouse clerks.
(5) Persons employed by the United States in the transmission of mail.
(6) Workmen employed in armories, arsenals, and naval shipyards of the United States.
(7) Pilots on navigable waters.
(8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be non-combatant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §312; Pub. L. 100-456, div. A, title XII, §1234(a)(3), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109-163, div. A, title X, §1057(a)(7), Jan. 6, 2006, 119 Stat. 3441; renumbered §247, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows for 312(a) and 312(b).

In subsection (a), the words “Members of the armed forces” are substituted for the words “persons in the military or naval service”. The words “except members who are not on active duty” are inserted to reflect an opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952). The word “artificers” is omitted as covered by the word “workmen”. The words “naval shipyards” are substituted for the words “navy yards” to reflect modern terminology. The words “on navigable waters” are inserted to preserve the original coverage of the word “pilots”. The words “actually” and “without regard to age” are omitted as surplusage.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 312 of this title as this section.

2006—Subsec. (a)(2). Pub. L. 109-163 substituted “States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands” for “States and Territories, and Puerto Rico”.

1988—Subsec. (a)(2). Pub. L. 100-456 substituted “and Puerto Rico” for “Puerto Rico, and the Canal Zone”.

CHAPTER 13—INSURRECTION

- Sec. 251.1 Federal aid for State governments.
252.1 Use of militia and armed forces to enforce Federal authority.
253.1 Interference with State and Federal law.
254.1 Proclamation to disperse.
255. Guam and Virgin Islands included as “State”.

PRIOR PROVISIONS

A prior chapter 13, consisting of sections 311 and 312, was renumbered chapter 12, and sections 311 and 312 were renumbered sections 246 and 247, respectively.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 15 of this title “INSURRECTION” as chapter 13, redesignated item 331 “Federal aid for State governments” as item 251, redesignated item 332 “Use of militia and armed forces to enforce Federal authority” as item 252, redesignated item 333 “Interference with State and Federal law” as item 253, redesignated item 334 “Proclamation to disperse” as item 254, and redesignated item 335 “Guam and Virgin Islands included as ‘State’” as item 255.

2008—Pub. L. 110-181, div. A, title X, §1068(a)(3), (4)(A), Jan. 28, 2008, 122 Stat. 325, substituted “INSURRECTION” for “ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER” in chapter heading, added item 333, and struck out former item 333 “Major public emergencies; interference with State and Federal law”.

2006—Pub. L. 109-364, div. A, title X, §1076(a)(3), (4)(B), Oct. 17, 2006, 120 Stat. 2405, substituted “ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER” for “INSURRECTION” in chapter heading and “Major public emergencies; interference with State and Federal law” for “Interference with State and Federal law” in item 333.

1980—Pub. L. 96-513, title V, §511(11)(C), Dec. 12, 1980, 94 Stat. 2921, added item 335.

§ 251.1 Federal aid for State governments

Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §331; renumbered §251, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row for 331.

The words “armed forces” are substituted for the words “land or naval forces of the United States”. The word “governor” is substituted for the word “executive”. The word “may” is substituted for the words “it shall be lawful \* \* \* to”. The words “into Federal service” are substituted for the word “forth” for uniformity and clarity.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 331 of this title as this section.

1 Items numbered 251 to 254 also appear in the analysis for chapter 9A of this title.

1 Another section 251 is set out in chapter 9A of this title.

**§ 252.<sup>1</sup> Use of militia and armed forces to enforce Federal authority**

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §332; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440; renumbered §252, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
332 .....	50:202.	R.S. 5298.

50:202 (last 22 words) is omitted as surplusage. The words “armed forces” are substituted for the words “land and naval forces of the United States”. The words “call into Federal service such of the militia” are substituted for the words “call forth the militia of any or all the States” for clarity and uniformity. The word “may” is substituted for the words “it shall be lawful”. The words “faithful execution of the” and “in whatever State or Territory thereof the laws of the United States may be forcibly opposed” are omitted as surplusage.

DERIVATION

Act July 29, 1861, ch. 25, §1, 12 Stat. 281.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 332 of this title as this section.

2006—Pub. L. 109-163 struck out “or Territory” after “in any State”.

EX. ORD. NO. 10730. ASSISTANCE FOR REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS

Ex. Ord. No. 10730, Sept. 24, 1957, 22 F.R. 7628, authorized the Secretary of Defense to order into the active military service of the United States units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas for an indefinite period and until relieved by appropriate orders in order to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstructions to justice in respect to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such orders of the district court; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11053. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI

Ex. Ord. No. 11053, Sept. 30, 1962, 27 F.R. 9681, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Mississippi for an indefinite period and until

relieved by appropriate orders in order to enforce all orders of the United States District Court for the Southern District of Mississippi and of the United States Court of Appeals for the Fifth Circuit for the removal of obstructions to justice in the State of Mississippi; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such court orders; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11111. ASSISTANCE FOR REMOVAL OF OBSTRUCTIONS OF JUSTICE AND SUPPRESSION OF UNLAWFUL COMBINATIONS WITHIN THE STATE OF ALABAMA

Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States within that State and the orders of the United States District Court for the Northern District of Alabama, to remove obstructions to justice, and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the laws of the United States or impede the course of justice under those laws within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11118. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF ALABAMA

Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States and any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the law or impede the course of justice under the law within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

**§ 253.<sup>1</sup> Interference with State and Federal law**

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

<sup>1</sup> Another section 252 is set out in chapter 9A of this title.

<sup>1</sup> Another section 253 is set out in chapter 9A of this title.



(Aug. 10, 1956, ch. 1041, 70A Stat. 15, §333; Pub. L. 109-364, div. A, title X, §1076(a)(1), Oct. 17, 2006, 120 Stat. 2404; Pub. L. 110-181, div. A, title X, §1068(a)(1), Jan. 28, 2008, 122 Stat. 325; renumbered §253, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
333 .....	50:203.	R.S. 5299.

The words “armed forces” are substituted for the words “land or naval forces of the United States”. The word “shall” is substituted for the words “it shall be lawful for \* \* \* and it shall be his duty”.

## DERIVATION

Act Apr. 20, 1871, ch. 22, §3, 17 Stat. 14.

## AMENDMENTS

2016—Pub. L. 114-328 renumbered section 333 of this title as this section.

2008—Pub. L. 110-181 amended section generally, substituting provisions directing the President to suppress certain insurrections and domestic violence in a State for provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority.

2006—Pub. L. 109-364 amended section catchline and text generally, substituting provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority for provisions directing the President to suppress certain insurrections and domestic violence in a State.

## EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-181, div. A, title X, §1068(d), Jan. 28, 2008, 122 Stat. 326, provided that: “The amendments made by this section [amending this section and sections 334 and 12304 of this title and repealing section 2567 of this title] shall take effect on the date of the enactment of this Act [Jan. 28, 2008].”

§ 254.<sup>1</sup> Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, §334; Pub. L. 109-364, div. A, title X, §1076(a)(2), Oct. 17, 2006, 120 Stat. 2405; Pub. L. 110-181, div. A, title X, §1068(a)(2), Jan. 28, 2008, 122 Stat. 325; renumbered §254, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
334 .....	50:204.	R.S. 5300.

The words “militia or the armed forces” are substituted for the words “military forces” for clarity and to conform to sections 331, 332, and 333 of this title.

## DERIVATION

Act July 29, 1861, ch. 25, §2, 12 Stat. 282.

<sup>1</sup> Another section 254 is set out in chapter 9A of this title.

## AMENDMENTS

2016—Pub. L. 114-328 renumbered section 334 of this title as this section.

2008—Pub. L. 110-181 struck out “or those obstructing the enforcement of the laws” after “insurgents”.

2006—Pub. L. 109-364 inserted “or those obstructing the enforcement of the laws” after “insurgents”.

## PROC. NO. 3204. OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS

Proc. No. 3204, Sept. 23, 1957, 22 F.R. 7628, commanded all persons in the State of Arkansas who were obstructing the enforcement of orders of the United States District Court for the Eastern District of Arkansas relating to enrollment and attendance at public schools, particularly Central High School at Little Rock, Arkansas, to cease and desist therefrom and to disperse forthwith.

## PROC. NO. 3497. OBSTRUCTION OF JUSTICE IN THE STATE OF MISSISSIPPI

Proc. No. 3497, Sept. 30, 1962, 27 F.R. 9681, commanded all persons in the State of Mississippi who were obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit to cease and desist therefrom and to disperse and retire peaceably forthwith.

## PROC. NO. 3542. UNLAWFUL OBSTRUCTION OF JUSTICE AND COMBINATIONS IN THE STATE OF ALABAMA

Proc. No. 3542, June 11, 1963, 28 F.R. 5707, commanded the Governor of the State of Alabama and all other persons who were obstructing the orders of the United States District Court for the Northern District of Alabama relating to the enrollment and attendance of Negro students at the University of Alabama to cease and desist therefrom.

## PROC. NO. 3554. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3554, Sept. 10, 1963, 28 F.R. 9861, commanded all persons obstructing the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State to cease and desist therefrom and to disperse and retire peaceably forthwith.

## PROC. NO. 3645. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3645, Mar. 23, 1965, 30 F.R. 3739, commanded all persons engaged or who may engage in domestic violence obstructing the enforcement of the laws and the judicial order approving the right to march along U.S. Highway 80 from Selma to Montgomery, Alabama commencing during the period from Mar. 19, 1965 to Mar. 22, 1965 and terminating within 5 days of the commencement to cease and desist therefrom and to disperse forthwith.

## PROC. NO. 3795. OBSTRUCTION OF JUSTICE IN THE STATE OF MICHIGAN

Proc. No. 3795, July 26, 1967, 32 F.R. 10905, commanded all persons engaged in domestic violence and disorder in Detroit, Michigan, and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

## PROC. NO. 3840. OBSTRUCTION OF JUSTICE IN THE WASHINGTON METROPOLITAN AREA

Proc. No. 3840, Apr. 9, 1968, 33 F.R. 5495, commanded all persons engaged in acts of violence threatening the Washington Metropolitan Area and obstructing the execution of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3841. OBSTRUCTION OF JUSTICE IN THE STATE OF ILLINOIS

Proc. No. 3841, Apr. 9, 1968, 33 F.R. 5497, commanded all persons engaged in violence in and about the City of Chicago and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3842. OBSTRUCTION OF JUSTICE IN THE STATE OF MARYLAND

Proc. No. 3842, Apr. 9, 1968, 33 F.R. 5499, commanded all persons engaged in acts of violence and obstructing the enforcement of the laws in and about the City of Baltimore to cease and desist therefrom and to disperse forthwith.

§ 255. Guam and Virgin Islands included as “State”

For purposes of this chapter, the term “State” includes Guam and the Virgin Islands.

(Added Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847, § 335; amended Pub. L. 96-513, title V, § 511(1)(A), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 109-163, div. A, title X, § 1057(a)(8), Jan. 6, 2006, 119 Stat. 3441; renumbered § 255, Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 335 of this title as this section.

2006—Pub. L. 109-163 struck out “the unincorporated territories of” before “Guam”.

1980—Pub. L. 96-513 inserted “and Virgin Islands” after “Guam” in section catchline and inserted provision respecting applicability to the Virgin Islands.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE

Pub. L. 90-497, § 11, Sept. 11, 1968, 82 Stat. 847, provided that this section is effective on date of enactment of Pub. L. 90-497, which was approved on Sept. 11, 1968.

CHAPTER 14—ARMING OF AMERICAN VESSELS

Sec. 261. During war or threat to national security.

AMENDMENTS

2016—Pub. L. 114-328, div. A, title XII, § 1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2497, 2512, renumbered chapter 17 of this title “ARMING OF AMERICAN VESSELS” as chapter 14 and redesignated item 351 “During war or threat to national security” as item 261.

§ 261. During war or threat to national security

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 16 of the Act of March 4, 1909 (22 U.S.C. 463) does not apply to vessels armed under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16, § 351; Pub. L. 96-513, title V, § 511(12), Dec. 12, 1980, 94 Stat. 2921; renumbered § 261, Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
351(a) .....	50:481 (1st sentence, less 1st 7 words).	June 29, 1948, ch. 715, 62 Stat. 1095.
351(b) .....	50:481 (1st 7 words of 1st sentence and 2d sentence).	
351(c) .....	50:481 (less 1st and 2d sentences).	

In subsection (a), the wording of the special definition of “vessel” and “American vessel”, contained in section 16 of the Neutrality Act of 1939, 54 Stat. 12 (22 U.S.C. 456), is substituted for the words “any American vessel as defined in the Neutrality Act of 1939”.

In subsection (b), the words “or national emergency” are omitted, since the words of the source statute defining that term have been substituted for it.

In subsection (c), the words “(relating to bonds from armed vessels on clearing)” are omitted as surplusage.

PRIOR PROVISIONS

A prior section 261 was renumbered section 241 of this title.

Another prior section 261, act Aug. 10, 1956, ch. 1041, 70A Stat. 10, which named the reserve components of the armed forces, was repealed by Pub. L. 103-337, div. A, title XVI, §§ 1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See sections 10101 and 10213 of this title.

Prior sections 262 to 265 were repealed by Pub. L. 103-337, div. A, title XVI, §§ 1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 262, acts Aug. 10, 1956, ch. 1041, 70A Stat. 10; Dec. 1, 1967, Pub. L. 90-168, § 2(5), 81 Stat. 521, related to purpose of reserve components. See section 10102 of this title.

Section 263, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to basic policy for ordering Army National Guard of the United States and Air National Guard of the United States into Federal service. See section 10103 of this title.

Section 264, acts Aug. 10, 1956, ch. 1041, 70A Stat. 11; Dec. 1, 1967, Pub. L. 90-168, § 2(6), 81 Stat. 521; Nov. 19, 1969, Pub. L. 91-121, title III, § 303, 83 Stat. 206; Oct. 20, 1978, Pub. L. 95-485, title IV, § 406(a), 92 Stat. 1616; Oct. 19, 1984, Pub. L. 98-525, title XIV, § 1405(7)(A), (B), 98 Stat. 2622, authorized Secretaries of each armed force to designate officers to be responsible for reserve affairs and assigned responsibility for providing personnel and logistic support for reserves. See sections 10203 and 18501 of this title.

Section 265, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to participation of reserve officers in preparation and administration of policies and regulations affecting reserve components. See section 10211 of this title.

Prior section 266 was renumbered section 12643 of this title.

Prior sections 267 to 270 were repealed by Pub. L. 103-337, div. A, title XVI, §§ 1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 267, act Aug. 10, 1956, ch. 1041, 70A Stat. 12, related to placement and status of members of Ready Reserve, Standby Reserve, and Retired Reserve. See section 10141(a), (b) of this title.

Section 268, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85-861, § 1(3), 72 Stat. 1437; Dec. 1, 1967, Pub. L. 90-168, § 2(8), 81 Stat. 522; Oct. 12, 1982, Pub. L. 97-295, § 1(5), 96 Stat. 1289, related to composition, organization, and structure of Ready Reserve. See sections 10142 and 10143 of this title.

Section 269, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85-861, §1(4), 72 Stat. 1437; June 30, 1960, Pub. L. 86-559, §1(2)(A), 74 Stat. 264; Dec. 1, 1967, Pub. L. 90-168, §2(9), 81 Stat. 522; Oct. 20, 1978, Pub. L. 95-485, title IV, §405(a)(1), 92 Stat. 1615; Sept. 24, 1983, Pub. L. 98-94, title X, §1018, 97 Stat. 669; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to placement in and transfer from Ready Reserve. See sections 10145 and 10146 of this title.

Section 270, added Pub. L. 85-861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 87-378, §2, Oct. 4, 1961, 75 Stat. 807; Pub. L. 88-110, §4, Sept. 3, 1963, 77 Stat. 136; Pub. L. 90-168, §2(10), Dec. 1, 1967, 81 Stat. 523; Pub. L. 92-156, title III, §303(a), Nov. 17, 1971, 85 Stat. 425; Pub. L. 96-513, title V, §511(7), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 100-456, div. A, title XII, §1234(a)(2), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101-189, div. A, title V, §501(b), Nov. 29, 1989, 103 Stat. 1435, related to training requirements of Ready Reserve. See sections 10147 and 10148 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 351 of this title as this section.

1980—Subsec. (c). Pub. L. 96-513 substituted “Section 16 of the Act of March 4, 1909 (22 U.S.C. 463)” for “Section 463 of title 22”.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

### CHAPTER 15—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

Sec.	
271.	Use of information collected during military operations.
272.	Use of military equipment and facilities.
273.	Training and advising civilian law enforcement officials.
274.	Maintenance and operation of equipment.
275.	Restriction on direct participation by military personnel.
276.	Support not to affect adversely military preparedness.
277.	Reimbursement.
278.	Nonpreemption of other law.
279.	Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.
280.	Enhancement of cooperation with civilian law enforcement officials.
281.	Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities.
282.	Emergency situations involving weapons of mass destruction.
283.	Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities.
284.	Support for counterdrug activities and activities to counter transnational organized crime.

#### PRIOR PROVISIONS

A prior chapter 15, consisting of sections 331 to 335, was renumbered chapter 13, and sections 331 to 335 were renumbered sections 251 to 255, respectively.

#### AMENDMENTS

2016—Pub. L. 114-328, div. A, title X, §1011(a)(2), title XII, §1241(a)(1), (o)(2), Dec. 23, 2016, 130 Stat. 2385, 2497, 2512, added item 384, renumbered chapter 18 of this title “MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES” as chapter 15, redesignated

item 371 “Use of information collected during military operations” as item 271, redesignated item 372 “Use of military equipment and facilities” as item 272, redesignated item 373 “Training and advising civilian law enforcement officials” as item 273, redesignated item 374 “Maintenance and operation of equipment” as item 274, redesignated item 375 “Restriction on direct participation by military personnel” as item 275, redesignated item 376 “Support not to affect adversely military preparedness” as item 276, redesignated item 377 “Reimbursement” as item 277, redesignated item 378 “Nonpreemption of other law” as item 278, redesignated item 379 “Assignment of Coast Guard personnel to naval vessels for law enforcement purposes” as item 279, redesignated item 380 “Enhancement of cooperation with civilian law enforcement officials” as item 280, redesignated item 381 “Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities” as item 281, redesignated item 382 “Emergency situations involving weapons of mass destruction” as item 282, redesignated item 383 “Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities” as item 283, and redesignated item 384 “Support for counterdrug activities and activities to counter transnational organized crime” as item 284.

2015—Pub. L. 114-92, div. A, title X, §1082(b), Nov. 25, 2015, 129 Stat. 1003, added item 383.

2011—Pub. L. 111-383, div. A, title X, §1075(b)(10)(C), Jan. 7, 2011, 124 Stat. 4369, added item 382 and struck out former item 382 “Emergency situations involving chemical or biological weapons of mass destruction”.

2008—Pub. L. 110-417, [div. A], title VIII, §885(b)(2), Oct. 14, 2008, 122 Stat. 4561, added item 381 and struck out former item 381 “Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense”.

1996—Pub. L. 104-201, div. A, title XIV, §1416(a)(2), Sept. 23, 1996, 110 Stat. 2723, added item 382.

1993—Pub. L. 103-160, div. A, title XI, §1122(a)(2), Nov. 30, 1993, 107 Stat. 1755, added item 381.

1989—Pub. L. 101-189, div. A, title XII, §1216(a), Nov. 29, 1989, 103 Stat. 1569, in chapter heading substituted “18” for “8”.

1988—Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043, amended chapter analysis generally substituting, in chapter heading “CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES” for “CHAPTER 18—MILITARY COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS”, in item 374 “Maintenance and operation of equipment” for “Assistance by Department of Defense personnel”, in item 376 “Support not to affect adversely military preparedness” for “Assistance not to affect adversely military preparedness” and in item 380 “Enhancement of cooperation with civilian law enforcement officials” for “Department of Defense drug law enforcement assistance: annual plan”.

1987—Pub. L. 100-180, div. A, title XII, §1243(b), Dec. 4, 1987, 101 Stat. 1164, added item 380.

1986—Pub. L. 99-570, title III, §3053(b)(2), Oct. 27, 1986, 100 Stat. 3207-76, added item 379.

#### DEPARTMENT OF DEFENSE AUTHORITY TO PROVIDE ASSISTANCE TO SECURE THE SOUTHERN LAND BORDER OF THE UNITED STATES

Pub. L. 114-92, div. A, title X, §1059, Nov. 25, 2015, 129 Stat. 986, provided that:

“(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Defense may provide assistance to United States Customs and Border Protection for purposes of increasing ongoing efforts to secure the southern land border of the United States.

“(b) CONCURRENCE IN ASSISTANCE.—Assistance under subsection (a) shall be provided with the concurrence of the Secretary of Homeland Security.

“(c) TYPES OF ASSISTANCE AUTHORIZED.—The assistance provided under subsection (a) may include the following:

“(1) Deployment of members and units of the regular and reserve components of the Armed Forces to the southern land border of the United States.

“(2) Deployment of manned aircraft, unmanned aerial surveillance systems, and ground-based surveillance systems to support continuous surveillance of the southern land border of the United States.

“(3) Intelligence analysis support.

“(d) MATERIEL AND LOGISTICAL SUPPORT.—The Secretary of Defense is authorized to deploy such materiel and equipment and logistics support as is necessary to ensure the effectiveness of assistance provided under subsection (a).

“(e) FUNDING.—Of the amounts authorized to be appropriated for the Department of Defense by this Act [see Tables for classification], the Secretary of Defense may use up to \$75,000,000 to provide assistance under subsection (a).

“(f) REPORTS.—At the end of each three-month period during which assistance is provided under subsection (a), the Secretary of Defense, in coordination with the Secretary of Homeland Security, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Government Affairs of the Senate a report on the provision of such assistance during that period. Each report shall include, for the period covered by the report, the following:

“(1) A description of the assistance provided.

“(2) A description of the sources and amounts of funds used to provide such assistance.

“(3) A description of the amounts obligated to provide such assistance.

“(4) An assessment of the efficacy and cost-effectiveness of such assistance in support of the Department of Homeland Security’s objectives and strategy to address the challenges on the southern land border of the United States and recommendations, if any, to enhance the effectiveness of such assistance.”

### § 271. Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §371; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; renumbered §271, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 271, added Pub. L. 85-861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 95-485, title IV, §405(b), Oct. 20, 1978, 92 Stat. 1615, related to system

of continuous screening of units and members of Ready Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10149 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 371 of this title as this section.

1988—Pub. L. 100-456 amended section generally, designating existing provisions as subsec. (a), inserting reference to military training, and adding subsecs. (b) and (c).

#### SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99-570, title III, §3051, Oct. 27, 1986, 100 Stat. 3207-74, provided that: “This subtitle [subtitle A (§§3051-3059) of title III of Pub. L. 99-570, enacting section 379 of this title, amending sections 374 and 911 of this title, enacting provisions set out as notes under sections 374, 525, and 9441 of this title, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard] may be cited as the ‘Defense Drug Interdiction Assistance Act’.”

#### ENHANCEMENT OF INFORMATION SHARING AND COORDINATION OF MILITARY TRAINING BETWEEN DEPARTMENT OF HOMELAND SECURITY AND DEPARTMENT OF DEFENSE

Pub. L. 114-328, div. A, title X, §1014, Dec. 23, 2016, 130 Stat. 2386, provided that:

“(a) IN GENERAL.—The Secretary of Homeland Security shall ensure that the information needs of the Department of Homeland Security relating to civilian law enforcement activities in proximity to the international borders of the United States are identified and communicated to the Secretary of Defense for the purposes of the planning and executing of military training by the Department of Defense.

“(b) FORMAL MECHANISM OF NOTIFICATION.—

“(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Homeland Security, in coordination with the Secretary of Defense, shall establish a formal mechanism through which the information needs of the Department of Homeland Security relating to civilian law enforcement activities in proximity to the international borders of the United States are identified and communicated to the Secretary of Defense for the purposes of the planning and executing military training by the Department of Defense.

“(2) DISSEMINATION TO THE ARMED FORCES.—To the extent practicable, the Secretary of Defense shall ensure that such information needs are disseminated to the Armed Forces in a timely manner so the Armed Forces may take into account the information needs of civilian law enforcement when planning and executing training in accordance with section 371 [now 271] of title 10, United States Code.

“(3) COORDINATION OF TRAINING.—To the maximum extent practicable, the Secretary of Defense shall ensure that the planning and execution of training described in paragraph (2) is coordinated with the Department of Homeland Security.

“(c) SHARING OF CERTAIN INFORMATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly formulate guidance to ensure that the information relevant to civilian law enforcement matters that is collected by the Armed Forces during the normal course of military training or operations in proximity to the international borders of the United States is provided promptly to relevant officials in accordance with section 371 [now 271] of title 10, United States Code.

“(d) ANNUAL REPORTS.—

“(1) DEPARTMENT OF DEFENSE REPORT.—

“(A) IN GENERAL.—Not later than March 31 of each year, the Secretary of Defense shall submit to the congressional defense committees [Committees

on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on any assistance provided by the Department of Defense to the border security mission of the Department of Homeland Security at the international borders of the United States during the fiscal year preceding the fiscal year during which the report is submitted.

“(B) ELEMENTS.—Each report submitted under subparagraph (A) shall include each of the following:

“(i) A description of the military training and operational activities of each military component leveraged, pursuant to section 371 [now 271] of title 10, United States Code, to support the border security mission of the Department of Homeland Security at the southern border of the United States.

“(ii) For each activity described in clause (i), each of the following, identified by component:

“(I) The Department of Homeland Security information need that was supported.

“(II) The military training or operational activity leveraged to provide support.

“(III) The duration of the support.

“(IV) The cost of the support.

“(iii) A description of any Department of Defense activities provided in response to a request for assistance from the Department of Homeland Security.

“(iv) For each activity described in clause (iii)—

“(I) The stated rationale of the Department of Homeland Security for requesting assistance from the Department of Defense.

“(II) The capability provided by the Department of Defense.

“(III) The duration of the assistance provided by the capability.

“(IV) The statutory authority under which the assistance was provided.

“(V) The cost of the assistance provided.

“(VI) Whether the Department of Defense was reimbursed by the Department of Homeland Security for the assistance provided.

“(VII) In the case of assistance for which the Department of Defense was not reimbursed, the justification for non-reimbursement.

“(v) A description of any Department of Defense excess property provided to U. S. Customs and Border Protection.

“(vi) The status of the implementation of this section.

“(vii) A description of any other activity the Secretary of Defense determines relevant.

“(2) DEPARTMENT OF HOMELAND SECURITY REPORT.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Committee on Homeland Security of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate a report on—

“(A) any activities of the Department of Homeland Security to reduce, mitigate, or eliminate the demand for Department of Defense support at the international borders of the United States; and

“(B) the status of implementation of this section.

“(3) TERMINATION.—The requirement to submit a report under paragraph (1) or (2) shall terminate on January 31, 2020.”

AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES

Pub. L. 108-136, div. A, title X, § 1022, Nov. 24, 2003, 117 Stat. 1594, as amended by Pub. L. 109-163, div. A, title

X, § 1022, Jan. 6, 2006, 119 Stat. 3427; Pub. L. 110-181, div. A, title X, § 1021, Jan. 28, 2008, 122 Stat. 304; Pub. L. 110-417, [div. A], title X, § 1022, Oct. 14, 2008, 122 Stat. 4586; Pub. L. 111-84, div. A, title X, § 1012, Oct. 28, 2009, 123 Stat. 2441; Pub. L. 111-383, div. A, title X, § 1012(a)-(b)(2), Jan. 7, 2011, 124 Stat. 4346, 4347; Pub. L. 112-81, div. A, title X, § 1004(a), Dec. 31, 2011, 125 Stat. 1556; Pub. L. 112-239, div. A, title X, § 1011, Jan. 2, 2013, 126 Stat. 1907; Pub. L. 113-66, div. A, title X, § 1012, Dec. 26, 2013, 127 Stat. 844; Pub. L. 113-291, div. A, title X, § 1014, Dec. 19, 2014, 128 Stat. 3484; Pub. L. 115-91, div. A, title X, § 1081(i), Dec. 12, 2017, 131 Stat. 1601, provided that:

“(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, subject to all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities or counter-transnational organized crime activities.

“(b) AVAILABILITY OF FUNDS.—During fiscal years 2006 through 2020, funds for drug interdiction and counter-drug activities that are available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism or counter-transnational organized crime support authorized by subsection (a).

“(c) ANNUAL REPORT.—Not later than December 31 of each year in which the authority in subsection (a) is in effect, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report setting forth, for the one-year period ending on the date of such report, the following:

“(1) An assessment of the effect on counter-drug, counter-transnational organized crime, and counter-terrorism activities and objectives of using counter-drug funds of a joint task force to provide counter-terrorism or counter-transnational organized crime support authorized by subsection (a).

“(2) A description of the type of support and any recipient of support provided under subsection (a), and a description of the objectives of such support.

“(3) A list of current joint task forces exercising the authority under subsection (a).

“(4) A certification by the Secretary of Defense that any support provided under subsection (a) during such one-year period was provided in compliance with the requirements of subsection (d).

“(d) CONDITIONS.—(1) Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.

“(2)(A) Support for counter-terrorism or counter-transnational organized crime activities provided under subsection (a) may only be provided if the Secretary of Defense determines that the objectives of using the counter-drug funds of any joint task force to provide such support relate significantly to the objectives of providing support for counter-drug activities by that joint task force or any other joint task force.

“(B) The Secretary of Defense may waive the requirements of subparagraph (A) if the Secretary determines that such a waiver is vital to the national security interests of the United States. The Secretary shall promptly submit to the congressional defense committees notice in writing of any waiver issued under this subparagraph, together with a description of the vital national security interests associated with the support covered by such waiver.

“(e) DEFINITIONS.—(1) In this section, the term ‘transnational organized crime’ has the meaning given such term in section 284(i) of title 10, United States Code.]

“(2) For purposes of applying the definition of transnational organized crime under paragraph (1) to this section, the term ‘illegal means’, as it appears in such definition, includes the trafficking of money, human trafficking, illicit financial flows, illegal trade in natural resources and wildlife, trade in illegal drugs and weapons, and other forms of illegal means determined by the Secretary of Defense.”

[Pub. L. 115–91, div. A, title X, §1081(i), Dec. 12, 2017, 131 Stat. 1601, which directed amendment of section 1022(e) of Pub. L. 108–136, set out above, by substituting “section 284(i) of title 10, United States Code” for “section 1004(j)” and all that followed through the end of the subsection, was executed by making the substitution for “section 1004(j)” and all that followed through the end of par. (1), to reflect the probable intent of Congress.]

[Pub. L. 112–81, div. A, title X, §1004(b), Dec. 31, 2011, 125 Stat. 1556, provided that: “The authority in section 1022 of the National Defense Authorization Act for Fiscal Year 2004 [Pub. L. 108–136, set out above], as amended by subsection (a), may not be exercised unless the Secretary of Defense certifies to Congress, in writing, that the Department of Defense is in compliance with the provisions of paragraph (2) of subsection (d) of such section, as added by section 1012(b) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4346).”]

### § 272. Use of military equipment and facilities

The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §372; amended Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 104–106, div. A, title III, §378, Feb. 10, 1996, 110 Stat. 284; Pub. L. 104–201, div. A, title XIV, §1416(b), Sept. 23, 1996, 110 Stat. 2723; Pub. L. 112–239, div. A, title III, §351, Jan. 2, 2013, 126 Stat. 1701; renumbered §272, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 272, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 96–513, title V, §511(8), Dec. 12, 1980, 94 Stat. 2920, related to transfers back from Standby Reserve to Ready Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10150 of this title.

#### AMENDMENTS

2016—Pub. L. 114–328 renumbered section 372 of this title as this section.

2013—Pub. L. 112–239 struck out “(a) IN GENERAL.—” before “The Secretary” and subsec. (b) which related to emergencies involving chemical and biological agents.

1996—Pub. L. 104–106 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104–201 inserted at end “The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.”

1988—Pub. L. 100–456 amended section generally, inserting “(including associated supplies or spare parts)” and substituting “Department of Defense” for “Army, Navy, Air Force, or Marine Corps”.

#### SUPPORT FOR NON-FEDERAL DEVELOPMENT AND TESTING OF MATERIAL FOR CHEMICAL AGENT DEFENSE

Pub. L. 110–181, div. A, title X, §1034, Jan. 28, 2008, 122 Stat. 308, as amended by Pub. L. 114–328, div. A, title X, §1043, Dec. 23, 2016, 130 Stat. 2393, provided that:

“(a) AUTHORITY TO PROVIDE TOXIC CHEMICALS OR PRECURSORS.—

“(1) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other elements of the

Federal Government, may make available, to a State, a unit of local government, or a private entity incorporated in the United States, small quantities of a toxic chemical or precursor for the development or testing, in the United States, of material that is designed to be used for protective purposes.

“(2) TERMS AND CONDITIONS.—Any use of the authority under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

“(b) PAYMENT OF COSTS AND DISPOSITION OF FUNDS.—

“(1) IN GENERAL.—The Secretary shall ensure, through the advance payment required by paragraph (2) and through any other payments that may be required, that a recipient of toxic chemicals or precursors under subsection (a) pays for all actual costs, including direct and indirect costs, associated with providing the toxic chemicals or precursors.

“(2) ADVANCE PAYMENT.—In carrying out paragraph (1), the Secretary shall require each recipient to make an advance payment in an amount that the Secretary determines will equal all such actual costs.

“(3) CREDITS.—A payment received under this subsection shall be credited to the account that was used to cover the costs for which the payment was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

“(c) CHEMICAL WEAPONS CONVENTION.—The Secretary shall ensure that toxic chemicals and precursors are made available under this section for uses and in quantities that comply with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on January 13, 1993, and entered into force with respect to the United States on April 29, 1997.

“(d) REPORT.—

“(1) Not later than March 15, 2008, and each year thereafter, the Secretary shall submit to Congress a report that includes—

“(A) a description of—

“(i) each use of the authority under subsection (a); and

“(ii) for each such use, the specific material made available and to whom it was made available; and

“(B) a description of—

“(i) any instance in which the Department of Defense made available to a State, a unit of local government, or a private entity any biological select agent or toxin for the development or testing of any biodefense technology; and

“(ii) for each such instance, the specific material made available and to whom it was made available.

“(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

“(3) The requirement to submit a report under paragraph (1) shall terminate on January 31, 2021.

“(e) DEFINITIONS.—In this section:

“(1) The terms ‘precursor’, ‘protective purposes’, and ‘toxic chemical’ have the meanings given those terms in the convention referred to in subsection (c), in paragraph 2, paragraph 9(b), and paragraph 1, respectively, of article II of that convention.

“(2) The term ‘biological select agent or toxin’ means any agent or toxin identified under any of the following:

“(A) Section 331.3 of title 7, Code of Federal Regulations.

“(B) Section 121.3 or section 121.4 of title 9, Code of Federal Regulations.

“(C) Section 73.3 or section 73.4 of title 42, Code of Federal Regulations.”

[Pub. L. 114–328, div. A, title X, §1043(1), Dec. 23, 2016, 130 Stat. 2393, which directed amendment of subsec. (d)

of section 1034 of Pub. L. 110-181, set out above, by striking out “report on the use of the authority under subsection (a)” and all that followed, was executed by striking “report on the use of the authority under subsection (a)” and all that followed only to the end of par. (1) of subsec. (d), to reflect the probable intent of Congress and the subsequent addition of par. (3) of subsec. (d).]

### § 273. Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372<sup>1</sup> of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §373; amended Pub. L. 99-145, title XIV, §1423(a), Nov. 8, 1985, 99 Stat. 752; Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; renumbered §273, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### REFERENCES IN TEXT

Section 372 of this title, referred to in par. (1), was renumbered section 272 of this title by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

#### PRIOR PROVISIONS

A prior section 273, act Aug. 10, 1956, ch. 1041, 70A Stat. 13, related to composition of Standby Reserve and maintenance of inactive status list in Standby Reserve, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See sections 10151 to 10153 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 373 of this title as this section.

1988—Pub. L. 100-456 amended section generally, substituting provisions authorizing Secretary of Defense, in accordance with applicable law, to make Defense Department personnel available for training, etc., for former subsecs. (a) to (c) authorizing Secretary of Defense to assign members of Army, Navy, Air Force, and Marine Corps, etc., for training, etc., briefing sessions by Attorney General, and other functions of Attorney General and Administrator of General Services.

1985—Pub. L. 99-145 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

#### EFFECTIVE DATE OF 1985 AMENDMENT

Pub. L. 99-145, title XIV, §1423(b), Nov. 8, 1985, 99 Stat. 752, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1986.”

### § 274. Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372<sup>1</sup> of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372<sup>1</sup> of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term “Federal law enforcement agency” means a Federal agency with jurisdiction to enforce any of the following:

<sup>1</sup> See References in Text note below.

<sup>1</sup> See References in Text note below.

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) Chapter 705 of title 46.

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term “land area of the United States” includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

(Added Pub. L. 97–86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1115, §374; amended Pub. L. 98–525, title XIV, §1405(9), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–570, title III, §3056, Oct. 27, 1986, 100 Stat. 3207–77; Pub. L. 99–661, div. A, title XIII, §1373(c), Nov. 14, 1986, 100 Stat. 4007; Pub. L. 100–418, title I, §1214(a)(1), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 100–456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 101–189, div. A, title XII, §§1210, 1216(b), (c), Nov. 29, 1989, 103 Stat. 1566, 1569; Pub. L. 102–484, div. A, title X, §1042, Oct. 23, 1992, 106 Stat. 2492; Pub. L. 105–277, div. B, title II, §201, Oct. 21, 1998, 112 Stat. 2681–567; Pub. L. 106–65, div. A, title X, §1066(a)(4), Oct. 5, 1999, 113 Stat. 770; Pub. L. 109–304, §17(a)(1), Oct. 6, 2006, 120 Stat. 1706; renumbered §274, Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### REFERENCES IN TEXT

Section 372 of this title, referred to in subsecs. (a) and (b)(1), was renumbered section 272 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

The Controlled Substances Act, referred to in subsec. (b)(4)(A)(i), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (b)(4)(A)(i), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of the Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(4)(A)(iii), is not set out in the

Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

#### PRIOR PROVISIONS

A prior section 274, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; June 30, 1960, Pub. L. 86–559, §1(2)(B), 74 Stat. 264; Dec. 12, 1980, Pub. L. 96–513, title V, §511(9), 94 Stat. 2920, related to composition of Retired Reserve, prior to repeal by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10154 of this title.

#### AMENDMENTS

2016—Pub. L. 114–328 renumbered section 374 of this title as this section.

2006—Subsec. (b)(4)(A)(iv). Pub. L. 109–304 substituted “Chapter 705 of title 46” for “The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)”.

1999—Subsec. (b)(1)(C), (D). Pub. L. 106–65, §1066(a)(4)(A), realigned margins.

Subsec. (b)(2)(F)(i). Pub. L. 106–65, §1066(a)(4)(B), struck out semicolon after “law enforcement personnel:”.

1998—Subsec. (b)(1)(C), (D). Pub. L. 105–277, §201(1), (2), added subpars. (C) and (D).

Subsec. (b)(2)(F)(i). Pub. L. 105–277, §201(3), inserted “along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel:” after “transportation of civilian law enforcement personnel” and struck out “and” at end.

Subsec. (b)(2)(F)(ii). Pub. L. 105–277, §201(4)(A), inserted “and supporting” before “personnel”.

Subsec. (b)(2)(F)(iii). Pub. L. 105–277, §201(4)(B), (C), added cl. (iii).

Subsec. (b)(4)(A). Pub. L. 105–277, §201(5), substituted “a Federal agency” for “an agency” in introductory provisions.

Subsec. (b)(4)(A)(v). Pub. L. 105–277, §201(6), added cl. (v).

1992—Subsec. (b)(2)(B) to (F). Pub. L. 102–484, §1042(1), added subpar. (B) and redesignated former subpars. (B) to (E) as (C) to (F), respectively.

Subsec. (b)(3). Pub. L. 102–484, §1042(2), substituted “paragraph (2)(D)” for “paragraph (2)(C)”.

1989—Subsec. (b)(2)(E). Pub. L. 101–189, §1210, substituted “and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)” for “, the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States” in introductory provisions.

Subsec. (b)(4)(A)(iii). Pub. L. 101–189, §1216(b), substituted “general note 2 of the Harmonized Tariff Schedule of the United States” for “general headnote 2 of the Tariff Schedules of the United States”.

Subsec. (c). Pub. L. 101–189, §1216(c), substituted “subsection (b)(2)” for “paragraph (2)”.

1988—Pub. L. 100–456 substituted “Maintenance and operation of equipment” for “Assistance by Department of Defense personnel” in section catchline, and amended text generally, revising and restating former subsecs. (a) to (d) as subsecs. (a) to (c).

Subsec. (a)(3). Pub. L. 100–418, which directed substitution of “general note 2 of the Harmonized Tariff Schedule of the United States” for “general headnote 2 of the Tariff Schedules of the United States”, could not be executed because of intervening general amendment by Pub. L. 100–456.

1986—Subsec. (a). Pub. L. 99–570, §3056(a), inserted provision at end relating to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws.

Subsec. (c). Pub. L. 99–570, §3056(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

“(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned



under subsection (a) may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law listed in subsection (a) and to transport such law enforcement officials in connection with such operations, if—

“(A) equipment operated by or with the assistance of personnel assigned under subsection (a) is not used to interdict or to interrupt the passage of vessels or aircraft; and

“(B) the Secretary of Defense and the Attorney General jointly determine that an emergency circumstance exists.

“(2) For purposes of this subsection, an emergency circumstance may be determined to exist only when—

“(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and

“(B) enforcement of a law listed in subsection (a) would be seriously impaired if the assistance described in this subsection were not provided.”

Subsec. (d). Pub. L. 99-661 added subsec. (d).

1984—Subsec. (a)(3), Pub. L. 98-525 struck out “(19 U.S.C. 1202)” after “Tariff Schedules of the United States”.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

#### FUNDS FOR YOUNG MARINES PROGRAM

Pub. L. 110-116, div. A, title VIII, § 8030, Nov. 13, 2007, 121 Stat. 1321, provided that: “Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for ‘Drug Interdiction and Counter-Drug Activities, Defense’ may be obligated for the Young Marines program.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109-289, div. A, title VIII, § 8028, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 109-148, div. A, title VIII, § 8033, Dec. 30, 2005, 119 Stat. 2705.

Pub. L. 108-287, title VIII, § 8037, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108-87, title VIII, § 8037, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107-248, title VIII, § 8037, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107-117, div. A, title VIII, § 8040, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106-259, title VIII, § 8040, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106-79, title VIII, § 8043, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105-262, title VIII, § 8043, Oct. 17, 1998, 112 Stat. 2307.

Pub. L. 105-56, title VIII, § 8047, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104-208, div. A, title I, § 101(b) [title VIII, § 8048], Sept. 30, 1996, 110 Stat. 3009-71, 3009-99.

#### COUNTER-DRUG ACTIVITIES; CONDITIONS ON TRANSFERS OF FUNDS AND DETAILING PERSONNEL; RELATIONSHIP TO OTHER LAW

Pub. L. 103-337, div. A, title X, § 1011(b)-(d), Oct. 5, 1994, 108 Stat. 2836, provided that:

“(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

“(1) the amount authorized to be transferred;

“(2) the account from which such amount is authorized to be transferred; and

“(3) the account to which such amount is authorized to be transferred.

“(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

“(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

“(1) specifically refers to this section; and

“(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.”

Pub. L. 115-31, div. C, title VIII, § 8047(a), May 5, 2017, 131 Stat. 258, provided that: “None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 114-113, div. C, title VIII, § 8046(a), Dec. 18, 2015, 129 Stat. 2362.

Pub. L. 113-235, div. C, title VIII, § 8045(a), Dec. 16, 2014, 128 Stat. 2264.

Pub. L. 113-76, div. C, title VIII, § 8045(a), Jan. 17, 2014, 128 Stat. 115.

Pub. L. 113-6, div. C, title VIII, § 8045(a), Mar. 26, 2013, 127 Stat. 308.

Pub. L. 112-74, div. A, title VIII, § 8045(a), Dec. 23, 2011, 125 Stat. 817.

Pub. L. 112-10, div. A, title VIII, § 8045(a), Apr. 15, 2011, 125 Stat. 67.

Pub. L. 111-118, div. A, title VIII, § 8047(a), Dec. 19, 2009, 123 Stat. 3439.

Pub. L. 110-329, div. C, title VIII, § 8047(a), Sept. 30, 2008, 122 Stat. 3631.

Pub. L. 110-116, div. A, title VIII, § 8048(a), Nov. 13, 2007, 121 Stat. 1325.

Pub. L. 109-289, div. A, title VIII, § 8045(a), Sept. 29, 2006, 120 Stat. 1283.

Pub. L. 109-148, div. A, title VIII, § 8052(a), Dec. 30, 2005, 119 Stat. 2709.

Pub. L. 108-287, title VIII, § 8057(a), Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108-87, title VIII, § 8057(a), Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107-248, title VIII, § 8058(a), Oct. 23, 2002, 116 Stat. 1549.

Pub. L. 107-117, div. A, title VIII, § 8063(a), Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106-259, title VIII, § 8062(a), Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106-79, title VIII, § 8065(a), Oct. 25, 1999, 113 Stat. 1244.

Pub. L. 105-262, title VIII, § 8065(a), Oct. 17, 1998, 112 Stat. 2311.

Pub. L. 105-56, title VIII, § 8071(a), Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104-208, div. A, title I, § 101(b) [title VIII, § 8080(a)], Sept. 30, 1996, 110 Stat. 3009-71, 3009-104.

Pub. L. 104-61, title VIII, § 8096(a), Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103-335, title VIII, § 8154(a), Sept. 30, 1994, 108 Stat. 2658.

#### ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES AND ACTIVITIES TO COUNTER TRANSNATIONAL ORGANIZED CRIME

Pub. L. 101-510, div. A, title X, § 1004, Nov. 5, 1990, 104 Stat. 1629, as amended by Pub. L. 102-190, div. A, title X, § 1088(a), Dec. 5, 1991, 105 Stat. 1484; Pub. L. 102-484, div. A, title X, § 1041(a)-(d)(1), Oct. 23, 1992, 106 Stat. 2491; Pub. L. 103-160, div. A, title XI, § 1121(a), (b), Nov. 30, 1993, 107 Stat. 1753; Pub. L. 103-337, div. A, title X,

§1011(a), Oct. 5, 1994, 108 Stat. 2836; Pub. L. 105-261, div. A, title X, §1021, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 107-107, div. A, title X, §1021, Dec. 28, 2001, 115 Stat. 1212; Pub. L. 109-364, div. A, title X, §1021, Oct. 17, 2006, 120 Stat. 2382; Pub. L. 111-383, div. A, title X, §1015(a), Jan. 7, 2011, 124 Stat. 4347; Pub. L. 112-81, div. A, title X, §1005, Dec. 31, 2011, 125 Stat. 1556; Pub. L. 113-291, div. A, title X, §1012, Dec. 19, 2014, 128 Stat. 3483, which authorized the Secretary of Defense, during fiscal years 2012 through 2017, to provide support for the counter-drug activities or activities to counter transnational organized crime of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency, was repealed by Pub. L. 114-328, div. A, title X, §1011(b), Dec. 23, 2016, 130 Stat. 2385. See section 284 of this title.

#### COMMUNICATIONS NETWORK

Pub. L. 100-456, div. A, title XI, §1103, Sept. 29, 1988, 102 Stat. 2042, related to integration of United States assets dedicated to interdiction of illegal drugs into an effective communications network, prior to repeal by Pub. L. 101-189, div. A, title XII, §1204(b), Nov. 29, 1989, 103 Stat. 1564. See section 1204(a) of Pub. L. 101-189 set out as a note under section 124 of this title.

#### ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR NATIONAL GUARD

Pub. L. 100-456, div. A, title XI, §1105, Sept. 29, 1988, 102 Stat. 2047, related to funding and training of National Guard for purpose of drug interdiction and enforcement operations and for operation and maintenance of equipment and facilities for such purpose, prior to repeal by Pub. L. 101-189, div. A, title XII, §1207(b), Nov. 29, 1989, 103 Stat. 1566. See section 112 of Title 32, National Guard.

#### ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

Pub. L. 99-570, title III, §3057, Oct. 27, 1986, 100 Stat. 3207-77, provided that the Secretary of Defense was to submit to Congress, within 90 days after Oct. 27, 1986, a list of all forms of assistance that were to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies and a plan for promptly lending equipment and rendering drug interdiction-related assistance included on the list, provided for congressional approval of the list and plan, required the Secretary to convene a conference of the heads of Government agencies with jurisdiction over drug law enforcement to determine the appropriate distribution of the assets or other assistance to be made available by the Department to such agencies, and provided for monitoring of the Department's performance by the General Accounting Office.

#### § 275. Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

(Added Pub. L. 97-86, title IX §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §375; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 101-189, div. A, title XII, §1211, Nov. 29, 1989, 103 Stat. 1567; renumbered §275, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 275, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Sept. 2, 1958, Pub. L. 85-861, §1(5)(B), 72 Stat. 1439, related to maintenance of personnel records of members of reserve components, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10204 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 375 of this title as this section.

1989—Pub. L. 101-189 substituted “any activity” for “the provision of any support”, struck out “to any civilian law enforcement official” after “any personnel”, and substituted “a search, seizure, arrest,” for “a search and seizure, an arrest.”

1988—Pub. L. 100-456 amended section generally. Prior to amendment, section read as follows: “The Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any assistance (including the provision of any equipment or facility or the assignment of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in an interdiction of a vessel or aircraft, a search and seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.”

#### § 276. Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §376; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; renumbered §276, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 276, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Apr. 21, 1987, Pub. L. 100-26, §7(k)(4), 101 Stat. 284, related to maintenance of mobilization forces, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10207 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 376 of this title as this section.

1988—Pub. L. 100-456 substituted “Support” for “Assistance” in section catchline and amended text generally. Prior to amendment, text read as follows: “Assistance (including the provision of any equipment or facility or the assignment of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such assistance will adversely affect the military preparedness of the United States. The Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any such assistance does not adversely affect the military preparedness of the United States.”

#### § 277. Reimbursement

(a) Subject to subsection (c), to the extent otherwise required by section 1535 of title 31

(popularly known as the “Economy Act”) or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b)(1) Subject to subsection (c), the Secretary of Defense shall require a Federal agency to which law enforcement support or support to a national special security event is provided by National Guard personnel performing duty under section 502(f) of title 32 to reimburse the Department of Defense for the costs of that support, notwithstanding any other provision of law. No other provision of this chapter shall apply to such support.

(2) Any funds received by the Department of Defense under this subsection as reimbursement for support provided by personnel of the National Guard shall be credited, at the election of the Secretary of Defense, to the following:

(A) The appropriation, fund, or account used to fund the support.

(B) The appropriation, fund, or account currently available for reimbursement purposes.

(c) An agency to which support is provided under this chapter or section 502(f) of title 32 is not required to reimburse the Department of Defense for such support if the Secretary of Defense waives reimbursement. The Secretary may waive the reimbursement requirement under this subsection if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense or personnel of the National Guard providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §377; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 110-181, div. A, title X, §1061, Jan. 28, 2008, 122 Stat. 319; renumbered §277, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 277, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, prohibited discrimination in administering laws applicable to both Regulars and Reserves, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10209 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 377 of this title as this section.

2008—Subsec. (a). Pub. L. 110-181, §1061(1), substituted “Subject to subsection (c), to the extent” for “To the extent”.

Subsecs. (b), (c). Pub. L. 110-181, §1061(2), added subsecs. (b) and (c) and struck out former subsec. (b) which read as follows: “An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

“(1) is provided in the normal course of military training or operations; or

“(2) results in a benefit to the element of the Department of Defense providing the support that is

substantially equivalent to that which would otherwise be obtained from military operations or training.”

1988—Pub. L. 100-456 amended section generally. Prior to amendment, section read as follows: “The Secretary of Defense shall issue regulations providing that reimbursement may be a condition of assistance to a civilian law enforcement official under this chapter.”

#### § 278. Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

(Added Pub. L. 97-86, title IX, §905(a)(1), Dec. 1, 1981, 95 Stat. 1116, §378; amended Pub. L. 98-525, title XIV, §1405(10), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; renumbered §278, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 278, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, related to dissemination of information of interest to reserve components, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10210 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 378 of this title as this section.

1988—Pub. L. 100-456 reenacted section without change.

1984—Pub. L. 98-525 substituted “before December 1, 1981” for “prior to the enactment of this chapter”.

#### § 279. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Homeland Security shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Homeland Security; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Homeland Security, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A)<sup>1</sup> of this title.

(d) In this section, the term “drug-interdiction area” means an area outside the land area of the

<sup>1</sup> See References in Text note below.

United States (as defined in section 374(b)(4)(B)<sup>1</sup> of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

(Added Pub. L. 99-570, title III, §3053(b)(1), Oct. 27, 1986, 100 Stat. 3207-75, §379; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; renumbered §279, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### REFERENCES IN TEXT

Section 374 of this title, referred to in subsecs. (c) and (d), was renumbered section 274 of this title by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

#### PRIOR PROVISIONS

A prior section 279, added Pub. L. 103-160, div. A, title VIII, §822(d)(1), Nov. 30, 1993, 107 Stat. 1707, authorized acceptance of gratuitous services of officers of reserve components, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10212 of this title.

Another prior section 279, added Pub. L. 85-861, §1(5)(C), Sept. 2, 1958, 72 Stat. 1439; amended Pub. L. 94-273, §11(2), Apr. 21, 1976, 90 Stat. 378, directed Secretary of Defense to report to President and Congress, in January of each year, on the status of training of each reserve component and the progress made in strengthening the reserve components during the preceding fiscal year, prior to repeal by Pub. L. 95-485, §406(b)(1).

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 379 of this title as this section.

2002—Subsecs. (a), (b)(1), (c). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1988—Pub. L. 100-456 amended section generally, substituting “every appropriate surface naval vessel” for “appropriate surface naval vessels” in subsec. (a), substituting “section 374(b)(4)(A)” for “section 374(a)(1)” in subsec. (c), and inserting “(as defined in section 374(b)(4)(B) of this title)” in subsec. (d).

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

### § 280. Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

(Added Pub. L. 100-180, div. A, title XII, §1243(a), Dec. 4, 1987, 101 Stat. 1163, §380; amended Pub. L. 100-456, div. A, title XI, §1104(a), Sept. 29, 1988, 102 Stat. 2046; renumbered §280, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 280, acts Aug. 10, 1956, ch. 1041, 70A Stat. 14; Sept. 2, 1958, Pub. L. 85-861, §33(a)(2), 72 Stat. 1564; Sept. 7, 1962, Pub. L. 87-651, title I, §101, 76 Stat. 506; Sept. 11, 1967, Pub. L. 90-83, §3(1), 81 Stat. 220; Aug. 17, 1977, Pub. L. 95-105, title V, §509(d)(3), 91 Stat. 860; Dec. 12, 1980, Pub. L. 96-513, title V, §§501(5), 511(10), 94 Stat. 2907, 2920; Oct. 19, 1984, Pub. L. 98-525, title XIV, §1405(8), 98 Stat. 2622; Dec. 5, 1991, Pub. L. 102-190, div. A, title X, §1061(a)(3), 105 Stat. 1472, authorized Secretary of each military department and Secretary of Transportation to prescribe regulations, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10202 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 380 of this title as this section.

1988—Pub. L. 100-456 amended section generally, substituting provisions relating to annual briefing of law enforcement personnel of each State by Secretary of Defense and Attorney General and establishment of offices and telephone communication with those offices regarding surplus military equipment for provisions requiring the Secretary to report to Congress on the availability of assistance, etc., to civilian law enforcement and drug interdiction agencies and to convene a conference and requiring the Comptroller General to monitor and report on the Secretary's compliance with those requirements.

### § 281. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities

(a) PROCEDURES.—(1) The Secretary of Defense shall establish procedures in accordance with this subsection under which States and units of local government may purchase equipment suitable for counter-drug, homeland security, and emergency response activities through the Department of Defense. The procedures shall require the following:

(A) Each State desiring to participate in a procurement of equipment suitable for counter-drug, homeland security, or emergency response activities through the Department of Defense shall submit to the Department, in such form and manner and at such times as the Secretary prescribes, the following:

(i) A request for equipment.

(ii) Advance payment for such equipment, in an amount determined by the Secretary based on estimated or actual costs of the equipment and administrative costs incurred by the Department.

(B) A State may include in a request submitted under subparagraph (A) only the type of equipment listed in the catalog produced under subsection (c).

(C) A request for equipment shall consist of an enumeration of the equipment that is desired by the State and units of local government within the State. The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for equipment from units of local government within the State.

(D) A State requesting equipment shall be responsible for arranging and paying for shipment of the equipment to the State and localities within the State.

(2) In establishing the procedures, the Secretary of Defense shall coordinate with the General Services Administration and other Federal agencies for purposes of avoiding duplication of effort.

(b) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—In the case of any purchase made by a State or unit of local government under the procedures established under subsection (a), the Secretary of Defense shall require the State or unit of local government to reimburse the Department of Defense for the administrative costs to the Department of such purchase.

(c) GSA CATALOG.—The Administrator of General Services, in coordination with the Secretary of Defense, shall produce and maintain a catalog of equipment suitable for counter-drug, homeland security, and emergency response activities for purchase by States and units of local government under the procedures established by the Secretary under this section.

(d) DEFINITIONS.—In this section:

(1) The term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) The term “unit of local government” means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement or emergency response functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement or emergency response functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

(3) The term “equipment suitable for counter-drug, homeland security, and emergency response activities” has the meaning given such term in regulations prescribed by the Secretary of Defense. In prescribing the meaning of the term, the Secretary may not include any equipment that the Department of Defense does not procure for its own purposes and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security.

(Added Pub. L. 103-160, div. A, title XI, §1122(a)(1), Nov. 30, 1993, 107 Stat. 1754, §381; amended Pub. L. 110-417, [div. AJ], title VIII, §885(a), (b)(1), Oct. 14, 2008, 122 Stat. 4560, 4561; renumbered §281, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

#### PRIOR PROVISIONS

A prior section 281, added Pub. L. 86-559, §1(2)(C), June 30, 1960, 74 Stat. 264; amended Pub. L. 100-456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, provided that certain references in this title to the adjutant general or assistant adjutant general of the National Guard of a jurisdiction be applied to another officer of the National Guard performing the duties of that office, prior to repeal by Pub. L. 103-337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994. See section 10214 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 381 of this title as this section.

2008—Pub. L. 110-417, §885(b)(1), substituted “Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities” for “Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense” in section catchline.

Subsec. (a)(1). Pub. L. 110-417, §885(a)(1), in introductory provisions, struck out “law enforcement” before “equipment” and inserted “, homeland security, and emergency response” after “counter-drug”, in subpar. (A), inserted “, homeland security, or emergency response” after “counter-drug” in introductory provisions and struck out “law enforcement” before “equipment” in cl. (i), in subpar. (C) struck out “law enforcement” before “equipment” wherever appearing, and in subpar. (D) struck out “law enforcement” before “equipment shall”.

Subsec. (c). Pub. L. 110-417, §885(a)(2), struck out “law enforcement” before “equipment” and inserted “, homeland security, and emergency response” after “counter-drug”.

Subsec. (d)(2), (3). Pub. L. 110-417, §885(a)(3), in par. (2) inserted “or emergency response” after “law enforcement” in two places and in par. (3) struck out “law enforcement” before “equipment suitable” and inserted “, homeland security, and emergency response” after “counter-drug” and “and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security” before period at end.

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

## DEADLINE FOR ESTABLISHING PROCEDURES

Pub. L. 103-160, div. A, title XI, §1122(b), Nov. 30, 1993, 107 Stat. 1755, directed the Secretary of Defense to establish procedures under subsec. (a) of this section not later than six months after Nov. 30, 1993.

**§ 282. Emergency situations involving weapons of mass destruction**

(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175, 229, or 2332a of title 18 during an emergency situation involving a weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) EMERGENCY SITUATIONS COVERED.—In this section, the term “emergency situation involving a weapon of mass destruction” means a circumstance involving a weapon of mass destruction—

(1) that poses a serious threat to the interests of the United States; and

(2) in which—

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175, 229, or 2332a of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372<sup>1</sup> of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175, 229, or 2332a of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377<sup>1</sup> of this title.

(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary’s authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.

(Added Pub. L. 104-201, div. A, title XIV, §1416(a)(1), Sept. 23, 1996, 110 Stat. 2721, §382; amended Pub. L. 105-85, div. A, title X, §1073(a)(6), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 111-383, div. A, title X, §1075(b)(10)(A), (B), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112-81, div. A, title X, §1089, Dec. 31, 2011, 125 Stat. 1603; renumbered §282, Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

## REFERENCES IN TEXT

Section 372 of this title, referred to in subsec. (c), was renumbered section 272 of this title by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 377 of this title, referred to in subsec. (e), was renumbered section 277 of this title by Pub. L. 114-328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

## AMENDMENTS

2016—Pub. L. 114-328 renumbered section 382 of this title as this section.

2011—Pub. L. 111-383, §1075(b)(10)(B), struck out “chemical or biological” before “weapons” in section catchline.

Subsec. (a). Pub. L. 112-81 struck out “biological or chemical” before “weapon of mass destruction” in introductory provisions.

Pub. L. 111-383, §1075(b)(10)(A), substituted “section 175, 229, or 2332a” for “section 175 or 2332c”.

<sup>1</sup> See References in Text note below.

Subsec. (b). Pub. L. 112-81 struck out “biological or chemical” before “weapon of mass destruction” in two places in introductory provisions.

Subsecs. (b)(2)(C), (d)(2)(A)(ii). Pub. L. 111-383, § 1075(b)(10)(A), substituted “section 175, 229, or 2332a” for “section 175 or 2332c”.

1997—Subsec. (g). Pub. L. 105-85 substituted “September 23, 1996” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997”.

MILITARY ASSISTANCE TO CIVIL AUTHORITIES TO RESPOND TO ACT OR THREAT OF TERRORISM

Pub. L. 106-65, div. A, title X, § 1023, Oct. 5, 1999, 113 Stat. 747, authorized the Secretary of Defense, upon the request of the Attorney General, to provide assistance to civil authorities in responding to an act of terrorism or threat of an act of terrorism within the United States, if the Secretary determined that certain conditions were met, subject to reimbursement and limitations on funding and personnel, and provided that this authority applied between Oct. 1, 1999, and Sept. 30, 2004.

**§ 283. Situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities**

(a) IN GENERAL.—Upon the request of the Attorney General, the Secretary of Defense may provide assistance in support of Department of Justice activities related to the enforcement of section 2332f of title 18 during situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities.

(b) RENDERING-SAFE SUPPORT.—Military explosive ordnance disposal units providing rendering-safe support to Department of Justice activities relating to the enforcement of section 175, 229, or 2332a of title 18 in emergency situations involving weapons of mass destruction shall provide such support in a manner consistent with the provisions of section 382<sup>1</sup> of this title.

(c) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations prescribed under paragraph (1) may not authorize any of the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175, 229, or 2332a of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) Such regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (a) or under otherwise applicable law.

(d) EXPLOSIVE ORDNANCE DEFINED.—The term “explosive ordnance”—

(1) means—

(A) bombs and warheads;

(B) guided and ballistic missiles;

(C) artillery, mortar, rocket, and small arms ammunition;

(D) all mines, torpedoes, and depth charges;

(E) grenades demolition charges;

(F) pyrotechnics;

(G) clusters and dispensers;

(H) cartridge- and propellant- actuated devices;

(I) electroexplosives devices;

(J) clandestine and improvised explosive devices; and

(K) all similar or related items or components explosive in nature; and

(2) includes all munitions containing explosives, propellants, nuclear fission or fusion materials, and biological and chemical agents.

(Added Pub. L. 114-92, div. A, title X, § 1082(a), Nov. 25, 2015, 129 Stat. 1002, § 383; renumbered § 283, Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.)

REFERENCES IN TEXT

Section 382 of this title, referred to in subsec. (b), was renumbered section 282 of this title by Pub. L. 114-328, div. A, title XII, § 1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

AMENDMENTS

2016—Pub. L. 114-328 renumbered section 383 of this title as this section.

**§ 284. Support for counterdrug activities and activities to counter transnational organized crime**

(a) SUPPORT TO OTHER AGENCIES.—The Secretary of Defense may provide support for the counterdrug activities or activities to counter transnational organized crime of any other department or agency of the Federal Government or of any State, local, tribal, or foreign law enforcement agency for any of the purposes set forth in subsection (b) or (c), as applicable, if—

(1) in the case of support described in subsection (b), such support is requested—

(A) by the official who has responsibility for the counterdrug activities or activities to counter transnational organized crime of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government; or

(B) by the appropriate official of a State, local, or tribal government, in the case of support for State, local, or tribal law enforcement agencies; or

(2) in the case of support described in subsection (c), such support is requested by an appropriate official of a department or agency of the Federal Government, in coordination with the Secretary of State, that has counterdrug responsibilities or responsibilities for counter-ing transnational organized crime.

(b) TYPES OF SUPPORT FOR AGENCIES OF UNITED STATES.—The purposes for which the Secretary

<sup>1</sup> See References in Text note below.

may provide support under subsection (a) for other departments or agencies of the Federal Government or a State, local, or tribal law enforcement agencies, are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State, local, or tribal government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of the Department of Defense or any Federal, State, local, or tribal law enforcement agency within or outside the United States.

(5) Counterdrug or counter-transnational organized crime related training of law enforcement personnel of the Federal Government, of State, local, and tribal governments, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) The detection, monitoring, and communication of the movement of—

(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(9) The provision of linguist and intelligence analysis services.

(10) Aerial and ground reconnaissance.

(c) TYPES OF SUPPORT FOR FOREIGN LAW ENFORCEMENT AGENCIES.—

(1) PURPOSES.—The purposes for which the Secretary may provide support under subsection (a) for foreign law enforcement agencies are the following:

(A) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime within or outside the United States.

(B) The establishment (including small scale construction) and operation of bases of operations or training facilities for the purpose of facilitating counterdrug activities or activities to counter transnational organized crime of a foreign law enforcement agency outside the United States.

(C) The detection, monitoring, and communication of the movement of—

(i) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

(ii) surface traffic outside the geographic boundaries of the United States.

(D) Establishment of command, control, communications, and computer networks for improved integration of United States Federal and foreign law enforcement entities and United States Armed Forces.

(E) The provision of linguist and intelligence analysis services.

(F) Aerial and ground reconnaissance.

(2) COORDINATION WITH SECRETARY OF STATE.—In providing support for a purpose described in this subsection, the Secretary shall coordinate with the Secretary of State.

(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department.

(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376<sup>1</sup> of this title, the Secretary may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)<sup>2</sup> for

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Another closing parenthesis probably should appear.



the purpose of aiding civilian law enforcement agencies.

(g) RELATIONSHIP TO OTHER SUPPORT AUTHORITIES.—

(1) ADDITIONAL AUTHORITY.—The authority provided in this section for the support of counterdrug activities or activities to counter transnational organized crime by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the other requirements of this chapter.

(2) EXCEPTION.—Support under this section shall be subject to the provisions of section 375<sup>1</sup> and, except as provided in subsection (e), section 376<sup>1</sup> of this title.

(h) CONGRESSIONAL NOTIFICATION.—

(1) IN GENERAL.—Not less than 15 days before providing support for an activity under subsection (a), the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice of the following:

(A) In the case of support for a purpose described in subsection (c)—

(i) the country the capacity of which will be built or enabled through the provision of such support;

(ii) the budget, implementation timeline with milestones, anticipated delivery schedule for support, and completion date for the purpose or project for which support is provided;

(iii) the source and planned expenditure of funds provided for the project or purpose;

(iv) a description of the arrangements, if any, for the sustainment of the project or purpose and the source of funds to support sustainment of the capabilities and performance outcomes achieved using such support, if applicable;

(v) a description of the objectives for the project or purpose and evaluation framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient;

(vi) information, including the amount, type, and purpose, about the support provided the country during the three fiscal years preceding the fiscal year for which the support covered by the notice is provided under this section under—

(I) this section;

(II) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(III) peacekeeping operations;

(IV) the International Narcotics Control and Law Enforcement program under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291);

(V) Nonproliferation, Anti-Terrorism, Demining, and Related Programs;

(VI) counterdrug activities authorized by section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note)<sup>1</sup> and section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85); or

(VII) any other significant program, account, or activity for the provision of

security assistance that the Secretary of Defense and the Secretary of State consider appropriate;

(vii) an evaluation of the capacity of the recipient country to absorb the support provided; and

(viii) an evaluation of the manner in which the project or purpose for which the support is provided fits into the theater security cooperation strategy of the applicable geographic combatant command.

(B) In the case of support for a purpose described in subsection (b) or (c), a description of any small scale construction project for which support is provided.

(2) COORDINATION WITH SECRETARY OF STATE.—In providing notice under this subsection for a purpose described in subsection (c), the Secretary of Defense shall coordinate with the Secretary of State.

(i) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

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

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

(2) The term “Indian tribe” means a Federally recognized Indian tribe.

(3) The term “small scale construction” means construction at a cost not to exceed \$750,000 for any project.

(4) The term “tribal government” means the governing body of an Indian tribe, the status of whose land is “Indian country” as defined in section 1151 of title 18 or held in trust by the United States for the benefit of the Indian tribe.

(5) The term “tribal law enforcement agency” means the law enforcement agency of a tribal government.

(6) The term “transnational organized crime” means self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary, or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption or violence or through a transnational organization structure and the exploitation of transnational commerce or communication mechanisms.

(Added §384 and renumbered §284, Pub. L. 114–328, div. A, title X, §1011(a)(1), title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2381, 2497.)

#### REFERENCES IN TEXT

Section 376 of this title, referred to in subsecs. (e) and (g)(2), was renumbered section 276 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991, referred to subsec. (f), is section 1206(a) of Pub. L. 101–189, which is set out as a note under section 124 of this title.

Section 375, referred to in subsec. (g)(2), was renumbered section 275 of this title by Pub. L. 114–328, div. A, title XII, §1241(a)(2), Dec. 23, 2016, 130 Stat. 2497.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991, referred to in subsec. (h)(1)(A)(vi)(VI), is section 1004 of Pub. L. 101-510, which was set out as a note under section 374 of this title prior to being repealed by Pub. L. 114-328, div. A, title X, §1011(b), Dec. 23, 2016, 130 Stat. 2385.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (h)(1)(A)(vi)(VI), is section 1033 of Pub. L. 105-85, div. A, title X, Nov. 18, 1997, 111 Stat. 1881, which is not classified to the Code.

AMENDMENTS

2016—Pub. L. 114-328, §1241(a)(2), renumbered section 384 of this title as this section.

CHAPTER 16—SECURITY COOPERATION

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SUBCHAPTER I—GENERAL MATTERS

Sec.	
301.	Definitions.

§ 301. Definitions

In this chapter:

(1) The terms “appropriate congressional committees” and “appropriate committees of Congress” mean—

(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

(2) The term “defense article” has the meaning given that term in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(3) The term “defense service” has the meaning given that term in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(4) The term “developing country” has the meaning prescribed by the Secretary of Defense for purposes of this chapter in accordance with section 1241(n) of the National Defense Authorization Act for Fiscal Year 2017.

(5) The term “incremental expenses”, with respect to a foreign country—

(A) means the reasonable and proper costs of rations, fuel, training ammunition, transportation, and other goods and services consumed by the country as a direct result of the country’s participation in activities authorized by this chapter; and

(B) does not include—

(i) any form of lethal assistance (excluding training ammunition); or

(ii) pay, allowances, and other normal costs of the personnel of the country.

(6) The term “national security forces”, in the case of a foreign country, means the following:

(A) National military and national-level security forces of the foreign country that have the functional responsibilities for which training is authorized in section 333(a) of this title.

(B) With respect to operations referred to in section 333(a)(2) of this title, military and civilian first responders of the foreign country at the national or local level that have such operations among their functional responsibilities.

(7) The term “security cooperation programs and activities of the Department of Defense” means any program, activity (including an exercise), or interaction of the Department of Defense with the security establishment of a foreign country to achieve a purpose as follows:

(A) To build and develop allied and friendly security capabilities for self-defense and multinational operations.

(B) To provide the armed forces with access to the foreign country during peacetime or a contingency operation.

(C) To build relationships that promote specific United States security interests.

(8) The term “small-scale construction” means construction at a cost not to exceed \$750,000 for any project.

(9) The term “training” has the meaning given the term “military education and training” in section 644 of the Foreign Assistance Act of 1961 (22 U.S.C. 2403).

(Added Pub. L. 114-328, div. A, title XII, §1241(a)(3), Dec. 23, 2016, 130 Stat. 2498.)

REFERENCES IN TEXT

Section 1241(n) of the National Defense Authorization Act for Fiscal Year 2017, referred to in par. (4), is section 1241(n) of Pub. L. 114-328, which is set out as a note below.

SAVINGS CLAUSE

Pub. L. 114-328, div. A, title XII, §1253(b), Dec. 23, 2016, 130 Stat. 2532, as amended by Pub. L. 115-91, div. A, title X, §1081(d)(14), Dec. 12, 2017, 131 Stat. 1600, provided that: “Any determination or other action made or taken before the date of the enactment of this Act [Dec. 23, 2016] under a provision of law transferred or repealed by this subtitle [subtitle E (§§ 1241–1253) of title XII of Pub. L. 114-328, see Tables for classification] that is in effect as of the date of the enactment of this Act and is necessary for the administration of a successor authority to such provision of law under chapter 16 of title 10, United States Code, by reason of the enactment of such chapter by this subtitle shall remain in effect, in accordance with the terms of such determination or action when made or taken, for purposes of the administration of such successor authority.”

PRESCRIPTION OF TERM “DEVELOPING COUNTRY”

Pub. L. 114-328, div. A, title XII, §1241(n), Dec. 23, 2016, 130 Stat. 2511, provided that:

“(1) IN GENERAL.—The Secretary of Defense shall prescribe the meaning of the term ‘developing country’ for purposes of chapter 16 of title 10, United States Code, as added by subsection (a)(3), and may from time to time prescribe a revision to the meaning of that term for those purposes.

“(2) INITIAL PRESCRIPTION.—The Secretary shall first prescribe the meaning of the term by not later than 270 days after the date of the enactment of this Act [Dec. 23, 2016].”

“(3) NOTICE TO CONGRESS.—Whenever the Secretary prescribes the meaning of the term pursuant to paragraph (1), the Secretary shall notify the appropriate committees of Congress of the meaning of the term as so prescribed.

“(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ has the meaning given that term in section 301(1) of title 10, United States Code, as so added.”

QUADRENNIAL REVIEW OF SECURITY SECTOR ASSISTANCE PROGRAMS AND AUTHORITIES OF THE UNITED STATES GOVERNMENT

Pub. L. 114-328, div. A, title XII, §1252, Dec. 23, 2016, 130 Stat. 2531, provided that:

“(a) STATEMENT OF POLICY.—It is the policy of the United States that the principal goals of the security sector assistance programs and authorities of the United States Government are as follows:

“(1) To assist partner nations in building sustainable capability to address common security challenges with the United States.

“(2) To promote partner nation support for United States interests.

“(3) To promote universal values, such as good governance, transparent and accountable oversight of security forces, rule of law, transparency, accountability, delivery of fair and effective justice, and respect for human rights.

“(4) To strengthen collective security and multinational defense arrangements and organizations of which the United States is a participant.

“(b) QUADRENNIAL REVIEW.—

“(1) REVIEW REQUIRED.—Not later than January 31, 2018, and every four years thereafter through 2034, the President shall complete a review of the security sector assistance programs, policies, authorities, and resources of the United States Government across the United States Government.

“(2) ELEMENTS.—Each review under this subsection shall include the following:

“(A) An examination [of] whether the current security sector assistance programs, policies, authorities, and resources of the United States Government are sufficient to achieve the goals specified in subsection (a), and an identification of any gaps or shortfalls needing mitigation.

“(B) An examination of the success of such programs and resources in achieving such goals, based on a review of relevant departmental and inter-agency programmatic and strategic evaluations.

“(C) An examination of the extent to which the security sector assistance of the United States Government is aligned with national security and foreign policy objectives, conducted in support of clear and coherent policy guidance, and planned and executed in accordance with identified best practices.

“(D) The development of recommendations, as appropriate, for improving the security sector assistance programs, policies, authorities, and resources of the United States Government to more effectively achieve the goals specified in subsection (a) and support other national security objectives.

“(3) SUBMITTAL TO CONGRESS.—Not later than 60 days after the completion of a review under this subsection, the President shall submit to the appropriate committees of Congress a report setting forth a summary of the review, including any recommendations developed pursuant to paragraph (2)(D).

“(4) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ has the meaning given that term in section section [sic] 301(1) of title 10, United States Code, as added by section 1241(a)(3) of this Act.”

SUBCHAPTER II—MILITARY-TO-MILITARY ENGAGEMENTS

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|------|--|
| Sec. |  |
| 311. | Exchange of defense personnel between United States and friendly foreign countries: authority.                               |
| 312. | Payment of personnel expenses necessary for theater security cooperation.  |
| 313. | Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance. |

§ 311. Exchange of defense personnel between United States and friendly foreign countries: authority

(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements. Any exchange of personnel under such an agreement is subject to paragraph (3).

(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of a friendly foreign country or international or regional security organization for the reciprocal or non-reciprocal exchange of—

(A) members of the armed forces and civilian personnel of the Department of Defense; and

(B) military and civilian personnel of the defense or security ministry of that foreign government or international or regional security organization.

(3) An exchange of personnel under an international defense personnel exchange agreement under this section may only be made with the concurrence of the Secretary to State<sup>1</sup> to the extent the exchange is with either of the following:

(A) A non-defense security ministry of a foreign government.

(B) An international or regional security organization.

(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government, subject to the concurrence of the Secretary of State.

(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—In the case of an international defense personnel exchange agreement that provides for reciprocal exchanges, each government

<sup>1</sup> So in original. Probably should be “Secretary of State”.

shall be required to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

(d) **PAYMENT OF PERSONNEL COSTS.**—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

(2) Paragraph (1) does not apply to the following costs:

(A) The cost of temporary duty directed by the host government.

(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

(e) **PROHIBITED CONDITIONS.**—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

(f) **RELATIONSHIP TO OTHER AUTHORITY.**—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the defense or security ministry of that foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.

(Added and amended Pub. L. 114-328, div. A, title XII, §1242(a), (b), Dec. 23, 2016, 130 Stat. 2512, 2513.)

#### CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of Pub. L. 104-201, div. A, title X, §1082, Sept. 23, 1996, 110 Stat. 2672, which was formerly set out as a note under section 168 of this title, prior to repeal by Pub. L. 114-328, div. A, title XII, §1242(c)(1), Dec. 23, 2016, 130 Stat. 2513.

#### PRIOR PROVISIONS

A prior section 311 was renumbered section 246 of this title.

#### AMENDMENTS

2016—Subsec. (a)(1). Pub. L. 114-328, §1242(b)(1)(A), inserted at end “Any exchange of personnel under such an agreement is subject to paragraph (3).”

Subsec. (a)(2). Pub. L. 114-328, §1242(b)(1)(B)(i), substituted “a friendly foreign country or international or regional security organization for the reciprocal or non-reciprocal exchange” for “an ally of the United States or another friendly foreign country for the exchange” in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 114-328, §1242(b)(1)(B)(ii), substituted “members of the armed forces” for “military”.

Subsec. (a)(2)(B). Pub. L. 114-328, §1242(b)(1)(B)(iii), inserted “or security” after “defense” and inserted “or international or regional security organization” before period at end.

Subsec. (a)(3). Pub. L. 114-328, §1242(b)(1)(C), added par. (3).

Subsec. (b)(2). Pub. L. 114-328, §1242(b)(2), inserted “, subject to the concurrence of the Secretary of State” before period at end.

Subsec. (c). Pub. L. 114-328, §1242(b)(3), substituted “In the case of” for “Each government shall be required under” and inserted “that provides for reciprocal exchanges, each government shall be required” after “exchange agreement”.

Subsec. (f). Pub. L. 114-328, §1242(b)(4), inserted “defense or security ministry of that” after “military personnel of the”.

#### LIMITATION ON MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH CHINESE PEOPLE'S LIBERATION ARMY

Pub. L. 106-65, div. A, title XII, §1201, Oct. 5, 1999, 113 Stat. 779, as amended by Pub. L. 111-84, div. A, title XII, §1246(d), Oct. 28, 2009, 123 Stat. 2545; Pub. L. 112-81, div. A, title X, §1066(e)(2), Dec. 31, 2011, 125 Stat. 1589, provided that:

“(a) **LIMITATION.**—The Secretary of Defense may not authorize any military-to-military exchange or contact described in subsection (b) to be conducted by the armed forces with representatives of the People's Liberation Army of the People's Republic of China if that exchange or contact would create a national security risk due to an inappropriate exposure specified in subsection (b).

“(b) **COVERED EXCHANGES AND CONTACTS.**—Subsection (a) applies to any military-to-military exchange or contact that includes inappropriate exposure to any of the following:

“(1) Force projection operations.

“(2) Nuclear operations.

“(3) Advanced combined-arms and joint combat operations.

“(4) Advanced logistical operations.

“(5) Chemical and biological defense and other capabilities related to weapons of mass destruction.

“(6) Surveillance and reconnaissance operations.

“(7) Joint warfighting experiments and other activities related to a transformation in warfare.

“(8) Military space operations.

“(9) Other advanced capabilities of the Armed Forces.

“(10) Arms sales or military-related technology transfers.

“(11) Release of classified or restricted information.

“(12) Access to a Department of Defense laboratory.

“(c) **EXCEPTIONS.**—Subsection (a) does not apply to any search-and-rescue or humanitarian operation or exercise.”

#### §312. Payment of personnel expenses necessary for theater security cooperation

(a) **AUTHORITY.**—The Secretary of Defense may pay expenses specified in subsection (b) that the Secretary considers necessary for theater security cooperation.

(b) **TYPES OF EXPENSES.**—The expenses that may be paid under the authority provided in subsection (a) are the following:

(1) **PERSONNEL EXPENSES.**—The Secretary of Defense may pay travel, subsistence, and similar personnel expenses of, and special compensation for, the following that the Secretary considers necessary for theater security cooperation:

(A) Defense personnel of friendly foreign governments.

(B) With the concurrence of the Secretary of State, other personnel of friendly foreign governments and non-governmental personnel.

(2) **ADMINISTRATIVE SERVICES AND SUPPORT FOR LIAISON OFFICERS.**—The Secretary of Defense may provide administrative services and

support for the performance of duties by a liaison officer of a foreign country while the liaison officer is assigned temporarily to any headquarters in the Department of Defense.

(3) TRAVEL, SUBSISTENCE, AND MEDICAL CARE FOR LIAISON OFFICERS.—The Secretary of Defense may pay the expenses of a liaison officer in connection with the assignment of that officer as described in paragraph (2) if the assignment is requested by the commander of a combatant command, the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps, or the head of a Defense Agency as follows:

(A) Travel and subsistence expenses.

(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

(C) Expenses for medical care at a civilian medical facility if—

(i) adequate medical care is not available to the liaison officer at a local military medical treatment facility;

(ii) the Secretary determines that payment of such medical expenses is necessary and in the best interests of the United States; and

(iii) medical care is not otherwise available to the liaison officer pursuant to any treaty or other international agreement.

(D) Mission-related travel expenses if such travel meets each of the following conditions:

(i) The travel is in support of the national security interests of the United States.

(ii) The officer or official making the request directs round-trip travel from the assigned location to one or more travel locations.

(4) CONFERENCES, SEMINARS, AND SIMILAR MEETINGS.—The authority provided by paragraph (1) includes authority to pay travel and subsistence expenses for personnel described in that paragraph in connection with the attendance of such personnel at any conference, seminar, or similar meeting that is in direct support of enhancing interoperability between the United States armed forces and the national security forces of a friendly foreign country for the purposes of conducting operations, the provision of equipment or training, or the planning for, or the execution of, bilateral or multilateral training, exercises, or military operations.

(5) OTHER EXPENSES.—In addition to the personnel expenses payable under paragraph (1), the Secretary of Defense may pay such other limited expenses in connection with conferences, seminars, and similar meetings covered by paragraph (4) as the Secretary considers appropriate in the national security interests of the United States.

(c) LIMITATIONS ON EXPENSES PAYABLE.—

(1) PERSONNEL FROM DEVELOPING COUNTRIES.—The authority provided in subsection (a) may be used only for the payment of expenses of, and special compensation for, personnel from developing countries, except that

the Secretary of Defense may authorize the payment of such expenses and special compensation for personnel from a country other than a developing country if the Secretary determines that such payment is necessary to respond to extraordinary circumstances and is in the national security interest of the United States.

(2) NON-DEFENSE LIAISON OFFICERS.—In the case of a non-defense liaison officer of a foreign country, the authority of the Secretary of Defense under subsection (a) to pay expenses specified in paragraph (2) or (3) of subsection (b) may be exercised only if the assignment of that liaison officer as a liaison officer with the Department of Defense was accepted by the Secretary of Defense with the coordination of the Secretary of State.

(d) REIMBURSEMENT.—The Secretary of Defense may provide the services and support specified in subsection (b)(2) with or without reimbursement from (or on behalf of) the recipients. The terms of reimbursement (if any) shall be specified in the appropriate agreements used to assign the liaison officer.

(e) MONETARY LIMITATIONS ON EXPENSES PAYABLE.—

(1) TRAVEL AND SUBSISTENCE EXPENSES GENERALLY.—Travel and subsistence expenses authorized to be paid under subsection (a) may not, in the case of any individual, exceed the amount that would be paid under chapter 7 or 8 of title 37 to a member of the armed forces (of a comparable grade) for authorized travel of a similar nature.

(2) TRAVEL AND RELATED EXPENSES OF LIAISON OFFICERS.—The amount paid for expenses specified in subsection (b)(3) for any liaison officer in any fiscal year may not exceed \$150,000.

(f) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives.

(g) ADMINISTRATIVE SERVICES AND SUPPORT DEFINED.—In this section, the term “administrative services and support” includes base or installation support services, office space, utilities, copying services, fire and police protection, training programs conducted to familiarize, orient, or certify liaison personnel regarding unique aspects of the assignments of the liaison personnel, and computer support.

(Added Pub. L. 114-328, div. A, title XII, § 1243(a), Dec. 23, 2016, 130 Stat. 2514.)

#### PRIOR PROVISIONS

A prior section 312 was renumbered section 247 of this title.

### **§ 313. Bilateral or regional cooperation programs: awards and mementos to recognize superior noncombat achievements or performance**

(a) GENERAL AUTHORITY.—The Secretary of Defense may present awards and mementos purchased with funds appropriated for operation and maintenance of the armed forces to recognize superior noncombat achievements or per-

formance by members of friendly foreign forces and other foreign nationals that significantly enhance or support the National Security Strategy of the United States.

(b) **ACTIVITIES THAT MAY BE RECOGNIZED.**—Activities that may be recognized under subsection (a) include superior achievement or performance that—

(1) plays a crucial role in shaping the international security environment in ways that protect and promote United States interests;

(2) supports or enhances United States overseas presence and peacetime engagement activities, including defense cooperation initiatives, security assistance training and programs, and training and exercises with the armed forces;

(3) helps to deter aggression and coercion, build coalitions, and promote regional stability; or

(4) serves as a role model for appropriate conduct by military forces in emerging democracies.

(c) **LIMITATION.**—Expenditures for the purchase or production of mementos for award under this section may not exceed the minimal value in effect under section 7342(a)(5) of title 5.

(Added Pub. L. 108–136, div. A, title XII, § 1222(a), Nov. 24, 2003, 117 Stat. 1652, § 1051b; renumbered § 313, Pub. L. 114–328, div. A, title XII, § 1241(b), Dec. 23, 2016, 130 Stat. 2500.)

#### AMENDMENTS

2016—Pub. L. 114–328 renumbered section 1051b of this title as this section.

### SUBCHAPTER III—TRAINING WITH FOREIGN FORCES

Sec.

321. Training with friendly foreign countries: payment of training and exercise expenses.

322. Special operations forces: training with friendly foreign forces.

#### § 321. Training with friendly foreign countries: payment of training and exercise expenses

(a) **TRAINING AUTHORIZED.**—

(1) **TRAINING WITH FOREIGN FORCES GENERALLY.**—The armed forces under the jurisdiction of the Secretary of Defense may train with the military forces or other security forces of a friendly foreign country if the Secretary determines that it is in the national security interest of the United States to do so.

(2) **LIMITATION ON TRAINING OF GENERAL PURPOSE FORCES.**—The general purpose forces of the United States armed forces may train only with the military forces of a friendly foreign country.

(3) **TRAINING TO SUPPORT MISSION ESSENTIAL TASKS.**—Any training conducted pursuant to paragraph (1) shall, to the maximum extent practicable, support the mission essential tasks for which the unit of the United States armed forces participating in such training is responsible.

(4) **ELEMENTS OF TRAINING.**—Any training conducted pursuant to paragraph (1) shall, to the maximum extent practicable, include elements that promote—

(A) observance of and respect for human rights and fundamental freedoms; and

(B) respect for legitimate civilian authority within the foreign country concerned.

(b) **AUTHORITY TO PAY TRAINING AND EXERCISE EXPENSES.**—Under regulations prescribed pursuant to subsection (e), the Secretary of a military department or the commander of a combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of training forces assigned or allocated to that command in conjunction with training, and training with, the military forces or other security forces of a friendly foreign country under subsection (a).

(2) Expenses of deploying such forces for that training.

(3) The incremental expenses of a friendly foreign country as the direct result of participating in such training, as specified in the regulations.

(4) The incremental expenses of a friendly foreign country as the direct result of participating in an exercise with the armed forces under the jurisdiction of the Secretary of Defense.

(5) Small-scale construction that is directly related to the effective accomplishment of the training described in paragraph (1) or an exercise described in paragraph (4).

(c) **PURPOSE OF TRAINING AND EXERCISES.**—

(1) **IN GENERAL.**—The primary purpose of the training and exercises for which payment may be made under subsection (b) shall be to train United States forces.

(2) **SELECTION OF FOREIGN PARTNERS.**—Training and exercises with friendly foreign countries under subsection (a) should be planned and prioritized consistent with applicable guidance relating to the security cooperation programs and activities of the Department of Defense.

(d) **AVAILABILITY OF FUNDS FOR ACTIVITIES THAT CROSS FISCAL YEARS.**—Amounts available for the authority to pay expenses in subsection (b) for a fiscal year may be used to pay expenses under that subsection for training and exercises that begin in such fiscal year but end in the next fiscal year.

(e) **QUARTERLY NOTICE ON PLANNED TRAINING.**—Not later than the end of the first calendar quarter beginning after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, and every calendar quarter thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a notice setting forth the schedule of planned training engagement pursuant to subsection (a) during the calendar quarter first following the calendar quarter in which such notice is submitted.

(f) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary of Defense shall prescribe regulations for the administration of this section. The Secretary shall submit the regulations to the Committees on Armed Services of the Senate and the House of Representatives.

(2) **ELEMENTS.**—The regulations required under this section shall provide the following:

(A) A requirement that training and exercise activities may be carried out under this

section only with the prior approval of the Secretary.

(B) Accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(C) Procedures to limit the payment of incremental expenses to friendly foreign countries only to developing countries, except in the case of exceptional circumstances as specified in the regulations.

(Added Pub. L. 99-661, div. A, title XIII, §1321(a)(1), Nov. 14, 1986, 100 Stat. 3988, §2010; amended Pub. L. 105-85, div. A, title X, §1073(a)(35), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 110-417, [div. A], title XII, §1203(a), Oct. 14, 2008, 122 Stat. 4622; Pub. L. 112-81, div. A, title X, §1061(12), Dec. 31, 2011, 125 Stat. 1583; renumbered §321 and amended Pub. L. 114-328, div. A, title XII, §1244(a), Dec. 23, 2016, 130 Stat. 2516.)

#### REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (e), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 2010 of this title as this section and amended it generally. Prior to amendment, section related to payment of incremental expenses for participation of developing countries in combined exercises.

2011—Subsecs. (b) to (e). Pub. L. 112-81 redesignated subsecs. (c) to (e) as (b) to (d), respectively, and struck out former subsec. (b) which read as follows: “The Secretary of Defense shall submit to Congress a report each year, not later than March 1, containing—

“(1) a list of the developing countries for which expenses have been paid by the United States under this section during the preceding year; and

“(2) the amounts expended on behalf of each government.”

2008—Subsecs. (d), (e). Pub. L. 110-417 added subsec. (d) and redesignated former subsec. (d) as (e).

1997—Subsec. (e). Pub. L. 105-85 struck out subsec. (e) which read as follows: “Not more than \$13,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title XII, §1203(b), Oct. 14, 2008, 122 Stat. 4622, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to bilateral and multilateral military exercises described in section 2010 [now 321] of title 10, United States Code, as so amended, that begin on or after that date.”

### § 322. Special operations forces: training with friendly foreign forces

(a) **AUTHORITY TO PAY TRAINING EXPENSES.**—Under regulations prescribed pursuant to subsection (c), the commander of the special operations command established pursuant to section 167 of this title and the commander of any other unified or specified combatant command may pay, or authorize payment for, any of the following expenses:

(1) Expenses of training special operations forces assigned to that command in conjunction with training, and training with, armed forces and other security forces of a friendly foreign country.

(2) Expenses of deploying such special operations forces for that training.

(3) In the case of training in conjunction with a friendly developing country, the incremental expenses incurred by that country as the direct result of such training.

(b) **PURPOSE OF TRAINING.**—The primary purpose of the training for which payment may be made under subsection (a) shall be to train the special operations forces of the combatant command.

(c) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense. The regulations shall establish accounting procedures to ensure that the expenditures pursuant to this section are appropriate.

(d) **DEFINITIONS.**—In this section:

(1) The term “special operations forces” includes civil affairs forces and military information support operations forces.

(2) The term “incremental expenses”, with respect to a developing country, means the reasonable and proper cost of rations, fuel, training ammunition, transportation, and other goods and services consumed by such country, except that the term does not include pay, allowances, and other normal costs of such country’s personnel.

(e) **REPORTS.**—Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid under this section. Each report shall specify the following:

(1) All countries in which that training was conducted.

(2) The type of training conducted, including whether such training was related to counter-narcotics or counter-terrorism activities, the duration of that training, the number of members of the armed forces involved, and expenses paid.

(3) The extent of participation by foreign military forces, including the number and service affiliation of foreign military personnel involved and physical and financial contribution of each host nation to the training effort.

(4) The relationship of that training to other overseas training programs conducted by the armed forces, such as military exercise programs sponsored by the Joint Chiefs of Staff, military exercise programs sponsored by a combatant command, and military training activities sponsored by a military department (including deployments for training, short duration exercises, and other similar unit training events).

(5) A summary of the expenditures under this section resulting from the training for which expenses were paid under this section.

(6) A discussion of the unique military training benefit to United States special operations forces derived from the training activities for which expenses were paid under this section.

(Added Pub. L. 102-190, div. A, title X, §1052(a)(1), Dec. 5, 1991, 105 Stat. 1470, §2011;

amended Pub. L. 104-106, div. A, title XV, § 1503(a)(18), Feb. 10, 1996, 110 Stat. 512; Pub. L. 105-261, div. A, title X, § 1062, Oct. 17, 1998, 112 Stat. 2129; Pub. L. 112-81, div. A, title X, § 1086(2), Dec. 31, 2011, 125 Stat. 1603; renumbered § 322, Pub. L. 114-328, div. A, title XII, § 1244(b), Dec. 23, 2016, 130 Stat. 2518.)

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 2011 of this title as this section.

2011—Subsec. (d)(1). Pub. L. 112-81 substituted “military information support operations” for “psychological operations”.

1998—Subsec. (c). Pub. L. 105-261, § 1062(a), inserted after first sentence “The regulations shall require that training activities may be carried out under this section only with the prior approval of the Secretary of Defense.”

Subsec. (e)(5), (6). Pub. L. 105-261, § 1062(b), added pars. (5) and (6).

1996—Subsec. (a). Pub. L. 104-106 substituted “To” for “TO” in heading.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (e) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### TRAINING OF GENERAL PURPOSE FORCES OF THE UNITED STATES ARMED FORCES WITH MILITARY AND OTHER SECURITY FORCES OF FRIENDLY FOREIGN COUNTRIES

Pub. L. 113-66, div. A, title XII, § 1203, Dec. 26, 2013, 127 Stat. 894, related to the training of general purpose forces of the armed forces of the United States with military and other security forces of friendly foreign countries, prior to repeal by Pub. L. 114-328, div. A, title XII, § 1244(c), Dec. 23, 2016, 130 Stat. 2518.

#### SUBCHAPTER IV—SUPPORT FOR OPERATIONS AND CAPACITY BUILDING

Sec.

331. Friendly foreign countries: authority to provide support for conduct of operations.
332. Friendly foreign countries; international and regional organizations: defense institution capacity building.
333. Foreign security forces: authority to build capacity.

#### § 331. Friendly foreign countries: authority to provide support for conduct of operations

(a) **AUTHORITY.**—The Secretary of Defense may provide support to friendly foreign countries in connection with the conduct of operations designated pursuant to subsection (b).

(b) **DESIGNATED OPERATIONS.**—

(1) **IN GENERAL.**—The Secretary of Defense shall designate the operations for which support may be provided under the authority in subsection (a).

(2) **NOTICE TO CONGRESS.**—The Secretary shall notify the appropriate committees of Congress of the designation of any operation pursuant to this subsection.

(3) **ANNUAL REVIEW FOR CONTINUING DESIGNATION.**—The Secretary shall undertake on an annual basis a review of the operations currently designated pursuant to this subsection in order to determine whether each such operation merits continuing designation for purposes of this section for another year. If the

Secretary determines that any operation so reviewed merits continuing designation for purposes of this section for another year, the Secretary—

(A) may continue the designation of such operation under this subsection for such purposes for another year; and

(B) if the Secretary so continues the designation of such operation, shall notify the appropriate committees of Congress of the continuation of designation of such operation.

(c) **TYPES OF SUPPORT AUTHORIZED.**—The types of support that may be provided under the authority in subsection (a) are the following:

(1) Logistic support, supplies, and services to security forces of a friendly foreign country participating in—

(A) an operation with the armed forces under the jurisdiction of the Secretary of Defense; or

(B) a military or stability operation that benefits the national security interests of the United States.

(2) Logistic support, supplies, and services—

(A) to military forces of a friendly foreign country solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in a combined operation with the United States in order to facilitate such operation; or

(B) to a nonmilitary logistics, security, or similar agency of a friendly foreign government if such provision would directly benefit the armed forces under the jurisdiction of the Secretary of Defense.

(3) Procurement of equipment for the purpose of the loan of such equipment to the military forces of a friendly foreign country participating in a United States-supported coalition or combined operation and the loan of such equipment to those forces to enhance capabilities or to increase interoperability with the armed forces under the jurisdiction of the Secretary of Defense and other coalition partners.

(4) Provision of specialized training to personnel of friendly foreign countries in connection with such an operation, including training of such personnel before deployment in connection with such operation.

(5) Small-scale construction to support military forces of a friendly foreign country participating in a United States-supported coalition or combined operation when the construction is directly linked to the ability of such forces to participate in such operation effectively and is limited to the geographic area where such operation is taking place.

(d) **CERTIFICATION REQUIRED.**—

(1) **OPERATIONS IN WHICH THE UNITED STATES IS NOT PARTICIPATING.**—The Secretary of Defense may provide support under subsection (a) to a friendly foreign country with respect to an operation in which the United States is not participating only—

(A) if the Secretary of Defense and the Secretary of State jointly certify to the appropriate committees of Congress that the



operation is in the national security interests of the United States; and

(B) after the expiration of the 15-day period beginning on the date of such certification.

(2) ACCOMPANYING REPORT.—Any certification under paragraph (1) shall be accompanied by a report that includes the following:

(A) A description of the operation, including the geographic area of the operation.

(B) A list of participating countries.

(C) A description of the type of support and the duration of support to be provided.

(D) A description of the national security interests of the United States supported by the operation.

(E) Such other matters as the Secretary of Defense and the Secretary of State consider significant to a consideration of such certification.

(e) SECRETARY OF STATE CONCURRENCE.—The provision of support under subsection (a) may be made only with the concurrence of the Secretary of State.

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

(g) LIMITATIONS ON VALUE.—

(1) The aggregate value of all logistic support, supplies, and services provided under paragraphs (1), (4), and (5) of subsection (c) in any fiscal year may not exceed \$450,000,000.

(2) The aggregate value of all logistic support, supplies, and services provided under subsection (c)(2) in any fiscal year may not exceed \$5,000,000.

(h) LOGISTIC SUPPORT, SUPPLIES, AND SERVICES DEFINED.—In this section, the term “logistic support, supplies, and services” has the meaning given that term in section 2350(1) of this title.

(Added Pub. L. 109-364, div. A, title XII, §1201(a), Oct. 17, 2006, 120 Stat. 2410, §127c; renumbered §127d, Pub. L. 110-181, div. A, title X, §1063(a)(1)(A), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111-383, div. A, title X, §1075(b)(3), title XII, §1202, Jan. 7, 2011, 124 Stat. 4369, 4385; renumbered §331 and amended Pub. L. 114-328, div. A, title XII, §1245(a), Dec. 23, 2016, 130 Stat. 2518.)

#### PRIOR PROVISIONS

A prior section 331 was renumbered section 251 of this title.

#### AMENDMENTS

2016—Pub. L. 114-328 renumbered section 127d of this title as this section and amended it generally. Prior to amendment, section related to authority to provide logistic support, supplies, and services to allied forces participating in combined operations.

2011—Subsec. (a). Pub. L. 111-383, §1202(a), designated existing provisions as par. (1), inserted “of the United States” after “armed forces”, struck out “Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State.” at end, and added pars. (2) and (3).

Subsec. (b). Pub. L. 111-383, §1202(b)(1), substituted “subsection (a)(1)” for “subsection (a)” in par. (1) and in introductory provisions of par. (2).

Subsec. (c)(1). Pub. L. 111-383, §1202(b)(2)(A), substituted “The” for “Except as provided in paragraph (2), the” and “subsection (a)(1)” for “this section”.

Subsec. (c)(2). Pub. L. 111-383, §1202(b)(2)(B), substituted “The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not” for “In addition to any logistic support, supplies, and services provided under subsection (a) that are covered by paragraph (1), the value of logistic support, supplies, and services provided under this section solely for the purposes of enhancing the interoperability of the logistical support systems of military forces participating in combined operation of the United States in order to facilitate such operations may not, in any fiscal year.”.

Subsec. (d)(1). Pub. L. 111-383, §1075(b)(3), substituted “Committee on Foreign Affairs” for “Committee on International Relations”.

2008—Pub. L. 110-181 renumbered section 127c of this title, relating to allied forces participating in combined operations, as this section.

### § 332. Friendly foreign countries; international and regional organizations; defense institution capacity building

(a) MINISTRY OF DEFENSE ADVISOR AUTHORITY.—The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to assign civilian employees of the Department of Defense and members of the armed forces as advisors to the ministries of defense (or security agencies serving a similar defense function) of foreign countries or regional organizations with security missions in order to—

(1) provide institutional, ministerial-level advice, and other training to personnel of the ministry or regional organization to which assigned in support of stabilization or post-conflict activities; or

(2) assist such ministry or regional organization in building core institutional capacity, competencies, and capabilities to manage defense-related processes.

(b) TRAINING OF PERSONNEL OF FOREIGN MINISTRIES WITH SECURITY MISSIONS.—

(1) IN GENERAL.—The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to assign civilian employees of the Department of Defense and members of the armed forces as advisors or trainers to provide training and associated training support services to personnel of foreign ministries of defense (or ministries with security force oversight) or regional organizations with security missions—

(A) for the purpose of—

(i) enhancing civilian oversight of foreign security forces;

(ii) establishing responsible defense governance and internal controls in order to help build effective, transparent, and accountable defense institutions;

(iii) assessing organizational weaknesses and establishing a roadmap for addressing shortfalls; and

(iv) enhancing ministerial, general or joint staff, or service level core management competencies; and

(B) for such other purposes as the Secretary considers appropriate, consistent with the authority in subsection (a).

(2) NOTICE TO CONGRESS.—Each fiscal year quarter, the Secretary of Defense shall submit to the appropriate committees of Congress a report on activities under the program under paragraph (1) during the preceding fiscal year quarter. Each report shall include, for the fiscal year quarter covered by such report, the following:

- (A) A list of activities under the program.
- (B) A list of any organization described in paragraph (1) to which the Secretary assigned advisors or trainers under the program, including the number of such advisors or trainers so assigned, the duration of each assignment, a brief description of the activities of each assigned advisor or trainer, and a statement of the cost of each assignment.
- (C) A comprehensive justification of any activities conducted pursuant to paragraph (1)(B).

(c) CONGRESSIONAL NOTICE.—Not later than 15 days before assigning a civilian employee of the Department of Defense or a member of the armed forces as an advisor to a regional organization with a security mission under subsection (a), the Secretary shall submit to the appropriate committees of Congress a notification of such assignment. Such a notification shall include each of the following:

- (1) A statement of the intent of the Secretary to assign the advisor or trainer to the regional organization.
- (2) The name of the regional organization and the location and duration of the assignment.
- (3) A description of the assignment, including a description of the training or assistance proposed to be provided to the regional organization, the justification for the assignment, a description of the unique capabilities the advisor or trainer can provide to the regional organization, and a description of how the assignment serves the national security interests of the United States.
- (4) Any other information relating to the assignment that the Secretary of Defense considers appropriate.

(Added and amended Pub. L. 114-328, div. A, title XII, § 1241(c)(1), (2), Dec. 23, 2016, 130 Stat. 2500; Pub. L. 115-91, div. A, title XII, § 1204(a), Dec. 12, 2017, 131 Stat. 1642.)

#### CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of subsecs. (a), (b), and (d) of section 1081 of Pub. L. 112-81, div. A, title X, Dec. 31, 2011, 125 Stat. 1599, as amended, which was formerly set out as a note under section 168 of this title, prior to repeal by Pub. L. 114-328, div. A, title XII, § 1241(c)(3), Dec. 23, 2016, 130 Stat. 2500.

#### PRIOR PROVISIONS

A prior section 332 was renumbered section 252 of this title.

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, § 1204(a)(1), inserted “and members of the armed forces” after “civilian employees of the Department of Defense” in introductory provisions.

Subsec. (b)(1). Pub. L. 115-91, § 1204(a)(2)(A), inserted “to assign civilian employees of the Department of De-

fense and members of the armed forces as advisors or trainers” after “carry out a program” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 115-91, § 1204(a)(2)(B), substituted “advisors or trainers” for “employees” in two places and “the activities of each assigned advisor or trainer” for “each assigned employee’s activities”.

Subsec. (c). Pub. L. 115-91, § 1204(a)(3)(A), inserted “or a member of the armed forces” after “a civilian employee of the Department of Defense” in introductory provisions.

Subsec. (c)(1). Pub. L. 115-91, § 1204(a)(3)(B), substituted “advisor or trainer” for “employee as an advisor”.

Subsec. (c)(3). Pub. L. 115-91, § 1204(a)(3)(C), substituted “advisor or trainer” for “employee”.

2016—Subsecs. (c), (d). Pub. L. 114-328, § 1241(c)(2), redesignated subsec. (d) as (c).

### § 333. Foreign security forces: authority to build capacity

(a) AUTHORITY.—The Secretary of Defense is authorized to conduct or support a program or programs to provide training and equipment to the national security forces of one or more foreign countries for the purpose of building the capacity of such forces to conduct one or more of the following:

- (1) Counterterrorism operations.
- (2) Counter-weapons of mass destruction operations.
- (3) Counter-illicit drug trafficking operations.
- (4) Counter-transnational organized crime operations.
- (5) Maritime and border security operations.
- (6) Military intelligence operations.
- (7) Operations or activities that contribute to an international coalition operation that is determined by the Secretary to be in the national interest of the United States.

(b) CONCURRENCE AND COORDINATION WITH SECRETARY OF STATE.—

(1) CONCURRENCE IN CONDUCT OF PROGRAMS.—The concurrence of the Secretary of State is required to conduct or support any program authorized by subsection (a).

(2) JOINT DEVELOPMENT AND PLANNING OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall jointly develop and plan any program carried out pursuant to subsection (a).

(3) IMPLEMENTATION OF PROGRAMS.—The Secretary of Defense and the Secretary of State shall coordinate the implementation of any program under subsection (a). The Secretary of Defense and the Secretary of State shall each designate an individual responsible for program coordination under this paragraph at the lowest appropriate level in the Department concerned.

(4) COORDINATION IN PREPARATION OF CERTAIN NOTICES.—Any notice required by this section to be submitted to the appropriate committees of Congress shall be prepared in coordination with the Secretary of State.

(c) TYPES OF CAPACITY BUILDING.—

(1) AUTHORIZED ELEMENTS.—A program under subsection (a) may include the provision and sustainment of defense articles, training, defense services, supplies (including consumables), and small-scale construction.

(2) **REQUIRED ELEMENTS.**—A program under subsection (a) shall include elements that promote the following:

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

(B) Institutional capacity building.

(3) **OBSERVANCE OF AND RESPECT FOR THE LAW OF ARMED CONFLICT, HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, THE RULE OF LAW, AND CIVILIAN CONTROL OF THE MILITARY.**—In order to meet the requirement in paragraph (2)(A) with respect to particular national security forces under a program under subsection (a), the Secretary of Defense shall certify, prior to the initiation of the program, that the Department of Defense or the Department of State is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, training that includes a comprehensive curriculum on the law of armed conflict, human rights and fundamental freedoms, and the rule of law, and that enhances the capacity to exercise responsible civilian control of the military, as applicable, to such national security forces.

(4) **INSTITUTIONAL CAPACITY BUILDING.**—In order to meet the requirement in paragraph (2)(B) with respect to a particular foreign country under a program under subsection (a), the Secretary shall certify, prior to the initiation of the program, that the Department of Defense or another department or agency is already undertaking, or will undertake as part of the security sector assistance provided to the foreign country concerned, a program of institutional capacity building with appropriate institutions of such foreign country to enhance the capacity of such foreign country to organize, administer, employ, manage, maintain, sustain, or oversee the national security forces of such foreign country.

(d) **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 this title.

(3) **DURATION OF SUSTAINMENT SUPPORT.**—Sustainment support may not be provided pursuant to a program under subsection (a), or for equipment previously provided by the Department of Defense under any authority available to the Secretary during fiscal year 2015 or 2016, for a period in excess of five years unless the notice on the program pursuant to subsection (e) includes the information specified in paragraph (7) of subsection (e).

(e) **NOTICE AND WAIT ON ACTIVITIES UNDER PROGRAMS.**—Not later than 15 days before initiating activities under a program under subsection (a), the Secretary of Defense shall submit to the ap-

propriate committees of Congress a written and electronic notice of the following:

(1) The foreign country, and specific unit, whose capacity to engage in activities specified in subsection (a) will be built under the program, and the amount, type, and purpose of the support to be provided.

(2) A detailed evaluation of the capacity of the foreign country and unit to absorb the training or equipment to be provided under the program.

(3) The cost, implementation timeline, and delivery schedule for assistance under the program.

(4) A description of the arrangements, if any, for the sustainment of the program and the estimated cost and source of funds to support sustainment of the capabilities and performance outcomes achieved under the program beyond its completion date, if applicable.

(5) Information, including the amount, type, and purpose, on the security assistance provided the foreign country during the three preceding fiscal years pursuant to authorities under this title, the Foreign Assistance Act of 1961, and any other train and equip authorities of the Department of Defense.

(6) A description of the elements of the theater security cooperation plan of the geographic combatant command concerned, and of the interagency integrated country strategy, that will be advanced by the program.

(7) In the case of a program described in subsection (d)(3), each of the following:

(A) A written justification that the provision of sustainment support described in that subsection for a period in excess of five years will enhance the security interest of the United States.

(B) To the extent practicable, a plan to transition such sustainment support from funding through the Department to funding through another security sector assistance program of the United States Government or funding through partner nations.

(f) **QUARTERLY MONITORING REPORTS.**—The Director of the Defense Security Cooperation Agency shall, on a quarterly basis, submit to the appropriate committees of Congress a report setting forth, for the preceding calendar quarter, the following:

(1) Information, by recipient country, of the delivery and execution status of all defense articles, training, defense services, supplies (including consumables), and small-scale construction under programs under subsection (a).

(2) Information on the timeliness of delivery of defense articles, defense services, supplies (including consumables), and small-scale construction when compared with delivery schedules for such articles, services, supplies, and construction previously provided to Congress.

(3) Information, by recipient country, on the status of funds allocated for programs under subsection (a), including amounts of unobligated funds, unliquidated obligations, and disbursements.

(g) **FUNDING.**—

(1) **SOLE SOURCE OF FUNDS.**—Amounts for programs carried out pursuant to subsection (a)

in a fiscal year, and for other purposes in connection with such programs as authorized by this section, may be derived only from amounts authorized to be appropriated for such fiscal year for the Department of Defense for operation and maintenance, Defense-wide, and available for the Defense Security Cooperation Agency for such programs and purposes.

(2) AVAILABILITY OF FUNDS FOR PROGRAMS ACROSS FISCAL YEARS.—

(A) IN GENERAL.—Amounts available in a fiscal year to carry out the authority in subsection (a) may be used for programs under that authority that begin in such fiscal year and end not later than the end of the second fiscal year thereafter.

(B) ACHIEVEMENT OF FULL OPERATIONAL CAPACITY.—If, in accordance with subparagraph (A), equipment or training is delivered under a program under the authority in subsection (a) in the fiscal year after the fiscal year in which the program begins, amounts for defense articles, training, defense services, supplies (including consumables), and small-scale construction associated with such equipment or training and necessary to ensure that the recipient unit achieves full operational capability for such equipment or training may be used in the fiscal year in which the foreign country takes receipt of such equipment and in the next two fiscal years.

(Added Pub. L. 114-328, div. A, title XII, § 1241(d)(1), Dec. 23, 2016, 130 Stat. 2500; amended Pub. L. 115-91, div. A, title XII, § 1204(b), Dec. 12, 2017, 131 Stat. 1643.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e)(5), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§ 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 333 was renumbered section 253 of this title.

AMENDMENTS

2017—Subsec. (c)(2)(A). Pub. L. 115-91, § 1204(b)(1)(A), substituted “the rule of law, and civilian control of the military” for “and the rule of law”.

Subsec. (c)(2)(B). Pub. L. 115-91, § 1204(b)(1)(B), substituted “Institutional capacity building” for “Respect for civilian control of the military”.

Subsec. (c)(3). Pub. L. 115-91, § 1204(b)(2), in heading, substituted “Observance of and respect for the law of armed conflict, human rights and fundamental freedoms, the rule of law, and civilian control of the military” for “Human rights training” and in text, inserted “or the Department of State” after “Department of Defense” and substituted “training that includes a comprehensive curriculum on the law of armed conflict, human rights and fundamental freedoms, and the rule of law, and that enhances the capacity to exercise responsible civilian control of the military” for “human rights training that includes a comprehensive curriculum on human rights and the law of armed conflict”.

Subsec. (c)(4). Pub. L. 115-91, § 1204(b)(3), substituted “that the Department of Defense or another department or agency is already undertaking, or will under-

take as part of the security sector assistance provided to the foreign country concerned, a program of institutional capacity building with appropriate institutions of such foreign country to enhance the capacity of such foreign country to organize, administer, employ, manage, maintain, sustain, or oversee the national security forces of such foreign country.” for “that the Department is already undertaking, or will undertake as part of the program, a program of institutional capacity building with appropriate institutions of such foreign country that is complementary to the program with respect to such foreign country under subsection (a).” and struck out at end “The purpose of the program of institutional capacity building shall be to enhance the capacity of such foreign country to exercise responsible civilian control of the national security forces of such foreign country.”

GUIDANCE

Pub. L. 114-328, div. A, title XII, § 1241(d)(4), Dec. 23, 2016, 130 Stat. 2504, provided that: “Not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], the Secretary of Defense shall prescribe, and submit to the congressional defense committees [Committees on Armed Services and Appropriations, the Senate and the House of Representatives], initial policy guidance on roles, responsibilities, and processes in connection with programs and activities authorized by section 333 of title 10, United States Code, as so added. Not later than 270 days after the date of the enactment of this Act, the Secretary shall prescribe, and submit to the congressional defense committees, final policy guidance on roles, responsibilities, and processes in connection with such programs and activities.”

TRAINING FOR EASTERN EUROPEAN NATIONAL SECURITY FORCES IN THE COURSE OF MULTILATERAL EXERCISES

Pub. L. 114-92, div. A, title XII, § 1251, Nov. 25, 2015, 129 Stat. 1070, as amended by Pub. L. 114-328, div. A, title XII, § 1233, Dec. 23, 2016, 130 Stat. 2489; Pub. L. 115-91, div. A, title XII, § 1205, Dec. 12, 2017, 131 Stat. 1643, provided that:

“(a) AUTHORITY.—The Secretary of Defense may provide the training specified in subsection (b), and pay the incremental expenses incurred by a country as the direct result of participation in such training, for the national security forces provided for under subsection (c).

“(b) TYPES OF TRAINING.—The training provided to the national security forces of a country under subsection (a) shall be limited to training that is—

“(1) provided in the course of the conduct of a multilateral exercise in which the United States Armed Forces are a participant;

“(2) comparable to or complementary of the types of training the United States Armed Forces receive in the course of such multilateral exercise; and

“(3) for any purpose as follows:

“(A) To enhance and increase the interoperability of the security forces to be trained to increase their ability to participate in coalition efforts led by the United States or the North Atlantic Treaty Organization (NATO).

“(B) To increase the capacity of such security forces to respond to external threats.

“(C) To increase the capacity of such security forces to respond to hybrid warfare.

“(D) To increase the capacity of such security forces to respond to calls for collective action within the North Atlantic Treaty Organization.

“(c) ELIGIBLE COUNTRIES.—

“(1) IN GENERAL.—Training may be provided under subsection (a) to the national security forces of the countries determined by the Secretary of Defense, with the concurrence of the Secretary of State, to be appropriate recipients of such training from among the countries as follows:

“(A) Countries that are a signatory to the Partnership for Peace Framework Documents, but not a member of the North Atlantic Treaty Organization.

“(B) Countries that became a member of the North Atlantic Treaty Organization after January 1, 1999.

“(2) ELIGIBLE COUNTRIES.—Before providing training under subsection (a), the Secretary of Defense shall, in coordination with the Secretary of State, submit to the Committees on Armed Services of the Senate and the House of Representatives a list of the countries determined pursuant to paragraph (1) to be eligible for the provision of training under subsection (a).

“(d) FUNDING OF INCREMENTAL EXPENSES.—

“(1) ANNUAL FUNDING.—Of the amounts specified in paragraph (2) for a fiscal year, up to a total of \$28,000,000 may be used to pay incremental expenses under subsection (a) in that fiscal year.

“(2) AMOUNTS.—The amounts specified in this paragraph are as follows:

“(A) Amounts authorized to be appropriated for a fiscal year for operation and maintenance, Army, and available for the Combatant Commands Direct Support Program for that fiscal year.

“(B) Amounts authorized to be appropriated for a fiscal year for operation and maintenance, Defense-wide, and available for the Wales Initiative Fund for that fiscal year.

“(C) Amounts authorized to be appropriated for a fiscal year for overseas contingency operations for operation and maintenance, Army, and available for additional activities for the European Deterrence Initiative for that fiscal year.

“(3) AVAILABILITY OF FUNDS FOR ACTIVITIES ACROSS FISCAL YEARS.—Amounts available in a fiscal year pursuant to this subsection may be used for incremental expenses of training that begins in that fiscal year and ends in the next fiscal year.

“(4) REGULATIONS.—

“(A) IN GENERAL.—The Secretary of Defense shall prescribe regulations for payment of incremental expenses under subsection (a). Not later than 120 days after the date of the enactment of this paragraph [Dec. 12, 2017], the Secretary shall submit the regulations to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

“(B) PROCEDURES TO BE INCLUDED.—The regulations required under subparagraph (A) shall include procedures—

“(i) to require reimbursement of incremental expenses from non-developing countries determined pursuant to subsection (c) to be eligible for the provision of training under subsection (a); and

“(ii) to provide for a waiver of the requirement of reimbursement of incremental expenses under clause (i), on a case-by-case basis, if the Secretary of Defense determines special circumstances exist to provide for the waiver.

“(C) QUARTERLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, on a quarterly basis, a report that includes a description of each waiver of the requirement of reimbursement of incremental expenses under subparagraph (B)(i) that was in effect at any time during the preceding calendar quarter.

“(D) NON-DEVELOPING COUNTRY DEFINED.—In this paragraph, the term ‘non-developing country’ means a country that is not a developing country, as such term is defined in section 301(4) of title 10, United States Code.

“(e) BRIEFING TO CONGRESS ON USE OF AUTHORITY.—Not later than 90 days after the end of each fiscal year in which the authority in subsection (a) is used, the Secretary shall brief the Committees on Armed Services of the Senate and the House of Representatives on the use of the authority during such fiscal year, includ-

ing each country with which training under the authority was conducted and the types of training provided.

“(f) CONSTRUCTION OF AUTHORITY.—The authority provided in subsection (a)—

“(1) is in addition to any other authority provided by law authorizing the provision of training for the national security forces of a foreign country, including chapter 16 of title 10, United States Code; and

“(2) shall not be construed to include authority for the training of irregular forces, groups, or individuals.

“(g) INCREMENTAL EXPENSES DEFINED.—In this section, the term ‘incremental expenses’ has the meaning given such term in section 301(5) of title 10, United States Code.

“(h) TERMINATION OF AUTHORITY.—The authority under this section shall terminate on December 31, 2020. Any activity under this section initiated before that date may be completed, but only using funds available for for [sic] the period beginning on October 1, 2015, and ending on December 31, 2020.”

#### SOUTHEAST ASIA MARITIME SECURITY INITIATIVE

Pub. L. 114-92, div. A, title XII, § 1263, Nov. 25, 2015, 129 Stat. 1073, as amended by Pub. L. 114-328, div. A, title XII, § 1289, Dec. 23, 2016, 130 Stat. 2555, provided that:

“(a) ASSISTANCE AND TRAINING.—

“(1) IN GENERAL.—The Secretary of Defense is authorized, with the concurrence of the Secretary of State, for the purpose of increasing maritime security and maritime domain awareness of foreign countries along the South China Sea—

“(A) to provide assistance to national military or other security forces of such countries that have among their functional responsibilities maritime security missions; and

“(B) to provide training to ministry, agency, and headquarters level organizations for such forces.

“(2) DESIGNATION OF ASSISTANCE AND TRAINING.—The provision of assistance and training under this section may be referred to as the ‘Southeast Asia Maritime Security Initiative’.

“(b) RECIPIENT COUNTRIES.—The foreign countries that may be provided assistance and training under subsection (a) are the following:

“(1) Indonesia.

“(2) Malaysia.[.]

“(3) The Philippines.

“(4) Thailand.

“(5) Vietnam.

“(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 military construction.

“(2) 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 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 accord a priority to assistance, training, or both that will enhance the maritime capabilities of the recipient foreign country, or a regional organization of which the recipient country is a member, to respond to emerging threats to maritime security.

“(e) INCREMENTAL EXPENSES OF PERSONNEL OF CERTAIN OTHER COUNTRIES FOR TRAINING.—

“(1) AUTHORITY FOR PAYMENT.—If the Secretary of Defense determines that the payment of incremental expenses in connection with training described in subsection (a)(1)(B) will facilitate the participation in such training of organization personnel of foreign countries specified in paragraph (2), the Secretary

may use amounts available under subsection (f) for assistance and training under subsection (a) for the payment of such incremental expenses.

“(2) COVERED COUNTRIES.—The foreign countries specified in this paragraph are the following:

- “(A) Brunei.
- “(B) Singapore.
- “(C) Taiwan.

“(f) AVAILABILITY OF FUNDS.—

“(1) IN GENERAL.—Of the amounts authorized to be appropriated for fiscal year 2016 for the Department of Defense, \$50,000,000 may be available for the provision of assistance and training under subsection (a).

“(2) NOTICE ON SOURCE OF FUNDS.—If the Secretary of Defense uses funds available to the Department pursuant to paragraph (1) to provide assistance and training under subsection (a) during a fiscal half-year of fiscal year 2016, not later than 30 days after the end of such fiscal half-year, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a notice on the account or accounts providing such funds.

“(g) NOTICE TO CONGRESS ON ASSISTANCE AND TRAINING.—

“(1) IN GENERAL.—Not later than 15 days before exercising the authority under subsection (a) or (e) with respect to a recipient foreign country, the Secretary of Defense shall submit to the appropriate committees of Congress a notification containing the following:

- “(A) The recipient foreign country.
- “(B) A detailed justification of the program for the provision of the assistance or training concerned, and its relationship to United States security interests.
- “(C) The budget for the program, including a timetable of planned expenditures of funds to implement the program, an implementation timeline for the program with milestones (including anticipated delivery schedules for any assistance under the program), the military department or component responsible for management of the program, and the anticipated completion date for the program.
- “(D) A description of the arrangements, if any, to support host nation sustainment of any capability developed pursuant to the program, and the source of funds to support sustainment efforts and performance outcomes to be achieved under the program beyond its completion date, if applicable.
- “(E) A description of the program objectives and an assessment framework to be used to develop capability and performance metrics associated with operational outcomes for the recipient force.
- “(F) Such other matters as the Secretary considers appropriate.

“(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ means—

- “(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and
- “(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

“(h) EXPIRATION.—Assistance and training may not be provided under this section after September 30, 2020.”

**TRAINING OF SECURITY FORCES AND ASSOCIATED SECURITY MINISTRIES OF FOREIGN COUNTRIES TO PROMOTE RESPECT FOR THE RULE OF LAW AND HUMAN RIGHTS**

Pub. L. 113-291, div. A, title XII, §1206, Dec. 19, 2014, 128 Stat. 3538, provided that:

“(a) IN GENERAL.—The Secretary of Defense is authorized to conduct human rights training of security forces and associated security ministries of foreign countries.

“(b) CONSTRUCTION WITH LIMITATION ON USE OF FUNDS.—Human rights training authorized by this sec-

tion may be conducted for security forces otherwise prohibited from receiving such training under any provision of law only if—

“(1) such training is conducted in the country of origin of the security forces;

“(2) such training is withheld from any individual of a unit when there is credible information that such individual has committed a gross violation of human rights or has commanded a unit that has committed a gross violation of human rights;

“(3) such training may be considered a corrective step, but is not sufficient for meeting the accountability requirement under the exception established in subsection (b) of section 2249e [now 362] of title 10, United States Code (as added by section 1204(a) of this Act); and

“(4) reasonable efforts have been made to assist the foreign country to take all necessary corrective steps regarding a gross violation of human rights with respect to the unit, including using funds authorized by this Act [see Tables for classification] to provide technical assistance or other types of support for accountability.

“(c) ROLE OF THE SECRETARY OF STATE.—

“(1) CONCURRENCE.—Training activities may be conducted under this section only with the concurrence of the Secretary of State.

“(2) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State on the content of the training, the methods of instruction to be provided, and the intended beneficiaries of training conducted under this section.

“(d) AUTHORIZED ACTIVITIES.—Human rights training authorized by this section may include associated activities and expenses necessary for the conduct of training and assessments designed to further the purposes of this section, including technical assistance or other types of support for accountability.

“(e) ANNUAL REPORTS.—Not later than March 31 each year through 2020, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the use of the authority in this section during the preceding fiscal year. Each report shall include information on any human rights training (as defined in subsection (f)) or other assistance that was provided during the fiscal year to foreign security forces.

“(f) DEFINITIONS.—In this section

“(1) The term ‘appropriate committees of Congress’ means—

- “(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and
- “(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

“(2) The term ‘human rights training’ means training for the purpose of directly improving the conduct of foreign security forces to—

- “(A) prevent gross violations of human rights and support accountability for such violations;
- “(B) strengthen compliance with the laws of armed conflict and respect for civilian control over the military;
- “(C) promote and assist in the establishment of a military justice system and other mechanisms for accountability; and
- “(D) prevent the use of child soldiers.

“(g) SUNSET.—The authority in subsection (a) shall expire on September 30, 2020.”

**[§ 334. Renumbered § 254]**

**[§ 335. Renumbered § 255]**

**[§ 336. Repealed. Pub. L. 96-513, title V, § 511(11)(B), Dec. 12, 1980, 94 Stat. 2921]**

Section, added Pub. L. 90-496, §12, Aug. 23, 1968, 82 Stat. 841, included Virgin Islands within “State”. See section 255 of this title.

## EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

## SUBCHAPTER V—EDUCATIONAL AND TRAINING ACTIVITIES

Sec.	
341.	Department of Defense State Partnership Program.
342.	Regional centers for security studies. <sup>1</sup>
343.	Western Hemisphere Institute for Security Cooperation.
344.	Participation in multinational military centers of excellence.
345.	Regional Defense Combating Terrorism Fellowship Program.
346.	Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces.
347.	International engagement authorities for service academies.
348.	Aviation Leadership Program.
349.	Inter-American Air Forces Academy.
350.	Inter-European Air Forces Academy.

## DEFENSE INSTITUTE OF INTERNATIONAL LEGAL STUDIES

Pub. L. 115-91, div. A, title XII, §1207, Dec. 12, 2017, 131 Stat. 1645, provided that:

“(a) IN GENERAL.—The Secretary of Defense may operate an institute to be known as the ‘Defense Institute of International Legal Studies’ (in this section referred to as the ‘Institute’) in accordance with this section to further the United States security and foreign policy objectives of—

“(1) promoting an understanding of and appreciation for the rule of law; and

“(2) encouraging the international development of internal capacities of foreign governments for civilian control of the military, military justice, the legal aspects of peacekeeping, good governance and anti-corruption in defense reform, and human rights.

“(b) ACTIVITIES.—In carrying out the purposes specified in subsection (a), the Institute may conduct activities as follows:

“(1) Exchange of ideas on best practices and lessons learned in order to improve compliance with international legal norms.

“(2) Education and training involving professional legal engagement with foreign military personnel and related civilians, both within and outside the United States.

“(3) Building the legal capacity of foreign military and other security forces, including equitable, transparent, and accountable defense institutions, civilian control of the military, human rights, and democratic governance.

“(4) Institutional legal capacity building of foreign defense and security institutions.

“(c) DEPARTMENT OF DEFENSE REVIEW.—

“(1) IN GENERAL.—The Secretary shall conduct a comprehensive review of the mission, workforce, funding, and other support of the Institute.

“(2) ELEMENTS.—The review shall include, but not be limited to, the following:

“(A) An assessment of the scope of the mission of the Institute, taking into account the increasing security cooperation authorities and requirements of the Department of Defense, including core rule of law training in the United States and abroad, defense legal institution building, and statutorily required human rights and legal capacity building of foreign security forces.

“(B) An assessment of the workforce of the Institute, including whether it is appropriately sized to

align with the full scope of the mission of the Institute.

“(C) A review of the funding mechanisms for the activities of the Institute, including the current mechanisms for reimbursing the Institute by the Department of State and by the Department of Defense through the budget of the Defense Security Cooperation Agency.

“(D) An evaluation of the feasibility and advisability of the provision of funds appropriated for the Department of Defense directly to the Institute, and the actions, if any, required to authorize the Institute to receive such funds directly.

“(E) A description of the challenges, if any, faced by the Institute to increase its capacity to provide residence courses to meet demands for training and assistance.

“(F) An assessment of the capacity of the Department of Defense to assess, monitor, and evaluate the effectiveness of the human rights training and other activities of the Institute.

“(3) REPORT.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report summarizing the findings of the review and any recommendations for enhancing the capability of the Institute to fulfill its mission that the Secretary considers appropriate.

“(d) COMPTROLLER GENERAL OF THE UNITED STATES REPORT.—

“(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 12, 2017], the Comptroller General of the United States shall submit to the appropriate committees of Congress a report that sets forth the following:

“(A) A description of the mechanisms and authorities used by the Department of Defense and the Department of State to conduct training of foreign security forces on human rights and international humanitarian law.

“(B) A description of the funding used to support the training described in subparagraph (A).

“(C) A description and assessment of the methodology used by each of the Department of Defense and the Department of State to assess the effectiveness of such training.

“(D) Such recommendations for improvements to such training as the Comptroller General considers appropriate.

“(E) Such other matters relating to such training as the Comptroller General considers appropriate.

“(2) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ means—

“(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

“(B) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.”

### § 341. Department of Defense State Partnership Program

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Defense, with the concurrence of the Secretary of State, is authorized to establish a program of activities described in paragraph (2), to support the security cooperation objectives of the United States, between members of the National Guard of a State or territory and any of the following:

(A) The military forces of a foreign country.

(B) The security forces of a foreign country.

<sup>1</sup> So in original. Does not conform to section catchline.

(C) Governmental organizations of a foreign country whose primary functions include disaster response or emergency response.

(2) STATE PARTNERSHIP.—Each program established under this subsection shall be known as a “State Partnership”.

(b) LIMITATIONS.—

(1) IN GENERAL.—An activity with forces referred to in subsection (a)(1)(B) or organizations described in subsection (a)(1)(C) under a program established under subsection (a) may be carried out only if the Secretary of Defense, with the concurrence of the Secretary of State, determines and notifies the appropriate congressional committees not less than 15 days before initiating such activity that the activity is in the national security interests of the United States.

(2) PROHIBITION ON ACTIVITIES WITH UNITS THAT HAVE COMMITTED GROSS VIOLATIONS OF HUMAN RIGHTS.—The conduct of any activities under a program established under subsection (a) shall be subject to the provisions of section 362 of this title.

(c) COORDINATION OF ACTIVITIES.—The Chief of the National Guard Bureau shall designate a director for each State and territory to be responsible for the coordination of activities under a program established under subsection (a) for such State or territory and reporting on activities under the program.

(d) REGULATIONS.—This section shall be carried out in accordance with such regulations as the Secretary of Defense shall prescribe for purposes of this section. Such regulations shall include accounting procedures to ensure that expenditures of funds to carry out this section are accounted for and appropriate.

(e) AVAILABILITY OF AUTHORIZED FUNDS FOR PROGRAM.—

(1) IN GENERAL.—Funds authorized to be appropriated to the Department of Defense, including funds authorized to be appropriated for the Army National Guard and Air National Guard, are authorized to be available—

(A) for payment of costs incurred by the National Guard of a State or territory to conduct activities under a program established under subsection (a); and

(B) for payment of incremental expenses of a foreign country to conduct activities under a program established under subsection (a).

(2) LIMITATIONS.—

(A) ACTIVE DUTY REQUIREMENT.—Funds shall not be available under paragraph (1) for the participation of a member of the National Guard of a State or territory in activities in a foreign country unless the member is on active duty in the Armed Forces at the time of such participation<sup>1</sup>

(B) INCREMENTAL EXPENSES.—The total amount of payments for incremental expenses of foreign countries as authorized under paragraph (1)(B) for activities under programs established under subsection (a) in any fiscal year may not exceed \$10,000,000.

<sup>1</sup> So in original. Probably should be followed by a period.

(f) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than February 1 following each of fiscal years 2016, 2017, and 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report on activities under each program established under subsection (a) during such fiscal year.

(2) MATTERS TO BE INCLUDED.—Each report shall specify, for the fiscal year covered by such report, the following:

(A) Each foreign country in which the activities were conducted.

(B) The type of activities conducted, the duration of the activities, and the number of members of the National Guard of each State or territory involved in such activities.

(C) The extent of participation in the activities by the military forces and security forces or other government organizations of such foreign country.

(D) A summary of expenditures to conduct the activities, including the annual cost of the activities, with a breakdown of such expenditures by geographic combatant command and country.

(E) With respect to activities described in subsection (b), the objective of the activities, and a description of how the activities support the theater campaign plan of the commander of the geographic combatant command with responsibility for the country or countries in which the activities occurred.

(F) An assessment of the extent to which the activities conducted during the previous year met the objectives described in subparagraph (E).

(g) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede any authority under title 10 as in effect on December 26, 2013.

(Added and amended Pub. L. 114-328, div. A, title XII, §1246(a)-(c), (d)(1), (2)(B), Dec. 23, 2016, 130 Stat. 2520, 2521.)

#### AMENDMENT OF SUBSECTIONS (f) AND (g)

*Pub. L. 114-328, div. A, title XII, §1246(d)(2)(B), Dec. 23, 2016, 130 Stat. 2521, provided that, effective as of Jan. 1, 2020, this section is amended by striking subsection (f) and redesignating subsection (g) as (f). See 2016 Amendment notes below.*

#### CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of subssecs. (a) to (g) of section 1205 of Pub. L. 113-66, div. A, title XII, Dec. 26, 2013, 127 Stat. 897, as amended, which was formerly set out as a note under section 107 of Title 32, National Guard, prior to repeal by Pub. L. 114-328, div. A, title XII, §1246(e), Dec. 23, 2016, 130 Stat. 2521.

#### AMENDMENTS

2016—Subsec. (b). Pub. L. 114-328, §1246(b), substituted “Limitations” for “Limitation” in subsec. heading, designated existing provisions as par. (1) and inserted par. heading, and added par. (2).

Subsec. (d). Pub. L. 114-328, §1246(c)(1), added subsec. (d) and struck out former subsec. (d) which required the Secretary of Defense to prescribe regulations to carry out this section and to notify Congress.



Subsec. (f). Pub. L. 114-328, §1246(d)(2)(B), redesignated subsec. (g) as (f) and struck out former subsec. (f) which required annual reports for fiscal years 2016, 2017, and 2018.

Pub. L. 114-328, §1246(d)(1)(A), substituted “Annual Reports” for “Reports and Notifications” in subsec. heading, added par. (1) and struck out former par. (1) which related to a review and report of programs under the State Partnership Program as in effect on Dec. 26, 2013, redesignated par. (2)(B) as par. (2), substituted “Matters to be included” for “Annual report” in par. (2) heading, and struck out former par. (2)(A) which required reports on activities under programs established under subsec. (a).

Subsec. (f)(2). Pub. L. 114-328, §1246(d)(1)(B)(i), redesignated cls. (i) to (vi) of former par. (2)(B) as subpars. (A) to (F), respectively, of par. (2) and realigned margins.

Subsec. (f)(2)(F). Pub. L. 114-328, §1246(d)(1)(B)(ii), substituted “subparagraph (E)” for “clause (v)”.

Subsec. (g). Pub. L. 114-328, §1246(d)(2)(B)(ii), redesignated subsec. (g) as (f).

Pub. L. 114-328, §1246(c)(2), substituted “under title 10 as in effect on December 26, 2013.” for “under title 10, United States Code, as in effect on the date of the enactment of this Act.”

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title XII, §1246(d)(2), Dec. 23, 2016, 130 Stat. 2521, provided that the amendment made by section 1246(d)(2)(B) is effective as of Jan. 1, 2020.

### § 342. Regional Centers for Security Studies

(a) **IN GENERAL.**—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, exchange of ideas, and training involving military and civilian participants.

(b) **REGIONAL CENTERS SPECIFIED.**—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

(B) serves as a forum for bilateral and multilateral research, communication, exchange of ideas, and training involving military and civilian participants.

(2) The Department of Defense Regional Centers for Security Studies are the following:

(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany.

(B) The Daniel K. Inouye Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii.

(C) The William J. Perry Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C.

(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C.

(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2).

(c) **REGULATIONS.**—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary. The regulations shall prioritize within the respective areas of focus of each Regional Center the functional areas for engagement of territorial and maritime security, transnational and asymmetric threats, and defense sector governance.

(d) **PARTICIPATION.**—Participants in activities of the Regional Centers may include United States and foreign military, civilian, and non-governmental personnel.

(e) **EMPLOYMENT AND COMPENSATION OF FACULTY.**—At each Regional Center, the Secretary may, subject to the availability of appropriations—

(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

(f) **PAYMENT OF COSTS.**—(1) Participation in activities of a Regional Center shall be on a reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

(2) For a foreign national participant, payment of costs may be made by the participant, the participant’s own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant’s government.

(3)(A) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense and security personnel from a developing country if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

(B)(i) The Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under this subsection of the costs of activities of the Regional Centers for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interest of the United States.

(ii) The amount of reimbursement that may be waived under clause (i) in any fiscal year may not exceed \$1,000,000.

(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

(5) Funds available for the payment of personnel expenses under section 312 of this title are also available for the costs of the operation of the Regional Centers.

(6) Funds available to carry out this section, including funds accepted under paragraph (4) and funds available under paragraph (5), shall be available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.

(g) SUPPORT TO OTHER AGENCIES.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

(h) AUTHORITIES SPECIFIC TO MARSHALL CENTER.—(1) The Secretary of Defense may authorize participation by a European or Eurasian country in programs of the George C. Marshall Center for Security Studies (in this subsection referred to as the “Marshall Center”) if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

(2)(A) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

(B) A member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

(C) Notwithstanding section 219 of title 18, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.

(3)(A) The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the Marshall Center for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

(B) Costs for which reimbursement is waived pursuant to subparagraph (A) shall be paid from appropriations available for the Center.

(i) AUTHORITIES SPECIFIC TO INOUE CENTER.—(1) The Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Daniel K. Inouye Center for Security Studies for military officers and civilian officials of foreign countries if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States.

(2) Costs for which reimbursement is waived pursuant to paragraph (1) shall be paid from appropriations available for the Center.

(j) ANNUAL REVIEW OF PROGRAM STRUCTURE AND PROGRAMS OF CENTERS.—(1) The Secretary shall on an annual basis review the program and structure of each Regional Center in order to determine whether such Regional Center is appropriately aligned with the strategic priorities of the Department of Defense and the applicable geographic combatant commands.

(2) The Secretary may revise the program, structure, or both of a Regional Center following an annual review under paragraph (1) in order to more appropriately align the Regional Center with strategic priorities and the geographic combatant commands as described in that paragraph.

(Added Pub. L. 106-398, §1 [[div. A], title IX, §912(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-228, §184; amended Pub. L. 107-107, div. A, title X, §1048(c)(2), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108-136, div. A, title IX, §931(b)(2), Nov. 24, 2003, 117 Stat. 1581; Pub. L. 109-163, div. A, title IX, §903(b), Jan. 6, 2006, 119 Stat. 3399; Pub. L. 109-364, div. A, title IX, §904(a)(1), Oct. 17, 2006, 120 Stat. 2351; Pub. L. 110-417, [div. A], title IX, §941(a)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(a)(3), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 112-81, div. A, title X, §1061(2), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 112-239, div. B, title XXVIII, §2854(b)(1), Jan. 2, 2013, 126 Stat. 2161; Pub. L. 113-291, div. B, title XXVIII, §2861(b)(1), Dec. 19, 2014, 128 Stat. 3715; renumbered §342 and amended Pub. L. 114-328, div. A, title XII, §1241(e)(1)-(4), Dec. 23, 2016, 130 Stat. 2505, 2506; Pub. L. 115-91, div. A, title X, §1081(a)(17), Dec. 12, 2017, 131 Stat. 1595.)

#### AMENDMENTS

2017—Subsec. (j)(2). Pub. L. 115-91 struck out second period at end.

2016—Pub. L. 114-328, §1241(e)(1), renumbered section 184 of this title as this section.

Subsec. (a). Pub. L. 114-328, §1241(e)(2)(A), substituted “exchange of ideas, and training” for “and exchange of ideas”.

Subsec. (b)(1)(B). Pub. L. 114-328, §1241(e)(2)(B)(i), substituted “exchange of ideas, and training” for “and exchange of ideas”.

Subsec. (b)(3). Pub. L. 114-328, §1241(e)(2)(B)(ii), struck out “, except as specifically provided by law after October 17, 2006” before period at end.

Subsec. (c). Pub. L. 114-328, §1241(e)(2)(C), inserted at end “The regulations shall prioritize within the respective areas of focus of each Regional Center the functional areas for engagement of territorial and maritime security, transnational and asymmetric threats, and defense sector governance.”

Subsec. (f)(3). Pub. L. 114-328, §1241(e)(2)(D)(i), designated existing provisions as subpar. (A), substituted “security personnel” for “security civilian government officials”, and added subpar. (B).

Subsec. (f)(5). Pub. L. 114-328, §1241(e)(2)(D)(ii), substituted “under section 312 of this title are also available for the costs of the operation of the Regional Centers.” for “under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the William J. Perry Center for Hemispheric Defense Studies.”

Subsecs. (h), (i). Pub. L. 114-328, §1241(e)(3), added subsecs. (h) and (i).

Subsec. (j). Pub. L. 114-328, §1241(e)(4), added subsec. (j).

2014—Subsec. (b)(2)(B). Pub. L. 113-291 substituted “Daniel K. Inouye Asia-Pacific Center for Security Studies” for “Asia-Pacific Center for Security Studies”.

2013—Subsec. (b)(2)(C). Pub. L. 112-239, §2854(b)(1)(A), substituted “The William J. Perry Center for Hemispheric Defense Studies” for “The Center for Hemispheric Defense Studies”.

Subsec. (f)(5). Pub. L. 112-239, §2854(b)(1)(B), substituted “the William J. Perry Center for Hemispheric Defense Studies” for “the Center for Hemispheric Defense Studies”.

2011—Subsec. (h). Pub. L. 112-81 struck out subsec. (h) which required the Secretary of Defense to submit an annual report on the operation of the Regional Centers for security studies during the preceding fiscal year.

2009—Subsec. (b)(3). Pub. L. 111-84 substituted “October 17, 2006” for “the date of the enactment of this section”.

2008—Subsec. (f)(6). Pub. L. 110-417 added par. (6).

2006—Pub. L. 109-364 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to notification to Congress of the establishment of new regional centers, annual report on the operation of such centers, and definition of “regional center for security studies”.

Subsec. (b)(4). Pub. L. 109-163 substituted “under section 2611 of this title.” for “under any of the following provisions of law:

“(A) Section 2611 of this title.

“(B) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2892).

“(C) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2653; 10 U.S.C. 113 note).”

2003—Subsec. (b)(4). Pub. L. 108-136 struck out “foreign” before “gifts”.

2001—Subsec. (a). Pub. L. 107-107 substituted “October 30, 2000,” for “the date of the enactment of this section,” in introductory provisions.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title IX, §941(a)(2), Oct. 14, 2008, 122 Stat. 4576, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to programs and activities under [former] section 184 of title 10, United States Code (as so amended) [now 10 U.S.C. 342], that begin on or after that date.”

#### REDESIGNATION OF THE ASIA-PACIFIC CENTER FOR SECURITY STUDIES AS THE DANIEL K. INOUE ASIA-PACIFIC CENTER FOR SECURITY STUDIES

Pub. L. 113-291, div. B, title XXVIII, §2861(a), Dec. 19, 2014, 128 Stat. 3715, provided that: “The Department of Defense regional center for security studies known as the Asia-Pacific Center for Security Studies is hereby renamed the ‘Daniel K. Inouye Asia-Pacific Center for Security Studies’.”

Pub. L. 113-291, div. B, title XXVIII, §2861(c), Dec. 19, 2014, 128 Stat. 3716, provided that: “Any reference to the Department of Defense Asia-Pacific Center for Security Studies in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the Daniel K. Inouye Asia-Pacific Center for Security Studies.”

#### REDESIGNATION OF THE CENTER FOR HEMISPHERIC DEFENSE STUDIES AS THE WILLIAM J. PERRY CENTER FOR HEMISPHERIC DEFENSE STUDIES

Pub. L. 112-239, div. B, title XXVIII, §2854(a), Jan. 2, 2013, 126 Stat. 2161, provided that: “The Department of Defense regional center for security studies known as the Center for Hemispheric Defense Studies is hereby renamed the ‘William J. Perry Center for Hemispheric Defense Studies’”.

Pub. L. 112-239, div. B, title XXVIII, §2854(c), Jan. 2, 2013, 126 Stat. 2162, provided that: “Any reference to the Department of Defense Center for Hemispheric Defense Studies in any law, regulation, map, document, record, or other paper of the United States shall be deemed to be a reference to the William J. Perry Center for Hemispheric Defense Studies.”

#### TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NONGOVERNMENTAL PERSONNEL

Pub. L. 110-417, [div. A], title IX, §941(b), Oct. 14, 2008, 122 Stat. 4577, as amended by Pub. L. 111-383, div. A, title IX, §941, Jan. 7, 2011, 124 Stat. 4340; Pub. L. 112-239, div. A, title IX, §953, Jan. 2, 2013, 126 Stat. 1895; Pub. L. 113-66, div. A, title X, §1094(b), Dec. 26, 2013, 127 Stat. 878; Pub. L. 113-291, div. A, title IX, §913, Dec. 19, 2014, 128 Stat. 3474, provided a temporary waiver of reimbursement of costs of activities for nongovernmental personnel, prior to repeal by Pub. L. 114-328, div. A, title XII, §1241(e)(5)(A), Dec. 23, 2016, 130 Stat. 2507.

#### § 343. Western Hemisphere Institute for Security Cooperation

(a) ESTABLISHMENT AND ADMINISTRATION.—(1) The Secretary of Defense may operate an education and training facility for the purpose set forth in subsection (b). The facility shall be known as the “Western Hemisphere Institute for Security Cooperation”.

(2) The Secretary may designate the Secretary of a military department as the Department of Defense executive agent for carrying out the responsibilities of the Secretary of Defense under this section.

(b) PURPOSE.—The purpose of the Institute is to provide professional education and training to eligible personnel of countries of the Western Hemisphere within the context of the democratic principles set forth in the Charter of the Organization of American States (such charter being a treaty to which the United States is a party), while fostering mutual knowledge, transparency, confidence, and cooperation among the participating countries and promoting democratic values, respect for human rights, and knowledge and understanding of United States customs and traditions.

(c) ELIGIBLE PERSONNEL.—(1) Subject to paragraph (2), personnel of countries of the Western Hemisphere are eligible for education and training at the Institute as follows:

- (A) Military personnel.
- (B) Law enforcement personnel.
- (C) Civilian personnel.

(2) The Secretary of State shall be consulted in the selection of foreign personnel for education or training at the Institute.

(d) CURRICULUM.—(1) The curriculum of the Institute shall include mandatory instruction for each student, for at least 8 hours, on human rights, the rule of law, due process, civilian control of the military, and the role of the military in a democratic society.

(2) The curriculum may include instruction and other educational and training activities on the following:

- (A) Leadership development.
- (B) Counterdrug operations.
- (C) Peace support operations.
- (D) Disaster relief.
- (E) Any other matter that the Secretary determines appropriate.

(e) BOARD OF VISITORS.—(1) There shall be a Board of Visitors for the Institute. The Board shall be composed of the following:

- (A) The chairman and ranking minority member of the Committee on Armed Services of the Senate, or a designee of either of them.
- (B) The chairman and ranking minority member of the Committee on Armed Services

of the House of Representatives, or a designee of either of them.

(C) Six persons designated by the Secretary of Defense including, to the extent practicable, persons from academia and the religious and human rights communities.

(D) One person designated by the Secretary of State.

(E) The senior military officer responsible for training and doctrine for the Army or, if the Secretary of the Navy or the Secretary of the Air Force is designated as the executive agent of the Secretary of Defense under subsection (a)(2), the senior military officer responsible for training and doctrine for the Navy or Marine Corps or for the Air Force, respectively, or a designee of the senior military officer concerned.

(F) The commanders of the combatant commands having geographic responsibility for the Western Hemisphere, or the designees of those officers.

(2) A vacancy in a position on the Board shall be filled in the same manner as the position was originally filled.

(3) The Board shall meet at least once each year.

(4)(A) The Board shall inquire into the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Institute, other matters relating to the Institute that the Board decides to consider, and any other matter that the Secretary of Defense determines appropriate.

(B) The Board shall review the curriculum of the Institute to determine whether—

(i) the curriculum complies with applicable United States laws and regulations;

(ii) the curriculum is consistent with United States policy goals toward Latin America and the Caribbean;

(iii) the curriculum adheres to current United States doctrine; and

(iv) the instruction under the curriculum appropriately emphasizes the matters specified in subsection (d)(1).

(5) Not later than 60 days after its annual meeting, the Board shall submit to the Secretary of Defense a written report of its activities and of its views and recommendations pertaining to the Institute.

(6) Members of the Board shall not be compensated by reason of service on the Board.

(7) With the approval of the Secretary of Defense, the Board may accept and use the services of voluntary and uncompensated advisers appropriate to the duties of the Board without regard to section 1342 of title 31.

(8) Members of the Board and advisers whose services are accepted under paragraph (7) shall be allowed travel and transportation expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Board. Allowances under this paragraph shall be computed—

(A) in the case of members of the Board who are officers or employees of the United States, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5; and

(B) in the case of other members of the Board and advisers, as authorized under section 5703 of title 5 for employees serving without pay.

(9) The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 (relating to termination after two years), shall apply to the Board.

(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.

(g) FIXED COSTS.—The fixed costs of operating and maintaining the Institute for a fiscal year may be paid from—

(1) any funds available for that fiscal year for operation and maintenance for the executive agent designated under subsection (a)(2); or

(2) if no executive agent is designated under subsection (a)(2), any funds available for that fiscal year for the Department of Defense for operation and maintenance for Defense-wide activities.

(h) TUITION.—Tuition fees charged for persons who attend the Institute may not include the fixed costs of operating and maintaining the Institute.

(i) ANNUAL REPORT.—Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a detailed report on the activities of the Institute during the preceding year. The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board's report. The report shall be prepared in consultation with the Secretary of State.

(Added Pub. L. 106-398, §1 [[div. A], title IX, §911(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A-226, §2166; amended Pub. L. 107-107, div. A, title X, §1048(a)(16), Dec. 28, 2001, 115 Stat. 1223; Pub. L. 107-314, div. A, title IX, §932, Dec. 2, 2002, 116 Stat. 2625; Pub. L. 110-181, div. A, title IX, §956, Jan. 28, 2008, 122 Stat. 296; renumbered §343 and amended Pub. L. 114-328, div. A, title XII, §1241(f), Dec. 23, 2016, 130 Stat. 2507.)

## REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e)(9), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

## AMENDMENTS

2016—Pub. L. 114-328, §1241(f)(1), renumbered section 2166 of this title as this section.

Subsecs. (b), (c). Pub. L. 114-328, §1241(f)(2), substituted “countries” for “nations” wherever appearing.

2008—Subsec. (e)(1)(F). Pub. L. 110-181 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: “The commander of the unified combatant command having geographic responsibility for Latin America, or a designee of that officer.”

2002—Subsecs. (f) to (h). Pub. L. 107-314, §932(a), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsec. (i). Pub. L. 107-314, §932(a)(1), (b), redesignated subsec. (h) as (i) and inserted after first sentence “The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board’s report.”

2001—Subsec. (e)(9). Pub. L. 107-107 substituted “(5 U.S.C. App.)” for “(5 U.S.C. App. 2)”.

## TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (i) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

### § 344. Participation in multinational military centers of excellence

(a) PARTICIPATION AUTHORIZED.—The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the armed forces and Department of Defense civilian personnel in any multinational military center of excellence for purposes of—

(1) enhancing the ability of military forces and civilian personnel of the nations participating in such center to engage in joint exercises or coalition or international military operations; or

(2) improving interoperability between the armed forces and the military forces of friendly foreign nations.

(b) MEMORANDUM OF UNDERSTANDING.—(1) The participation of members of the armed forces or Department of Defense civilian personnel in a multinational military center of excellence under subsection (a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the foreign nation or nations concerned.

(2) If Department of Defense facilities, equipment, or funds are used to support a multinational military center of excellence under subsection (a), the memoranda of understanding under paragraph (1) with respect to that center shall provide details of any cost-sharing arrangement or other funding arrangement.

(c) AVAILABILITY OF APPROPRIATED FUNDS.—(1) Funds appropriated to the Department of Defense for operation and maintenance are available as follows:

(A) To pay the United States share of the operating expenses of any multinational mili-

tary center of excellence in which the United States participates under this section.

(B) To pay the costs of the participation of members of the armed forces and Department of Defense civilian personnel in multinational military centers of excellence under this section, including the costs of expenses of such participants.

(2) No funds may be used under this section to fund the pay or salaries of members of the armed forces and Department of Defense civilian personnel who participate in multinational military centers of excellence under this section.

(d) USE OF DEPARTMENT OF DEFENSE FACILITIES AND EQUIPMENT.—Facilities and equipment of the Department of Defense may be used for purposes of the support of multinational military centers of excellence under this section that are hosted by the Department.

(e) MULTINATIONAL MILITARY CENTER OF EXCELLENCE DEFINED.—In this section, the term “multinational military center of excellence” means an entity sponsored by one or more nations that is accredited and approved by the Military Committee of the North Atlantic Treaty Organization (NATO) as offering recognized expertise and experience to personnel participating in the activities of such entity for the benefit of NATO by providing such personnel opportunities to—

- (1) enhance education and training;
- (2) improve interoperability and capabilities;
- (3) assist in the development of doctrine; and
- (4) validate concepts through experimentation.

(Added Pub. L. 110-417, [div. A], title XII, §1232(a)(1), Oct. 14, 2008, 122 Stat. 4637, §2350m; amended Pub. L. 112-239, div. A, title X, §1076(f)(25), Jan. 2, 2013, 126 Stat. 1953; renumbered §344 and amended Pub. L. 114-328, div. A, title XII, §1241(g), Dec. 23, 2016, 130 Stat. 2507.)

## AMENDMENTS

2016—Pub. L. 114-328, §1241(g)(1), renumbered section 2350m of this title as this section.

Subsecs. (e), (f). Pub. L. 114-328, §1241(g)(2), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required the Secretary of Defense, not later than October 31 of each year, to submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority in this section during the preceding fiscal year.

2013—Subsec. (e)(1). Pub. L. 112-239 substituted “Not later than October 31 each year” for “Not later than October 31, 2009, and annually thereafter”.

## EFFECTIVE DATE

Pub. L. 110-417, [div. A], title XII, §1232(c), Oct. 14, 2008, 122 Stat. 4639, provided that: “The amendments made by this section [enacting this section] shall take effect on October 1, 2008.”

### § 345. Regional Defense Combating Terrorism Fellowship Program

(a) AUTHORITY TO USE FUNDS.—Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense may be used to pay any costs associated with the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian edu-

cational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program. Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs.

(b) LIMITATION.—The total amount of funds used under the authority in subsection (a) in any fiscal year may not exceed \$35,000,000. Amounts available under the authority in subsection (a) for a fiscal year may be used for programs that begin in such fiscal year but end in the next fiscal year.

(c) ANNUAL REPORT.—Not later than December 1 of each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the administration of this section during the fiscal year ended in such year. The report shall include the following matters:

(1) A complete accounting of the expenditure of appropriated funds for purposes authorized under subsection (a), including—

(A) the countries of the foreign officers and officials for whom costs were paid; and

(B) for each such country, the total amount of the costs paid.

(2) The training courses attended by the foreign officers and officials, including a specification of which, if any, courses were conducted in foreign countries.

(3) An assessment of the effectiveness of the program referred to in subsection (a), including engagement activities for program alumni, in increasing the cooperation of the governments of foreign countries with the United States in the global war on terrorism.

(4) A discussion of any actions being taken to improve the program, including a list of any unfunded or unmet training requirements and requests.

(5) A discussion and justification of how the program fits within the theater security priorities of each of the commanders of the geographic combatant commands.

(Added Pub. L. 108-136, div. A, title XII, §1221(a)(1), Nov. 24, 2003, 117 Stat. 1651, §2249c; amended Pub. L. 109-364, div. A, title XII, §1204(a)-(d)(2), Oct. 17, 2006, 120 Stat. 2415; Pub. L. 110-417, [div. A], title XII, §1209(a), Oct. 14, 2008, 122 Stat. 4627; Pub. L. 113-66, div. A, title X, §1032(a), Dec. 26, 2013, 127 Stat. 850; renumbered §345 and amended Pub. L. 114-328, div. A, title XII, §1247(a)-(c), Dec. 23, 2016, 130 Stat. 2521.)

#### AMENDMENTS

2016—Pub. L. 114-328, §1247(a), (c), renumbered section 2249c of this title as this section and substituted “Regional Defense Combating Terrorism Fellowship Program” for “Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials” in section catchline.

Subsec. (c). Pub. L. 114-328, §1247(b), substituted “to the appropriate committees of Congress” for “to Congress” in introductory provisions.

2013—Subsec. (c)(3). Pub. L. 113-66, §1032(a)(1), inserted “, including engagement activities for program alumni,” after “subsection (a)”.

Subsec. (c)(4). Pub. L. 113-66, §1032(a)(2), inserted “, including a list of any unfunded or unmet training requirements and requests” after “program”.

Subsec. (c)(5). Pub. L. 113-66, §1032(a)(3), added par. (5).

2008—Subsec. (b). Pub. L. 110-417 substituted “\$35,000,000” for “\$25,000,000”.

2006—Pub. L. 109-364, §1204(d)(2), substituted “Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials” for “Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program” in section catchline.

Subsec. (a). Pub. L. 109-364, §1204(a), substituted “the education and training of foreign military officers, ministry of defense officials, or security officials at military or civilian educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Combating Terrorism Fellowship Program” for “the attendance of foreign military officers, ministry of defense officials, or security officials at United States military educational institutions, regional centers, conferences, seminars, or other training programs conducted under the Regional Defense Counterterrorism Fellowship Program, including costs of transportation and travel and subsistence costs” and inserted at end “Costs for which payment may be made under this section include the costs of transportation and travel and subsistence costs.”

Subsec. (b). Pub. L. 109-364, §1204(b), (c), substituted “\$25,000,000” for “\$20,000,000” and inserted at end “Amounts available under the authority in subsection (a) for a fiscal year may be used for programs that begin in such fiscal year but end in the next fiscal year.”

Subsec. (c)(3). Pub. L. 109-364, §1204(d)(1), substituted “program referred to in subsection (a)” for “Regional Defense Counterterrorism Fellowship Program”.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113-66, div. A, title X, §1032(b), Dec. 26, 2013, 127 Stat. 850, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to a report submitted for a fiscal year beginning after the date of the enactment of this Act [Dec. 26, 2013].”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title XII, §1209(b), Oct. 14, 2008, 122 Stat. 4627, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to fiscal years beginning on or after that date.”

#### REGULATIONS

Pub. L. 108-136, div. A, title XII, §1221(b), Nov. 24, 2003, 117 Stat. 1651, provided that: “Not later than December 1, 2003, the Secretary of Defense shall—

“(1) prescribe the final regulations for carrying out section 2249c of title 10, United States Code, as added by subsection (a); and

“(2) notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and House of Representatives] of the prescription of such regulations.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

### § 346. Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces

(a) DISTRIBUTION AUTHORIZED.—To enhance interoperability between the armed forces and

military forces of friendly foreign countries, the Secretary of Defense, with the concurrence of the Secretary of State, may—

(1) provide to personnel referred to in subsection (b) electronically-distributed learning content for the education and training of such personnel for the development or enhancement of allied and friendly military and civilian capabilities for multinational operations, including joint exercises and coalition operations; and

(2) provide information technology, including computer software developed for such purpose, but only to the extent necessary to support the use of such learning content for the education and training of such personnel.

(b) **AUTHORIZED RECIPIENTS.**—The personnel to whom learning content and information technology may be provided under subsection (a) are military and civilian personnel of a friendly foreign government, with the permission of that government.

(c) **EDUCATION AND TRAINING.**—Any education and training provided under subsection (a) shall include the following:

(1) Internet-based education and training.

(2) Advanced distributed learning and similar Internet learning tools, as well as distributed training and computer-assisted exercises.

(d) **APPLICABILITY OF EXPORT CONTROL REGIMES.**—The provision of learning content and information technology under this section shall be subject to the provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.) and any other export control regime under law relating to the transfer of military technology to foreign countries.

(e) **GUIDANCE ON UTILIZATION OF AUTHORITY.**—

(1) **GUIDANCE REQUIRED.**—The Secretary of Defense shall develop and issue guidance on the procedures for the use of the authority in this section.

(2) **MODIFICATION.**—If the Secretary modifies the guidance issued under paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report setting forth the modified guidance not later than 30 days after the date of such modification.

(Added Pub. L. 110-417, [div. A], title XII, § 1205(a)(1), Oct. 14, 2008, 122 Stat. 4623, § 2249d; renumbered § 346 and amended Pub. L. 114-328, div. A, title XII, § 1241(h), Dec. 23, 2016, 130 Stat. 2507.)

#### REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (d), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

#### AMENDMENTS

2016—Pub. L. 114-328, § 1241(h)(1), renumbered section 2249d of this title as this section.

Subsecs. (a), (d). Pub. L. 114-328, § 1241(h)(2)(A), substituted “countries” for “nations”.

Subsecs. (f), (g). Pub. L. 114-328, § 1241(h)(2)(B), struck out subsecs. (f) and (g) which, respectively, required the Secretary of Defense to submit annual reports to the appropriate committees of Congress and defined “appropriate committees of Congress”.

#### EFFECTIVE DATE

Pub. L. 110-417, [div. A], title XII, § 1205(d), Oct. 14, 2008, 122 Stat. 4625, provided that: “This section [enacting this section and provisions set out as notes under this section] and the amendments made by this section shall take effect on October 1, 2008.”

#### GUIDANCE ON UTILIZATION OF AUTHORITY

Pub. L. 110-417, [div. A], title XII, § 1205(b), Oct. 14, 2008, 122 Stat. 4624, provided that:

“(1) **SUBMITTAL TO CONGRESS.**—Not later than 30 days after issuing the guidance required by section 2249d(e) [now 346(e)] of title 10, United States Code, as added by subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth such guidance.

“(2) **UTILIZATION OF SIMILAR GUIDANCE.**—In developing the guidance required by section 2249d(e) [now 346(e)] of title 10, United States Code, as so added, the Secretary may utilize applicable portions of the current guidance developed by the Secretary under subsection (f) of section 1207 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109-364; 120 Stat. 2419) for purposes of the exercise of the authority in such section 1207.”

#### § 347. International engagement authorities for service academies

(a) **SELECTION OF PERSONS FROM FOREIGN COUNTRIES TO RECEIVE INSTRUCTION AT SERVICE ACADEMIES.**—

(1) **ATTENDANCE AUTHORIZED.**—

(A) **IN GENERAL.**—The Secretary of each military department may permit persons from foreign countries to receive instruction at the Service Academy under the jurisdiction of the Secretary. Such persons shall be in addition to—

(i) in the case of the United States Military Academy, the authorized strength of the Corps of the Cadets of the Academy under section 4342 of this title;

(ii) in the case of the United States Naval Academy, the authorized strength of the Brigade of Midshipmen of the Academy under section 6954 of this title; and

(iii) in the case of the United States Air Force Academy, the authorized strength of the Cadet Wing of the Academy under section 9342 of this title.

(B) **LIMITATION ON NUMBER.**—The number of persons permitted to receive instruction at each Service Academy under this subsection may not be more than 60 at any one time.

(2) **DETERMINATION OF FOREIGN COUNTRIES FROM WHICH PERSONS MAY BE SELECTED.**—The Secretary of a military department, upon approval by the Secretary of Defense, shall determine—

(A) the countries from which persons may be selected for appointment under this subsection to the Service Academy under the jurisdiction of that Secretary; and

(B) the number of persons that may be selected from each country.

(3) **QUALIFICATIONS AND SELECTION.**—The Secretary of each military department—

(A) may establish entrance qualifications and methods of competition for selection among individual applicants under this subsection; and

(B) shall select those persons who will be permitted to receive instruction at the Service Academy under the jurisdiction of the Secretary under this subsection.

(4) SELECTION PRIORITY TO PERSONS WITH NATIONAL SERVICE OBLIGATION UPON GRADUATION.—In selecting persons to receive instruction under this subsection from among applicants from the countries approved under paragraph (2), the Secretary of the military department concerned shall give a priority to persons who have a national service obligation to their countries upon graduation from the Service Academy concerned.

(5) PAY, ALLOWANCES, AND EMOLUMENTS OF PERSONS ADMITTED.—A person receiving instruction under this subsection is entitled to the pay, allowances, and emoluments of a cadet or midshipman appointed from the United States, and from the same appropriations.

(6) REIMBURSEMENT OF COSTS BY FOREIGN COUNTRIES FROM WHICH PERSONS ARE ADMITTED.—

(A) REIMBURSEMENT REQUIRED.—Each foreign country from which a cadet or midshipman is permitted to receive instruction at one of the Service Academies under this subsection shall reimburse the United States for the cost of providing such instruction, including the cost of pay, allowances, and emoluments provided under paragraph (5). The Secretaries of the military departments shall prescribe the rates for reimbursement under this paragraph, except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet or midshipman appointed from the United States.

(B) WAIVER AUTHORITY.—The Secretary of Defense may waive, in whole or in part, the requirement for reimbursement of the cost of instruction for a cadet or midshipman under subparagraph (A). In the case of a partial waiver, the Secretary of Defense shall establish the amount waived.

(7) APPLICABILITY OF ACADEMY REGULATIONS, ETC.—<sup>1</sup>

(A) IN GENERAL.—Except as the Secretary of the military department concerned determines, a person receiving instruction under this subsection at the Service Academy under the jurisdiction of that Secretary is subject to the same regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as a cadet or midshipman at that Academy appointed from the United States.

(B) CLASSIFIED INFORMATION.—The Secretary of the military department concerned may prescribe regulations with respect to access to classified information by a person receiving instruction under this subsection at the Service Academy under the jurisdiction of that Secretary that differ from the regulations that apply to a cadet or midshipman at that Academy appointed from the United States.

(8) INELIGIBILITY FOR APPOINTMENT IN THE UNITED STATES ARMED FORCES.—A person receiving instruction at a Service Academy under this subsection is not entitled to an appointment in an armed force of the United States by reason of graduation from the Academy.

(9) INAPPLICABILITY OF REQUIREMENT FOR TAKING OATH OF ADMISSION.—A person receiving instruction under this subsection is not subject to section 4346(d), 6958(d), or 9346(d) of this title, as the case may be.

(b) EXCHANGE PROGRAMS WITH FOREIGN MILITARY ACADEMIES.—

(1) EXCHANGE PROGRAMS AUTHORIZED.—The Secretary of a military department may permit a student enrolled at a military academy of a foreign country to receive instruction at the Service Academy under the jurisdiction of that Secretary in exchange for a cadet or midshipman receiving instruction at that foreign military academy pursuant to an exchange agreement entered into between the Secretary and appropriate officials of the foreign country. A student receiving instruction at a Service Academy under the exchange program under this subsection shall be in addition to persons receiving instruction at the Academy under subsection (a).

(2) LIMITATIONS ON NUMBER AND DURATION OF EXCHANGES.—An exchange agreement under this subsection between the Secretary and a foreign country shall provide for the exchange of students on a one-for-one basis each fiscal year. Not more than 100 cadets or midshipmen from each Service Academy and a comparable number of students from foreign military academies participating in the exchange program may be exchanged during any fiscal year. The duration of an exchange may not exceed the equivalent of one academic semester at a Service Academy.

(3) COSTS AND EXPENSES.—

(A) NO PAY AND ALLOWANCES.—A student from a military academy of a foreign country is not entitled to the pay, allowances, and emoluments of a cadet or midshipman by reason of attendance at a Service Academy under the exchange program, and the Department of Defense may not incur any cost of international travel required for transportation of such a student to and from the sponsoring foreign country.

(B) SUBSISTENCE, TRANSPORTATION, ETC.—The Secretary of the military department concerned may provide a student from a foreign country under the exchange program, during the period of the exchange, with subsistence, transportation within the continental United States, clothing, health care, and other services to the same extent that the foreign country provides comparable support and services to the exchanged cadet or midshipman in that foreign country.

(C) SOURCE OF FUNDS.—A Service Academy shall bear all costs of the exchange program from funds appropriated for that Academy and from such additional funds as may be available to that Academy from a source, other than appropriated funds, to support

<sup>1</sup> So in original.



cultural immersion, regional awareness, or foreign language training activities in connection with the exchange program.

(D) **LIMITATION ON EXPENDITURES.**—Expenditures in support of the exchange program from funds appropriated for each Academy may not exceed \$1,000,000 during any fiscal year.

(4) **APPLICATION OF OTHER LAWS.**—Paragraphs (7), (8), and (9) of subsection (a) shall apply with respect to a student enrolled at a military academy of a foreign country while attending a Service Academy under the exchange program.

(5) **REGULATIONS.**—The Secretary of the military department concerned shall prescribe regulations to implement this subsection. Such regulations may include qualification criteria and methods of selection for students of foreign military academies to participate in the exchange program.

(c) **FOREIGN AND CULTURAL EXCHANGE ACTIVITIES.**—

(1) **ATTENDANCE AUTHORIZED.**—The Secretary of a military department may authorize the Service Academy under the jurisdiction of that Secretary to permit students, officers, and other representatives of a foreign country to attend that Academy for periods of not more than four weeks if the Secretary determines that the attendance of such persons contributes significantly to the development of foreign language, cross-cultural interactions and understanding, and cultural immersion of cadets or midshipmen, as the case may be.

(2) **EFFECT OF ATTENDANCE.**—Persons attending a Service Academy under paragraph (1) are not considered to be students enrolled at that Academy and are in addition to persons receiving instruction at that Academy under subsection (a) or (b).

(3) **FINANCIAL MATTERS.**—

(A) **COSTS AND EXPENSES.**—The Secretary of a military department may pay the travel, subsistence, and similar personal expenses of persons incurred to attend the Service Academy under the jurisdiction of that Secretary under paragraph (1).

(B) **SOURCE OF FUNDS.**—Each Service Academy shall bear the costs of the attendance of persons at that Academy under paragraph (1) from funds appropriated for that Academy and from such additional funds as may be available to that Academy from a source, other than appropriated funds, to support cultural immersion, regional awareness, or foreign language training activities in connection with their attendance.

(C) **LIMITATION ON EXPENDITURES.**—Expenditures from appropriated funds in support of activities under this subsection for any Service Academy may not exceed \$40,000 during any fiscal year.

(d) **SERVICE ACADEMY DEFINED.**—In this section, the term “Service Academy” means the following:

- (1) The United States Military Academy.
- (2) The United States Naval Academy.
- (3) The United States Air Force Academy.

(Added Pub. L. 114-328, div. A, title XII, § 1248(a), Dec. 23, 2016, 130 Stat. 2522; amended Pub. L. 115-91, div. A, title X, § 1081(a)(18), Dec. 12, 2017, 131 Stat. 1595.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4344 to 4345a, 6957 to 6957b, and 9344 to 9345a, prior to repeal by Pub. L. 114-328.

#### AMENDMENTS

2017—Subsec. (a)(1)(A)(i), (iii). Pub. L. 115-91 inserted “section” after “Academy under”.

### § 348. Aviation Leadership Program

(a) **IN GENERAL.**—Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force may carry out an Aviation Leadership Program to provide undergraduate pilot training and necessary related training to personnel of the air forces of friendly, developing foreign countries. Training under this section shall include language training and programs to promote better awareness and understanding of the democratic institutions and social framework of the United States.

(b) **SUPPLIES AND CLOTHING.**—(1) The Secretary of the Air Force may, under such conditions as the Secretary may prescribe, provide to a person receiving training under this section—

- (A) transportation incident to the training;
- (B) supplies and equipment to be used during the training;
- (C) flight clothing and other special clothing required for the training; and
- (D) billeting, food, and health services.

(2) The Secretary may authorize such expenditures from the appropriations of the Air Force as the Secretary considers necessary for the efficient and effective maintenance of the Program in accordance with this section.

(c) **ALLOWANCES.**—The Secretary of the Air Force may pay to a person receiving training under this section a living allowance at a rate to be prescribed by the Secretary, taking into account the amount of living allowances authorized for a member of the armed forces under similar circumstances.

(Added Pub. L. 114-328, div. A, title XII, § 1241(i)(1), Dec. 23, 2016, 130 Stat. 2507.)

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in chapter 905 of this title prior to repeal by Pub. L. 114-328.

#### CONGRESSIONAL FINDINGS

Pub. L. 103-160, div. A, title XI, § 1178(a), Nov. 30, 1993, 107 Stat. 1768, provided that: “The Congress finds the following:

“(1) The training in the United States of pilots from the air forces of friendly foreign nations furthers the interests of the United States, promotes closer relations with such nations, and advances the national security.

“(2) Many friendly foreign nations cannot afford to reimburse the United States for the cost of such training.

“(3) It is in the interest of the United States that the Secretary of the Air Force establish a program to train in the United States pilots from the air forces of friendly, less developed foreign nations.”

**§ 349. Inter-American Air Forces Academy**

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

(b) LIMITATIONS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Military personnel of a foreign country may be provided education and training under this section only with the concurrence of the Secretary of State.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—Education and training may not be provided under this section to the military personnel of any country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(c) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.

(Added Pub. L. 101-510, div. A, title III, § 330(a), Nov. 5, 1990, 104 Stat. 1535, § 9415; renumbered § 349 and amended Pub. L. 114-328, div. A, title XII, § 1241(j), Dec. 23, 2016, 130 Stat. 2508.)

## REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424. Chapter 5 of part II of such Act is classified generally to part V of subchapter II (§ 2347 et seq.) of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

## AMENDMENTS

2016—Pub. L. 114-328, § 1241(j)(1), renumbered section 9415 of this title as this section.

Subsecs. (b), (c). Pub. L. 114-328, § 1241(j)(2), added subsec. (b) and redesignated former subsec. (b) as (c).

**§ 350. Inter-European Air Forces Academy**

(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-European Air Forces Academy (in this section referred to as the “Academy”).

(b) PURPOSE.—The purpose of the Academy shall be to provide military education and training to military personnel of countries that are members of the North Atlantic Treaty Organization or signatories to the Partnership for Peace Framework Documents.

(c) LIMITATIONS.—

(1) CONCURRENCE OF SECRETARY OF STATE.—Military personnel of a country may be provided education and training under this section only with the concurrence of the Secretary of State.

(2) ASSISTANCE OTHERWISE PROHIBITED BY LAW.—Education and training may not be provided under this section to the military personnel of any country that is otherwise prohibited from receiving such type of assistance under any other provision of law.

(d) SUPPLIES AND CLOTHING.—The Secretary of the Air Force may, under such conditions as the Secretary may prescribe, provide to a person receiving education and training under this section the following:

(1) Transportation incident to such education and training.

(2) Supplies and equipment to be used during such education and training.

(3) Billeting, food, and health services in connection with the receipt of such education and training.

(e) LIVING ALLOWANCE.—The Secretary of the Air Force may pay to a person receiving education and training under this section a living allowance at a rate to be prescribed by the Secretary, taking into account the rates of living allowances authorized for a member of the Armed Forces under similar circumstances.

(f) FUNDING.—Amounts for the operations and maintenance of the Academy, and for the provision of education and training through the Academy, may be paid from funds available for the Air Force for operation and maintenance.

(Added Pub. L. 114-328, div. A, title XII, § 1241(k)(1), Dec. 23, 2016, 130 Stat. 2508.)

## CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of subsecs. (a) to (f) of section 1268 of Pub. L. 113-291, div. A, title XII, Dec. 19, 2014, 128 Stat. 3585, which was formerly set out as a note under section 9411 of this title, prior to repeal by Pub. L. 114-328, div. A, title XII, § 1241(k)(2), Dec. 23, 2016, 130 Stat. 2509.

**[§ 351. Renumbered § 261]**

## SUBCHAPTER VI—LIMITATIONS ON USE OF DEPARTMENT OF DEFENSE FUNDS

Sec.

361. Prohibition on providing financial assistance to terrorist countries.
362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights.

**§ 361. Prohibition on providing financial assistance to terrorist countries**

(a) PROHIBITION.—Funds available to the Department of Defense may not be obligated or expended to provide financial assistance to—

(1) any country with respect to which the Secretary of State has made a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. 4605(j)(1)(A));

(2) any country identified in the latest report submitted to Congress under section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), as providing significant support for international terrorism; or

(3) any other country that, as determined by the President—

(A) grants sanctuary from prosecution to any individual or group that has committed an act of international terrorism; or

(B) otherwise supports international terrorism.

(b) WAIVER.—(1) The President may waive the application of subsection (a) to a country if the President determines—

(A) that it is in the national security interests of the United States to do so; or

(B) that the waiver should be granted for humanitarian reasons.

(2) The President shall—

(A) notify the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives at least 15 days before the waiver takes effect; and

(B) publish a notice of the waiver in the Federal Register.

(c) DEFINITION.—In this section, the term “international terrorism” has the meaning given that term in section 140(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)).

(Added Pub. L. 104–106, div. A, title XIII, § 1341(a), Feb. 10, 1996, 110 Stat. 485, § 2249a; amended Pub. L. 105–85, div. A, title X, § 1073(a)(40), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; renumbered § 361 and amended Pub. L. 114–328, div. A, title X, § 1081(b)(3)(B), title XII, § 1241(l)(1), Dec. 23, 2016, 130 Stat. 2418, 2509.)

#### AMENDMENTS

2016—Pub. L. 114–328, § 1241(l)(1), renumbered section 2249a of this title as this section.

Subsec. (a)(1). Pub. L. 114–328, § 1081(b)(3)(B), substituted “(50 U.S.C. 4605(j)(1)(A))” for “(50 U.S.C. App. 2405(j)(1)(A))”.

1999—Subsec. (b)(2)(A). Pub. L. 106–65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1997—Subsec. (a)(1). Pub. L. 105–85 substituted “50 U.S.C. App. 2405(j)(1)(A)” for “50 App. 2405(j)”.

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 362. Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights

(a) IN GENERAL.—(1) Of the amounts made available to the Department of Defense, none may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.

(2) The Secretary of Defense shall, in consultation with the Secretary of State, ensure that prior to a decision to provide any training, equipment, or other assistance to a unit of a foreign security force full consideration is given to any credible information available to the Department of State relating to human rights violations by such unit.

(b) EXCEPTION.—The prohibition in subsection (a)(1) shall not apply if the Secretary of Defense, after consultation with the Secretary of State, determines that the government of such country has taken all necessary corrective steps, or if the equipment or other assistance is necessary to assist in disaster relief operations or other humanitarian or national security emergencies.

(c) WAIVER.—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a)(1) if the Secretary determines that the waiver is required by extraordinary circumstances.

(d) PROCEDURES.—The Secretary of Defense shall establish, and periodically update, procedures to ensure that any information in the possession of the Department of Defense about gross violations of human rights by units of foreign security forces is shared on a timely basis with the Department of State.

(e) REPORT.—Not later than 15 days after the application of any exception under subsection (b) or the exercise of any waiver under subsection (c), the Secretary of Defense shall submit to the appropriate committees of Congress a report—

(1) in the case of an exception under subsection (b), providing notice of the use of the exception and stating the grounds for the exception; and

(2) in the case of a waiver under subsection (c), describing—

(A) the information relating to the gross violation of human rights;

(B) the extraordinary circumstances that necessitate the waiver;

(C) the purpose and duration of the training, equipment, or other assistance; and

(D) the United States forces and the foreign security force unit involved.

(Added Pub. L. 113–291, div. A, title XII, § 1204(a)(1), Dec. 19, 2014, 128 Stat. 3531, § 2249e; renumbered § 362 and amended Pub. L. 114–328, div. A, title XII, § 1241(l), Dec. 23, 2016, 130 Stat. 2509.)

#### AMENDMENTS

2016—Pub. L. 114–328, § 1241(l)(1), renumbered section 2249e of this title as this section.

Subsec. (f). Pub. L. 114–328, § 1241(l)(2), struck out subsec. (f) which defined “appropriate committees of Congress” for this section.

#### HUMAN RIGHTS VETTING OF AFGHAN NATIONAL DEFENSE AND SECURITY FORCES

Pub. L. 115–91, div. A, title XII, § 1216, Dec. 12, 2017, 131 Stat. 1650, provided that: “The Secretary of Defense may establish within the Department of Defense one or more permanent positions to oversee and support, in coordination with the Department of State, the implementation of section 362 of title 10, United States Code, with respect to the Afghan National Defense and Security Forces.”

#### ANNUAL REPORTS

Pub. L. 113–291, div. A, title XII, § 1204(b), Dec. 19, 2014, 128 Stat. 3533, provided that:

“(1) IN GENERAL.—Not later than March 31, 2015, and every March 31 thereafter through 2024, the Secretary of Defense shall submit to the appropriate committees of Congress a report setting forth for the preceding fiscal year the following:

“(A) The total number of cases submitted for vetting for purposes of section 2249e [now 362] of title 10, United States Code (as added by subsection (a)), and the total number of such cases approved, or suspended or rejected for human rights reasons, non-human rights reasons, or administrative reasons.

“(B) In the case of units rejected for non-human rights reasons, a detailed description of the reasons relating to the rejection.

“(C) A description of the interagency processes that were used to evaluate compliance with requirements to conduct vetting.

“(D) An addendum that includes any comments by the commanders of the combatant commands about the impact of section 2249e [now 362] of title 10, United States Code (as so added), on their theater security cooperation plan.

“(E) Such other matters with respect to the administration of section 2249e [now 362] of title 10, United States Code (as so added), as the Secretary considers appropriate.

“(2) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

“(3) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this subsection, the term ‘appropriate committees of Congress’ has the meaning given that term in subsection (f) of section 2249e [now 362] of title 10, United States Code (as so added).”

[For termination, effective Dec. 31, 2021, of annual reporting provisions in section 1204(b) of Pub. L. 113–291, set out above, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.]

**[§ 371. Renumbered § 271]**

**[§ 372. Renumbered § 272]**

**[§ 373. Renumbered § 273]**

**[§ 374. Renumbered § 274]**

**[§ 375. Renumbered § 275]**

**[§ 376. Renumbered § 276]**

**[§ 377. Renumbered § 277]**

**[§ 378. Renumbered § 278]**

**[§ 379. Renumbered § 279]**

**[§ 380. Renumbered § 280]**

SUBCHAPTER VII—ADMINISTRATIVE AND MISCELLANEOUS MATTERS

Sec.	
381.	Consolidated budget.
382.	Execution and administration of programs and activities.
383.	Assessment, monitoring, and evaluation of programs and activities.
384.	Department of Defense security cooperation workforce development.
385.	Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives.
386.	Annual report.

**§ 381. Consolidated budget**

(a) CONSOLIDATED BUDGET.—The budget of the President for each fiscal year, as submitted to Congress by the President pursuant to section 1105 of title 31, shall set forth by budget function and as a separate item the amounts requested for the Department of Defense for such fiscal year for all security cooperation programs and activities of the Department of Defense, including the military departments, to be conducted in such fiscal year, including the specific country or region and the applicable authority, to the extent practicable.

(b) QUARTERLY REPORT ON USE OF FUNDS.—Not later than 30 days after the end of each calendar quarter, the Secretary shall submit to the appropriate committees of Congress a report on

the obligation and expenditure of funds for security cooperation programs and activities of the Department of Defense during such calendar quarter.

(Added Pub. L. 114–328, div. A, title XII, § 1249(a), Dec. 23, 2016, 130 Stat. 2526.)

PRIOR PROVISIONS

A prior section 381 was renumbered section 281 of this title.

EFFECTIVE DATE; APPLICABILITY

Pub. L. 114–328, div. A, title XII, § 1249(b), Dec. 23, 2016, 130 Stat. 2526, provided that: “The amendment made by subsection (a) [enacting this section] shall take effect on the date of the enactment of this Act [Dec. 23, 2016], and shall apply as follows:

“(1) Subsection (a) of section 381 of title 10, United States Code, as added by subsection (a), shall apply to budgets submitted to Congress by the President pursuant to section 1105 of title 31, United States Code, for each fiscal year after fiscal year 2018.

“(2) Subsection (b) of such section 381, as so added, shall apply to calendar quarters beginning on or after the date of the enactment of this Act.”

**§ 382. Execution and administration of programs and activities**

(a) POLICY OVERSIGHT AND RESOURCE ALLOCATION.—The Secretary of Defense shall assign responsibility for the oversight of strategic policy and guidance and responsibility for overall resource allocation for security cooperation programs and activities of the Department of Defense to a single official and office in the Office of the Secretary of Defense at the level of Under Secretary of Defense or below.

(b) EXECUTION AND ADMINISTRATION OF CERTAIN PROGRAMS AND ACTIVITIES.—

(1) IN GENERAL.—The Director of the Defense Security Cooperation Agency shall be responsible for the execution and administration of all security cooperation programs and activities of the Department of Defense involving the provision of defense articles, military training, and other defense-related services by grant, loan, cash sale, or lease.

(2) DESIGNATION OF RESPONSIBILITY.—The Director may designate an element of an armed force, combatant command, Defense Agency, Department of Defense Field Activity, or other element or organization of the Department of Defense to execute and administer security cooperation programs and activities described in paragraph (1) if the Director determines that the designation will achieve maximum effectiveness, efficiency, and economy in the activities for which designated.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to implement security cooperation programs and activities of the Department of Defense authorized by this chapter.

(2) BUDGET JUSTIFICATION.—Funds necessary for implementing security cooperation programs and activities of the Department of Defense under this chapter for a fiscal year shall

be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(Added Pub. L. 114-328, div. A, title XII, § 1241(m), Dec. 23, 2016, 130 Stat. 2509.)

#### PRIOR PROVISIONS

A prior section 382 was renumbered section 282 of this title.

### § 383. Assessment, monitoring, and evaluation of programs and activities

(a) PROGRAM REQUIRED.—The Secretary of Defense shall maintain a program of assessment, monitoring, and evaluation in support of the security cooperation programs and activities of the Department of Defense.

(b) PROGRAM ELEMENTS AND REQUIREMENTS.—

(1) ELEMENTS.—The program under subsection (a) shall provide for the following:

(A) Initial assessments of partner capability requirements, potential programmatic risks, baseline information, and indicators of efficacy for purposes of planning, monitoring, and evaluation of security cooperation programs and activities of the Department of Defense.

(B) Monitoring of implementation of such programs and activities in order to measure progress in execution and, to the extent possible, achievement of desired outcomes.

(C) Evaluation of the efficiency and effectiveness of such programs and activities in achieving desired outcomes.

(D) Identification of lessons learned in carrying out such programs and activities, and development of recommendation for improving future security cooperation programs and activities of the Department of Defense.

(2) BEST PRACTICES.—The program shall be conducted in accordance with international best practices, interagency standards, and, if applicable, the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and the GPRA Modernization Act of 2010 (Public Law 111-352), and the amendments made by that Act.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to carry out the program required by subsection (a).

(2) BUDGET JUSTIFICATION.—Funds described in paragraph (1) for a fiscal year shall be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(d) REPORTS.—

(1) REPORTS TO CONGRESS.—The Secretary shall submit to the congressional defense committees each year a report on the program under subsection (a) during the previous year. Each report shall include, for the year covered by such report, the following:

(A) A description of the activities under the program.

(B) An evaluation of the lessons learned and best practices identified through activities under the program.

(2) INFORMATION FOR THE PUBLIC ON EVALUATIONS.—The Secretary shall make available to the public, on an Internet website of the Department of Defense available to the public, a summary of each evaluation conducted pursuant to subsection (b)(1)(C). In making a summary so available, the Secretary may redact or omit any information that the Secretary determines should not be disclosed to the public in order to protect the interest of the United States or the foreign country or countries covered by such evaluation.

(Added Pub. L. 114-328, div. A, title XII, § 1241(m), Dec. 23, 2016, 130 Stat. 2510.)

#### REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b)(2), is Pub. L. 103-62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The GPRA Modernization Act of 2010, referred to in subsec. (b)(2), is Pub. L. 111-352, Jan. 4, 2011, 124 Stat. 3866, which enacted sections 1115, 1116, and 1120 to 1125 of Title 31, Money and Finance, and section 306 of Title 5, Government Organization and Employees, amended section 1105 of Title 31, repealed sections 1115 and 1116 of Title 31 and section 306 of Title 5, and enacted provisions set out as notes under section 1115 of Title 31 and section 5105 of Title 5. For complete classification of this Act to the Code, see Short Title of 2011 Amendment note set out under section 1101 of Title 31 and Tables.

#### PRIOR PROVISIONS

A prior section 383 was renumbered section 283 of this title.

### § 384. Department of Defense security cooperation workforce development

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to be known as the “Department of Defense Security Cooperation Workforce Development Program” (in this section referred to as the “Program”) to oversee the development and management of a professional workforce supporting security cooperation programs and activities of the Department of Defense, including—

(1) assessment, planning, monitoring, execution, evaluation, and administration of such programs and activities under this chapter; and

(2) execution of security assistance programs and activities under the Foreign Assistance Act of 1961 and the Arms Export Control Act by the Department of Defense.

(b) PURPOSE.—The purpose of the Program is to improve the quality and professionalism of the security cooperation workforce in order to ensure that the workforce—

(1) has the capacity, in both personnel and skills, needed to properly perform its mission,

provide appropriate support to the assessment, planning, monitoring, execution, evaluation, and administration of security cooperation programs and activities described in subsection (a), and ensure that the Department receives the best value for the expenditure of public resources on such programs and activities; and

(2) is assigned in a manner that ensures personnel with the appropriate level of expertise and experience are assigned in sufficient numbers to fulfill requirements for the security cooperation programs and activities of the Department of Defense and the execution of security assistance programs and activities described in subsection (a)(2).

(c) **ELEMENTS.**—The Program shall consist of such elements relating to the development and management of the security cooperation workforce as the Secretary considers appropriate for the purposes specified in subsection (b), including elements on training, certification, assignment, and career development of personnel of the security cooperation workforce.

(d) **MANAGEMENT.**—The Program shall be managed by the Director of the Defense Security Cooperation Agency.

(e) **GUIDANCE.**—

(1) **INTERIM GUIDANCE.**—Not later than 180 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, the Secretary shall issue interim guidance for the execution and administration of the Program.

(2) **FINAL GUIDANCE.**—Not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, the Secretary shall issue final guidance for the execution and administration of the Program.

(3) **SCOPE OF GUIDANCE.**—The guidance shall do the following:

(A) Provide direction to the Department of Defense on the establishment of professional career paths for the personnel of the security cooperation workforce, addressing training and education standards, promotion opportunities and requirements, retention policies, and scope of workforce demands.

(B) Provide for a mechanism to identify and define training and certification requirements for security cooperation positions in the Department and a means to track workforce skills and certifications.

(C) Provide for a mechanism to establish a program of professional certification in Department of Defense security cooperation for personnel of the security cooperation workforce in different career tracks and levels of competency based on requisite training and experience.

(D) Establish requirements for training and professional development associated with each level of certification provided for under subparagraph (C).

(E) Establish and maintain a school to train, educate, and certify the security cooperation workforce according to standards developed for purposes of subparagraph (C).

(F) Provide for a mechanism for assigning appropriately certified personnel of the secu-

rity cooperation workforce to assignments associated with key positions in connection with security cooperation programs and activities.

(G) Identify the appropriate composition of career and temporary personnel necessary to constitute the security cooperation workforce.

(H) Identify specific positions throughout the security cooperation workforce to be managed and assigned through the Program.

(f) **SOURCE OF FUNDS.**—

(1) **IN GENERAL.**—Funds available to the Defense Security Cooperation Agency, and other funds available to the Department of Defense for security cooperation programs and activities of the Department of Defense, may be used to carry out the Program.

(2) **BUDGET JUSTIFICATION.**—Funds necessary to carry out the Program as described in paragraph (1) for a fiscal year shall be identified, with appropriate justification, in the consolidated budget for such fiscal year required by section 381 of this title.

(g) **USE OF FUNDS.**—Amounts available for use for the Program may be transferred to any account of the military departments or the Defense Agencies for purposes of the Program.

(h) **SECURITY COOPERATION WORKFORCE DEFINED.**—In this section, the term “security cooperation workforce” means the following:

(1) Members of the armed forces and civilian employees of the Department of Defense working in the security cooperation organizations of United States missions overseas.

(2) Members of the armed forces and civilian employees of the Department of Defense in the geographic combatant commands and functional combatant commands responsible for planning, monitoring, or conducting security cooperation activities.

(3) Members of the armed forces and civilian employees of the Department of Defense in the military departments performing security cooperation activities, including activities in connection with the acquisition and development of technology release policies.

(4) Other military and civilian personnel of Defense Agencies and Field Activities who perform security cooperation activities.

(5) Personnel of the Department of Defense who perform assessments, monitoring, or evaluations of security cooperation programs and activities of the Department of Defense, including assessments under section 383 of this title.

(6) Other members of the armed forces or civilian employees of the Department of Defense who contribute significantly to the security cooperation programs and activities of the Department of Defense by virtue of their assigned duties, as determined pursuant to the guidance issued under subsection (e).

(Added Pub. L. 114–328, div. A, title XII, § 1250(a), Dec. 23, 2016, 130 Stat. 2526.)

#### REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (a)(2), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, which is classified principally to chapter 32 (§2151 et

seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Arms Export Control Act, referred to in subsec. (a)(2), is Pub. L. 90-629, Oct. 22, 1968, 82 Stat. 1320, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, referred to in subsec. (e)(1), (2), is the date of enactment of Pub. L. 114-328, which was approved Dec. 23, 2016.

#### PRIOR PROVISIONS

A prior section 384 was renumbered section 284 of this title.

### § 385. Department of Defense support for other departments and agencies of the United States Government that advance Department of Defense security cooperation objectives

(a) SUPPORT AUTHORIZED.—Subject to subsection (c), the Secretary of Defense is authorized to support other departments and agencies of the United States Government for the purpose of implementing or supporting foreign assistance programs and activities described in subsection (b) that advance security cooperation objectives of the Department of Defense.

(b) FOREIGN ASSISTANCE PROGRAMS AND ACTIVITIES.—The foreign assistance programs and activities described in this subsection are foreign assistance programs and activities that—

(1) are necessary for the effectiveness of one or more programs of the Department of Defense relating to security cooperation conducted pursuant to an authority in this chapter; and

(2) cannot be carried out by the Department.

(c) ANNUAL LIMITATION ON AMOUNT OF SUPPORT.—The amount of support provided pursuant to subsection (a) in any fiscal year may not exceed \$75,000,000.

(d) NOTICE AND WAIT.—If a determination is made to transfer funds in connection with the provision of support pursuant to subsection (a) for a program or activity, the transfer may not occur until—

(1) the Secretary and the head of the department or agency to receive the funds jointly submit to the congressional defense committees a notice on the transfer, which notice shall include—

(A) a detailed description of the purpose and estimated cost of such program or activity;

(B) a detailed description of the security cooperation objectives of the Department, include<sup>1</sup> the theater campaign plan of the combatant command concerned, that will be advanced;

(C) a justification why such program or activity will advance such objectives;

(D) a justification why such program or activity cannot be carried out by the Department;

(E) an identification of any funds programmed or obligated by the department or

agency other than the Department on such program or activity; and

(F) a timeline for the provision of such support; and

(2) a period of 30 days elapses after the date of the submittal of the notice pursuant to paragraph (1).

(Added Pub. L. 114-328, div. A, title XII, §1241(m), Dec. 23, 2016, 130 Stat. 2511.)

### § 386. Annual report

(a) ANNUAL REPORT REQUIRED.—Not later than January 31 of each year beginning in 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report that sets forth, on a country-by-country basis, a description of each program carried out by the Department of Defense under the authorities in subsection (c) to provide training, equipment, or other assistance or reimbursement during the fiscal year ending in the year before the year in which such report is submitted.

(b) ELEMENTS OF REPORT.—Each report required under subsection (a) shall provide for each program covered by such report, and for the reporting period covered by such report, the following:

(1) A description of the purpose, duration, and type of the training, equipment, or assistance or reimbursement provided, including how the training, equipment, or assistance or reimbursement provided advances the theater security cooperation strategy of the combatant command, as appropriate.

(2) The cost and expenditures of such training, equipment, or assistance or reimbursement, including by type of support provided.

(3) A description of the metrics, if any, used for assessing the effectiveness of such training, equipment, or assistance or reimbursement provided.

(4) For each foreign country in which defense articles, defense services, supplies (including consumables), small-scale construction, or reimbursement were provided, a description of the extent of participation, if any, by the military forces and security forces or other government organizations of such foreign country.

(5) The number of members of the United States armed forces involved in providing such defense articles, defense services, supplies (including consumables), and small-scale construction, and, if applicable, a description of the military benefits for such members involved in providing such training, equipment, or assistance.

(6) A summary, by authority, of the activities carried out under each authority specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities specified in this subsection are the following authorities (or any successor authorities):

(1) Sections 311, 321, 331, 332, 333, 344, 348, 349, and 350 of this title.

(2) Section 166a(b)(6) of this title, relating to humanitarian and civic assistance by the commanders of the combatant commands.

(3) Section 168 of this title, relating to authority—

<sup>1</sup> So in original. Probably should be “including”.

(A) to provide assistance to nations of the former Soviet Union as part of the Warsaw Initiative Fund;

(B) to conduct the Defense Institution Reform Initiative; and

(C) to conduct a program to increase defense institutional legal capacity through the Defense Institute of International Legal Studies.

(4) Section 2249c of this title, relating to authority to use appropriated funds for costs associated with education and training of foreign officials under the Regional Defense Combating Terrorism Fellowship Program.

(5) Section 2561 of this title, relating to authority to provide humanitarian assistance.

(6) Section 1532, relating to the Afghanistan Security Forces Fund.

(7) Section 1233 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181; 122 Stat. 393), relating to authority to reimburse certain coalition nations for support provided to United States military operations.

(8) Section 1234 of the National Defense Authorization Act for Fiscal Year 2008 (122 Stat. 394), relating to authorization for logistical support for coalition forces supporting certain United States military operations.

(9) Section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1881), relating to authority to provide additional support for counter-drug activities of Peru and Colombia.

(10) Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), relating to additional support for counter-drug activities.

(11) Section 401 of this title, relating to humanitarian and civic assistance provided in conjunction with military operations.

(12) Section 1206 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015 (128 Stat. 3538; 10 U.S.C. 2282 note), relating to authority to conduct human rights training of security forces and associated security ministries of foreign countries.

(13) Any other authority on assistance or reimbursement that the Secretary of Defense considers appropriate and consistent with subsection (a).

(d) NONDUPLICATION OF EFFORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), if any information required under subsection (a) has been included in another report or notification previously submitted to Congress by law, the Secretary of Defense may provide a list of such reports and notifications at the time of submitting the report required by subsection (a) in lieu of including such information in the report required by subsection (a).

(2) EXCEPTION.—Paragraph (1) does not apply with respect to information required under subsection (a) that is required to be submitted as described in paragraphs (1) and (2) of subsection (b).

(e) FORM.—Each report required under subsection (a) shall be submitted in unclassified

form, but may contain a classified annex that may also include other sensitive information.

(Added and amended Pub. L. 114-328, div. A, title XII, §§ 1246(d)(2)(A), 1251(a)-(f), Dec. 23, 2016, 130 Stat. 2521, 2529-2531.)

#### AMENDMENT OF SUBSECTION (c)(1)

*Pub. L. 114-328, div. A, title XII, § 1246(d)(2)(A), Dec. 23, 2016, 130 Stat. 2521, provided that, effective as of Jan. 1, 2020, subsection (c)(1) of this section is amended by inserting “341,” after “333.” See 2016 Amendment note below.*

#### REFERENCES IN TEXT

Section 168 of this title, referred to in subsec. (c)(3), was repealed by Pub. L. 114-328, div. A, title XII, § 1253(a)(1)(A), Dec. 23, 2016, 130 Stat. 2532.

Section 2249c of this title, referred to in subsec. (c)(4), was renumbered section 345 of this title by Pub. L. 114-328, div. A, title XII, § 1247(a), Dec. 23, 2016, 130 Stat. 2521.

Section 1532, referred to in subsec. (c)(6), is section 1532 of Pub. L. 113-291, div. A, title XV, Dec. 19, 2014, 128 Stat. 3613. Section 1532 consists of subssecs. (a) to (d). Subssecs. (a) to (c) of section 1532 are not classified to the Code, and subsec. (d) of section 1532 amended section 1531(d) of Pub. L. 113-66, which is set out as a note under section 2302 of this title.

Section 1233 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (c)(7), is section 1233 of Pub. L. 110-181, div. A, title XII, Jan. 28, 2008, 122 Stat. 393, which is not classified to the Code.

Section 1234 of the National Defense Authorization Act for Fiscal Year 2008, referred to in subsec. (c)(8), is section 1234 of Pub. L. 110-181, div. A, title XII, Jan. 28, 2008, 122 Stat. 394, which is not classified to the Code.

Section 1033 of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(9), is section 1033 of Pub. L. 105-85, div. A, title X, Nov. 18, 1997, 111 Stat. 1881, which is not classified to the Code.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note), referred to in subsec. (c)(10), is section 1004 of Pub. L. 101-510, div. A, title X, Nov. 5, 1990, 104 Stat. 1629, which was set out as a note under section 374 of this title, prior to repeal by Pub. L. 114-328, div. A, title X, § 1011(b), Dec. 23, 2016, 130 Stat. 2385. See section 284 of this title.

Section 1206 of the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization Act for Fiscal Year 2015, referred to in subsec. (c)(12), is section 1206 of Pub. L. 113-291, which is set out as a note under section 2282 of this title.

#### CODIFICATION

Text of section, as added by Pub. L. 114-328, is based on text of subssecs. (a) to (e) of section 1211 of Pub. L. 113-291, div. A, title XII, Dec. 19, 2014, 128 Stat. 3544, which was not classified to the Code.

#### AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328, § 1251(b)(6), which directed striking out “under the authorities in subsection (c)” after “submitted”, was executed by striking out “under the authorities specified in subsection (c)” after “submitted”, to reflect the probable intent of Congress.

Pub. L. 114-328, § 1251(b)(1)-(5), in heading, substituted “Annual Report Required” for “Biennial Report Required”, and, in text, substituted “Not later than January 31 of each year beginning in 2018, the Secretary of Defense” for “Not later than February 1 of each of 2016, 2018, and 2020, the Secretary of Defense”, “appropriate congressional committees” for “congressional defense committees”, “assistance” for “security assistance”, and “the fiscal year” for “the two fiscal years” and inserted “under the authorities in subsection (c)” after “Department of Defense”.



Subsec. (b)(1). Pub. L. 114-328, § 1251(c)(1), inserted “, duration,” after “purpose”.

Subsec. (b)(2). Pub. L. 114-328, § 1251(c)(2), substituted “The cost and expenditures” for “The cost”.

Subsec. (b)(4) to (6). Pub. L. 114-328, § 1251(c)(3), added pars. (4) to (6).

Subsec. (c)(1). Pub. L. 114-328, § 1246(d)(2)(A), inserted “341,” after “333.”

Pub. L. 114-328, § 1251(d)(1), added par. (1) and struck out former par. (1) which read as follows: “Section 127d of title 10, United States Code, relating to authority to provide logistic support, supplies, and services to allied forces participating in a combined operation with the Armed Forces.”

Subsec. (c)(2), (3). Pub. L. 114-328, § 1251(d)(6), substituted “of this title” for “of title 10, United States Code”.

Subsec. (c)(4). Pub. L. 114-328, § 1251(d)(2), (3), (6), redesignated par. (6) as (4), substituted “of this title” for “of title 10, United States Code”, and struck out former par. (4) which read as follows: “Section 2010 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in combined exercises.”

Subsec. (c)(5). Pub. L. 114-328, § 1251(d)(2), (3), (6), redesignated par. (8) as (5), substituted “of this title” for “of title 10, United States Code”, and struck out former par. (5) which read as follows: “Section 2011 of title 10, United States Code, relating to authority to reimburse foreign troops for participation in Joint Combined Exercise Training.”

Subsec. (c)(6). Pub. L. 114-328, § 1251(d)(3), redesignated par. (9) as (6). Former par. (6) redesignated (4).

Subsec. (c)(7). Pub. L. 114-328, § 1251(d)(2), (3), redesignated par. (13) as (7) and struck out former par. (7) which read as follows: “Section 2282 of title 10, United States Code (as added by section 1205 of this Act), relating to authority to build the capacity of foreign military forces, or the predecessor authority to such section in section 1206 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163; 119 Stat. 3456).”

Subsec. (c)(8), (9). Pub. L. 114-328, § 1251(d)(3), redesignated pars. (14) and (15) as (8) and (9), respectively. Former pars. (8) and (9) redesignated (5) and (6), respectively.

Subsec. (c)(10). Pub. L. 114-328, § 1251(d)(2), (3), redesignated par. (16) as (10) and struck out former par. (10) which read as follows: “Section 1205 of the National Defense Authorization Act for Fiscal Year 2014 (32 U.S.C. 107 note), relating to authority for National Guard State Partnership program.”

Subsec. (c)(11), (12). Pub. L. 114-328, § 1251(d)(2), (4), added pars. (11) and (12) and struck out former pars. (11) and (12) which read as follows:

“(11) Section 1081 of the National Defense Authorization Act for Fiscal Year 2012 (10 U.S.C. 168 note), relating to the Ministry of Defense Advisors program.

“(12) Section 1207 of the National Defense Authorization Act for Fiscal Year 2012 (22 U.S.C. 2151 note), relating to the Global Security Contingency Fund.”

Subsec. (c)(13). Pub. L. 114-328, § 1251(d)(5), redesignated par. (17) as (13). Former par. (13) redesignated (7).

Subsec. (c)(14) to (16). Pub. L. 114-328, § 1251(d)(3), redesignated pars. (14) to (16) as (8) to (10), respectively.

Subsec. (c)(17). Pub. L. 114-328, § 1251(d)(5), redesignated par. (17) as (13).

Subsec. (d). Pub. L. 114-328, § 1251(e), designated existing provisions as par. (1) and inserted heading, substituted “Except as provided in paragraph (2), if any information” for “If any information”, and added par. (2).

Subsec. (e). Pub. L. 114-328, § 1251(f), inserted “that may also include other sensitive information” after “annex”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-328, div. A, title XII, § 1246(d)(2), Dec. 23, 2016, 130 Stat. 2521, provided that the amendment made by section 1246(d)(2)(A) is effective as of January 1, 2020.

## CHAPTER 19—CYBER MATTERS

Sec. 391.	Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors.
392.	Executive agents for cyber test and training ranges.
393.	Reporting on penetrations of networks and information systems of certain contractors.

#### AMENDMENTS

2015—Pub. L. 114-92, div. A, title X, § 1081(a)(4), title XVI, § 1641(c)(2), Nov. 25, 2015, 129 Stat. 1001, 1116, substituted “Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors” for “Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors” in item 391 and added item 393.

2014—Pub. L. 113-291, div. A, title XVI, § 1633(d), Dec. 19, 2014, 128 Stat. 3643, added item 392.

### § 391. Reporting on cyber incidents with respect to networks and information systems of operationally critical contractors and certain other contractors

(a) DESIGNATION OF DEPARTMENT COMPONENT TO RECEIVE REPORTS.—The Secretary of Defense shall designate a component of the Department of Defense to receive reports of cyber incidents from contractors in accordance with this section and section 393 of this title or from other governmental entities.

(b) PROCEDURES FOR REPORTING CYBER INCIDENTS.—The Secretary of Defense shall establish procedures that require an operationally critical contractor to report in a timely manner to component designated under subsection (a) each time a cyber incident occurs with respect to a network or information system of such operationally critical contractor.

#### (c) PROCEDURE REQUIREMENTS.—

(1) DESIGNATION AND NOTIFICATION.—The procedures established pursuant to subsection (a) shall include a process for—

(A) designating operationally critical contractors; and

(B) notifying a contractor that it has been designated as an operationally critical contractor.

(2) RAPID REPORTING.—The procedures established pursuant to subsection (a) shall require each operationally critical contractor to rapidly report to the component of the Department designated pursuant to subsection (d)(2)(A) on each cyber incident with respect to any network or information systems of such contractor. Each such report shall include the following:

(A) An assessment by the contractor of the effect of the cyber incident on the ability of the contractor to meet the contractual requirements of the Department.

(B) The technique or method used in such cyber incident.

(C) A sample of any malicious software, if discovered and isolated by the contractor, involved in such cyber incident.

(D) A summary of information compromised by such cyber incident.

(3) DEPARTMENT ASSISTANCE AND ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT

PERSONNEL.—The procedures established pursuant to subsection (a) shall—

(A) include mechanisms for Department personnel to, if requested, assist operationally critical contractors in detecting and mitigating penetrations; and

(B) provide that an operationally critical contractor is only required to provide access to equipment or information as described in subparagraph (A) to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of such contractor and, if so, what information was exfiltrated.

(4) PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.—The procedures established pursuant to subsection (a) shall provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(5) DISSEMINATION OF INFORMATION.—The procedures established pursuant to subsection (a) shall limit the dissemination of information obtained or derived through the procedures to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) PROTECTION FROM LIABILITY OF OPERATIONALLY CRITICAL CONTRACTORS.—(1) No cause of action shall lie or be maintained in any court against any operationally critical contractor, and such action shall be promptly dismissed, for compliance with this section that is conducted in accordance with procedures established pursuant to subsection (b).

(2)(A) Nothing in this section shall be construed—

(i) to require dismissal of a cause of action against an operationally critical contractor that has engaged in willful misconduct in the course of complying with the procedures established pursuant to subsection (b); or

(ii) to undermine or limit the availability of otherwise applicable common law or statutory defenses.

(B) In any action claiming that paragraph (1) does not apply due to willful misconduct described in subparagraph (A), the plaintiff shall have the burden of proving by clear and convincing evidence the willful misconduct by each operationally critical contractor subject to such claim and that such willful misconduct proximately caused injury to the plaintiff.

(C) In this subsection, the term “willful misconduct” means an act or omission that is taken—

(i) intentionally to achieve a wrongful purpose;

(ii) knowingly without legal or factual justification; and

(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

(e) DEFINITIONS.—In this section:

(1) CYBER INCIDENT.—The term “cyber incident” means actions taken through the use of computer networks that result in an actual or potentially adverse effect on an information system or the information residing therein.

(2) OPERATIONALLY CRITICAL CONTRACTOR.—The term “operationally critical contractor” means a contractor designated by the Secretary for purposes of this section as a critical source of supply for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

(Added Pub. L. 113–291, div. A, title XVI, §1632(a), Dec. 19, 2014, 128 Stat. 3639; amended Pub. L. 114–92, div. A, title XVI, §1641(b), (c)(1), Nov. 25, 2015, 129 Stat. 1115, 1116.)

#### AMENDMENTS

2015—Subsec. (a). Pub. L. 114–92, §1641(c)(1), substituted “and section 393 of this title” for “and with section 941 of the National Defense Authorization Act for Fiscal Year 2013 (10 U.S.C. 2224 note)”.

Subsecs. (d), (e). Pub. L. 114–92, §1641(b), added subsec. (d) and redesignated former subsec. (d) as (e).

#### ISSUANCE OF PROCEDURES

Pub. L. 113–291, div. A, title XVI, §1632(b), Dec. 19, 2014, 128 Stat. 3640, provided that: “The Secretary shall establish the procedures required by subsection (b) of section 391 of title 10, United States Code, as added by subsection (a) of this section, not later than 90 days after the date of the enactment of this Act [Dec. 19, 2014].”

#### ASSESSMENT OF DEPARTMENT POLICIES

Pub. L. 113–291, div. A, title XVI, §1632(c), Dec. 19, 2014, 128 Stat. 3640, provided that:

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of the Act [Dec. 19, 2014], the Secretary of Defense shall complete an assessment of—

“(A) requirements that were in effect on the day before the date of the enactment of this Act for contractors to share information with Department components regarding cyber incidents (as defined in subsection (d) of such section 391 [10 U.S.C. 391]) with respect to networks or information systems of contractors; and

“(B) Department policies and systems for sharing information on cyber incidents with respect to networks or information systems of Department contractors.

“(2) ACTIONS FOLLOWING ASSESSMENT.—Upon completion of the assessment required by paragraph (1), the Secretary shall—

“(A) designate a Department component under subsection (a) of such section 391; and

“(B) issue or revise guidance applicable to Department components that ensures the rapid sharing by the component designated pursuant to such section 391 or section 941 of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112–239] (10 U.S.C. 2224 note) of information relating to cyber incidents with respect to networks or information systems of contractors with other appropriate Department components.”

#### § 392. Executive agents for cyber test and training ranges

(a) EXECUTIVE AGENT.—The Secretary of Defense, in consultation with the Principal Cyber Advisor, shall—

(1) designate a senior official from among the personnel of the Department of Defense to act as the executive agent for cyber and information technology test ranges; and

(2) designate a senior official from among the personnel of the Department of Defense to act as the executive agent for cyber and information technology training ranges.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—

(1) ESTABLISHMENT.—The Secretary of Defense shall prescribe the roles, responsibilities, and authorities of the executive agents designated under subsection (a). Such roles, responsibilities, and authorities shall include the development of a biennial integrated plan for cyber and information technology test and training resources.

(2) BIENNIAL INTEGRATED PLAN.—The biennial integrated plan required under paragraph (1) shall include plans for the following:

(A) Developing and maintaining a comprehensive list of cyber and information technology ranges, test facilities, test beds, and other means of testing, training, and developing software, personnel, and tools for accommodating the mission of the Department. Such list shall include resources from both governmental and nongovernmental entities.

(B) Organizing and managing designated cyber and information technology test ranges, including—

(i) establishing the priorities for cyber and information technology ranges to meet Department objectives;

(ii) enforcing standards to meet requirements specified by the United States Cyber Command, the training community, and the research, development, testing, and evaluation community;

(iii) identifying and offering guidance on the opportunities for integration amongst the designated cyber and information technology ranges regarding test, training, and development functions;

(iv) finding opportunities for cost reduction, integration, and coordination improvements for the appropriate cyber and information technology ranges;

(v) adding or consolidating cyber and information technology ranges in the future to better meet the evolving needs of the cyber strategy and resource requirements of the Department;

(vi) finding opportunities to continuously enhance the quality and technical expertise of the cyber and information technology test workforce through training and personnel policies; and

(vii) coordinating with interagency and industry partners on cyber and information technology range issues.

(C) Defining a cyber range architecture that—

(i) may add or consolidate cyber and information technology ranges in the future to better meet the evolving needs of the cyber strategy and resource requirements of the Department;

(ii) coordinates with interagency and industry partners on cyber and information technology range issues;

(iii) allows for integrated closed loop testing in a secure environment of cyber and electronic warfare capabilities;

(iv) supports science and technology development, experimentation, testing and training; and

(v) provides for interconnection with other existing cyber ranges and other kinetic range facilities in a distributed manner.

(D) Certifying all cyber range investments of the Department of Defense.

(E) Performing such other assessments or analyses as the Secretary considers appropriate.

(3) STANDARD FOR CYBER EVENT DATA.—The executive agents designated under subsection (a), in consultation with the Chief Information Officer of the Department of Defense, shall jointly select a standard language from open-source candidates for representing and communicating cyber event and threat data. Such language shall be machine-readable for the Joint Information Environment and associated test and training ranges.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—The Secretary of Defense shall ensure that the military departments, Defense Agencies, and other components of the Department of Defense provide the executive agents designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agents.

(d) COMPLIANCE WITH EXISTING DIRECTIVE.—The Secretary shall carry out this section in compliance with Directive 5101.1.

(e) DEFINITIONS.—In this section:

(1) The term “designated cyber and information technology range” includes the National Cyber Range, the Joint Information Operations Range, the Defense Information Assurance Range, and the C4 Assessments Division of J6 of the Joint Staff.

(2) The term “Directive 5101.1” means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(3) The term “executive agent” has the meaning given the term “DoD Executive Agent” in Directive 5101.1.

(Added Pub. L. 113–291, div. A, title XVI, § 1633(a), Dec. 19, 2014, 128 Stat. 3641.)

DESIGNATION AND ROLES AND RESPONSIBILITIES;  
SELECTION OF STANDARD LANGUAGE

Pub. L. 113–291, div. A, title XVI, § 1633(b), (c), Dec. 19, 2014, 128 Stat. 3642, provided that:

“(b) DESIGNATION AND ROLES AND RESPONSIBILITIES.—The Secretary of Defense shall—

“(1) not later than 120 days after the date of the enactment of this Act [Dec. 19, 2014], designate the executive agents required under subsection (a) of section 392 of title 10, United States Code, as added by subsection (a) of this section; and

“(2) not later than one year after the date of the enactment of this Act, prescribe the roles, responsibil-

ities, and authorities required under subsection (b) of such section 392.

“(C) SELECTION OF STANDARD LANGUAGE.—Not later than June 1, 2015, the executive agents designated under subsection (a) of section 392 of title 10, United States Code, as added by subsection (a) of this section, shall select the standard language under subsection (b)(3) of such section 392.”

**§ 393. Reporting on penetrations of networks and information systems of certain contractors**

(a) PROCEDURES FOR REPORTING PENETRATIONS.—The Secretary of Defense shall establish procedures that require each cleared defense contractor to report to a component of the Department of Defense designated by the Secretary for purposes of such procedures when a network or information system of such contractor that meets the criteria established pursuant to subsection (b) is successfully penetrated.

(b) NETWORKS AND INFORMATION SYSTEMS SUBJECT TO REPORTING.—

(1) CRITERIA.—The Secretary of Defense shall designate a senior official to, in consultation with the officials specified in paragraph (2), establish criteria for covered networks to be subject to the procedures for reporting system penetrations under subsection (a).

(2) OFFICIALS.—The officials specified in this subsection are the following:

(A) The Under Secretary of Defense for Policy.

(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(C) The Under Secretary of Defense for Intelligence.

(D) The Chief Information Officer of the Department of Defense.

(E) The Commander of the United States Cyber Command.

(c) PROCEDURE REQUIREMENTS.—

(1) RAPID REPORTING.—The procedures established pursuant to subsection (a) shall require each cleared defense contractor to rapidly report to a component of the Department of Defense designated pursuant to subsection (a) of each successful penetration of the network or information systems of such contractor that meet the criteria established pursuant to subsection (b). Each such report shall include the following:

(A) A description of the technique or method used in such penetration.

(B) A sample of the malicious software, if discovered and isolated by the contractor, involved in such penetration.

(C) A summary of information created by or for the Department in connection with any Department program that has been potentially compromised due to such penetration.

(2) ACCESS TO EQUIPMENT AND INFORMATION BY DEPARTMENT OF DEFENSE PERSONNEL.—The procedures established pursuant to subsection (a) shall—

(A) include mechanisms for Department of Defense personnel to, upon request, obtain access to equipment or information of a cleared defense contractor necessary to conduct forensic analysis in addition to any analysis conducted by such contractor;

(B) provide that a cleared defense contractor is only required to provide access to equipment or information as described in subparagraph (A) to determine whether information created by or for the Department in connection with any Department program was successfully exfiltrated from a network or information system of such contractor and, if so, what information was exfiltrated; and

(C) provide for the reasonable protection of trade secrets, commercial or financial information, and information that can be used to identify a specific person.

(3) DISSEMINATION OF INFORMATION.—The procedures established pursuant to subsection (a) shall limit the dissemination of information obtained or derived through such procedures to entities—

(A) with missions that may be affected by such information;

(B) that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(C) that conduct counterintelligence or law enforcement investigations; or

(D) for national security purposes, including cyber situational awareness and defense purposes.

(d) PROTECTION FROM LIABILITY OF CLEARED DEFENSE CONTRACTORS.—(1) No cause of action shall lie or be maintained in any court against any cleared defense contractor, and such action shall be promptly dismissed, for compliance with this section that is conducted in accordance with the procedures established pursuant to subsection (a).

(2)(A) Nothing in this section shall be construed—

(i) to require dismissal of a cause of action against a cleared defense contractor that has engaged in willful misconduct in the course of complying with the procedures established pursuant to subsection (a); or

(ii) to undermine or limit the availability of otherwise applicable common law or statutory defenses.

(B) In any action claiming that paragraph (1) does not apply due to willful misconduct described in subparagraph (A), the plaintiff shall have the burden of proving by clear and convincing evidence the willful misconduct by each cleared defense contractor subject to such claim and that such willful misconduct proximately caused injury to the plaintiff.

(C) In this subsection, the term “willful misconduct” means an act or omission that is taken—

(i) intentionally to achieve a wrongful purpose;

(ii) knowingly without legal or factual justification; and

(iii) in disregard of a known or obvious risk that is so great as to make it highly probable that the harm will outweigh the benefit.

(e) DEFINITIONS.—In this section:

(1) CLEARED DEFENSE CONTRACTOR.—The term “cleared defense contractor” means a private entity granted clearance by the Department of

Defense to access, receive, or store classified information for the purpose of bidding for a contract or conducting activities in support of any program of the Department of Defense.

(2) COVERED NETWORK.—The term “covered network” means a network or information system of a cleared defense contractor that contains or processes information created by or for the Department of Defense with respect to which such contractor is required to apply enhanced protection.

(Added and amended Pub. L. 114–92, div. A, title XVI, §1641(a), Nov. 25, 2015, 129 Stat. 1114.)

#### CODIFICATION

Section, as added and amended by Pub. L. 114–92, is based on Pub. L. 112–239, div. A, title IX, §941, Jan. 2, 2013, 126 Stat. 1889, which was formerly set out as a note under section 2224 of this title before being transferred to this chapter and renumbered as this section.

#### AMENDMENTS

2015—Pub. L. 114–92, §1641(a)(1), substituted “Reporting on penetrations of networks and information systems of certain contractors” for “Reports to Department of Defense on penetrations of networks and information systems of certain contractors” in section catchline.

Pub. L. 114–92, §1641(a), transferred section 941 of Pub. L. 112–239 to this chapter and renumbered it as this section. See Codification note above.

Subsec. (c)(3). Pub. L. 114–92, §1641(a)(2), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: “The procedures established pursuant to subsection (a) shall prohibit the dissemination outside the Department of Defense of information obtained or derived through such procedures that is not created by or for the Department except with the approval of the contractor providing such information.”

Subsec. (d). Pub. L. 114–92, §1641(a)(3), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows:

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act—

“(A) the Secretary of Defense shall establish the procedures required under subsection (a); and

“(B) the senior official designated under subsection (b)(1) shall establish the criteria required under such subsection.

“(2) APPLICABILITY DATE.—The requirements of this section shall apply on the date on which the Secretary of Defense establishes the procedures required under this section.”

### CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

Sec.	
401.	Humanitarian and civic assistance provided in conjunction with military operations.
402.	Transportation of humanitarian relief supplies to foreign countries.
[403.]	Repealed.]
404.	Foreign disaster assistance.
405.	Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.
[406.]	Renumbered.]
407.	Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations.
408.	Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel.
409.	Center for Complex Operations.
[410.]	Repealed.]

Sec.

#### PRIOR PROVISIONS

Chapter was comprised of subchapter I, sections 401 to 404, and subchapter II, section 410, prior to amendment by Pub. L. 104–106, div. A, title V, §571(c), Feb. 10, 1996, 110 Stat. 353, which struck out headings for subchapters I and II.

#### AMENDMENTS

2011—Pub. L. 112–81, div. A, title X, §1092(b)(2), Dec. 31, 2011, 125 Stat. 1606, added item 407 and struck out former item 407 “Humanitarian demining assistance: authority; limitations”.

2008—Pub. L. 110–417, [div. A], title X, §1031(b), Oct. 14, 2008, 122 Stat. 4590, added item 409.

Pub. L. 110–181, div. A, title XII, §1207(b), Jan. 28, 2008, 122 Stat. 367, added item 408.

2006—Pub. L. 109–364, div. A, title XII, §1203(b)(2), Oct. 17, 2006, 120 Stat. 2415, added item 407.

1996—Pub. L. 104–106, div. A, title X, §1061(g)(2), title XIII, §1301(b), Feb. 10, 1996, 110 Stat. 443, 473, which directed amendment of table of sections at beginning of subchapter I of this chapter by striking out item 403 and adding item 405, were executed by striking out item 403 “International peacekeeping activities” and adding item 405 in analysis for this chapter to reflect the probable intent of Congress and amendments by Pub. L. 104–106, §571(c)(1), (2). See below.

Pub. L. 104–106, div. A, title V, §571(c)(1), (2), Feb. 10, 1996, 110 Stat. 353, struck out subchapter analysis, consisting of items for subchapter I “Humanitarian Assistance” and subchapter II “Civil-Military Cooperation” and struck out subchapter I heading “HUMANITARIAN ASSISTANCE”.

1994—Pub. L. 103–337, div. A, title XIV, §1412(b), Oct. 5, 1994, 108 Stat. 2913, added item 404.

1992—Pub. L. 102–484, div. A, title X, §1081(b)(2), title XIII, §1342(c)(2), Oct. 23, 1992, 106 Stat. 2516, 2558, added subchapter analysis, subchapter I heading, and item 403.

1987—Pub. L. 100–180, div. A, title III, §332(b)(6), Dec. 4, 1987, 101 Stat. 1080, substituted “HUMANITARIAN AND OTHER ASSISTANCE” for “HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS” in chapter heading, “Humanitarian and civic assistance provided in conjunction with military operations” for “Armed forces participation in humanitarian and civic assistance activities” in item 401, and “Transportation of humanitarian relief supplies to foreign countries” for “Approval of Secretary of State” in item 402, and struck out items 403 “Payment of expenses”, 404 “Annual report to Congress”, 405 “Definition of humanitarian and civic assistance”, and 406 “Expenditure limitation”.

### § 401. Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be

provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(b) Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

[ (2), (3) Repealed. Pub. L. 109-364, div. A, title XII, § 1203(a)(3), Oct. 17, 2006, 120 Stat. 2413.]

(4) Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1), except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance.

(d) The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

(e) In this section, the term “humanitarian and civic assistance” means any of the following:

(1) Medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided.

(2) Construction of rudimentary surface transportation systems.

(3) Well drilling and construction of basic sanitation facilities.

(4) Rudimentary construction and repair of public facilities.

(Added Pub. L. 99-661, div. A, title III, § 333(a)(1), Nov. 14, 1986, 100 Stat. 3857; amended Pub. L. 100-180, div. A, title III, § 332(b)(1)–(5), Dec. 4, 1987, 101 Stat. 1080; Pub. L. 100-456, div. A, title

XII, § 1233(g)(1), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103-160, div. A, title XI, § 1182(a)(1), title XV, § 1504(b), Nov. 30, 1993, 107 Stat. 1771, 1839; Pub. L. 104-106, div. A, title XIII, § 1313(a), (b), title XV, § 1502(a)(8), Feb. 10, 1996, 110 Stat. 474, 475, 503; Pub. L. 104-201, div. A, title X, § 1074(a)(2), title XIII, § 1304, Sept. 23, 1996, 110 Stat. 2658, 2704; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, § 1 [[div. A], title XII, § 1235], Oct. 30, 2000, 114 Stat. 1654, 1654A-331; Pub. L. 108-375, div. A, title XII, § 1221, Oct. 28, 2004, 118 Stat. 2089; Pub. L. 109-163, div. A, title XII, § 1201, Jan. 6, 2006, 119 Stat. 3455; Pub. L. 109-364, div. A, title XII, § 1203(a), Oct. 17, 2006, 120 Stat. 2413; Pub. L. 112-239, div. A, title X, § 1076(f)(7), Jan. 2, 2013, 126 Stat. 1952.)

#### AMENDMENTS

2013—Subsec. (d). Pub. L. 112-239 substituted “Committee on Foreign Affairs” for “Committee on International Relations” in introductory provisions.

2006—Subsec. (a)(4). Pub. L. 109-364, § 1203(a)(1), struck out par. (4) which read as follows: “The Secretary of Defense shall ensure that no member of the armed forces, while providing assistance under this section that is described in subsection (e)(5)—

“(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

“(B) provides such assistance as part of a military operation that does not involve the armed forces.”

Subsec. (b). Pub. L. 109-364, § 1203(a)(2), struck out “(1)” before “Humanitarian” and struck out par. (2) which read as follows: “Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.”

Subsec. (c)(2). Pub. L. 109-364, § 1203(a)(3), struck out par. (2) which read as follows: “Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

“(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

“(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting the activities described in subsection (e)(5), including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.”

Subsec. (c)(3). Pub. L. 109-364, § 1203(a)(3), struck out par. (3) which read as follows: “The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed \$10,000,000.”

Pub. L. 109-163, § 1201(a), substituted “\$10,000,000” for “\$5,000,000”.

Subsec. (e)(1). Pub. L. 109-163, § 1201(b), inserted “surgical,” before “dental,” in two places and “, including education, training, and technical assistance related to the care provided” before period at end.

Subsec. (e)(5). Pub. L. 109-364, § 1203(a)(4), struck out par. (5) which read as follows: “Detection and clearance of landmines and other explosive remnants of war, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.”

2004—Subsec. (a)(4)(A). Pub. L. 108–375, § 1221(b)(1), inserted “or other explosive remnants of war” after “landmines”.

Subsec. (c)(2)(B). Pub. L. 108–375, § 1221(b)(2), substituted “equipment or supplies for clearing landmines or other explosive remnants of war” for “landmine clearing equipment or supplies”.

Subsec. (e)(5). Pub. L. 108–375, § 1221(a), inserted “and other explosive remnants of war” after “landmines” in two places.

2000—Subsec. (e)(1). Pub. L. 106–398 substituted “areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively” for “rural areas of a country”.

1999—Subsec. (d). Pub. L. 106–65 substituted “and the Committee on Armed Services” for “and the Committee on National Security” in introductory provisions.

1996—Subsec. (a)(4). Pub. L. 104–201, § 1074(a)(2)(A), substituted “armed forces” for “Armed Forces” in two places.

Pub. L. 104–106, § 1313(b), added par. (4).

Subsec. (b). Pub. L. 104–201, § 1304(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(2) to (4). Pub. L. 104–201, § 1304(a), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (d). Pub. L. 104–106, § 1502(a)(8), substituted “Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations” for “Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs”.

Subsec. (e). Pub. L. 104–201, § 1074(a)(2)(B), inserted “any of the following” after “means” in introductory provisions.

Pub. L. 104–106, § 1313(a)(1), substituted “means:” for “means—” in introductory provisions.

Subsec. (e)(1). Pub. L. 104–106, § 1313(a)(2), (3), substituted “Medical” for “medical” and “country.” for “country;”.

Subsec. (e)(2). Pub. L. 104–106, § 1313(a)(2), (3), substituted “Construction” for “construction” and “systems.” for “systems;”.

Subsec. (e)(3). Pub. L. 104–106, § 1313(a)(2), (4), substituted “Well” for “well” and “facilities.” for “facilities; and”.

Subsec. (e)(4). Pub. L. 104–106, § 1313(a)(2), substituted “Rudimentary” for “rudimentary”.

Subsec. (e)(5). Pub. L. 104–106, § 1313(a)(5), added par. (5).

1993—Subsec. (c)(2). Pub. L. 103–160, § 1504(b), inserted before period “, except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance”.

Subsec. (f). Pub. L. 103–160, § 1182(a)(1), struck out subsec. (f) which read as follows: “Not more than \$16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.”

1988—Subsec. (c)(2). Pub. L. 100–456 substituted “paragraph (1)” for “subsection (a)”.

1987—Pub. L. 100–180, § 332(b)(1)(A), substituted “Humanitarian and civic assistance provided in conjunction with military operations” for “Armed forces participation in humanitarian and civic assistance activities” in section catchline.

Subsec. (a). Pub. L. 100–180, § 332(b)(1)(B), (C), (5), redesignated former subsec. (a) as par. (1) and former cls. (1) and (2) as cls. (A) and (B), respectively, redesignated former subsecs. (b) and (c) as pars. (2) and (3), respectively, and substituted “section” for “chapter” wherever appearing.

Subsec. (b). Pub. L. 100–180, § 332(b)(2), (5), struck out section catchline of former section 402 “Approval of Secretary of State”, designated text of former section 402 as subsec. (b) of this section, and substituted “section” for “chapter”.

Subsec. (c). Pub. L. 100–180, § 332(b)(3), (5), struck out section catchline of former section 403 “Payment of expenses”, redesignated former section 403(a) and (b) as subsec. (c)(1) and (2), respectively, of this section, and substituted “section” for “chapter” wherever appearing.

Subsec. (d). Pub. L. 100–180, § 332(b)(4), (5), struck out section catchline of former section 404 “Annual report to Congress”, designated text of former section 404 as subsec. (d) of this section, and substituted “section” for “chapter”.

Subsec. (e). Pub. L. 100–180, § 332(b)(4), (5), struck out section catchline of former section 405 “Definition of humanitarian and civic assistance”, designated text of former section 405 as subsec. (e) of this section, and substituted “section” for “chapter”.

Subsec. (f). Pub. L. 100–180, § 332(b)(4), (5), struck out section catchline of former section 406 “Expenditure limitation”, designated text of former section 406 as subsec. (f) of this section, and substituted “section” for “chapter”.

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### AUTHORITY TO CONDUCT ACTIVITIES TO ENHANCE THE CAPABILITY OF FOREIGN COUNTRIES TO RESPOND TO INCIDENTS INVOLVING WEAPONS OF MASS DESTRUCTION

Pub. L. 113–66, div. A, title XII, § 1204, Dec. 26, 2013, 127 Stat. 896, as amended by Pub. L. 113–291, div. A, title XII, § 1202, Dec. 19, 2014, 128 Stat. 3530; Pub. L. 114–92, div. A, title XII, § 1273, Nov. 25, 2015, 129 Stat. 1076, provided authority to conduct activities to enhance the capability of foreign countries to respond to incidents involving weapons of mass destruction, prior to repeal by Pub. L. 114–328, div. A, title XII, § 1241(d)(5)(B)(i), Dec. 23, 2016, 130 Stat. 2504, effective as of the date that is 270 days after Dec. 23, 2016.

#### REQUIREMENT TO ENSURE THE EFFECTIVENESS AND EFFICIENCY OF HEALTH ENGAGEMENTS

Pub. L. 112–239, div. A, title VII, § 715, Jan. 2, 2013, 126 Stat. 1803, provided that:

“(a) IN GENERAL.—The Secretary of Defense, in coordination with the Under Secretary of Defense for Policy and the Assistant Secretary of Defense for Health Affairs, shall develop a process to ensure that health engagements conducted by the Department of Defense are effective and efficient in meeting the national security goals of the United States.

“(b) PROCESS GOALS.—The Assistant Secretary of Defense for Health Affairs shall ensure that each process developed under subsection (a)—

“(1) assesses the operational mission capabilities of the health engagement;

“(2) uses the collective expertise of the Federal Government and non-governmental organizations to ensure collaboration and partnering activities; and

“(3) assesses the stability and resiliency of the host nation of such engagement.

“(c) ASSESSMENT TOOL.—The Assistant Secretary of Defense for Health Affairs may establish a measure of effectiveness learning tool to assess the process developed under subsection (a) to ensure the applicability of the process to health engagements conducted by the Department of Defense.

“(d) HEALTH ENGAGEMENT DEFINED.—In this section, the term ‘health engagement’ means a health stability operation conducted by the Department of Defense outside the United States in coordination with a foreign government or international organization to establish, reconstitute, or maintain the health sector of a foreign country.”

HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING  
LANDMINES

Pub. L. 103-337, div. A, title XIV, §1413, Oct. 5, 1994, 108 Stat. 2913, required Secretary of Defense to carry out program for humanitarian purposes to provide assistance to other nations in detection and clearance of landmines, specified that such assistance was to be provided through instruction, education, training, and advising of personnel of those nations in procedures determined effective for detecting and clearing landmines, specified forms of assistance, required Secretary to ensure that no member of Armed Forces engaged in physical detection, lifting, or destroying of landmines (unless done for concurrent purpose of supporting United States military operations) or gave such assistance as part of military operation not involving Armed Forces, made funds available, specified uses of funds, and required Secretary to provide notice to Congress of activities carried out under the program, prior to repeal by Pub. L. 104-106, div. A, title XIII, §1313(c), Feb. 10, 1996, 110 Stat. 475.

HUMANITARIAN AND CIVIC ASSISTANCE

Pub. L. 103-160, div. A, title XV, §1504, Nov. 30, 1993, 107 Stat. 1839, provided that:

“(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

“(b) LIMITATION ON USE OF FUNDS.—[Amended section 401(c)(2) of this title.]

“(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 [now 2561] of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

“(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547 [now 2557], and 2551 [now 2561] of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

“(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

“(e) AUTHORIZATIONS OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) [107 Stat. 1616] shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 [now 2561] of title 10, United States Code.

“(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the Committee on Appropriations, the Committee on Armed Services [now Committee on National Security], and the Committee on Foreign Affairs of the House of Representatives; and

“(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.”

HUMANITARIAN ASSISTANCE; EMERGENCY  
TRANSPORTATION OF INDIVIDUALS

Pub. L. 102-396, title II, Oct. 6, 1992, 106 Stat. 1884, provided: “That where required and notwithstanding any other provision of law, funds made available under this heading [Humanitarian Assistance] for fiscal year 1993 or thereafter, shall be available for emergency trans-

portation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.”

APPROPRIATION OF FUNDS FOR HUMANITARIAN AND  
CIVIC ASSISTANCE; ANNUAL REPORT TO CONGRESS ON  
OBLIGATIONS; USE OF CIVIC ACTION TEAMS IN TRUST  
TERRITORIES OF PACIFIC ISLANDS AND FREELY ASSO-  
CIATED STATES OF MICRONESIA

Pub. L. 109-148, div. A, title VIII, §8009, Dec. 30, 2005, 119 Stat. 2699, which appropriated funds pursuant to this section and authorized obligations for humanitarian and civic assistance costs under this chapter, with such obligations being reported as required by subsec. (d) of this section, and authorized the use of Civic Action Teams for the provision of assistance in the Trust Territories of the Pacific Islands and freely associated states of Micronesia and the provision of medical services at Army medical facilities in Hawaii upon a determination by the Secretary of the Army, was from the Department of Defense Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108-287, title VIII, §8009, Aug. 5, 2004, 118 Stat. 971.

Pub. L. 108-87, title VIII, §8009, Sept. 30, 2003, 117 Stat. 1073.

Pub. L. 107-248, title VIII, §8009, Oct. 23, 2002, 116 Stat. 1538.

Pub. L. 107-117, div. A, title VIII, §8009, Jan. 10, 2002, 115 Stat. 2249, as amended by Pub. L. 108-136, div. A, title X, §1031(j), Nov. 24, 2003, 117 Stat. 1605.

Pub. L. 106-259, title VIII, §8009, Aug. 9, 2000, 114 Stat. 676.

Pub. L. 106-79, title VIII, §8009, Oct. 25, 1999, 113 Stat. 1232.

Pub. L. 105-262, title VIII, §8009, Oct. 17, 1998, 112 Stat. 2298.

Pub. L. 105-56, title VIII, §8009, Oct. 8, 1997, 111 Stat. 1222.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8010], Sept. 30, 1996, 110 Stat. 3009-71, 3009-90.

Pub. L. 104-61, title VIII, §8011, Dec. 1, 1995, 109 Stat. 653.

Pub. L. 103-335, title VIII, §8011, Sept. 30, 1994, 108 Stat. 2619.

Pub. L. 103-139, title VIII, §8012, Nov. 11, 1993, 107 Stat. 1439.

Pub. L. 102-396, title IX, §9021, Oct. 6, 1992, 106 Stat. 1904.

Pub. L. 102-172, title VIII, §8021, Nov. 26, 1991, 105 Stat. 1175.

Pub. L. 101-511, title VIII, §8021, Nov. 5, 1990, 104 Stat. 1879.

Pub. L. 101-165, title IX, §9031, Nov. 21, 1989, 103 Stat. 1135.

Pub. L. 100-463, title VIII, §8051, Oct. 1, 1988, 102 Stat. 2270-25.

Pub. L. 100-202, §101(b) [title VIII, §8063], Dec. 22, 1987, 101 Stat. 1329-43, 1329-73.

**§ 402. Transportation of humanitarian relief supplies to foreign countries**

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—



(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people or entity for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution or use of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the entity requesting the transport of supplies under this section to ensure that the supplies are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private non-profit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d)(1) The Secretary of Defense may use the authority provided by subsection (a) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available.

(2) Notwithstanding subsection (a), the Secretary of Defense may require reimbursement for costs incurred by the Department of Defense to transport supplies under this subsection.

(e) Not later than July 31 each year, the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.

(Added Pub. L. 100-180, div. A, title III, § 332(a), Dec. 4, 1987, 101 Stat. 1079; amended Pub. L. 101-510, div. A, title XIII, § 1311(2), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 104-106, div. A, title XV, § 1502(a)(8), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106-65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108-136, div. A, title III, § 312(a), (b), Nov. 24, 2003, 117 Stat. 1429.)

#### PRIOR PROVISIONS

A prior section 402 was renumbered section 401(b) of this title.

#### AMENDMENTS

2003—Subsec. (b)(1)(C). Pub. L. 108-136, § 312(b)(1), inserted “or entity” after “people”.

Subsec. (b)(1)(E). Pub. L. 108-136, § 312(b)(2), inserted “or use” after “distribution”.

Subsec. (b)(3). Pub. L. 108-136, § 312(b)(3), substituted “entity requesting the transport of supplies under this section to ensure that the supplies” for “donor to ensure that supplies to be transported under this section”.

Subsecs. (d), (e). Pub. L. 108-136, § 312(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1999—Subsec. (d). Pub. L. 106-65 substituted “and the Committee on Armed Services” for “and the Committee on National Security”.

1996—Subsec. (d). Pub. L. 104-106 substituted “Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations” for “Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs”.

1990—Subsec. (d). Pub. L. 101-510 substituted “Not later than July 31 each year” for “At the end of each six-month period” and “the 12-month period ending on the preceding June 30” for “such six-month period”.

#### CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

#### DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

#### PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY DEPARTMENT OF DEFENSE

Pub. L. 106-309, title IV, § 403, Oct. 17, 2000, 114 Stat. 1097, provided that:

“(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

“(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications.”

#### FIRST REPORT DEADLINE

Pub. L. 100-180, div. A, title III, § 332(d), Dec. 4, 1987, 101 Stat. 1080, directed that first report under section 402(d) of this title be submitted not more than six months after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Pub. L. 98-525; 98 Stat. 2638).

#### **§ 403. Repealed. Pub. L. 104-106, div. A, title X, § 1061(g)(1), Feb. 10, 1996, 110 Stat. 443]**

Section, added Pub. L. 102-484, div. A, title XIII, § 1342(c)(1), Oct. 23, 1992, 106 Stat. 2557; amended Pub. L. 103-160, div. A, title XV, § 1501(b), (c), Nov. 30, 1993, 107 Stat. 1836, related to international peacekeeping activities.

#### **§ 404. Foreign disaster assistance**

(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assist-

ance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives or serious harm to the environment.

(b) **FORMS OF ASSISTANCE.**—Assistance provided under this section may include transportation, supplies, services, and equipment.

(c) **NOTIFICATION REQUIRED.**—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

(1) The manmade or natural disaster for which disaster assistance is necessary.

(2) The threat to human lives or the environment presented by the disaster.

(3) The United States military personnel and material resources that are involved or expected to be involved.

(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

(5) The anticipated duration of the disaster assistance activities.

(d) **ORGANIZING POLICIES AND PROGRAMS.**—Amounts appropriated to the Department of Defense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.

(e) **LIMITATION ON TRANSPORTATION ASSISTANCE.**—Transportation services authorized under subsection (b) may be provided in response to a manmade or natural disaster to prevent serious harm to the environment, when human lives are not at risk, only if other sources to provide such transportation are not readily available.

(Added Pub. L. 103-337, div. A, title XIV, §1412(a), Oct. 5, 1994, 108 Stat. 2912; amended Pub. L. 108-136, div. A, title III, §312(c), Nov. 24, 2003, 117 Stat. 1430.)

#### PRIOR PROVISIONS

A prior section 404 was renumbered section 401(d) of this title.

#### AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §312(c)(1), inserted “or serious harm to the environment” after “loss of lives”.

Subsec. (c)(2). Pub. L. 108-136, §312(c)(2), inserted “or the environment” after “human lives”.

Subsec. (e). Pub. L. 108-136, §312(c)(3), added subsec. (e).

#### EX. ORD. No. 12966. FOREIGN DISASTER ASSISTANCE

Ex. Ord. No. 12966, July 14, 1995, 60 F.R. 36949, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Defense Authorization Act for Fiscal Year 1995, Public Law 103-337 (the “Act”) [see Tables for classification] and section 301 of title 3, United States Code, it is hereby ordered as follows:

**SECTION 1.** This order governs the implementation of section 404 of title 10, United States Code, as added by

amendment set forth in section 1412(a) of the Act. Pursuant to 10 U.S.C. 404(a), the Secretary of Defense is hereby directed to provide disaster assistance outside the United States to respond to manmade or natural disasters when the Secretary of Defense determines that such assistance is necessary to prevent loss of lives. The Secretary of Defense shall exercise the notification functions required of the President by 10 U.S.C. 404(c).

**SEC. 2.** The Secretary of Defense shall provide disaster assistance only: (a) at the direction of the President; or

(b) with the concurrence of the Secretary of State; or

(c) in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State, in which case the Secretary of Defense shall advise, and seek the concurrence of, the Secretary of State as soon as practicable thereafter.

For the purpose of section 2(b) of this order, only the Secretary of State, or the Deputy Secretary of State, or persons acting in those capacities, shall have the authority to withhold concurrence. Concurrence of the Secretary of State is not required for the execution of military operations undertaken pursuant to, and consistent with, assistance provided in accordance with parts (b) and (c) of this section, or with respect to matters relating to the internal financial processes of the Department of Defense.

**SEC. 3.** In providing assistance covered by this order, the Secretary of Defense shall consult with the Administrator of the Agency for International Development, in the Administrator’s capacity as the President’s Special Coordinator for International Disaster Assistance.

**SEC. 4.** This order does not affect any activity or program authorized under any other provision of law, except that referred to in section 1 of this order.

**SEC. 5.** This order is effective at 12:01 a.m., e.d.t. on July 15, 1995.

WILLIAM J. CLINTON.

#### § 405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) **PROHIBITION ON USE OF FUNDS.**—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) **APPLICATION OF PROHIBITION.**—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

(Added Pub. L. 104-106, div. A, title XIII, §1301(a), Feb. 10, 1996, 110 Stat. 473.)

#### PRIOR PROVISIONS

A prior section 405 was renumbered section 401(e) of this title.

#### USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED NATIONS FORCES

Pub. L. 105-261, div. A, title XII, §1231(b), Oct. 17, 1998, 112 Stat. 2155, provided that: “No funds available to the Department of Defense may be used—

“(1) for a monetary contribution to the United Nations for the establishment of a standing international force under the United Nations; or

“(2) to assign or detail any member of the Armed Forces to duty with a United Nations Stand By Force.”

## [§ 406. Renumbered § 401(f)]

**§ 407. Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations**

(a) **AUTHORITY.**—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian demining assistance and stockpiled conventional munitions assistance in a country if the Secretary concerned determines that the assistance will promote either—

(A) the security interests of both the United States and the country in which the activities are to be carried out; or

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian demining assistance and stockpiled conventional munitions assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance under this section—

(A) engages in the physical detection, lifting, or destroying of landmines, unexploded explosive ordnance, or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.

(b) **LIMITATIONS.**—(1) Humanitarian demining assistance and stockpiled conventional munitions assistance may not be provided under this section unless the Secretary of State specifically approves the provision of such assistance.

(2) Any authority provided under any other provision of law to provide humanitarian demining assistance or stockpiled conventional munitions assistance to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section.

(c) **EXPENSES.**—(1) Expenses incurred as a direct result of providing humanitarian demining assistance or stockpiled conventional munitions assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for the purpose of the provision by the Department of Defense of overseas humanitarian assistance.

(2) Expenses covered by paragraph (1) include the following:

(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting humanitarian demining activities or stockpiled conventional munitions activities, including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war, or stockpiled conventional munitions, as

applicable, that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

(3) The cost of equipment, services, and supplies provided in any fiscal year under this section may not exceed \$15,000,000.

(d) **ANNUAL REPORT.**—The Secretary of Defense shall include in the annual report under section 401 of this title a separate discussion of activities carried out under this section during the preceding fiscal year, including—

(1) a list of the countries in which humanitarian demining assistance or stockpiled conventional munitions assistance was carried out during the preceding fiscal year;

(2) the type and description of humanitarian demining assistance or stockpiled conventional munitions assistance carried out in each country during the preceding fiscal year, as specified in paragraph (1), and whether such assistance was primarily related to the humanitarian demining efforts or stockpiled conventional munitions assistance;

(3) a list of countries in which humanitarian demining assistance or stockpiled conventional munitions assistance could not be carried out during the preceding fiscal year due to insufficient numbers of Department of Defense personnel to carry out such activities or insufficient funding;

(4) the amount expended in carrying out such assistance in each such country during the preceding fiscal year; and

(5) a description of interagency efforts to coordinate and improve research, development, test, and evaluation for humanitarian demining technology and mechanical clearance methods, including the transfer of relevant counter-improvised explosive device technology with potential humanitarian demining applications.

(e) **DEFINITIONS.**—In this section:

(1) The term “humanitarian demining assistance”, as it relates to training and support, means detection and clearance of landmines, unexploded explosive ordnance, and other explosive remnants of war, and includes activities related to the furnishing of education, training, and technical assistance with respect to explosive safety, the detection and clearance of landmines, unexploded explosive ordnance, and other explosive remnants of war.

(2) The term “stockpiled conventional munitions assistance”, as it relates to the support of humanitarian assistance efforts, means training and support in the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance, small arms, and light weapons, including man-portable air-defense systems. Such term includes activities related to the furnishing of education, training, and technical assistance with respect to explosive safety and the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance, small arms, and light weapons, including man-portable air-defense systems.

(Added Pub. L. 109–364, div. A, title XII, § 1203(b)(1), Oct. 17, 2006, 120 Stat. 2413; amended Pub. L. 112–81, div. A, title X, § 1092(a), (b)(1), Dec. 31, 2011, 125 Stat. 1605, 1606; Pub. L. 113–66, div. A, title X, § 1083, Dec. 26, 2013, 127 Stat. 871; Pub. L. 113–291, div. A, title X, §§ 1041, 1071(f)(5), Dec. 19, 2014, 128 Stat. 3492, 3510; Pub. L. 114–328, div. A, title X, § 1082, Dec. 23, 2016, 130 Stat. 2420; Pub. L. 115–91, div. A, title X, § 1043, Dec. 12, 2017, 131 Stat. 1554.)

#### AMENDMENTS

2017—Subsec. (a)(3). Pub. L. 115–91, § 1043(a)(1), struck out “or stockpiled conventional munitions assistance” after “demining assistance” in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 115–91, § 1043(a)(2), inserted “, unexploded explosive ordnance,” after “landmines” and struck out “, or stockpiled conventional munitions, as applicable” after “war”.

Subsec. (e)(1). Pub. L. 115–91, § 1043(b), inserted “, unexploded explosive ordnance,” after “landmines” in two places and substituted period at end for “, and the disposal, demilitarization, physical security, and stockpile management of potentially dangerous stockpiles of explosive ordnance.”

Subsec. (e)(2). Pub. L. 115–91, § 1043(c), struck out “, the detection and clearance of landmines and other explosive remnants of war,” after “explosive safety”.

2016—Subsec. (c)(3). Pub. L. 114–328 substituted “\$15,000,000” for “\$10,000,000”.

2014—Subsec. (a)(3)(A). Pub. L. 113–291, § 1071(f)(5), struck out comma after “as applicable”.

Subsec. (d)(3). Pub. L. 113–291, § 1041(a), inserted “or insufficient funding” after “such activities”.

Subsec. (e)(2). Pub. L. 113–291, § 1041(b), substituted “small arms, and light weapons, including man-portable air-defense systems. Such term includes” for “and includes” and inserted before period at end “, small arms, and light weapons, including man-portable air-defense systems”.

2013—Subsec. (d)(5). Pub. L. 113–66 added par. (5).

2011—Pub. L. 112–81, § 1092(b)(1), amended section catchline generally, substituting “Humanitarian demining assistance and stockpiled conventional munitions assistance: authority; limitations” for “Humanitarian demining assistance: authority; limitations”.

Subsec. (a)(1). Pub. L. 112–81, § 1092(a)(1)(A), inserted “and stockpiled conventional munitions assistance” after “humanitarian demining assistance” in introductory provisions.

Subsec. (a)(2). Pub. L. 112–81, § 1092(a)(1)(B), inserted “and stockpiled conventional munitions assistance” after “Humanitarian demining assistance”.

Subsec. (a)(3). Pub. L. 112–81, § 1092(a)(1)(C)(i), inserted “or stockpiled conventional munitions assistance” after “humanitarian demining assistance” in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 112–81, § 1092(a)(1)(C)(ii), inserted “, or stockpiled conventional munitions, as applicable,” after “explosive remnants of war”.

Subsec. (b)(1). Pub. L. 112–81, § 1092(a)(2)(A), which directed amendment by inserting “and stockpiled conventional munitions assistance” after “humanitarian demining assistance”, was executed by making the insertion after “Humanitarian demining assistance” to reflect the probable intent of Congress.

Subsec. (b)(2). Pub. L. 112–81, § 1092(a)(2)(B), inserted “or stockpiled conventional munitions assistance” after “humanitarian demining assistance”.

Subsec. (c)(1). Pub. L. 112–81, § 1092(a)(3)(A), inserted “or stockpiled conventional munitions assistance” after “humanitarian demining assistance”.

Subsec. (c)(2)(B). Pub. L. 112–81, § 1092(a)(3)(B), inserted “or stockpiled conventional munitions activities” after “humanitarian demining activities” and inserted “, or stockpiled conventional munitions, as applicable,” after “explosive remnants of war”.

Subsec. (d). Pub. L. 112–81, § 1092(a)(4)(A), inserted “or stockpiled conventional munitions assistance” after

“humanitarian demining assistance” wherever appearing.

Subsec. (d)(2). Pub. L. 112–81, § 1092(a)(4)(B), inserted “, and whether such assistance was primarily related to the humanitarian demining efforts or stockpiled conventional munitions assistance” after “paragraph (1)”.

Subsec. (e). Pub. L. 112–81, § 1092(a)(5), added subsec. (e) and struck out former subsec. (e). Prior to amendment, text read as follows: “In this section, the term ‘humanitarian demining assistance’, as it relates to training and support, means detection and clearance of landmines and other explosive remnants of war, including activities related to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (d) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114–328, set out as a note under section 111 of this title.

#### AUTHORITY TO TRANSFER SURPLUS MINE-RESISTANT AMBUSH-PROTECTED VEHICLES AND SPARE PARTS

Pub. L. 112–239, div. A, title X, § 1053, Jan. 2, 2013, 126 Stat. 1937, provided that:

“(a) **AUTHORITY.**—The Secretary of Defense is authorized to transfer surplus Mine-Resistant Ambush-Protected vehicles, including spare parts for such vehicles, to non-profit United States humanitarian demining organizations for purposes of demining activities and training of such organizations.

“(b) **TERMS AND CONDITIONS.**—Any transfer of vehicles or spare parts under subsection (a) shall be subject to the following terms and conditions:

“(1) The transfer shall be made on a loan basis.

“(2) The costs of operation and maintenance of the vehicles shall be borne by the recipient organization.

“(3) Any other terms and conditions as the Secretary of Defense determines to be appropriate.

“(c) **NOTIFICATION.**—The Secretary of Defense shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] in writing not less than 60 days before making any transfer of vehicles or spare parts under subsection (a). Such notification shall include the name of the organization, the number and model of the vehicle to be transferred, a listing of any spare parts to be transferred, and any other information the Secretary considers appropriate.”

#### § 408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel

(a) **IN GENERAL.**—The Secretary of Defense may provide assistance to any foreign nation to assist the Department of Defense with recovery of and accounting for missing United States Government personnel.

(b) **TYPES OF ASSISTANCE.**—The assistance provided under subsection (a) may include the following:

(1) Equipment.

(2) Supplies.

(3) Services.

(4) Training of personnel.

(c) **APPROVAL BY SECRETARY OF STATE.**—Assistance may not be provided under this section to any foreign nation unless the Secretary of State specifically approves the provision of such assistance.

(d) **LIMITATION.**—The amount of assistance provided under this section in any fiscal year may not exceed \$1,000,000.

(e) CONSTRUCTION WITH OTHER ASSISTANCE.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations under law.

(f) CONGRESSIONAL OVERSIGHT.—Whenever the Secretary of Defense provides assistance to a foreign nation under this section, the Secretary shall submit to the congressional defense committees a report on the assistance provided. Each such report shall identify the nation to which the assistance was provided and include a description of the type and amount of the assistance provided.

(Added Pub. L. 110–181, div. A, title XII, §1207(a), Jan. 28, 2008, 122 Stat. 367; amended Pub. L. 112–81, div. A, title X, §1064(5), Dec. 31, 2011, 125 Stat. 1587.)

#### AMENDMENTS

2011—Subsec. (f). Pub. L. 112–81 amended subsec. (f) generally. Prior to amendment, text read as follows:

“(1) Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year ending in such year.

“(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

“(A) A listing of each foreign nation provided assistance under this section.

“(B) For each nation so provided assistance, a description of the type and amount of such assistance.”

### § 409. Center for Complex Operations

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the “Center for Complex Operations” (in this section referred to as the “Center”).

(b) PURPOSES.—The purposes of the Center established under subsection (a) shall be the following:

(1) To provide for effective coordination in the preparation of Department of Defense personnel and other United States Government personnel for complex operations.

(2) To foster unity of effort during complex operations among—

(A) the departments and agencies of the United States Government;

(B) foreign governments and militaries;

(C) international organizations and international nongovernmental organizations; and

(D) domestic nongovernmental organizations.

(3) To conduct research; collect, analyze, and distribute lessons learned; and compile best practices in matters relating to complex operations.

(4) To identify gaps in the education and training of Department of Defense personnel, and other relevant United States Government personnel, relating to complex operations, and to facilitate efforts to fill such gaps.

(c) CONCURRENCE OF THE SECRETARY OF STATE.—The Secretary of Defense shall seek the concurrence of the Secretary of State to the extent the efforts and activities of the Center involve the entities referred to in subparagraphs (B) and (C) of subsection (b)(2).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head

of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term “complex operation” means an operation as follows:

(A) A stability operation.

(B) A security operation.

(C) A transition and reconstruction operation.

(D) A counterinsurgency operation.

(E) An operation consisting of irregular warfare.

(2) The term “gift or donation” means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 110–417, [div. A], title X, §1031(a), Oct. 14, 2008, 122 Stat. 4589.)

[§ 410. Repealed. Pub. L. 104-106, div. A, title V, § 571(a)(1), Feb. 10, 1996, 110 Stat. 353]

Section, added Pub. L. 102-484, div. A, title X, § 1081(b)(1), Oct. 23, 1992, 106 Stat. 2515, related to Civil-Military Cooperative Action Program.

PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR ILLEGAL DRUGS

Pub. L. 102-484, div. A, title X, § 1045, Oct. 23, 1992, 106 Stat. 2494, required Secretary of Defense to conduct pilot outreach program to reduce demand for illegal drugs, required program to include outreach activities by active and reserve components of Armed Forces and focus primarily on youths in general and inner-city youths in particular, and related to payment of travel and living expenses, funding, duration of program, and reporting requirements, prior to repeal by Pub. L. 104-106, div. A, title V, § 571(b), Feb. 10, 1996, 110 Stat. 353.

CONGRESSIONAL FINDINGS

Pub. L. 102-484, div. A, title X, § 1081(a), Oct. 23, 1992, 106 Stat. 2514, related to findings of Congress as to use of military resources to assist in addressing domestic needs, prior to repeal by Pub. L. 104-106, div. A, title V, § 571(a)(2), Feb. 10, 1996, 110 Stat. 353.

CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

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AMENDMENTS

1991—Pub. L. 102-88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added items for subchapters I and II.

LIMITATION ON USE OF FUNDS

Pub. L. 115-31, div. C, title VIII, § 8037, May 5, 2017, 131 Stat. 255, provided that: "Notwithstanding any other provision of law, funds made available in this Act [div. C of Pub. L. 115-31, see Tables for classification] and hereafter for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands."

DEPARTMENT OF DEFENSE INTELLIGENCE PRIORITIES

Pub. L. 113-66, div. A, title IX, § 922, Dec. 26, 2013, 127 Stat. 828, provided that: "Not later than 180 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary of Defense shall—

"(1) establish a written policy governing the internal coordination and prioritization of intelligence priorities of the Office of the Secretary of Defense, the Joint Staff, the combatant commands, and the military departments to improve identification of the intelligence needs of the Department of Defense;

"(2) identify any significant intelligence gaps of the Office of the Secretary of Defense, the Joint Staff, the combatant commands, and the military departments; and

"(3) provide to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a briefing on the policy established under paragraph (1) and the gaps identified under paragraph (2)."

DEFENSE CLANDESTINE SERVICE

Pub. L. 113-66, div. A, title IX, § 923, Dec. 26, 2013, 127 Stat. 828, as amended by Pub. L. 115-91, div. A, title X, § 1051(s)(2), Dec. 12, 2017, 131 Stat. 1566, provided that:

"(a) CERTIFICATION REQUIRED.—Not more than 50 percent of the funds authorized to be appropriated by this Act [see Tables for classification] or otherwise available to the Department of Defense for the Defense Clandestine Service for fiscal year 2014 may be obligated or expended for the Defense Clandestine Service until such time as the Secretary of Defense certifies to the covered congressional committees that—

"(1) the Defense Clandestine Service is designed primarily to—

"(A) fulfill priorities of the Department of Defense that are unique to the Department of Defense or otherwise unmet; and

"(B) provide unique capabilities to the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))); and

"(2) the Secretary of Defense has designed metrics that will be used to ensure that the Defense Clandestine Service is employed as described in paragraph (1).

"(b) NOTIFICATION OF FUTURE CHANGES TO DESIGN.—Following the submittal of the certification referred to in subsection (a), in the event that any significant change is made to the Defense Clandestine Service, the Secretary shall promptly notify the covered congressional committees of the nature of such change.

"(c) QUARTERLY BRIEFINGS.—The Secretary of Defense shall quarterly provide to the covered congressional committees a briefing on the deployments and collection activities of personnel of the Defense Clandestine Service.

"(d) COVERED CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'covered congressional committees' means the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate."

SUBCHAPTER I—GENERAL MATTERS

Sec. 421. Funds for foreign cryptologic support.
422. Use of funds for certain incidental purposes.
423. Authority to use proceeds from counter-intelligence operations of the military departments or the Defense Intelligence Agency.
424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies.
425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies.
426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities.
427. Conflict Records Research Center.
428. Defense industrial security.
429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority.
430. Tactical Exploitation of National Capabilities Executive Agent.
430a. Executive agent for management and oversight of alternative compensatory control measures.
430b. Executive agent for open-source intelligence tools.

AMENDMENTS

2015—Pub. L. 114-92, div. A, title X, §§ 1081(a)(5), 1083(a)(2), title XVI, § 1631(b), Nov. 25, 2015, 129 Stat. 1001, 1004, 1111, added items 430 to 430b.

2013—Pub. L. 113-66, div. A, title X, § 1071(b), Dec. 26, 2013, 127 Stat. 868, added item 427.

2012—Pub. L. 112-87, title IV, § 433(b), Jan. 3, 2012, 125 Stat. 1895, added item 429.

2011—Pub. L. 112–81, div. A, title X, § 1061(4)(B), Dec. 31, 2011, 125 Stat. 1583, struck out item 427 “Intelligence oversight activities of Department of Defense: annual reports”.

Pub. L. 111–383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, made technical correction to directory language of Pub. L. 111–84, § 921(b)(2). See 2009 Amendment note below.

2009—Pub. L. 111–84, div. A, title X, § 1073(a)(5), Oct. 28, 2009, 123 Stat. 2472, redesignated item 438 as 428.

Pub. L. 111–84, div. A, title IX, § 921(b)(2), Oct. 28, 2009, 123 Stat. 2432, as amended by Pub. L. 111–383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, added item 423 and struck out former item 423 “Authority to use proceeds from counterintelligence operations of the military departments”.

2008—Pub. L. 110–417, [div. A], title VIII, § 845(a)(2), Oct. 14, 2008, 122 Stat. 4542, added item 438.

2006—Pub. L. 109–364, div. A, title IX, § 932(b), Oct. 17, 2006, 120 Stat. 2363, added item 427.

2003—Pub. L. 108–136, div. A, title IX, §§ 921(d)(5)(B)(ii), 923(c)(2), Nov. 24, 2003, 117 Stat. 1569, 1576, substituted “Disclosure of organizational and personnel information: exemption for specified intelligence agencies” for “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency” in item 424 and added item 426.

2001—Pub. L. 107–108, title V, § 501(b)(3), Dec. 28, 2001, 115 Stat. 1404, substituted “Use of funds for certain incidental purposes” for “Counterintelligence official reception and representation expenses” in item 422.

1997—Pub. L. 105–107, title V, § 503(d)(2), Nov. 20, 1997, 111 Stat. 2263, added items 424 and 425 and struck out former items 424 “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency” and 425 “Disclosure of personnel information: exemption for National Reconnaissance Office”.

1993—Pub. L. 103–178, title V, § 503(a)(2), Dec. 3, 1993, 107 Stat. 2039, added item 425.

1991—Pub. L. 102–88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added subchapter heading.

1989—Pub. L. 101–189, div. A, title XVI, § 1622(c)(2), Nov. 29, 1989, 103 Stat. 1604, substituted “Funds for foreign cryptologic support” for “Funds for Foreign Cryptologic Support” in item 421.

1988—Pub. L. 100–453, title VII, §§ 701(b), 703(b), Sept. 29, 1988, 102 Stat. 1912, 1913, in item 421 substituted “Funds for Foreign Cryptologic Support” for “Funds transfers for foreign cryptologic support” and added item 424.

1987—Pub. L. 100–180, div. A, title XII, § 1231(3), Dec. 4, 1987, 101 Stat. 1160, substituted “departments” for “department” in item 423.

#### § 421. Funds for foreign cryptologic support

(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

(Added Pub. L. 96–450, title IV, § 401(a), Oct. 14, 1980, 94 Stat. 1977, § 140a; amended Pub. L. 97–258, § 3(b)(2), Sept. 13, 1982, 96 Stat. 1063; renumbered § 128 and amended Pub. L. 99–433, title I, §§ 101(a)(3), 110(d)(5), Oct. 1, 1986, 100 Stat. 994, 1002; renumbered § 421, Pub. L. 100–26, § 9(a)(2), Apr. 21, 1987, 101 Stat. 287; Pub. L. 100–453, title VII, § 701(a), Sept. 29, 1988, 102 Stat. 1911; Pub. L. 101–189, div. A, title XVI, § 1622(c)(3), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 113–291, div. A, title X, § 1071(c)(3), Dec. 19, 2014, 128 Stat. 3508.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsection (c), is act July 26, 1947, ch. 343, 61 Stat. 495. Title V of the Act is classified generally to subchapter III (§ 3091 et seq.) of chapter 44 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2014—Subsec. (c). Pub. L. 113–291 substituted “(50 U.S.C. 3091 et seq.)” for “(50 U.S.C. 413 et seq.)”.

1989—Subsec. (c). Pub. L. 101–189 substituted “House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds” for “House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds”.

1988—Pub. L. 100–453 struck out “transfers” after “Funds” in section catchline and amended text generally. Prior to amendment, text read as follows: “The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.”

1987—Pub. L. 100–26 renumbered section 128 of this title as this section.

1986—Pub. L. 99–433 renumbered section 140a of this title as section 128 of this title and substituted “Funds” for “Secretary of Defense: funds” in section catchline.

1982—Pub. L. 97–258 struck out provision that payments under this section could be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

#### COMPREHENSIVE INDEPENDENT STUDY OF NATIONAL CRYPTOGRAPHY POLICY

Pub. L. 103–160, div. A, title II, § 267, Nov. 30, 1993, 107 Stat. 1611, directed Secretary of Defense, not later than 90 days after Nov. 30, 1993, to request National Research Council of National Academy of Sciences to conduct a comprehensive study to assess effect of cryptographic technologies on national security, law enforcement, commercial, and privacy interests, and effect of export controls on commercial interests, with cooperation of other agencies, and report findings and conclusions within 2 years after processing of security clearances to Secretary of Defense, and directed Secretary to submit a report in unclassified form to Committee on Armed Services, Committee on the Judiciary, and Select Committee on Intelligence of Senate and to Committee on Armed Services, Committee on the Judiciary, and Permanent Select Committee on Intelligence of House of

Representatives, not later than 120 days after the report is submitted to the Secretary.

**§ 422. Use of funds for certain incidental purposes**

(a) COUNTERINTELLIGENCE OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—The Secretary of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.

(Added Pub. L. 99-569, title IV, §401(c), Oct. 27, 1986, 100 Stat. 3195, §140a; renumbered §422, Pub. L. 100-26, §9(a)(3), Apr. 21, 1987, 101 Stat. 287; amended Pub. L. 107-108, title V, §501(a)-(b)(2), Dec. 28, 2001, 115 Stat. 1404.)

AMENDMENTS

2001—Pub. L. 107-108 substituted “Use of funds for certain incidental purposes” for “Counterintelligence official reception and representation expenses” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100-26 renumbered section 140a of this title as this section.

**§ 423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency**

(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, use of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency, including effective internal systems of accounting and administrative controls.

(Added Pub. L. 99-569, title IV, §403(a), Oct. 27, 1986, 100 Stat. 3196, §140b; renumbered §423 and amended Pub. L. 100-26, §9(a)(3), (b)(3), Apr. 21, 1987, 101 Stat. 287; Pub. L. 111-84, div. A, title IX, §921(a), (b)(1), Oct. 28, 2009, 123 Stat. 2432.)

AMENDMENTS

2009—Pub. L. 111-84 inserted “or the Defense Intelligence Agency” after “military departments” wherever appearing.

1987—Pub. L. 100-26 renumbered section 140b of this title as this section and struck out “United States Code,” after “section 3302 of title 31,” in subsec. (a).

**§ 424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies**

(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

(1) The Defense Intelligence Agency.

(2) The National Reconnaissance Office.

(3) The National Geospatial-Intelligence Agency.

(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.

(Added Pub. L. 104-201, div. A, title XI, §1112(d), Sept. 23, 1996, 110 Stat. 2683; amended Pub. L. 108-136, div. A, title IX, §921(d)(5)(A), (B)(i), Nov. 24, 2003, 117 Stat. 1569.)

PRIOR PROVISIONS

A prior section 424, added Pub. L. 100-178, title VI, §603(a), Dec. 2, 1987, 101 Stat. 1016, §1607; renumbered §424 and amended Pub. L. 100-453, title VII, §703(a), Sept. 29, 1988, 102 Stat. 1912, related to disclosure of organizational and personnel information with respect to the Defense Intelligence Agency prior to repeal by Pub. L. 104-201, div. A, title XI, §§1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996.

AMENDMENTS

2003—Pub. L. 108-136, §921(d)(5)(B)(i), substituted “Disclosure of organizational and personnel information: exemption for specified intelligence agencies” for “Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency” in section catchline.

Subsec. (b)(3). Pub. L. 108-136, §921(d)(5)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF UNITED STATES

Pub. L. 103-359, title V, §503, Oct. 14, 1994, 108 Stat. 3430, provided that:

“(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from



human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

“(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

“(c) DEFINITIONS.—For the purposes of this section—

“(1) the term ‘United States’ includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

“(2) the term ‘United States person’ means any citizen, national, or permanent resident alien of the United States.”

EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION

Pub. L. 102-496, title IV, § 406, Oct. 24, 1992, 106 Stat. 3186, which provided that, except as required by President and except with respect to provision of information to Congress, nothing in Pub. L. 102-496 or any other provision of law was to be construed to require disclosure of name, title, or salary of any person employed by, or assigned or detailed to, National Reconnaissance Office or disclosure of number of such persons, was repealed and restated in former section 425 of this title by Pub. L. 103-178, title V, § 503(a)(1), (b), Dec. 3, 1993, 107 Stat. 2038, 2039.

**§ 425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies**

(a) PROHIBITION.—Except with the written permission of both the Secretary of Defense and the Director of National Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary and the Director, any of the following (or any colorable imitation thereof):

(1) The words “Defense Intelligence Agency”, the initials “DIA”, or the seal of the Defense Intelligence Agency.

(2) The words “National Reconnaissance Office”, the initials “NRO”, or the seal of the National Reconnaissance Office.

(3) The words “National Imagery and Mapping Agency”, the initials “NIMA”, or the seal of the National Imagery and Mapping Agency.

(4) The words “Defense Mapping Agency”, the initials “DMA”, or the seal of the Defense Mapping Agency.

(5) The words “National Geospatial-Intelligence Agency”, the initials “NGA,” or the seal of the National Geospatial-Intelligence Agency.

(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin

such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added and amended Pub. L. 105-107, title V, § 503(a), (b), Nov. 20, 1997, 111 Stat. 2262; Pub. L. 108-136, div. A, title IX, § 921(d)(6), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110-181, div. A, title IX, § 931(a)(6), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, § 932(a)(6), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

CODIFICATION

The text of section 202(b) of this title, which was transferred to this section by Pub. L. 105-107, § 503(b), was based on Pub. L. 97-269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, § 191; renumbered § 201, Pub. L. 99-433, title III, § 301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered § 202, Pub. L. 102-190, div. A, title IX, § 922(a)(1), Dec. 5, 1991, 105 Stat. 1453.

PRIOR PROVISIONS

A prior section 425, added Pub. L. 103-178, title V, § 503(a)(1), Dec. 3, 1993, 107 Stat. 2038, related to disclosure of information about personnel at National Reconnaissance Office prior to repeal by Pub. L. 104-201, div. A, title XI, §§ 1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996. See section 424 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-84 repealed Pub. L. 110-417, § 932(a)(6). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110-181 and Pub. L. 110-417, § 932(a)(6), amended subsec. (a) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence” in introductory provisions. Pub. L. 110-417, § 932(a)(6), was repealed by Pub. L. 111-84.

2003—Subsec. (a)(5). Pub. L. 108-136 added par. (5).

1997—Subsec. (b). Pub. L. 105-107, § 503(b), renumbered section 202(b) of this title as subsec. (b) of this section and inserted heading.

CHANGE OF NAME

Reference to National Imagery and Mapping Agency considered to be reference to National Geospatial-Intelligence Agency, see section 921(a) of Pub. L. 108-136, set out as a note under section 441 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

**§ 426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities**

(a) ISR INTEGRATION COUNCIL.—(1) The Under Secretary of Defense for Intelligence shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

(A) to assist the Under Secretary with respect to matters relating to the integration of intelligence, surveillance, and reconnaissance capabilities, and coordination of related developmental activities, of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

(B) otherwise to provide a means to facilitate the integration of such capabilities and the coordination of such developmental activities.

(2) The Council shall be composed of—

(A) the senior intelligence officers of the armed forces and the United States Special Operations Command;

(B) the Director of Operations of the Joint Staff; and

(C) the directors of the intelligence agencies of the Department of Defense.

(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of National Intelligence (or that Director's representative) in the proceedings of the Council.

(4) Each Secretary of a military department may designate an officer or employee of such military department to attend the proceedings of the Council as a representative of such military department.

(b) **ISR INTEGRATION ROADMAP.**—(1) The Under Secretary of Defense for Intelligence shall develop a comprehensive plan, to be known as the “Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap”, to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for the 15-year period of fiscal years 2004 through 2018.

(2) The Under Secretary shall develop the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of National Intelligence.

(Added Pub. L. 108-136, div. A, title IX, §923(c)(1), Nov. 24, 2003, 117 Stat. 1575; amended Pub. L. 109-364, div. A, title X, §1071(a)(3), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110-181, div. A, title IX, §931(a)(7), (8), Jan. 28, 2008, 122 Stat. 285; Pub. L. 111-383, div. A, title IX, §922(b), Jan. 7, 2011, 124 Stat. 4331.)

#### AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111-383 added par. (4).

2008—Subsecs. (a)(3), (b)(2). Pub. L. 110-181 substituted “Director of National Intelligence” for “Director of Central Intelligence”.

2006—Subsec. (a)(1)(B). Pub. L. 109-364 substituted “coordination” for “coordination”.

#### INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

Pub. L. 108-136, div. A, title IX, §923(a), (b), Nov. 24, 2003, 117 Stat. 1574, 1575, as amended by Pub. L. 111-383, div. A, title IX, §922(a), Jan. 7, 2011, 124 Stat. 4330, provided that:

“(a) **FINDINGS.**—Congress makes the following findings:

“(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

“(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are

not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

“(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

“(4) The current funding structure of a National Intelligence Program (NIP) and a Military Intelligence Program (MIP) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

“(5) The position of Under Secretary of Defense for Intelligence was established in 2002 by Public Law 107-314 [see 10 U.S.C. 137] in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

“(b) **GOAL.**—It shall be a goal of the Department of Defense to fully integrate the intelligence, surveillance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.”

#### § 427. Conflict Records Research Center

(a) **CENTER AUTHORIZED.**—The Secretary of Defense may establish a center to be known as the “Conflict Records Research Center” (in this section referred to as the “Center”).

(b) **PURPOSES.**—The purposes of the Center shall be the following:

(1) To establish a digital research database, including translations, and to facilitate research and analysis of records captured from countries, organizations, and individuals, now or once hostile to the United States, with rigid adherence to academic freedom and integrity.

(2) Consistent with the protection of national security information, personally identifiable information, and intelligence sources and methods, to make a significant portion of these records available to researchers as quickly and responsibly as possible while taking into account the integrity of the academic process and risks to innocents or third parties.

(3) To conduct and disseminate research and analysis to increase the understanding of factors related to international relations, counterterrorism, and conventional and unconventional warfare and, ultimately, enhance national security.

(4) To collaborate with members of academic and broad national security communities, both domestic and international, on research, conferences, seminars, and other information exchanges to identify topics of importance for the leadership of the United States Government and the scholarly community.

(c) **CONCURRENCE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.**—The Secretary of Defense

shall seek the concurrence of the Director of National Intelligence to the extent the efforts and activities of the Center involve the entities referred to in subsection (b)(4).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term “captured record” means a document, audio file, video file, or other material captured during combat operations from countries, organizations, or individuals, now or once hostile to the United States.

(2) The term “gift or donation” means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 113–66, div. A, title X, §1071(a), Dec. 26, 2013, 127 Stat. 867.)

#### PRIOR PROVISIONS

A prior section 427, added Pub. L. 109–364, div. A, title IX, §932(a), Oct. 17, 2006, 120 Stat. 2362, related to submission of an annual report on intelligence oversight activities of the Department of Defense, prior to repeal by Pub. L. 112–81, div. A, title X, §1061(4)(A), Dec. 31, 2011, 125 Stat. 1583.

#### § 428. Defense industrial security

(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense.

(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES.—The Secretary may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

(Added Pub. L. 110–417, [div. A], title VIII, §845(a)(1), Oct. 14, 2008, 122 Stat. 4541, §438; renumbered §428, Pub. L. 111–84, div. A, title X, §1073(a)(4), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111–383, div. A, title X, §1075(b)(11), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 115–91, div. A, title X, §1051(a)(3), Dec. 12, 2017, 131 Stat. 1560.)

#### REFERENCES IN TEXT

Executive Order 12829, referred to in subsec. (b), is set out as a note under section 3161 of Title 50, War and National Defense.

#### AMENDMENTS

2017—Subsec. (f). Pub. L. 115–91 struck out subsec. (f) which related to biennial reports on expenditures and activities of the Department of Defense in carrying out the requirements of this section.

2011—Subsec. (f). Pub. L. 111–383 struck out “, United States Code,” after “title 31”.

2009—Pub. L. 111–84 renumbered section 438 of this title as this section.

#### REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION

Pub. L. 111–383, div. A, title VIII, §845, Jan. 7, 2011, 124 Stat. 4285, provided that:

“(a) REQUIREMENT.—The Secretary of Defense shall develop a plan to ensure that covered entities employ

and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(b) COVERED ENTITY.—A covered entity under this section is an entity—

“(1) to which the Department of Defense has granted a facility clearance; and

“(2) that is not subject to foreign ownership control or influence mitigation measures.

“(c) GUIDANCE.—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

“(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary’s decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.”

#### SUBMISSION OF FIRST BIENNIAL REPORT

Pub. L. 110-417, [div. A], title VIII, §845(b), Oct. 14, 2008, 122 Stat. 4542, required the first biennial report under former subsec. (f) of this section to be submitted no later than Sept. 1, 2009.

### § 429. Appropriations for Defense intelligence elements: accounts for transfers; transfer authority

(a) ACCOUNTS FOR APPROPRIATIONS FOR DEFENSE INTELLIGENCE ELEMENTS.—The Secretary of Defense may transfer appropriations of the Department of Defense which are available for the activities of Defense intelligence elements to an account or accounts established for receipt of such transfers. Each such account may also receive transfers from the Director of National Intelligence if made pursuant to section 102A of the National Security Act of 1947 (50 U.S.C. 3024) and transfers and reimbursements arising from transactions, as authorized by law, between a Defense intelligence element and another entity. Appropriation balances in each such account may be transferred back to the account or accounts from which such appropriations originated as appropriation refunds.

(b) RECORDATION OF TRANSFERS.—Transfers made pursuant to subsection (a) shall be recorded as expenditure transfers.

(c) AVAILABILITY OF FUNDS.—Funds transferred pursuant to subsection (a) shall remain available for the same time period and for the same purpose as the appropriation from which transferred, and shall remain subject to the same limitations provided in the law making the appropriation.

(d) OBLIGATION AND EXPENDITURE OF FUNDS.—Unless otherwise specifically authorized by law, funds transferred pursuant to subsection (a)

shall only be obligated and expended in accordance with chapter 15 of title 31 and all other applicable provisions of law.

(e) DEFENSE INTELLIGENCE ELEMENT DEFINED.—In this section, the term “Defense intelligence element” means any of the Department of Defense agencies, offices, and elements included within the definition of “intelligence community” under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(Added Pub. L. 112-87, title IV, §433(a), Jan. 3, 2012, 125 Stat. 1894; amended Pub. L. 113-291, div. A, title X, §1071(c)(5), (f)(6), Dec. 19, 2014, 128 Stat. 3508, 3510.)

#### AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291, §1071(c)(5)(A), substituted “section 102A of the National Security Act of 1947 (50 U.S.C. 3024)” for “Section 102A of the National Security Act of 1947 (50 U.S.C. 403-1)”.

Subsec. (c). Pub. L. 113-291, §1071(f)(6), substituted “law” for “act”.

Subsec. (e). Pub. L. 113-291, §1071(c)(5)(B), substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))”.

### § 430. Tactical Exploitation of National Capabilities Executive Agent

(a) DESIGNATION.—The Under Secretary of Defense for Intelligence shall designate a civilian employee of the Department or a member of the armed forces to serve as the Tactical Exploitation of National Capabilities Executive Agent.

(b) DUTIES.—The Executive Agent designated under subsection (a) shall—

(1) report directly to the Under Secretary of Defense for Intelligence;

(2) work with the combatant commands, military departments, and the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) to—

(A) develop methods to increase warfighter effectiveness through the exploitation of national capabilities; and

(B) promote cross-domain integration of such capabilities into military operations, training, intelligence, surveillance, and reconnaissance activities.

(Added Pub. L. 113-291, div. A, title XVI, §1621(a), Dec. 19, 2014, 128 Stat. 3631.)

### § 430a. Executive agent for management and oversight of alternative compensatory control measures

(a) EXECUTIVE AGENT.—The Secretary of Defense shall designate a senior official from among the personnel of the Department of Defense to act as the Department of Defense executive agent for the management and oversight of alternative compensatory control measures.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—The Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a). Such roles, responsibilities, and authorities shall include the development of an annual management and oversight plan for Department-wide accountability and reporting to the congressional defense committees.

(Added Pub. L. 114-92, div. A, title X, §1083(a)(1), Nov. 25, 2015, 129 Stat. 1003.)

**§ 430b. Executive agent for open-source intelligence tools**

(a) DESIGNATION.—Not later than April 1, 2016, the Secretary of Defense shall designate a senior official of the Department of Defense to serve as the executive agent for the Department for open-source intelligence tools.

(b) ROLES, RESPONSIBILITIES, AND AUTHORITIES.—(1) Not later than July 1, 2016, in accordance with Directive 5101.1, the Secretary shall prescribe the roles, responsibilities, and authorities of the executive agent designated under subsection (a).

(2) The roles and responsibilities of the executive agent designated under subsection (a) shall include the following:

(A) Developing and maintaining a comprehensive list of open-source intelligence tools and technical standards.

(B) Establishing priorities for the development, acquisition, and integration of open-source intelligence tools into the intelligence enterprise, and other command and control systems as needed.

(C) Certifying all open-source intelligence tools with respect to compliance with the standards required by the framework and guidance for the Intelligence Community Information Technology Enterprise, the Defense Intelligence Information Enterprise, and the Joint Information Environment.

(D) Assessing and making recommendations regarding the protection of privacy in the acquisition, analysis, and dissemination of open-source information available around the world.

(E) Performing such other assessments or analyses as the Secretary considers appropriate.

(c) SUPPORT WITHIN DEPARTMENT OF DEFENSE.—In accordance with Directive 5101.1, the Secretary shall ensure that the military departments, the Defense Agencies, and other elements of the Department of Defense provide the executive agent designated under subsection (a) with the appropriate support and resources needed to perform the roles, responsibilities, and authorities of the executive agent.

(d) DEFINITIONS.—In this section:

(1) The term “Directive 5101.1” means Department of Defense Directive 5101.1, or any successor directive relating to the responsibilities of an executive agent of the Department of Defense.

(2) The term “executive agent” has the meaning given the term “DoD Executive Agent” in Directive 5101.1.

(3) The term “open-source intelligence tools” means tools for the systematic collection, processing, and analysis of publicly available information for known or anticipated intelligence requirements.

(Added Pub. L. 114-92, div. A, title XVI, § 1631(a), Nov. 25, 2015, 129 Stat. 1110.)

**SUBCHAPTER II—INTELLIGENCE  
COMMERCIAL ACTIVITIES**

Sec.  
431. Authority to engage in commercial activities as security for intelligence collection activities.

Sec.  
432. Use, disposition, and auditing of funds.  
433. Relationship with other Federal laws.  
434. Reservation of defenses and immunities.  
435. Limitations.  
436. Regulations.  
437. Congressional oversight.

**AMENDMENTS**

1992—Pub. L. 102-484, div. A, title X, § 1052(1), Oct. 23, 1992, 106 Stat. 2499, inserted “Sec.” above item “431”.

1991—Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

**§ 431. Authority to engage in commercial activities as security for intelligence collection activities**

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 2023.

(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

(1) be coordinated with, and (where appropriate) be supported by, the Director of the Central Intelligence Agency; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) DEFINITIONS.—In this subchapter:

(1) The term “commercial activities” means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.

(2) The term “intelligence collection activities” means the collection of foreign intelligence and counterintelligence information.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 437; amended Pub. L. 104-93, title V, § 503, Jan. 6, 1996, 109 Stat. 973; Pub. L. 105-272, title V, § 501, Oct. 20, 1998, 112 Stat. 2404; Pub. L. 106-398, § 1 [[div. A], title X, § 1077], Oct. 30, 2000, 114 Stat. 1654, 1654A-282; Pub. L. 107-314, div. A, title X, § 1053, Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108-375, div. A, title IX, § 921, Oct. 28, 2004, 118 Stat. 2029; Pub. L. 109-364, div. A, title IX, § 931, Oct. 17, 2006, 120 Stat. 2362; Pub. L. 110-181, div. A, title IX, § 931(b)(1), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, § 932(a)(7), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 111-383, div. A, title IX, § 921, Jan. 7, 2011, 124

Stat. 4330; Pub. L. 113-291, div. A, title XVI, § 1623, Dec. 19, 2014, 128 Stat. 3632; Pub. L. 115-91, div. A, title XVI, § 1622, Dec. 12, 2017, 131 Stat. 1732.)

#### AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91 substituted “December 31, 2023” for “December 31, 2017”.

2014—Subsec. (a). Pub. L. 113-291 substituted “December 31, 2017” for “December 31, 2015”.

2011—Subsec. (a). Pub. L. 111-383 substituted “December 31, 2015” for “December 31, 2010”.

2009—Subsec. (b)(1). Pub. L. 111-84 repealed Pub. L. 110-417, § 932(a)(7). See 2008 Amendment note below.

2008—Subsec. (b)(1). Pub. L. 110-417, § 932(a)(7), which directed the amendment of subsec. (b)(1) by substituting “Director of National Intelligence” for “Director of Central Intelligence”, was repealed by Pub. L. 111-84.

Pub. L. 110-181 substituted “Director of the Central Intelligence Agency” for “Director of Central Intelligence”.

2006—Subsec. (a). Pub. L. 109-364 substituted “2010” for “2006”.

2004—Subsec. (a). Pub. L. 108-375 substituted “2006” for “2004”.

2002—Subsec. (a). Pub. L. 107-314 substituted “2004” for “2002”.

2000—Subsec. (a). Pub. L. 106-398 substituted “2002” for “2000”.

1998—Subsec. (a). Pub. L. 105-272 substituted “2000” for “1998”.

1996—Subsec. (a). Pub. L. 104-93 substituted “1998” for “1995”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

#### EFFECTIVE DATE

Pub. L. 102-88, title V, § 504(b), Aug. 14, 1991, 105 Stat. 440, provided that: “The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

- “(1) the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 14, 1991]; or
- “(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).”

### § 432. Use, disposition, and auditing of funds

(a) **USE OF FUNDS.**—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

(b) **AUDITS.**—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be reported to the congressional defense committees and the congressional

intelligence committees (as defined in section 437(c) of this title) by not later than December 31 of each year.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 438; amended Pub. L. 113-66, div. A, title IX, § 921(a), Dec. 26, 2013, 127 Stat. 827; Pub. L. 115-91, div. A, title XVI, § 1623, Dec. 12, 2017, 131 Stat. 1732.)

#### AMENDMENTS

2017—Subsec. (b)(2). Pub. L. 115-91 struck out “promptly” before “reported” and inserted before period at end “by not later than December 31 of each year”.

2013—Subsec. (b)(2). Pub. L. 113-66 substituted “the congressional defense committees and the congressional intelligence committees (as defined in section 437(c) of this title).” for “the intelligence committees (as defined in section 437(d) of this title).”

### § 433. Relationship with other Federal laws

(a) **IN GENERAL.**—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

(b) **AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.**—(1) If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431 of this title, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

(c) **FEDERAL LAWS AND REGULATIONS.**—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

- (1) The receipt and use of appropriated and nonappropriated funds.
- (2) The acquisition or management of property or services.
- (3) Information disclosure, retention, and management.
- (4) The employment of personnel.
- (5) Payments for travel and housing.
- (6) The establishment of legal entities or government instrumentalities.
- (7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

(Added Pub. L. 102-88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

#### § 434. Reservation of defenses and immunities

The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

#### § 435. Limitations

(a) **LAWFUL ACTIVITIES.**—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

(b) **DOMESTIC ACTIVITIES.**—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

(c) **PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.**—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

(d) **NOTICE TO UNITED STATES PERSONS.**—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

(2) In this subsection, the term “United States person” means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

#### § 436. Regulations

The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to section 433(b) of this title, or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

(4) designate a single office within the Department of Defense to be responsible for the oversight of all activities authorized under this subchapter;

(5) require that each commercial activity proposed to be authorized under this sub-

chapter be subject to appropriate legal review before the activity is authorized; and

(6) provide for appropriate internal audit controls and oversight for such activities.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439; amended Pub. L. 113–66, div. A, title IX, § 921(b), Dec. 26, 2013, 127 Stat. 827.)

#### AMENDMENTS

2013—Par. (4). Pub. L. 113–66 substituted “Department of Defense” for “Defense Intelligence Agency” and “oversight” for “management and supervision”.

#### § 437. Congressional oversight

(a) **PROPOSED REGULATIONS.**—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to congressional defense committees and the congressional intelligence committees not less than 30 days before they take effect.

(b) **CURRENT INFORMATION.**—The Secretary of Defense shall ensure that congressional defense committees and the congressional intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

(c) **CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.**—In this section, the term “congressional intelligence committees” has the meaning given the term in section 3 of the National Security Act of 1947 (50 U.S.C. 3003).

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 440; amended Pub. L. 107–306, title VIII, § 811(b)(4)(A), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108–136, div. A, title X, § 1031(a)(7), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 108–375, div. A, title X, § 1084(d)(3), Oct. 28, 2004, 118 Stat. 2061; Pub. L. 112–81, div. A, title X, § 1061(5), Dec. 31, 2011, 125 Stat. 1583; Pub. L. 113–66, div. A, title IX, § 921(c), Dec. 26, 2013, 127 Stat. 827.)

#### AMENDMENTS

2013—Subsec. (a). Pub. L. 113–66, § 921(c)(1), substituted “congressional defense committees and the congressional intelligence committees” for “the intelligence committees”.

Subsec. (b). Pub. L. 113–66, § 921(c)(2), substituted “The Secretary” for “Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary” and “congressional defense committees and the congressional intelligence committees” for “the intelligence committees”.

Subsec. (c). Pub. L. 113–66, § 921(c)(3), added subsec. (c).

2011—Subsec. (c). Pub. L. 112–81 struck out subsec. (c) which related to submission of an annual report on certain authorized commercial activities.

2004—Subsec. (c). Pub. L. 108–375 inserted “(50 U.S.C. 415b)” after “National Security Act of 1947”.

2003—Subsec. (b). Pub. L. 108–136, § 1031(a)(7)(A), struck out at end “The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.”

Subsec. (c). Pub. L. 108–136, § 1031(a)(7)(B), substituted “report” the following: “report”—” in introductory provisions, “A” for “a” in pars. (1) to (3), a period for the semicolon at end of par. (1) and for “; and” at end of par. (2), and added par. (4).

2002—Subsec. (c). Pub. L. 107–306, § 811(b)(4)(A)(i), in introductory provisions, substituted “Not later each

year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) for “Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress”.

Subsec. (d). Pub. L. 107–306, §811(b)(4)(A)(ii), struck out heading and text of subsec. (d). Text read as follows: “In this section, the term ‘intelligence committees’ means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.”

**CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY**

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**PRIOR PROVISIONS**

A prior chapter 22 was renumbered chapter 23 of this title.

**AMENDMENTS**

2003—Pub. L. 108–136, div. A, title IX, §921(d)(1), Nov. 24, 2003, 117 Stat. 1568, substituted “NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY” FOR “NATIONAL IMAGERY AND MAPPING AGENCY” in chapter heading.

**SUBCHAPTER I—MISSIONS AND AUTHORITY**

Sec.	
441.	Establishment.
442.	Missions.
443.	Imagery intelligence and geospatial information: support for foreign countries, regional organizations, and security alliances.
444.	Support from Central Intelligence Agency.
[445.]	Repealed.]

**AMENDMENTS**

2013—Pub. L. 112–239, div. A, title IX, §921(b)(2), Jan. 2, 2013, 126 Stat. 1878, added item 443 and struck out former item 443 “Imagery intelligence and geospatial information: support for foreign countries”.

1997—Pub. L. 105–107, title V, §503(d)(3), Nov. 20, 1997, 111 Stat. 2263, struck out item 445 “Protection of agency identifications and organizational information”.

**§ 441. Establishment**

(a) ESTABLISHMENT.—The National Geospatial-Intelligence Agency is a combat support agency of the Department of Defense and has significant national missions.

(b) DIRECTOR.—(1) The Director of the National Geospatial-Intelligence Agency is the head of the agency.

(2) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

(3) If an officer of the armed forces on active duty is appointed to the position of Director, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

(c) DIRECTOR OF NATIONAL INTELLIGENCE COLLECTION TASKING AUTHORITY.—Unless otherwise

directed by the President, the Director of National Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

- (1) approve collection requirements levied on national imagery collection assets;
- (2) determine priorities for such requirements; and
- (3) resolve conflicts in such priorities.

(d) AVAILABILITY AND CONTINUED IMPROVEMENT OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION FUNCTION.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall take all necessary steps to ensure the full availability and continued improvement of imagery intelligence support for all-source analysis and production.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(a)(9), (10), (c)(1)(A), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(8), (9), (b)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

**AMENDMENTS**

2009—Subsecs. (c), (d). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(8), (9), (b)(1). See 2008 Amendment notes below.

2008—Subsec. (c). Pub. L. 110–181, §931(a)(9), (c)(1)(A), and Pub. L. 110–417, §932(b)(1), amended subsec. (c) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence” in heading and text. Pub. L. 110–417, §932(b)(1), was repealed by Pub. L. 111–84.

Pub. L. 110–181, §931(a)(9), and Pub. L. 110–417, §932(a)(8), amended subsec. (c) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, §932(a)(8), was repealed by Pub. L. 111–84.

Subsec. (d). Pub. L. 110–181, §931(a)(10), and Pub. L. 110–417, §932(a)(9), amended subsec. (d) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence”. Pub. L. 110–417, §932(a)(9), was repealed by Pub. L. 111–84.

2003—Subsecs. (a), (b)(1). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

**EFFECTIVE DATE OF 2009 AMENDMENT**

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

**EFFECTIVE DATE**

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

**SHORT TITLE OF 1996 AMENDMENT**

Pub. L. 104–201, div. A, title XI, §1101, Sept. 23, 1996, 110 Stat. 2676, provided that: “This title [enacting this chapter, section 424 of this title, and sections 404e and 404f of Title 50, War and National Defense, amending sections 193, 201, and 451 to 456 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44,



Public Printing and Documents, and sections 401a and 403-5 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under this section and section 193 of this title, and amending provisions set out as a note under section 501 of Title 44] may be cited as the 'National Imagery and Mapping Agency Act of 1996'."

#### SAVINGS PROVISIONS

Section 1116 of title XI of div. A of Pub. L. 104-201, as amended by Pub. L. 105-85, div. A, title X, §1073(c)(8), Nov. 18, 1997, 111 Stat. 1904, provided that:

"(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

"(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title [see Short Title of 1996 Amendment note above] or any function that the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is authorized to perform by law, and

"(2) which are in effect at the time this title takes effect, or were final before the effective date of this title [Oct. 1, 1996] and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] or other authorized official, a court of competent jurisdiction, or by operation of law.

"(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1111 [set out below], but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted."

#### REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

Pub. L. 108-136, div. A, title IX, §921(a), (g), Nov. 24, 2003, 117 Stat. 1568, 1570, provided that:

"(a) REDESIGNATION.—The National Imagery and Mapping Agency of the Department of Defense is hereby redesignated as the National Geospatial-Intelligence Agency.

"(g) REFERENCES.—Any reference to the National Imagery and Mapping Agency in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the National Geospatial-Intelligence Agency."

#### CONGRESSIONAL FINDINGS

Section 1102 of Pub. L. 104-201 provided that: "Congress makes the following findings:

"(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

"(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

"(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

"(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

"(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

"(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence."

#### ESTABLISHMENT OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY; TRANSFER OF FUNCTIONS

Section 1111 of Pub. L. 104-201 provided that:

"(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency].

"(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

"(1) The Defense Mapping Agency.

"(2) The Central Imagery Office.

"(3) Other elements of the Department of Defense as specified in the classified annex to this Act [see section 1002 of Pub. L. 104-201, set out as a note under section 114 of this title].

"(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

"(1) The National Photographic Interpretation Center.

"(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

"(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency], the Secretary of Defense, in consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised."

#### TRANSFERS OF PERSONNEL AND ASSETS

Section 1113 of Pub. L. 104-201 provided that:

"(a) PERSONNEL AND ASSETS.—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held,

arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) [set out above] are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

“(b) DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.—Not earlier than two years after the effective date of this subtitle [Oct. 1, 1996], the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

“(c) RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

“(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

“(2) provide by written agreement for the transfer of such items.”

#### CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF DEFENSE MAPPING AGENCY

Section 1115 of Pub. L. 104-201 provided that: “In the case of an employee of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] who, on the day before the effective date of this title [Oct. 1, 1996], was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.”

#### DEFINITIONS

Pub. L. 104-201, div. A, title XI, §1117, Sept. 23, 1996, 110 Stat. 2686, provided that: “In this subtitle [subtitle A (§§1111-1118) of title XI of div. A of Pub. L. 104-201, enacting this chapter, section 424 of this title, and sections 3045 and 3046 of Title 50, War and National Defense, amending sections 193 and 451 to 456 of this title, section 1336 of Title 44, Public Printing and Documents, and section 3038 of Title 50, renumbering chapter 22 and sections 2792 to 2796 and 2798 of this title as chapter 23 and sections 451 to 455 and 456 of this title, respectively, repealing sections 424 and 425 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 501 of Title 44], the terms ‘function’, ‘imagery’, ‘imagery intelligence’, and ‘geospatial information’ have the meanings given those terms in section 467 of title 10, United States Code, as added by section 1112.”

#### § 442. Missions

(a) NATIONAL SECURITY MISSIONS.—(1) The National Geospatial-Intelligence Agency shall, in support of the national security objectives of the United States, provide geospatial intelligence consisting of the following:

- (A) Imagery.
- (B) Imagery intelligence.
- (C) Geospatial information.

(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

(3) Geospatial intelligence provided in carrying out paragraphs (1) and (2) shall be timely, relevant, and accurate.

(b) NAVIGATION INFORMATION.—The National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

(c) MAPS, CHARTS, ETC.—The National Geospatial-Intelligence Agency shall prepare and distribute maps, charts, books, and geodetic products as authorized under subchapter II of this chapter.

(d) NATIONAL MISSIONS.—The National Geospatial-Intelligence Agency also has national missions as specified in section 110(a) of the National Security Act of 1947 (50 U.S.C. 3045(a)).

(e) SYSTEMS.—The National Geospatial-Intelligence Agency may, in furtherance of a mission of the Agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

- (1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or
- (2) any other department or agency of the United States.

(Added Pub. L. 104-201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108-136, div. A, title IX, §921(c)(1), (d)(2)(A), (f), Nov. 24, 2003, 117 Stat. 1568, 1570; Pub. L. 111-259, title IV, §432, Oct. 7, 2010, 124 Stat. 2732; Pub. L. 113-291, div. A, title X, §1071(c)(6), Dec. 19, 2014, 128 Stat. 3509.)

#### AMENDMENTS

2014—Subsec. (d). Pub. L. 113-291 substituted “(50 U.S.C. 3045(a))” for “(50 U.S.C. 404e(a))”.

2010—Subsec. (a)(2). Pub. L. 111-259, §432(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111-259, §432(1), (3), redesignated par. (2) as (3) and substituted “paragraphs (1) and (2)” for “paragraph (1)”.

2003—Subsec. (a)(1). Pub. L. 108-136, §921(c)(1)(A), (d)(2)(A), in introductory provisions, substituted “Na-

tional Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” and inserted “geospatial intelligence consisting of” after “provide”.

Subsec. (a)(2). Pub. L. 108-136, §921(c)(1)(B), substituted “Geospatial intelligence” for “Imagery, intelligence, and information”.

Subsecs. (b), (c). Pub. L. 108-136, §921(d)(2)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

Subsec. (d). Pub. L. 108-136, §921(d)(2)(A), (f), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” and “section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a))” for “section 120(a) of the National Security Act of 1947”.

Subsec. (e). Pub. L. 108-136, §921(d)(2)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in introductory provisions.

#### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

### § 443. Imagery intelligence and geospatial information: support for foreign countries, regional organizations, and security alliances

(a) USE OF APPROPRIATED FUNDS.—The Director of the National Geospatial-Intelligence Agency may use appropriated funds available to the National Geospatial-Intelligence Agency to provide foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member with imagery intelligence and geospatial information support.

(b) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—The Director may use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support, notwithstanding provisions of law relating to the expenditure of funds of the United States, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the National Geospatial-Intelligence Agency for a purpose for which Congress had previously denied funds;

(2) proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

(d) COORDINATION WITH DIRECTOR OF NATIONAL INTELLIGENCE.—The Director of the Agency shall coordinate with the Director of National Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

(Added Pub. L. 104-201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2679; amended Pub. L. 105-85, div. A, title X, §1073(a)(7), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568;

Pub. L. 110-181, div. A, title IX, §931(a)(11), (c)(1)(B), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110-417, [div. A], title IX, §932(a)(10), (b)(2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111-84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 112-239, div. A, title IX, §921(a), (b)(1), Jan. 2, 2013, 126 Stat. 1878.)

#### AMENDMENTS

2013—Pub. L. 112-239, §921(b)(1), substituted “foreign countries, regional organizations, and security alliances” for “foreign countries” in section catchline.

Subsec. (a). Pub. L. 112-239, §921(a), substituted “foreign countries, regional organizations with defense or security components, and security alliances of which the United States is a member” for “foreign countries”.

2009—Subsec. (d). Pub. L. 111-84 repealed Pub. L. 110-417, §932(a)(10), (b)(2). See 2008 Amendment note below.

2008—Subsec. (d). Pub. L. 110-181 and Pub. L. 110-417, §932(a)(10), (b)(2), amended subsec. (d) identically, substituting “Director of National Intelligence” for “Director of Central Intelligence” in heading and text. Pub. L. 110-417, §932(a)(10), (b)(2), was repealed by Pub. L. 111-84.

2003—Subsecs. (a), (b)(1). Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” wherever appearing.

1997—Subsec. (b)(1). Pub. L. 105-85 substituted semicolon for period after “denied funds”.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

#### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

### § 444. Support from Central Intelligence Agency

(a) SUPPORT AUTHORIZED.—The Director of the Central Intelligence Agency may provide support in accordance with this section to the Director of the National Geospatial-Intelligence Agency. The Director of the National Geospatial-Intelligence Agency may accept support provided under this section.

(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of the Central Intelligence Agency may provide administrative and contract services to the National Geospatial-Intelligence Agency as if that agency were an organizational element of the Central Intelligence Agency.

(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3515), an installation of the National Geospatial-Intelligence Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

(c) DETAIL OF PERSONNEL.—The Director of the Central Intelligence Agency may detail person-

nel of the Central Intelligence Agency indefinitely to the National Geospatial-Intelligence Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Geospatial-Intelligence Agency may transfer funds available for that agency to the Director of the Central Intelligence Agency for the Central Intelligence Agency.

(2) The Director of the Central Intelligence Agency—

(A) may accept funds transferred under paragraph (1); and

(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 (50 U.S.C. 3501 et seq.), to provide administrative and contract services or detail personnel to the National Geospatial-Intelligence Agency under this section.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(b)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(c), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 113–291, div. A, title X, §1071(c)(7), Dec. 19, 2014, 128 Stat. 3509.)

REFERENCES IN TEXT

The Central Intelligence Agency Act of 1949, referred to in subsec. (e)(2)(B), is act June 20, 1949, ch. 227, 63 Stat. 208, which is classified generally to chapter 46 (§3501 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2014—Subsec. (b)(2). Pub. L. 113–291, §1071(c)(7)(A), substituted “(50 U.S.C. 3515)” for “(50 U.S.C. 403o)”.

Subsec. (e)(2)(B). Pub. L. 113–291, §1071(c)(7)(B), substituted “(50 U.S.C. 3501 et seq.)” for “(50 U.S.C. 403a et seq.)”.

2009—Pub. L. 111–84 repealed Pub. L. 110–417, §932(c). See 2008 Amendment note below.

2008—Pub. L. 110–181 and Pub. L. 110–417, §932(c), amended section identically, substituting “Director of the Central Intelligence Agency” for “Director of Central Intelligence” wherever appearing. Pub. L. 110–417, §932(c), was repealed by Pub. L. 111–84.

2003—Subsecs. (a), (b)(1), (2), (c), (e)(1), (2)(B). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” wherever appearing.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

[§ 445. Repealed. Pub. L. 105–107, title V, §503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 105–85, div. A, title X, §1073(a)(8), Nov. 18, 1997, 111 Stat. 1900, related to protection of agency identifications and organizational information.

SUBCHAPTER II—MAPS, CHARTS, AND GEODETIC PRODUCTS

- Sec.
- 451. Maps, charts, and books.
- 452. Pilot charts.
- 453. Sale of maps, charts, and navigational publications: prices; use of proceeds.
- 454. Exchange of mapping, charting, and geodetic data with foreign countries, international organizations, nongovernmental organizations, and academic institutions.
- 455. Maps, charts, and geodetic data: public availability; exceptions.
- 456. Civil actions barred.
- 457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure.

AMENDMENTS

2011—Pub. L. 112–81, div. A, title IX, §923(b)(2), Dec. 31, 2011, 125 Stat. 1539, added item 454 and struck out former item 454 “Exchange of mapping, charting, and geodetic data with foreign countries and international organizations”.

1999—Pub. L. 106–65, div. A, title X, §§1010(b), 1045(b), Oct. 5, 1999, 113 Stat. 739, 763, substituted “Sale of maps, charts, and navigational publications: prices; use of proceeds” for “Prices of maps, charts, and navigational publications” in item 453 and added item 457.

§ 451. Maps, charts, and books

The Secretary of Defense may—

(1) have the National Geospatial-Intelligence Agency prepare maps, charts, and nautical books required in navigation and have those materials published and furnished to navigators; and

(2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

(Added Pub. L. 97–295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2792; renumbered §451 and amended Pub. L. 104–201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
2792 .....	10:7392.	

In the section, the words “Secretary of Defense” and “Defense Mapping Agency” are substituted for “Secretary of the Navy” and “United States Naval Oceanographic Office”, respectively, for consistency with 10:2791. The words “under such regulations as he prescribes” are omitted as unnecessary.

PRIOR PROVISIONS

A prior section 451 was renumbered section 481 of this title.

AMENDMENTS

2003—Par. (1). Pub. L. 108–136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104-201 renumbered section 2792 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency” in par. (1).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

§ 452. Pilot charts

(a) There shall be conspicuously printed on pilot charts prepared in the National Geospatial-Intelligence Agency the following: “Prepared from data furnished by the National Geospatial-Intelligence Agency of the Department of Defense and by the Department of Commerce, and published at the National Geospatial-Intelligence Agency under the authority of the Secretary of Defense”.

(b) The Secretary of Commerce shall furnish to the National Geospatial-Intelligence Agency, as quickly as possible, all meteorological information received by the Secretary that is necessary for, and of the character used in, preparing pilot charts.

(Added Pub. L. 97-295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2793; renumbered §452 and amended Pub. L. 104-201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2793 .....	10:7393.	

The words “Secretary of Defense” and “Defense Mapping Agency” are substituted for “Secretary of the Navy” and “United States Naval Oceanographic Office”, respectively, for consistency with 10:2791. The words “Secretary of Commerce” are substituted for “Weather Bureau of the Department of Commerce” to reflect the transfer of functions from the Weather Bureau to the Secretary of Commerce under Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The word “quickly” is substituted for “expeditiously” for consistency in title 10.

PRIOR PROVISIONS

A prior section 452 was renumbered section 482 of this title.

AMENDMENTS

2003—Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” wherever appearing.

1996—Pub. L. 104-201 renumbered section 2793 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency” wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

§ 453. Sale of maps, charts, and navigational publications: prices; use of proceeds

(a) PRICES.—All maps, charts, and other publications offered for sale by the National Geospatial-Intelligence Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.

(b) USE OF PROCEEDS TO PAY FOREIGN LICENSING FEES.—(1) The Secretary of Defense may pay any NGA foreign data acquisition fee out of the proceeds of the sale of maps, charts, and other publications of the Agency, and those proceeds are hereby made available for that purpose.

(2) In this subsection, the term “NGA foreign data acquisition fee” means any licensing or other fee imposed by a foreign country or international organization for the acquisition or use of data or products by the National Geospatial-Intelligence Agency.

(Added Pub. L. 97-295, §1(50)(C), Oct. 12, 1982, 96 Stat. 1299, §2794; renumbered §453 and amended Pub. L. 104-201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 106-65, div. A, title X, §1010(a), Oct. 5, 1999, 113 Stat. 739; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), (B), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
2794 .....	10:7394.	

The words “Secretary of Defense” and “Defense Mapping Agency” are substituted for “Secretary of the Navy” and “United States Naval Oceanographic Office”, respectively, for consistency with 10:2791. The word “prescribed” is substituted for “determined” for consistency in title 10. The last sentence, which provided that money from sales be covered into the Treasury, is omitted because of 31:3302.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §921(d)(2)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

Subsec. (b)(1). Pub. L. 108-136, §921(d)(2)(B), substituted “NGA” for “NIMA”.

Subsec. (b)(2). Pub. L. 108-136, §921(d)(2)(A), (B), substituted “NGA” for “NIMA” and “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1999—Pub. L. 106-65 amended section catchline and text generally. Prior to amendment, text read as follows: “All maps, charts, and other publications offered for sale by the National Imagery and Mapping Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.”

1996—Pub. L. 104-201 renumbered section 2794 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

§ 454. Exchange of mapping, charting, and geodetic data with foreign countries, international organizations, nongovernmental organizations, and academic institutions

(a) FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.—The Secretary of Defense may authorize the National Geospatial-Intelligence Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.

(b) NONGOVERNMENTAL ORGANIZATIONS AND ACADEMIC INSTITUTIONS.—The Secretary may au-

thorize the National Geospatial-Intelligence Agency to exchange or furnish mapping, charting, and geodetic data, supplies, and services relating to areas outside of the United States to a nongovernmental organization or an academic institution engaged in geospatial information research or production of such areas pursuant to an agreement for the production or exchange of such data.

(Added Pub. L. 99-569, title VI, §601(a), Oct. 27, 1986, 100 Stat. 3202, §2795; renumbered §454 and amended Pub. L. 104-201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 112-81, div. A, title IX, §923(a), (b)(1), Dec. 31, 2011, 125 Stat. 1539.)

#### AMENDMENTS

2011—Pub. L. 112-81, §923(b)(1), amended section catchline generally, substituting “Exchange of mapping, charting, and geodetic data with foreign countries, international organizations, nongovernmental organizations, and academic institutions” for “Exchange of mapping, charting, and geodetic data with foreign countries and international organizations”.

Pub. L. 112-81, §923(a), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

2003—Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

1996—Pub. L. 104-201 renumbered section 2795 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

### § 455. Maps, charts, and geodetic data: public availability; exceptions

(a) The National Geospatial-Intelligence Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department of Defense—

(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only;

(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods, or capabilities, used to obtain source material for production of the geodetic product; or

(C) that contains information that the Director of the National Geospatial-Intelligence Agency has determined in writing would, if disclosed, jeopardize or interfere with ongoing

military or intelligence operations, reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities.

(2) In this subsection, the term “geodetic product” means imagery, imagery intelligence, or geospatial information.

(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

(A) in the case of allies of the United States; and

(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.

(Added Pub. L. 102-88, title V, §502(a)(1), Aug. 14, 1991, 105 Stat. 435, §2796; amended Pub. L. 103-359, title V, §502, Oct. 14, 1994, 108 Stat. 3430; renumbered §455 and amended Pub. L. 104-201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 105-85, div. A, title IX, §933(a), (b)(1), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 106-398, §1 [[div. A], title X, §1074], Oct. 30, 2000, 114 Stat. 1654, 1654A-280; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

#### AMENDMENTS

2003—Subsecs. (a), (b)(1)(C). Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2000—Subsec. (b)(1)(C). Pub. L. 106-398 substituted “, reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities” for “or reveal military operational or contingency plans”.

1997—Subsec. (b)(1)(B). Pub. L. 105-85, §933(a), inserted “, or capabilities,” after “methods”.

Subsec. (b)(2). Pub. L. 105-85, §933(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “In this subsection, the term ‘geodetic product’ means any map, chart, geodetic data, or related product.”

1996—Pub. L. 104-201 renumbered section 2796 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency” in subsecs. (a) and (b)(1)(C).

1994—Subsec. (b)(1)(C). Pub. L. 103-359 inserted “jeopardize or interfere with ongoing military or intelligence operations or” after “disclosed.”.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

#### REGULATIONS

Pub. L. 102-88, title V, §502(b), Aug. 14, 1991, 105 Stat. 436, directed that regulations to implement section 2796 (now 455) of this title be published in the Federal Register for public comment in accordance with subsec. (c) of that section not later than 90 days after Aug. 14, 1991.

**§ 456. Civil actions barred**

(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the National Geospatial-Intelligence Agency.

(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the National Geospatial-Intelligence Agency prepares or disseminates navigational aids.

(Added Pub. L. 103-337, div. A, title X, §1074(b), Oct. 5, 1994, 108 Stat. 2861, §2798; renumbered §456 and amended Pub. L. 104-201, div. A, title XI, §1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

## AMENDMENTS

2003—Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” wherever appearing.

1996—Pub. L. 104-201 renumbered section 2798 of this title as this section and substituted “National Imagery and Mapping Agency” for “Defense Mapping Agency” wherever appearing.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of this title.

## EFFECTIVE DATE

Pub. L. 103-337, div. A, title X, §1074(d), Oct. 5, 1994, 108 Stat. 2861, provided that: “Section 2798 [now 456] of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act [Oct. 5, 1994] and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.”

**§ 457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure**

(a) AUTHORITY.—The Secretary of Defense may withhold from public disclosure operational files described in subsection (b) to the same extent that operational files may be withheld under section 701 of the National Security Act of 1947 (50 U.S.C. 3141).

(b) COVERED OPERATIONAL FILES.—The authority under subsection (a) applies to operational files in the possession of the National Geospatial-Intelligence Agency that—

(1) as of September 22, 1996, were maintained by the National Photographic Interpretation Center; or

(2) concern the activities of the Agency that, as of such date, were performed by the National Photographic Interpretation Center.

(c) OPERATIONAL FILES DEFINED.—In this section, the term “operational files” has the meaning given that term in section 701(b) of the National Security Act of 1947 (50 U.S.C. 3141(b)).

(Added Pub. L. 106-65, div. A, title X, §1045(a), Oct. 5, 1999, 113 Stat. 762; amended Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24,

2003, 117 Stat. 1568; Pub. L. 113-291, div. A, title X, §1071(c)(8), Dec. 19, 2014, 128 Stat. 3509.)

## AMENDMENTS

2014—Subsec. (a). Pub. L. 113-291, §1071(c)(8)(A), substituted “(50 U.S.C. 3141)” for “(50 U.S.C. 431)”.

Subsec. (c). Pub. L. 113-291, §1071(c)(8)(B), substituted “(50 U.S.C. 3141(b))” for “(50 U.S.C. 431(b))”.

2003—Subsec. (b). Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in introductory provisions.

SUBCHAPTER III—PERSONNEL  
MANAGEMENT

Sec.

461.

Management rights.

462.

Financial assistance to certain employees in acquisition of critical skills.

## AMENDMENTS

2001—Pub. L. 107-108, title V, §504(b), Dec. 28, 2001, 115 Stat. 1406, added item 462.

**§ 461. Management rights**

(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Geospatial-Intelligence Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regulation is inapplicable to the National Geospatial-Intelligence Agency.

(b) BARGAINING UNITS.—The Director of the National Geospatial-Intelligence Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on September 30, 1996.

(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Geospatial-Intelligence Agency determines that the responsibilities of a position within a collective bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

(2) A determination described in paragraph (1) that is made by the Director of the National Geospatial-Intelligence Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

(Added Pub. L. 104-201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2681; amended Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), (C), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108-136, §921(d)(2)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in two places.

Subsec. (b). Pub. L. 108-136, §921(d)(2)(C), substituted “The Director of the National Geospatial-Intelligence Agency” for “The National Imagery and Mapping Agency” and “on September 30, 1996” for “on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (title XI of the National Defense Authorization Act for Fiscal Year 1997)”.

Subsec. (c). Pub. L. 108-136, §921(d)(2)(A), substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency” in two places.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

**§ 462. Financial assistance to certain employees in acquisition of critical skills**

The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Geospatial-Intelligence Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 3614) for civilian employees of the National Security Agency.

(Added Pub. L. 107-108, title V, §504(a), Dec. 28, 2001, 115 Stat. 1405; amended Pub. L. 108-136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 113-291, div. A, title X, §1071(c)(9), Dec. 19, 2014, 128 Stat. 3509.)

AMENDMENTS

2014—Pub. L. 113-291 substituted “(50 U.S.C. 3614)” for “(50 U.S.C. 402 note)”.

2003—Pub. L. 108-136 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

SUBCHAPTER IV—DEFINITIONS

Sec. 467. Definitions.

**§ 467. Definitions**

In this chapter:

(1) The term “function” means any duty, obligation, responsibility, privilege, activity, or program.

(2)(A) The term “imagery” means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

- (i) products produced by space-based national intelligence reconnaissance systems; and
- (ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

(B) Such term does not include handheld or clandestine photography taken by or on behalf

of human intelligence collection organizations.

(3) The term “imagery intelligence” means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

(4) The term “geospatial information” means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth and includes—

(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies; and

(B) mapping, charting, geodetic data, and related products.

(5) The term “geospatial intelligence” means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.

(Added Pub. L. 104-201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2682; amended Pub. L. 105-85, div. A, title IX, §933(b)(2), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 108-136, div. A, title IX, §921(b), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Par. (5). Pub. L. 108-136 added par. (5).  
 1997—Par. (4). Pub. L. 105-85 inserted “and” at end of subpar. (A), substituted “geodetic data, and related products.” for “and geodetic data; and” in subpar. (B), and struck out subpar. (C) which read as follows: “geodetic products, as defined in section 455(c) of this title.”

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

**CHAPTER 23—MISCELLANEOUS STUDIES AND REPORTS**

- Sec. 480. Reports to Congress: submission in electronic form.
- 481. Racial and ethnic issues; gender issues: surveys.
- 481a. Workplace and gender relations issues: surveys of Department of Defense civilian employees.
- 482. Quarterly reports: personnel and unit readiness.
- [483. Repealed.]
- 484. Quarterly cyber operations briefings.
- 485. Monthly counterterrorism operations briefings.
- [486, 487. Repealed.]
- 488. Management and review of electromagnetic spectrum.
- [489 to 491. Repealed or Renumbered.]

AMENDMENTS

2016—Pub. L. 114-328, div. A, title X, §§1031(c), 1065(a)(2), Dec. 23, 2016, 130 Stat. 2389, 2410, substituted “Monthly counterterrorism operations briefings” for “Quarterly counterterrorism operations briefings” in item 485 and “Management and review of electromagnetic spectrum” for “Management of electromagnetic spectrum” in item 488.



2014—Pub. L. 113–291, div. A, title III, §331(b), title X, §1073(a)(2), Dec. 19, 2014, 128 Stat. 3344, 3518, added item 481a and struck out item 489 “Annual report on Department of Defense operation and financial support for military museums”.

2013—Pub. L. 113–66, div. A, title X, §§1042(a)(2), 1072(b)(2), 1084(a)(1)(B), Dec. 26, 2013, 127 Stat. 857, 869, 871, added item 485, substituted “Management of electromagnetic spectrum” for “Management of electromagnetic spectrum: biennial strategic plan” in item 488, and struck out item 483 “Reports on transfers from high-priority readiness appropriations”.

Pub. L. 112–239, div. A, title IX, §939(c), title X, §1031(b)(3)(A)(ii), Jan. 2, 2013, 126 Stat. 1888, 1918, added item 484 and struck out items 490a “Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system” and 491 “Nuclear employment strategy of the United States: reports on modification of strategy”.

2011—Pub. L. 112–81, div. A, title X, §§1041(c), 1046(b)(2), 1061(6)(B), (7)(B), (8)(B), (9)(B), (10)(B), Dec. 31, 2011, 125 Stat. 1575, 1579, 1583, added items 490a and 491 and struck out items 484 “Annual report on aircraft inventory”, 485 “Joint and service concept development and experimentation”, 486 “Quadrennial report on emerging operational concepts”, 487 “Unit operations tempo and personnel tempo: annual report”, and 490 “Space cadre management: biennial report”.

2008—Pub. L. 110–417, [div. A], title II, §241(b), Oct. 14, 2008, 122 Stat. 4398, added item 485 and struck out former item 485 “Joint warfighting experimentation”.

Pub. L. 110–181, div. A, title IX, §912(b), Jan. 28, 2008, 122 Stat. 281, added item 490.

2004—Pub. L. 108–375, div. A, title X, §1033(b), Oct. 28, 2004, 118 Stat. 2048, added item 489.

2003—Pub. L. 108–136, div. A, title X, §1054(b), Nov. 24, 2003, 117 Stat. 1615, added item 488.

2002—Pub. L. 107–314, div. A, title V, §561(a)(2), Dec. 2, 2002, 116 Stat. 2554, substituted “Racial and ethnic issues; gender issues: surveys” for “Race relations, gender discrimination, and hate group activity: annual survey and report” in item 481.

2001—Pub. L. 107–107, div. A, title X, §1042(b), Dec. 28, 2001, 115 Stat. 1218, added item 480.

1999—Pub. L. 106–65, div. A, title II, §241(a)(2), title III, §361(d)(3), title IX, §923(b)(2), Oct. 5, 1999, 113 Stat. 550, 575, 725, added items 486 and 487 and repealed Pub. L. 105–261, §373(d)(2). See 1998 Amendment note below.

1998—Pub. L. 105–261, div. A, title IX, §923(b)(2), title X, §1069(a)(1), Oct. 17, 1998, 112 Stat. 2105, 2135, substituted “Annual report” for “Report” in item 484 and added item 485.

Pub. L. 105–261, div. A, title III, §373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which directed amendment of analysis, effective June 1, 2001, by striking out item 482, was repealed by Pub. L. 106–65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

1997—Pub. L. 105–85, div. A, title III, §§322(a)(2), 323(b), 324(a)(2), Nov. 18, 1997, 111 Stat. 1675, 1677, substituted “Quarterly reports: personnel and unit readiness” for “Quarterly readiness reports” in item 482 and added items 483 and 484.

1996—Pub. L. 104–201, div. A, title V, §571(c)(2), title XI, §§1112(a)(1), 1123(a)(4), Sept. 23, 1996, 110 Stat. 2532, 2677, 2688, substituted “Race relations, gender discrimination, and hate group activity: annual survey and report” for “Racial and ethnic issues; biennial survey; biennial report” in item 451, renumbered chapter 22 of this title as this chapter, and redesignated items 451 and 452 as 481 and 482, respectively.

Pub. L. 104–106, div. A, title III, §361(a)(2), Feb. 10, 1996, 110 Stat. 273, added item 452.

#### § 480. Reports to Congress: submission in electronic form

(a) REQUIREMENT.—Whenever the Secretary of Defense or any other official of the Department of Defense submits to Congress (or any committee of either House of Congress) a report that

the Secretary (or other official) is required by law to submit, the Secretary (or other official) shall provide to Congress (or such committee) a copy of the report in an electronic medium.

(b) EXCEPTION.—Subsection (a) does not apply to a report submitted in classified form.

(c) DEFINITION.—In this section, the term “report” includes any certification, notification, or other communication in writing.

(Added Pub. L. 107–107, div. A, title X, §1042(a), Dec. 28, 2001, 115 Stat. 1218; amended Pub. L. 107–314, div. A, title X, §1042, Dec. 2, 2002, 116 Stat. 2646.)

#### AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314 substituted “shall provide to Congress (or” for “shall, upon request by any committee of Congress to which the report is submitted or referred, provide to Congress (or each”.

#### § 481. Racial and ethnic issues; gender issues: surveys

(a) IN GENERAL.—(1) The Secretary of Defense shall carry out four surveys in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess gender issues and discrimination, among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called “hate group” activity.

(2) The four surveys shall be as follows:

(A) To identify and assess racial and ethnic issues and discrimination among members of the armed forces serving on active duty.

(B) To identify and assess racial and ethnic issues and discrimination among members of the armed forces in the reserve components.

(C) To identify and assess gender issues and discrimination among members of the armed forces serving on active duty.

(D) To identify and assess gender issues and discrimination members of the armed forces in the reserve components.

(3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the “Armed Forces Workplace and Equal Opportunity Surveys”. The surveys under this section relating to gender issues and discrimination shall be known as the “Armed Forces Workplace and Gender Relations Surveys”.

(4) Each survey under this section shall be conducted separately from any other survey conducted by the Department of Defense.

(b) ARMED FORCES WORKPLACE AND EQUAL OPPORTUNITY SURVEYS.—The Armed Forces Workplace and Equal Opportunity Surveys shall be conducted so as to solicit information on racial and ethnic issues, including issues relating to harassment and discrimination, and the climate in the armed forces for forming professional relationships among members of the armed forces of various racial and ethnic groups. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

(c) **ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.**—The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment, assault, and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

(2) The specific types of assault that have occurred, and the number of times each respondent has been assaulted during the preceding year.

(3) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

(4) The effectiveness of current processes for complaints on and investigations into gender-based discrimination, harassment, and assault.

(5) Any other issues relating to discrimination, harassment, or assault as the Secretary of Defense considers appropriate.

(d) **WHEN SURVEYS REQUIRED.**—(1) One of the two Armed Forces Workplace and Gender Relations Surveys shall be conducted in 2014 and then every second year thereafter and the other Armed Forces Workplace and Gender Relations Survey shall be conducted in 2015 and then every second year thereafter, so that one of the two surveys is being conducted each year.

(2) The two Armed Forces Workplace and Equal Opportunity Surveys shall be conducted at least once every four years. The two surveys may not be conducted in the same year.

(e) **REPORTS TO CONGRESS.**—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

(f) **INAPPLICABILITY TO COAST GUARD.**—This section does not apply to the Coast Guard.

(Added Pub. L. 103-337, div. A, title V, §554(a)(1), Oct. 5, 1994, 108 Stat. 2773, §451; renumbered §481 and amended Pub. L. 104-201, div. A, title V, §571(c)(1), title XI, §1121(a), Sept. 23, 1996, 110 Stat. 2532, 2687; Pub. L. 107-314, div. A, title V, §561(a)(1), Dec. 2, 2002, 116 Stat. 2553; Pub. L. 112-239, div. A, title V, §570, Jan. 2, 2013, 126 Stat. 1752.)

#### AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 112-239, §570(b)(1), substituted “four surveys” for “four quadrennial surveys (each in a separate year)”.

Subsec. (c). Pub. L. 112-239, §570(a)(1), substituted “harassment, assault, and discrimination” for “harassment and discrimination” in introductory provisions.

Subsec. (c)(2) to (4). Pub. L. 112-239, §570(a)(2)–(4), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and substituted “discrimination, harassment, and assault” for “discrimination” in par. (4).

Subsec. (c)(5). Pub. L. 112-239, §570(a)(5), added par. (5).

Subsec. (d). Pub. L. 112-239, §570(b)(2), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: “Each of the four quadrennial surveys conducted under this section shall be conducted in a different year from any other survey conducted under this section, so that one such survey is conducted during each year.”

2002—Pub. L. 107-314 substituted “Racial and ethnic issues; gender issues: surveys” for “Race relations, gender discrimination, and hate group activity: annual survey and report” as section catchline and amended text generally, substituting provisions requiring four quadrennial surveys and report for provisions requiring an annual survey and report.

1996—Pub. L. 104-201, §1121(a), renumbered section 451 of this title as this section.

Pub. L. 104-201, §571(c)(1), substituted “Race relations, gender discrimination, and hate group activity: annual survey and report” for “Racial and ethnic issues; biennial survey; biennial report” as section catchline and amended text generally, substituting provisions requiring an annual survey and report for provisions requiring a biennial survey and report.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title V, §561(b), Dec. 2, 2002, 116 Stat. 2554, provided that: “The first survey under section 481 of title 10, United States Code, as amended by subsection (a)(1), shall be carried out during 2003.”

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES

Pub. L. 107-314, div. A, title V, §562, Dec. 2, 2002, 116 Stat. 2554, provided that:

“(a) **REQUIREMENT FOR REPORT.**—The Secretary of Defense shall submit to Congress, for each of fiscal years 2002 through 2006, a report on the status of female members of the Armed Forces. Information in the annual report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

“(b) **MATTERS TO BE INCLUDED.**—The report for a fiscal year under subsection (a) shall include the following information:

“(1) The positions, weapon systems, and fields of skills for which, by policy, female members are not eligible for assignment, as follows:

“(A) In the report for fiscal year 2002—

“(i) an identification of each position, weapon system, and field of skills for which, by policy, female members are not eligible; and

“(ii) the rationale for the applicability of the policy to each such position, weapon system, and field.

“(B) In the report for each fiscal year after fiscal year 2002, the positions, weapon systems, and fields for which policy on the eligibility of female members for assignment has changed during that fiscal year, including a discussion of how the policy has changed and the rationale for the change.

“(2) Information on joint spouse assignments, as follows:

“(A) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were jointly assigned during that fiscal year, as defined in the applicable Department of Defense and military department personnel assignment policies.

“(B) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were assigned during that fiscal year, but were not jointly assigned (as so defined).

“(3) Promotion selection rates for female members, for male members, and for all personnel in the reports submitted by promotion selection boards in that fiscal year for promotion to grades E-7, E-8, and E-9, and, in the case of commissioned officers, promotion to grades O-4, O-5, and O-6.

“(4) Retention rates for female members in each grade and for male members in each grade during that fiscal year.

“(5) Selection rates for female members and for male members for assignment to grade O-6 and grade O-5 command positions in reports of command selection boards that were submitted during that fiscal year.

“(6) Selection rates for female members and for male members for attendance at intermediate service schools (ISS) and, separately, for attendance at senior service schools (SSS) in reports of selection boards that were submitted during that fiscal year.

“(7) The extent of assignments of female members during that fiscal year in each field in which at least 80 percent of the Armed Forces personnel assigned in the field are men.

“(8) The incidence of sexual harassment complaints made during that fiscal year, stated as the number of cases in which complaints of sexual harassment were filed under procedures of military departments that are applicable to the submission of sexual harassment complaints, together with the number and percent of the complaints that were substantiated.

“(9) Satisfaction (based on surveys) of female active-duty members, female dependents of active-duty members, and female dependents of nonactive duty members entitled to health care provided by the Department of Defense with access to, and quality of, women’s health care benefits provided by the Department of Defense.

“(c) TIME FOR REPORT.—The report for a fiscal year under this section shall be submitted not later than 120 days after the end of that fiscal year.”

#### FIRST REPORT REQUIRED UNDER SUBSECTION (c)

Pub. L. 103-337, div. A, title V, § 554(b), Oct. 5, 1994, 108 Stat. 2773, required Secretary of Defense to submit first report under former subsec. (c) of this section not later than May 1, 1995.

### § 481a. Workplace and gender relations issues: surveys of Department of Defense civilian employees

(a) IN GENERAL.—(1) The Secretary of Defense shall carry out every other fiscal year a survey of civilian employees of the Department of Defense to solicit information on gender issues, including issues relating to gender-based assault, harassment, and discrimination, and the climate in the Department for forming professional relationships between male and female civilian employees of the Department.

(2) Each survey under this section shall be known as a “Department of Defense Civilian Employee Workplace and Gender Relations Survey”.

(b) ELEMENTS.—Each survey conducted under this section shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships between male and female civilian employees of the Department of Defense.

(2) The specific types of assault on civilian employees of the Department by other personnel of the Department (including contractor personnel) that have occurred, and the number of times each respondent has been so assaulted during the preceding fiscal year.

(3) The effectiveness of Department policies designed to improve professional relationships between male and female civilian employees of the Department.

(4) The effectiveness of current processes for complaints on and investigations into gender-based assault, harassment, and discrimination involving civilian employees of the Department.

(5) Any other issues relating to assault, harassment, or discrimination involving civilian employees of the Department that the Secretary considers appropriate.

(c) REPORT TO CONGRESS.—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

(Added Pub. L. 113-291, div. A, title X, § 1073(a)(1), Dec. 19, 2014, 128 Stat. 3517.)

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (c) of this section requiring submittal of report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### INITIAL SURVEY

Pub. L. 113-291, div. A, title X, § 1073(a)(3), Dec. 19, 2014, 128 Stat. 3518, provided that: “The Secretary of Defense shall carry out the first survey required by section 481a of title 10, United States Code (as added by this subsection), during fiscal year 2016.”

### § 482. Quarterly reports: personnel and unit readiness

(a) QUARTERLY REPORTS REQUIRED.—Not later than 30 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to Congress a report regarding the military readiness of the active and reserve components. The reports for the first and third quarters of a calendar year shall contain the information required by subsections (b), (d), (e), (f), and (g). The reports for the second and fourth quarters of a calendar year shall contain the information required by subsection (j).

(b) READINESS PROBLEMS.—A report for the second or fourth quarter of a calendar year shall specifically describe—

(1) each readiness problem and deficiency identified using the assessments considered under subsection (c); and

(2) the key indicators and other relevant information related to each identified problem and deficiency.

(c) CONSIDERATION OF READINESS ASSESSMENTS.—The information required under subsection (b) to be included in the report for a quarter shall be based on readiness assessments that are provided during that quarter—

(1) to any council, committee, or other body of the Department of Defense—

(A) that has responsibility for readiness oversight; and

(B) whose membership includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

(d) **COMBATANT COMMAND ASSIGNED MISSION ASSESSMENTS.**—(1) A report for the second or fourth quarter of a calendar year shall also include an assessment by each commander of a geographic or functional combatant command of the ability of the command to successfully execute each of the assigned missions of the command. Each such assessment for a combatant command shall also include a list of the mission essential tasks for each assigned mission of the command and an assessment of the ability of the command to successfully complete each task within prescribed timeframes.

(2) For purposes of this subsection, the term “assigned mission” means any contingency response program plan, theater campaign plan, or named operation that is approved and assigned by the Joint Chiefs of Staff.

(3) The assessment included in the report under paragraph (1) by the Commander of the United States Strategic Command shall include a separate assessment prepared by the Commander of United States Cyber Command relating to the readiness of United States Cyber Command and the readiness of the cyber force of each of the military departments.

(e) **RISK ASSESSMENT OF DEPENDENCE ON CONTRACTOR SUPPORT.**—A report for the second or fourth quarter of a calendar year shall also include an assessment by the Chairman of the Joint Chiefs of Staff of the level of risk incurred by using contract support in contingency operations as required under Department of Defense Instruction 1100.22, “Policies and Procedures for Determining Workforce Mix”.

(f) **COMBAT SUPPORT AND RELATED AGENCIES ASSESSMENT.**—(1) A report for the second or fourth quarter of a calendar year shall also include an assessment by the Secretary of Defense of the military readiness of the combat support and related agencies, including, for each such agency—

(A) a determination with respect to the responsiveness and readiness of the agency to support operating forces in the event of a war or threat to national security, including—

(i) a list of mission essential tasks and an assessment of the ability of the agency to successfully perform those tasks;

(ii) an assessment of how the ability of the agency to accomplish the tasks referred to in subparagraph (A) affects the ability of the military departments and the unified and geographic combatant commands to execute operations and contingency plans by number;

(iii) any readiness deficiencies and actions recommended to address such deficiencies; and

(iv) key indicators and other relevant information related to any deficiency or other problem identified;

(B) any recommendations that the Secretary considers appropriate.

(2) In this subsection, the term “combat support and related agencies” means any of the following Defense Agencies:

(A) The Defense Information Systems Agency.

(B) The Defense Intelligence Agency.

(C) The Defense Logistics Agency.

(D) The National Geospatial-Intelligence Agency (but only with respect to combat support functions that the agencies perform for the Department of Defense).

(E) The Defense Contract Management Agency.

(F) The Defense Threat Reduction Agency.

(G) The National Reconnaissance Office.

(H) The National Security Agency (but only with respect to combat support functions that the agencies perform for the Department of Defense) and Central Security Service.

(I) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

(g) **MAJOR EXERCISE ASSESSMENTS.**—(1) A report for the second or fourth quarter of a calendar year under this section shall also include information on each major exercise conducted by a geographic or functional combatant command or military department, including—

(A) a list of exercises by name for the period covered by the report;

(B) the cost and location of each such exercise; and

(C) a list of participants by country or military department.

(2) In this subsection, the term “major exercise” means a named major training event, an integrated or joint exercise, or a unilateral major exercise.

(h) **CANNIBALIZATION RATES.**—Each report under this section shall include a separate unclassified report containing the information collected pursuant to section 117(c)(7) of this title.

(i) **CLASSIFICATION OF REPORTS.**—A report under this section shall be submitted in unclassified form. To the extent the Secretary of Defense determines necessary, the report may also be submitted in classified form.

(j) **REMEDIAL ACTIONS.**—A report for the first or third quarter of a calendar year shall include—

(1) a description of the mitigation plans of the Secretary to address readiness shortfalls and operational deficiencies identified in the report submitted for the preceding calendar quarter; and

(2) for each such shortfall or deficiency, a timeline for resolution, the cost necessary for such resolution, the mitigation strategy the Department will employ until the resolution is in place, and any legislative remedies required.

(Added Pub. L. 104-106, div. A, title III, § 361(a)(1), Feb. 10, 1996, 110 Stat. 272, § 452; renumbered § 482, Pub. L. 104-201, div. A, title XI, § 1121(a), Sept. 23, 1996, 110 Stat. 2687; amended Pub. L. 105-85, div. A, title III, § 322(a)(1), Nov. 18, 1997, 111 Stat. 1673; Pub. L. 106-65, div. A, title III, § 361(d)(3), (e), Oct. 5, 1999, 113 Stat. 575; Pub. L. 110-181, div. A, title III, § 351(b), Jan. 28, 2008, 122 Stat. 70; Pub. L. 113-66, div. A, title III, § 331(a), Dec. 26, 2013, 127 Stat. 737; Pub. L. 113-291, div. A, title III, § 321, Dec. 19, 2014, 128 Stat. 3342; Pub. L. 114-328, div. A, title III, § 331, Dec. 23, 2016, 130 Stat. 2078; Pub. L. 115-91, div. A, title III, § 331(a), Dec. 12, 2017, 131 Stat. 1353.)

## AMENDMENTS

2017—Subsec. (a). Pub. L. 115-91, § 331(a)(1), substituted “The reports for the first and third quarters of a calendar year” for “Each report” and inserted at end “The reports for the second and fourth quarters of a calendar year shall contain the information required by subsection (j).”

Subsec. (b). Pub. L. 115-91, § 331(a)(2)(A), (B), in heading, struck out “and Remedial Actions” after “Problems” and in introductory provisions, substituted “A report for the second or fourth quarter of a calendar year” for “Each report”.

Subsec. (b)(2), (3). Pub. L. 115-91, § 331(a)(2)(C)–(E), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “planned remedial actions; and”.

Subsec. (d)(1). Pub. L. 115-91, § 331(a)(3), substituted “A report for the second or fourth quarter of a calendar year” for “Each report”.

Subsec. (e). Pub. L. 115-91, § 331(a)(4), substituted “A report for the second or fourth quarter of a calendar year” for “Each report”.

Subsec. (f)(1). Pub. L. 115-91, § 331(a)(5), substituted “A report for the second or fourth quarter of a calendar year” for “Each report” in introductory provisions.

Subsec. (g)(1). Pub. L. 115-91, § 331(a)(6), substituted “A report for the second or fourth quarter of a calendar year” for “Each report” in introductory provisions.

Subsec. (j). Pub. L. 115-91, § 331(a)(7), added subsec. (j).  
2016—Subsec. (a). Pub. L. 114-328, § 331(a), (b)(1), substituted “Not later than 30 days after the end of each calendar-year quarter” for “Not later than 45 days after the end of each calendar-year quarter” and “subsections (b), (d), (e), (f), and (g)” for “subsections (b), (d), (e), (f), (g), (h), and (i)”.

Subsecs. (d) to (j). Pub. L. 114-328, § 331(b)(2), (3), (c), added subsec. (h), redesignated subsecs. (f) to (j) as (d) to (g) and (i), respectively, and struck out former subsecs. (d) and (e), which related to prepositioned stocks and readiness of National Guard to perform civil support missions, respectively.

2014—Subsec. (a). Pub. L. 113-291, § 321(1), substituted “the military readiness of the active and reserve components.” for “military readiness.” and “subsections (b), (d), (e), (f), (g), (h), and (i).” for “subsections (b), (d), (f), (g), (h), (i), (j), and (k), and the reports for the second and fourth quarters of a calendar year shall also contain the information required by subsection (e).”

Subsec. (d). Pub. L. 113-291, § 321(2), (3), added subsec. (d) and struck out former subsec. (d) which related to comprehensive readiness indicators for active components.

Subsec. (e). Pub. L. 113-291, § 321(2), (4), redesignated subsec. (g) as (e) and struck out former subsec. (e) which related to logistics indicators.

Subsec. (e)(1). Pub. L. 113-291, § 321(5), substituted “National Response Framework” for “National Response Plan”.

Subsec. (f). Pub. L. 113-291, § 321(2), (4), redesignated subsec. (h) as (f) and struck out former subsec. (f) which related to unit readiness indicators.

Subsec. (f)(3). Pub. L. 113-291, § 321(6), added par. (3).

Subsec. (g). Pub. L. 113-291, § 321(4), redesignated subsec. (i) as (g). Former subsec. (g) redesignated (e).

Subsec. (h). Pub. L. 113-291, § 321(7), inserted “AND RELATED” after “SUPPORT” in heading and substituted “combat support and related agencies” for “combat support agencies” in introductory provisions of par. (1) and for “combat support agency” in introductory provisions of par. (2).

Pub. L. 113-291, § 321(4), redesignated subsec. (j) as (h). Former subsec. (h) redesignated (f).

Subsec. (i). Pub. L. 113-291, § 321(8), added subsec. (i). Former subsec. (i) redesignated (g).

Subsec. (j). Pub. L. 113-291, § 321(4), redesignated subsec. (l) as (j). Former subsec. (j) redesignated (h).

Subsec. (k). Pub. L. 113-291, § 321(2), struck out subsec. (k) which related to major exercise assessments.

Subsec. (l). Pub. L. 113-291, § 321(4), redesignated subsec. (l) as (j).

2013—Subsec. (a). Pub. L. 113-66, § 331(a)(1), substituted “Each report” for “The report for a quarter” and “(f), (g), (h), (i), (j), and (k), and the reports for the second and fourth quarters of a calendar year shall also contain the information required by subsection (e)” for “(e), and (f)”.

Subsec. (d)(1)(A). Pub. L. 113-66, § 331(a)(2)(A)(i), substituted “, including an assessment of the manning of units (authorized versus assigned numbers of personnel) for units not scheduled for deployment and the timing of the arrival of personnel into units preparing for deployments.” for “, including the extent to which members of the armed forces are serving in positions outside of their military occupational specialty, serving in grades other than the grades for which they are qualified, or both.”

Subsec. (d)(1)(B). Pub. L. 113-66, § 331(a)(2)(A)(ii), inserted “unit” before “personnel strength”.

Subsec. (d)(2). Pub. L. 113-66, § 331(a)(2)(B), amended par. (2) generally. Prior to amendment, text read as follows:

- “(A) Recruit quality.
- “(B) Borrowed manpower.
- “(C) Personnel stability.”

Subsec. (d)(3), (4). Pub. L. 113-66, § 331(a)(2)(C), (D), redesignated par. (4) as (3), substituted “Mission rehearsals” for “Training commitments” in subpar. (D), and struck out former par. (3). Prior to amendment, text of par. (3) read as follows:

- “(A) Personnel morale.
- “(B) Recruiting status.”

Subsec. (d)(5) to (7). Pub. L. 113-66, § 331(a)(5)(A), redesignated pars. (5) to (7) of subsec. (d) as pars. (1) to (3), respectively, of subsec. (e).

Subsec. (e). Pub. L. 113-66, § 331(a)(4), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 113-66, § 331(a)(5)(A), redesignated par. (5) of subsec. (d) as par. (1) of subsec. (e).

Subsec. (e)(1)(E). Pub. L. 113-66, § 331(a)(5)(B), struck out subpar. (E) which read as follows: “Condition of nonpacing items.”

Subsec. (e)(2). Pub. L. 113-66, § 331(a)(5)(A), redesignated par. (6) of subsec. (d) as par. (2) of subsec. (e).

Subsec. (e)(2)(A). Pub. L. 113-66, § 331(a)(5)(C)(i), substituted “Depot maintenance” for “Maintenance”.

Subsec. (e)(2)(B). Pub. L. 113-66, § 331(a)(5)(C)(ii), added subpar. (B).

Subsec. (e)(3). Pub. L. 113-66, § 331(a)(5)(A), redesignated par. (7) of subsec. (d) as par. (3) of subsec. (e).

Subsecs. (f), (g). Pub. L. 113-66, § 331(a)(3), redesignated subsecs. (e) and (f) as (f) and (g), respectively. Former subsec. (g) redesignated (l).

Subsecs. (h) to (k). Pub. L. 113-66, § 331(a)(6), added subsecs. (h) to (k).

Subsec. (l). Pub. L. 113-66, § 331(a)(3), redesignated subsec. (g) as (l).

2008—Subsec. (a). Pub. L. 110-181, § 351(b)(1), substituted “(e), and (f)” for “and (e)”.

Subsecs. (f), (g). Pub. L. 110-181, § 351(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

1999—Pub. L. 106-65, § 361(d)(3), repealed Pub. L. 105-261, § 373(d)(2). See 1998 Amendment note below.

Subsec. (a). Pub. L. 106-65, § 361(e), substituted “45 days” for “30 days”.

1998—Pub. L. 105-261, §373(d)(2), which directed the repeal of this section effective June 1, 2001, was repealed by Pub. L. 106-65, §361(d)(3).

1997—Pub. L. 105-85 substituted “Quarterly reports: personnel and unit readiness” for “Quarterly readiness reports” in section catchline and amended text generally. Prior to amendment, text consisted of subssecs. (a) to (c) relating to requirement for submission of quarterly readiness reports, matters to be included in reports, and form of reports.

1996—Pub. L. 104-201 renumbered section 452 of this title as this section.

#### EFFECTIVE DATE OF PUB. L. 105-261

Pub. L. 105-261, div. A, title III, §373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which provided that the repeal of this section was to be effective June 1, 2001, was repealed by Pub. L. 106-65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

#### EFFECTIVE DATE

Pub. L. 104-106, div. A, title III, §361(b), Feb. 10, 1996, 110 Stat. 273, provided that: “Section 452 [now 482] of title 10, United States Code, as added by subsection (a), shall take effect with the calendar-year quarter during which this Act is enacted [enacted Feb. 10, 1996].”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (a) of this section requiring submittal of quarterly reports to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### QUARTERLY REPORTS ON PERSONNEL AND UNIT READINESS

Pub. L. 110-181, div. A, title III, §351(c)(2), Jan. 28, 2008, 122 Stat. 71, provided that: “The amendment made by subsection (b) [amending this section] shall apply with respect to the quarterly report required under section 482 of title 10, United States Code, for the second quarter of fiscal year 2009 and each subsequent report required under that section.”

#### QUARTERLY READINESS REPORT REQUIREMENT

Pub. L. 105-261, div. A, title III, §373(d)(1), Oct. 17, 1998, 112 Stat. 1992, which provided that effective Jan. 15, 2000, or the date on which the first report of the Secretary of Defense is submitted under section 117(e) of this title, whichever is later, the Secretary of Defense was to cease to submit reports under this section, was repealed by Pub. L. 106-65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

#### IMPLEMENTATION PLAN TO EXAMINE READINESS INDICATORS

Pub. L. 105-85, div. A, title III, §322(b), Nov. 18, 1997, 111 Stat. 1675, directed the Secretary of Defense, not later than Jan. 15, 1998, to submit to the congressional defense committees a plan specifying the manner in which the additional reporting requirement of subsec. (d) of this section would be implemented and the criteria proposed to be used to evaluate the readiness indicators identified in subsec. (d).

#### TRANSITION TO COMPLETE REPORT

Pub. L. 105-85, div. A, title III, §322(d), Nov. 18, 1997, 111 Stat. 1675, provided that until the report under this section for the third quarter of 1998 was submitted, the Secretary of Defense was authorized to omit the information required by subsec. (d) of this section if the Secretary determined that it was impracticable to comply.

### **[§ 483. Repealed. Pub. L. 113-66, div. A, title X, § 1084(a)(1)(A), Dec. 26, 2013, 127 Stat. 871]**

Section, added Pub. L. 105-85, div. A, title III, §323(a), Nov. 18, 1997, 111 Stat. 1675; amended Pub. L. 106-65, div.

A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106-398, §1 [[div. A], title III, §372], Oct. 30, 2000, 114 Stat. 1654, 1654A-80, related to reports on transfers from high-priority readiness appropriations.

### **§ 484. Quarterly cyber operations briefings**

(a) BRIEFINGS REQUIRED.—The Secretary of Defense shall provide to the congressional defense committees quarterly briefings on all offensive and significant defensive military operations in cyberspace carried out by the Department of Defense during the immediately preceding quarter.

(b) ELEMENTS.—Each briefing under subsection (a) shall include, with respect to the military operations in cyberspace described in such subsection, the following:

(1) An update, set forth separately for each geographic and functional command, that describes the operations carried out by the command and any hostile cyber activity directed at the command.

(2) An overview of authorities and legal issues applicable to the operations, including any relevant legal limitations.

(3) An outline of any interagency activities and initiatives relating to the operations.

(4) Any other matters the Secretary determines to be appropriate.

(Added Pub. L. 112-239, div. A, title IX, §939(a), Jan. 2, 2013, 126 Stat. 1888; amended Pub. L. 115-91, div. A, title XVI, §1632(a), Dec. 12, 2017, 131 Stat. 1738.)

#### PRIOR PROVISIONS

A prior section 484, added Pub. L. 105-85, div. A, title III, §324(a)(1), Nov. 18, 1997, 111 Stat. 1677, which related to annual report on aircraft inventory, was repealed by Pub. L. 112-81, div. A, title X, §1061(6)(A), Dec. 31, 2011, 125 Stat. 1583.

#### AMENDMENTS

2017—Pub. L. 115-91 designated existing provisions as subsec. (a), inserted heading, substituted “congressional defense committees” for “Committees on Armed Services of the House of Representatives and the Senate”, and added subsec. (b).

#### EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-91, div. A, title XVI, §1632(b), Dec. 12, 2017, 131 Stat. 1738, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 12, 2017], and shall apply with respect to briefings required [to] be provided under section 484 of title 10, United States Code, on or after that date.”

#### INITIAL BRIEFING

Pub. L. 112-239, div. A, title IX, §939(b), Jan. 2, 2013, 126 Stat. 1888, provided that: “The first briefing required under section 484 of title 10, United States Code, as added by subsection (a), shall be provided not later than March 1, 2013.”

### **§ 485. Monthly counterterrorism operations briefings**

(a) BRIEFINGS REQUIRED.—The Secretary of Defense shall provide to the congressional defense committees monthly briefings outlining Department of Defense counterterrorism operations and related activities.

(b) ELEMENTS.—Each briefing under subsection (a) shall include each of the following:

(1) A global update on activity within each geographic combatant command and how such

activity supports the respective theater campaign plan.

(2) An overview of authorities and legal issues, including limitations.

(3) An overview of interagency activities and initiatives.

(4) Any other matters the Secretary considers appropriate.

(Added Pub. L. 113-66, div. A, title X, §1042(a)(1), Dec. 26, 2013, 127 Stat. 857; amended Pub. L. 114-328, div. A, title X, §1031(a), (b), Dec. 23, 2016, 130 Stat. 2389.)

#### PRIOR PROVISIONS

A prior section 485, added Pub. L. 105-261, div. A, title IX, §923(b)(1), Oct. 17, 1998, 112 Stat. 2105; amended Pub. L. 106-65, div. A, title IX, §931, title X, §1067(1), Oct. 5, 1999, 113 Stat. 726, 774; Pub. L. 107-107, div. A, title IX, §922, Dec. 28, 2001, 115 Stat. 1198; Pub. L. 110-417, [div. A], title II, §241(a), Oct. 14, 2008, 122 Stat. 4395, related to biennial reports on joint and service concept development and experimentation, prior to repeal by Pub. L. 112-81, div. A, title X, §1061(7)(A), Dec. 31, 2011, 125 Stat. 1583.

#### AMENDMENTS

2016—Pub. L. 114-328, §1031(b), substituted “Monthly” for “Quarterly” in section catchline.

Subsec. (a). Pub. L. 114-328, §1031(a), substituted “monthly” for “quarterly”.

#### **[§ 486. Repealed. Pub. L. 112-81, div. A, title X, § 1061(8)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, added Pub. L. 106-65, div. A, title II, §241(a)(1), Oct. 5, 1999, 113 Stat. 549, related to quadrennial report on emerging operational concepts.

#### **[§ 487. Repealed. Pub. L. 112-81, div. A, title X, § 1061(9)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, added Pub. L. 106-65, div. A, title IX, §923(b)(1), Oct. 5, 1999, 113 Stat. 724; amended Pub. L. 108-136, div. A, title V, §541(c), Nov. 24, 2003, 117 Stat. 1477; Pub. L. 108-375, div. A, title X, §1084(d)(4), Oct. 28, 2004, 118 Stat. 2061, related to annual report on unit operations tempo and personnel tempo.

#### **§ 488. Management and review of electromagnetic spectrum**

(a) ORGANIZATION.—The Secretary of Defense shall—

(1) ensure the effective organization and management of the electromagnetic spectrum used by the Department of Defense; and

(2) establish an enduring review and evaluation process that—

(A) considers all requirements relating to such spectrum; and

(B) ensures that all users of such spectrum, regardless of the classification of such uses, are involved in the decision-making process of the Department concerning the potential sharing, reassigning, or reallocating of such spectrum, or the relocation of the uses by the Department of such spectrum.

(b) REPORTS.—(1) From time to time as the Secretary and the Chairman of the Joint Chiefs of Staff determine useful for the effective oversight of the access by the Department to electromagnetic spectrum, but not less frequently than every two years, the Secretary and the

Chairman shall jointly submit to the congressional defense committees a report on national policy plans regarding implications for such access in bands identified for study for potential reallocation, or under consideration for potential reallocation, by the Policy and Plans Steering Group established by the National Telecommunications and Information Administration.

(2) Each report under paragraph (1) shall address, with respect to the electromagnetic spectrum used by the Department that is covered by the report, the implications to the missions of the Department resulting from sharing, reassigning, or reallocating the spectrum, or relocating the uses by the Department of such spectrum, if the Secretary and the Chairman jointly determine that such sharing, reassigning, reallocating, or relocation—

(A) would potentially create a loss of essential military capability to the missions of the Department, as determined under feasibility assessments to ensure comparable capability; or

(B) would not likely be possible within the 10-year period beginning on the date of the report.

(Added Pub. L. 108-136, div. A, title X, §1054(a), Nov. 24, 2003, 117 Stat. 1615; amended Pub. L. 113-66, div. A, title X, §1072(a), (b)(1), Dec. 26, 2013, 127 Stat. 868, 869; Pub. L. 113-291, div. A, title X, §1071(f)(7), Dec. 19, 2014, 128 Stat. 3510; Pub. L. 114-328, div. A, title X, §1065(a)(1), Dec. 23, 2016, 130 Stat. 2409.)

#### AMENDMENTS

2016—Pub. L. 114-328 amended section generally. Prior to amendment, section required Secretary of Defense, in consultation with Director of National Intelligence and Secretary of Commerce, to prepare strategic plan for the management of the electromagnetic spectrum.

2014—Subsec. (a). Pub. L. 113-291 inserted a comma after “Every three years” in introductory provisions.

2013—Pub. L. 113-66, §1072(b)(1), struck out “: biennial strategic plan” after “spectrum” in section catchline.

Subsec. (a). Pub. L. 113-66, §1072(a)(1), substituted “three years” for “other year, and in time for submission to Congress under subsection (b),”, inserted “, in consultation with the Director of National Intelligence and the Secretary of Commerce,” after “Secretary of Defense”, substituted “the national security of the United States. Each such strategic plan shall include each of the following:” for “the mission of the Department of Defense.”, and added pars. (1) to (3).

Subsec. (b). Pub. L. 113-66, §1072(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 113-66, §1072(a)(3), designated existing provisions as par. (1) and added par. (2).

Pub. L. 113-66, §1072(a)(2), redesignated subsec. (b) as (c).

#### ISSUANCE OF INSTRUCTION OR DIRECTIVE

Pub. L. 114-328, div. A, title X, §1065(b), Dec. 23, 2016, 130 Stat. 2410, provided that: “The Secretary of Defense shall—

“(1) not later than 180 days after the date of the enactment of this Act [Dec. 23, 2016], issue a Department of Defense Instruction or a Department of Defense Directive to carry out section 488(a) of title 10, United States Code, as amended by subsection (a); and

“(2) upon the date of the issuance of the instruction or directive issued under paragraph (1), submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and

the House of Representatives] such instruction or directive.”

**[§ 489. Repealed. Pub. L. 113–291, div. A, title III, § 331(a), Dec. 19, 2014, 128 Stat. 3344]**

Section, added Pub. L. 108–375, div. A, title X, § 1033(a), Oct. 28, 2004, 118 Stat. 2047, related to annual report on Department of Defense operation and financial support for military museums.

**[§ 490. Repealed. Pub. L. 112–81, div. A, title X, § 1061(10)(A), Dec. 31, 2011, 125 Stat. 1583]**

Section, added Pub. L. 110–181, div. A, title IX, § 912(a), Jan. 28, 2008, 122 Stat. 280; amended Pub. L. 111–84, div. A, title X, § 1073(a)(6), Oct. 28, 2009, 123 Stat. 2472, related to management of space cadre personnel and submission of a biennial report.

**[§ 490a. Renumbered § 492]**

**CHAPTER 24—NUCLEAR POSTURE**

Sec.	
491.	Nuclear weapons employment strategy of the United States: reports on modification of strategy.
492.	Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system.
493.	Reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States.
494.	Nuclear force reductions.
495.	Strategic delivery systems.
496.	Consideration of expansion of nuclear forces of other countries.
497.	Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe.
497a.	Notification required for reduction or consolidation of dual-capable aircraft based in Europe.
498.	Unilateral change in nuclear weapons stockpile of the United States.
499.	Annual assessment of cyber resiliency of nuclear command and control system.
499a.	Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces.

**AMENDMENTS**

2017—Pub. L. 115–91, div. A, title XVI, §§ 1651(b), 1652(b), Dec. 12, 2017, 131 Stat. 1757, 1758, added items 499 and 499a.

2013—Pub. L. 113–66, div. A, title X, § 1051(b)(2), Dec. 26, 2013, 127 Stat. 859, added item 497a.

Pub. L. 112–239, div. A, title X, §§ 1031(b)(1), (3)(C)(i), 1033(b)(2)(A), 1035(b), 1036(b), 1037(b)(2), 1038(b), Jan. 2, 2013, 126 Stat. 1918, 1919, 1921, 1924, 1925, 1927, added chapter heading and items 491 to 498.

**§ 491. Nuclear weapons employment strategy of the United States: reports on modification of strategy**

(a) REPORTS.—By not later than 60 days before the date on which the President implements a nuclear weapons employment strategy of the United States that differs from the nuclear weapons employment strategy of the United States then in force, the President shall submit to Congress a report setting forth the following:

(1) A description of the modifications to the nuclear weapons employment strategy, plans, and options of the United States made by the strategy so issued.

(2) An assessment of effects of such modification for the nuclear posture of the United States.

(3) The implication of such changes on the flexibility and resilience of the strategic forces of the United States and the ability of such forces to support the goals of the United States with respect to nuclear deterrence, extended deterrence, assurance, and defense.

(4) The extent to which such modifications include an increased reliance on conventional or non-nuclear global strike capabilities or missile defenses of the United States.

(b) ANNUAL BRIEFINGS.—Not later than March 15 of each year, the Secretary of Defense shall provide to the congressional defense committees a briefing regarding the nuclear weapons employment strategy, plans, and options of the United States.

(c) REPORTS ON 2010 NUCLEAR POSTURE REVIEW IMPLEMENTATION STUDY DECISIONS.—During each of fiscal years 2012 through 2021, not later than 60 days before the date on which the President carries out the results of the decisions made pursuant to the 2010 Nuclear Posture Review Implementation Study that would alter the nuclear weapons employment strategy, guidance, plans, or options of the United States, the President shall—

(1) ensure that the annual report required under section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1576) is transmitted to Congress, if so required;

(2) ensure that the report required under section 494(a)(2)(A) of this title is transmitted to Congress, if so required under such section; and

(3) transmit to the congressional defense committees a report providing the high-, medium-, and low- confidence assessments of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) as to whether the United States will have significant warning of a strategic surprise or breakout caused by foreign nuclear weapons developments.

(Added Pub. L. 112–81, div. A, title X, § 1046(b)(1), Dec. 31, 2011, 125 Stat. 1579; amended Pub. L. 112–239, div. A, title X, §§ 1031(a), 1032, Jan. 2, 2013, 126 Stat. 1917, 1919; Pub. L. 113–66, div. A, title X, § 1052(b), Dec. 26, 2013, 127 Stat. 861; Pub. L. 113–291, div. A, title X, § 1071(c)(10), Dec. 19, 2014, 128 Stat. 3509.)

**CODIFICATION**

Section was formerly part of chapter 23 of this title, prior to being transferred to this chapter by Pub. L. 112–239, § 1031(a)(1).

**REFERENCES IN TEXT**

Section 1043(a)(1) of the National Defense Authorization Act for Fiscal Year 2012, referred to in subsec. (c)(1), is section 1043(a)(1) of title X of Pub. L. 112–81, div. A, Dec. 31, 2011, 125 Stat. 1579, which is not classified to the Code.

**AMENDMENTS**

2014—Subsec. (c)(3). Pub. L. 113–291 substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))”.

2013—Pub. L. 112–239, § 1031(a)(2)(A)–(D), inserted “weapons” after “Nuclear” in section catchline, sub-



stituted “nuclear weapons employment strategy” for “nuclear employment strategy” in two places in introductory provisions and “to the nuclear weapons employment strategy, plans, and options of” for “to nuclear employment strategy of” in par. (1), and added par. (4).

Subsec. (a). Pub. L. 112-239, §1032(a), substituted “By not later than 60 days before the date on which the President implements” for “On the date on which the President issues” in introductory provisions.

Pub. L. 112-239, §1031(a)(2)(E), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (b). Pub. L. 112-239, §1031(a)(2)(F), added subsec. (b).

Subsec. (c). Pub. L. 113-66, §1052(b), redesignated subsec. (d) as (c) and struck out former subsec. (c). Prior to amendment, text of subsec. (c) read as follows:

“(1) The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system of the United States that is reported to the Secretary of Defense or the Nuclear Weapons Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.

“(2) In this subsection, the term ‘anomaly’ means any unplanned, irregular, or abnormal event, whether unexplained or caused intentionally or unintentionally by a person or a system.”

Pub. L. 112-239, §1031(a)(2)(F), added subsec. (c).

Subsec. (d). Pub. L. 113-66, §1052(b)(2), redesignated subsec. (d) as (c).

Pub. L. 112-239, §1032(b), added subsec. (d).

#### ESTABLISHMENT OF NUCLEAR COMMAND AND CONTROL INTELLIGENCE FUSION CENTER

Pub. L. 115-91, div. A, title XVI, §1655, Dec. 12, 2017, 131 Stat. 1760, provided that:

“(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense and the Director of National Intelligence shall jointly establish an intelligence fusion center to effectively integrate and unify the protection of nuclear command, control, and communications programs, systems, and processes and continuity of government programs, systems, and processes.

“(b) CHARTER.—In establishing the fusion center under subsection (a), the Secretary and the Director shall develop a charter for the fusion center that includes the following:

“(1) To carry out the duties of the fusion center, a description of—

“(A) the roles and responsibilities of officials and elements of the Federal Government, including a detailed description of the organizational relationships of such officials and the elements of the Federal Government that are key stakeholders;

“(B) the organization reporting chain of the fusion center;

“(C) the staffing of the fusion center;

“(D) the processes of the fusion center; and

“(E) how the fusion center integrates with other elements of the Federal Government.

“(2) The management and administration processes required to carry out the fusion center, including with respect to facilities and security authorities.

“(3) Procedures to ensure that the appropriate number of staff of the fusion center have the security clearance necessary to access information on the programs, systems, and processes that relate, either wholly or substantially, to nuclear command, control, and communications or continuity of government, including with respect to both the programs, systems, and processes that are designated as special access programs (as described in section 4.3 of Executive Order 13526 (50 U.S.C. 3161 note) or any successor Executive order) and the programs, systems, and processes that contain sensitive compartmented information.

“(c) COORDINATION.—In establishing the fusion center under subsection (a), the Secretary and the Director

shall coordinate with the elements of the Federal Government that the Secretary and Director determine appropriate.

“(d) REPORTS.—

“(1) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary and the Director shall jointly submit to the appropriate congressional committees a report containing—

“(A) the charter for the fusion center developed under subsection (b); and

“(B) a plan on the budget and staffing of the fusion center.

“(2) ANNUAL REPORTS.—At the same time as the President submits to Congress the annual budget request under section 1105 of title 31, United States Code, for fiscal year 2019 and each fiscal year thereafter, the Secretary and the Director shall submit to the appropriate congressional committees a report on the fusion center, including, with respect to the period covered by the report—

“(A) any updates to the plan on the budget and staffing of the fusion center;

“(B) any updates to the charter developed under subsection (b); and

“(C) a summary of the activities and accomplishments of the fusion center.

“(3) SUNSET.—No report is required under this subsection after December 31, 2021.

“(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means—

“(1) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(2) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.”

#### SECURITY OF NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS SYSTEM FROM COMMERCIAL DEPENDENCIES

Pub. L. 115-91, div. A, title XVI, §1656, Dec. 12, 2017, 131 Stat. 1761, provided that:

“(a) CERTIFICATION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall certify to the congressional defense committees whether the Secretary uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, to carry out—

“(1) the nuclear deterrence mission of the Department of Defense, including with respect to nuclear command, control, and communications, integrated tactical warning and attack assessment, and continuity of government; or

“(2) the homeland defense mission of the Department, including with respect to ballistic missile defense.

“(b) PROHIBITION AND MITIGATION.—

“(1) PROHIBITION.—Except as provided by paragraph (2), beginning on the date that is one year after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense may not procure or obtain, or extend or renew a contract to procure or obtain, any equipment, system, or service to carry out the missions described in paragraphs (1) and (2) of subsection (a) that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

“(2) WAIVER.—The Secretary may waive the prohibition in paragraph (1) on a case-by-case basis for a single one-year period if the Secretary—

“(A) determines such waiver to be in the national security interests of the United States; and

“(B) certifies to the congressional committees that—

“(i) there are sufficient mitigations in place to guarantee the ability of the Secretary to carry

out the missions described in paragraphs (1) and (2) of subsection (a); and

“(ii) the Secretary is removing the use of covered telecommunications equipment or services in carrying out such missions.

“(3) DELEGATION.—The Secretary may not delegate the authority to make a waiver under paragraph (2) to any official other than the Deputy Secretary of Defense or the co-chairs of the Council on Oversight of the National Leadership Command, Control, and Communications System established by section 171a of title 10, United States Code.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘congressional defense committees’ has the meaning given that term in section 101(a)(16) of title 10, United States Code.

“(2) The term ‘covered foreign country’ means any of the following:

“(A) The People’s Republic of China.

“(B) The Russian Federation.

“(3) The term ‘covered telecommunications equipment or services’ means any of the following:

“(A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

“(B) Telecommunications services provided by such entities or using such equipment.

“(C) Telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.”

SECURITY CLASSIFICATION GUIDE FOR PROGRAMS RELATING TO NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND NUCLEAR DETERRENCE

Pub. L. 115–91, div. A, title XVI, §1658, Dec. 12, 2017, 131 Stat. 1763, provided that:

“(a) REQUIREMENT FOR SECURITY CLASSIFICATION GUIDE.—Not later than 90 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary of Defense shall require the issuance of a security classification guide for each covered program to ensure the protection of sensitive information from public disclosure.

“(b) REQUIREMENTS.—Each security classification guide issued pursuant to subsection (a) shall be—

“(1) approved by—

“(A) the Council on Oversight of the National Leadership Command, Control, and Communications System with respect to covered programs under paragraph (1) or (2) of subsection (c) [probably should be “subsection (e)”]; or

“(B) the Nuclear Weapons Council with respect to covered programs under paragraph (3) of such subsection; and

“(2) issued not later than March 19, 2019, with respect to a covered program in existence as of such date.

“(c) ANNUAL NOTIFICATIONS.—On an annual basis during the three-year period beginning on the date of the enactment of this Act [Dec. 12, 2017], the Deputy Secretary of Defense, without delegation, shall notify the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] of the status of implementing subsection (a), including a description of any challenges to such implementation.

“(d) EXCLUSION.—This section shall not apply with respect to restricted data covered by chapter 12 of the Atomic Energy Act of 1954 (42 U.S.C. 2161 et seq.).

“(e) COVERED PROGRAM DEFINED.—In this section, the term ‘covered program’ means programs of the Department of Defense in existence on or after the date of the enactment of this Act [Dec. 12, 2017] relating to any of the following:

“(1) Continuity of government.

“(2) Nuclear command, control, and communications.

“(3) Nuclear deterrence.”

EVALUATION AND ENHANCED SECURITY OF SUPPLY CHAIN FOR NUCLEAR COMMAND, CONTROL, AND COMMUNICATIONS AND CONTINUITY OF GOVERNMENT PROGRAMS

Pub. L. 115–91, div. A, title XVI, §1659, Dec. 12, 2017, 131 Stat. 1764, provided that:

“(a) EVALUATIONS OF SUPPLY CHAIN VULNERABILITIES.—

“(1) IN GENERAL.—Not later than December 31, 2019, and in accordance with the plan under paragraph (2)(A), the Secretary of Defense shall conduct evaluations of the supply chain vulnerabilities of each covered program.

“(2) PLAN.—

“(A) DEVELOPMENT.—The Secretary shall develop a plan to carry out the evaluations under paragraph (1), including with respect to the personnel and resources required to carry out such evaluations.

“(B) SUBMISSION.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] the plan under subparagraph (A).

“(3) WAIVER.—The Secretary may waive, on a case-by-case basis with respect to a weapons system, a program, or a system of systems, of a covered program, either the requirement to conduct an evaluation under paragraph (1) or the deadline specified in such paragraph if the Secretary certifies to the congressional defense committees before such date that all known supply chain vulnerabilities of such weapons system, program, or system of systems have minimal consequences for the capability of such weapons system, program, or system of systems to meet operational requirements or otherwise satisfy mission requirements.

“(4) RISK MITIGATION STRATEGIES.—In carrying out an evaluation under paragraph (1) with respect to a covered program specified in subparagraph (B) or (C) of subsection (c)(2), the Secretary shall develop strategies for mitigating the risks of supply chain vulnerabilities identified in the course of such evaluation.

“(b) PRIORITIZATION OF CERTAIN SUPPLY CHAIN RISK MANAGEMENT EFFORTS.—

“(1) INSTRUCTIONS.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], the Secretary shall issue a Department of Defense Instruction, or update such an Instruction, establishing the prioritization of supply chain risk management programs, including supply chain risk management threat assessment reporting, to ensure that acquisition and sustainment programs relating to covered programs receive the highest priority of such supply chain risk management programs and reporting.

“(2) REQUIREMENTS.—

“(A) ESTABLISHMENT.—The Secretary shall establish requirements to carry out supply chain risk management threat assessment collections and analyses under acquisition and sustainment programs relating to covered programs.

“(B) SUBMISSION.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees the requirements established under subparagraph (A).

“(c) DEFINITIONS.—In this section:

“(1) The term ‘appropriate congressional committees’ means—

“(A) the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

“(2) The term ‘covered programs’ means programs relating to any of the following:

“(A) Nuclear weapons.

“(B) Nuclear command, control, and communications.

“(C) Continuity of government.

“(D) Ballistic missile defense.”

STATEMENT OF POLICY ON THE NUCLEAR TRIAD

Pub. L. 114-92, div. A, title XVI, §1664, Nov. 25, 2015, 129 Stat. 1128, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the triad of strategic nuclear delivery systems plays a critical role in ensuring the national security of the United States; and

“(2) retaining all three legs of the nuclear triad is among the highest priorities of the Department of Defense and will best maintain strategic stability at a reasonable cost, while hedging against potential technical problems and vulnerabilities.

“(b) STATEMENT OF POLICY.—It is the policy of the United States—

“(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

“(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise missiles;

“(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

“(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

“(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

“(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent;

“(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members; and

“(5) to achieve a modern and responsive nuclear infrastructure to support the full spectrum of deterrence requirements.”

Pub. L. 113-291, div. A, title XVI, §1652, Dec. 19, 2014, 128 Stat. 3654, provided that: “It is the policy of the United States—

“(1) to operate, sustain, and modernize or replace the triad of strategic nuclear delivery systems consisting of—

“(A) heavy bombers equipped with nuclear gravity bombs and air-launched nuclear cruise missiles;

“(B) land-based intercontinental ballistic missiles equipped with nuclear warheads that are capable of carrying multiple independently targetable reentry vehicles; and

“(C) ballistic missile submarines equipped with submarine launched ballistic missiles and multiple nuclear warheads;

“(2) to operate, sustain, and modernize or replace a capability to forward-deploy nuclear weapons and dual-capable fighter-bomber aircraft;

“(3) to deter potential adversaries and assure allies and partners of the United States through strong and long-term commitment to the nuclear deterrent of the United States and the personnel, systems, and infrastructure that comprise such deterrent; and

“(4) to ensure that the members of the Armed Forces who operate the nuclear deterrent of the United States have the training, resources, and national support required to execute the critical national security mission of the members.”

DELEGATION OF REPORTING FUNCTIONS SPECIFIED IN SECTION 491 OF TITLE 10, UNITED STATES CODE

Memorandum of President of the United States, June 19, 2013, 78 F.R. 37923, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to you the reporting functions conferred upon the President by section 491 of title 10, United States Code.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

**§ 492. Biennial assessment and report on the delivery platforms for nuclear weapons and the nuclear command and control system**

(a) BIENNIAL ASSESSMENTS.—(1) For each even-numbered year, each covered official shall assess the safety, security, reliability, sustainability, performance, and military effectiveness of, and the ability to meet operational availability requirements for, the systems described in paragraph (2) for which such official has responsibility.

(2) The systems described in this paragraph are the following:

(A) Each type of delivery platform for nuclear weapons.

(B) The nuclear command and control system.

(b) BIENNIAL REPORT.—(1) Not later than December 1 of each even-numbered year, each covered official shall submit to the Secretary of Defense and the Nuclear Weapons Council established by section 179 of this title a report on the assessments conducted under subsection (a).

(2) Each report under paragraph (1) shall include the following:

(A) The results of the assessment.

(B) An identification and discussion of any capability gaps or shortfalls with respect to the systems described in subsection (a)(2) covered under the assessment.

(C) An identification and discussion of any risks with respect to meeting mission or capability requirements.

(D) In the case of an assessment by the Commander of the United States Strategic Command, if the Commander identifies any deficiency with respect to a nuclear weapons delivery platform covered under the assessment, a discussion of the relative merits of any other nuclear weapons delivery platform type or compensatory measure that would accomplish the mission of such nuclear weapons delivery platform.

(E) An identification and discussion of any matter having an adverse effect on the capability of the covered official to accurately determine the matters covered by the assessment.

(c) REPORT TO PRESIDENT AND CONGRESS.—(1) Not later than March 1 of each year following a year for which a report under subsection (b) is submitted, the Secretary of Defense shall submit to the President a report containing—

(A) each report under subsection (b) submitted during the previous year, as originally submitted to the Secretary;

(B) any comments that the Secretary considers appropriate with respect to each such report;

(C) any conclusions that the Secretary considers appropriate with respect to the safety,

security, reliability, sustainability, performance, or military effectiveness of the systems described in subsection (a)(2); and

(D) any other information that the Secretary considers appropriate.

(2) Not later than March 15 of each year during which a report under paragraph (1) is submitted, the President shall transmit to the congressional defense committees the report submitted to the President under paragraph (1), including any comments the President considers appropriate.

(3) Each report under this subsection may be in classified form if the Secretary of Defense determines it necessary.

(d) COVERED OFFICIAL DEFINED.—In this section, the term “covered official” means—

(1) the Commander of the United States Strategic Command;

(2) the Director of the Strategic Systems Program of the Navy; and

(3) the Commander of the Global Strike Command of the Air Force.

(Added Pub. L. 112–81, div. A, title X, §1041(a), Dec. 31, 2011, 125 Stat. 1573, §490a; renumbered §492, Pub. L. 112–239, div. A, title X, §1031(b)(3)(A)(i), Jan. 2, 2013, 126 Stat. 1918; Pub. L. 113–291, div. A, title XVI, §1642, Dec. 19, 2014, 128 Stat. 3650.)

#### AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113–291 inserted “, and the ability to meet operational availability requirements for,” after “military effectiveness of”.

2013—Pub. L. 112–239 renumbered section 490a of this title as this section.

#### INITIAL ASSESSMENT AND REPORTS

Pub. L. 112–81, div. A, title X, §1041(b), Dec. 31, 2011, 125 Stat. 1574, as amended by Pub. L. 112–239, div. A, title X, §1031(b)(4), Jan. 2, 2013, 126 Stat. 1919; Pub. L. 113–66, div. A, title X, §1091(b)(6), Dec. 26, 2013, 127 Stat. 876, provided that: “Not later than 30 days after the date of enactment of this Act [Dec. 31, 2011], each covered official, as such term is defined in subsection (d) of section 492 of title 10, United States Code, shall conduct an initial assessment as described by subsection (a) of such section and submit an initial report as described by subsection (b) of such section. The requirements of subsection (c) of such section shall apply with respect to the report submitted under this subsection.”

[Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(6) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.]

### § 493. Reports to Congress on the modification of the force structure for the strategic nuclear weapons delivery systems of the United States

Whenever after December 31, 2011, the President proposes a modification of the force structure for the strategic nuclear weapons delivery systems of the United States, the President shall submit to Congress a report on the modification. The report shall include a description of the manner in which such modification will maintain for the United States a range of strategic nuclear weapons delivery systems appropriate for the current and anticipated threats faced by the United States when compared with the current force structure of strategic nuclear weapons delivery systems.

(Added and amended Pub. L. 112–239, div. A, title X, §1031(b)(3)(B), (C)(ii), Jan. 2, 2013, 126 Stat. 1918, 1919; Pub. L. 113–66, div. A, title X, §1091(b)(5), Dec. 26, 2013, 127 Stat. 876.)

#### CODIFICATION

The text of this section is based on Pub. L. 112–81, div. A, title X, §1077, Dec. 31, 2011, 125 Stat. 1596. Section 1077 of Pub. L. 112–81, formerly classified to section 2514 of Title 50, War and National Defense, was transferred to this section by Pub. L. 112–239, §1031(b)(3)(B)(i)–(iii).

#### AMENDMENTS

2013—Pub. L. 112–239, §1031(b)(3)(C)(ii), made technical amendments to conform section enumerator and catchline to the style of this title. See Codification note above.

Pub. L. 112–239, §1031(b)(3)(B)(iv), as amended by Pub. L. 113–66, §1091(b)(5), substituted “December 31, 2011,” for “the date of the enactment of this Act”.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 113–66, div. A, title X, §1091(b), Dec. 26, 2013, 127 Stat. 876, provided in part that the amendment made by section 1091(b)(5) is effective as of Jan. 2, 2013, and as if included in Pub. L. 112–239 as enacted.

### § 494. Nuclear force reductions

(a) IMPLEMENTATION OF NEW START TREATY.—

(1) SENSE OF CONGRESS.—It is the Sense of Congress that—

(A) the United States is committed to maintaining a safe, secure, reliable, and credible nuclear deterrent;

(B) the United States should undertake and support an enduring stockpile stewardship program and maintain and modernize nuclear weapons production capabilities and capacities to ensure the safety, security, reliability, and credibility of the United States nuclear deterrent and to meet requirements for hedging against possible international developments or technical problems;

(C) the United States should maintain nuclear weapons laboratories and plants and preserve the intellectual infrastructure, including competencies and skill sets; and

(D) the United States should provide the necessary resources to achieve these goals, using as a starting point the levels set forth in the President’s 10-year plan provided to Congress pursuant to section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549).

(2) INSUFFICIENT FUNDING.—

(A) REPORT.—During each year in which the New START Treaty is in force, if the President determines that an appropriations Act is enacted that fails to meet the resource levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2549) or if at any time determines that more resources are required to carry out such plan than were estimated, the President shall transmit to the appropriate congressional committees, within 60 days of making such a determination, a report detailing—

(i) a plan to address the resource shortfall;

(ii) if more resources are required to carry out the plan than were estimated—

(I) the proposed level of funding required; and

(II) an identification of the stockpile work, campaign, facility, site, asset, program, operation, activity, construction, or project for which additional funds are required;

(iii) any effects caused by the shortfall on the safety, security, reliability, or credibility of the nuclear forces of the United States;

(iv) whether and why, in light of the shortfall, remaining a party to the New START Treaty is still in the national interest of the United States; and

(v) a detailed explanation of why the modernization timelines established in the 2010 Nuclear Posture Review are no longer applicable.

(B) PRIOR NOTIFICATION.—If the President transmits a report under subparagraph (A), the President shall notify the appropriate congressional committees of any determination by the President to reduce the number of deployed nuclear warheads of the United States by not later than 60 days before taking any action to carry out such reduction.

(C) EXCEPTION.—The limitation in subparagraph (B) shall not apply to—

(i) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

(ii) nuclear warheads that are retired or awaiting dismantlement on the date of the report under subparagraph (A).

(D) DEFINITIONS.—In this paragraph:

(i) The term “appropriate congressional committees” means—

(I) the congressional defense committees; and

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

(ii) The term “New START Treaty” means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(b) ANNUAL REPORT ON THE NUCLEAR WEAPONS STOCKPILE OF THE UNITED STATES.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) sustained investments in the nuclear weapons stockpile and the nuclear security complex are needed to ensure a safe, secure, reliable, and credible nuclear deterrent; and

(B) such investments could enable additional future reductions in the hedge stockpile.

(2) REPORT REQUIRED.—Not later than March 1, 2012, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the nuclear weapons stockpile of the United States that includes the following:

(A) An accounting of the weapons in the stockpile as of the end of the fiscal year preceding the submission of the report that includes all weapons in the active and inactive stockpiles, both deployed and non-deployed, and all categories and readiness states of such weapons.

(B) The planned force levels for each category of nuclear weapon over the course of the future-years defense program submitted to Congress under section 221 of this title for the fiscal year following the fiscal year in which the report is submitted.

(c) NET ASSESSMENT OF NUCLEAR FORCE LEVELS REQUIRED WITH RESPECT TO CERTAIN PROPOSALS TO REDUCE THE NUCLEAR WEAPONS STOCKPILE OF THE UNITED STATES.—

(1) IN GENERAL.—If, during any year beginning after December 31, 2011, the President makes a proposal described in paragraph (2)—

(A) the Commander of United States Strategic Command shall conduct a net assessment of the current and proposed nuclear forces of the United States and of other countries that possess nuclear weapons to determine whether the nuclear forces of the United States are anticipated to be capable of meeting the objectives of the United States with respect to nuclear deterrence, extended deterrence, assurance of allies, and defense;

(B) the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the assessment described in subparagraph (A), unchanged, together with the explanatory views of the Secretary, as the Secretary deems appropriate; and

(C) the Administrator of the National Nuclear Security Administration shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the current capacities of the United States nuclear weapons infrastructure to respond to a strategic development or technical problem in the United States nuclear weapons stockpile.

(2) PROPOSAL DESCRIBED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a proposal described in this paragraph is a proposal to reduce the number of nuclear weapons in the active or inactive stockpiles of the United States to a level that is lower than the level on December 31, 2011.

(B) EXCEPTIONS.—A proposal described in this paragraph does not include—

(i) reductions that are a direct result of activities associated with routine stockpile stewardship, including stockpile surveillance, logistics, or maintenance; or

(ii) nuclear weapons retired or awaiting dismantlement on December 31, 2011.

(3) TERMINATION.—The requirement in paragraph (1) shall terminate on December 31, 2017.

(d) PREVENTION OF ASYMMETRY IN REDUCTIONS.—

(1) CERTIFICATION.—During any year in which the President recommends to reduce the number of nuclear weapons in the active and inactive stockpiles of the United States by a number that is greater than a de minimis reduction, the President shall certify in writing to the congressional defense committees whether such reductions will cause the number of nuclear weapons in such stockpiles to be fewer than the high-confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation.

(2) NOTIFICATION.—If the President certifies under paragraph (1) that the recommended number of nuclear weapons in the active and inactive stockpiles of the United States is fewer than the high-confidence assessment of the intelligence community with respect to the number of nuclear weapons in the active and inactive stockpiles of the Russian Federation, the President shall transmit to the congressional defense committees a report by the Commander of the United States Strategic Command, without change, detailing whether the recommended reduction would create a strategic imbalance or degrade deterrence and extended deterrence between the total number of nuclear weapons of the United States and the total number of nuclear weapons of the Russian Federation. The President shall transmit such report by not later than 60 days before the date on which the President carries out any such recommended reductions.

(3) EXCEPTION.—The notification in paragraph (2) shall not apply to—

(A) reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and strategic delivery systems; or

(B) nuclear warheads that are retired or awaiting dismantlement on the date of the certification under paragraph (1).

(4) ADDITIONAL VIEWS.—On the date on which the President transmits to the congressional defense committees a report by the Commander of the United States Strategic Command under paragraph (2), the President may transmit to such committees a report by the President with respect to whether the recommended reductions covered by the report of the Commander will impact the deterrence or extended deterrence capabilities of the United States.

(Added and amended Pub. L. 112-239, div. A, title X, §§1033(b)(1), (2)(B), 1034, Jan. 2, 2013, 126 Stat. 1920-1922; Pub. L. 113-66, div. A, title X, §1091(a)(7), Dec. 26, 2013, 127 Stat. 875; Pub. L. 113-291, div. A, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3509; Pub. L. 115-91, div. A, title X, §1081(a)(19), Dec. 12, 2017, 131 Stat. 1595.)

#### REFERENCES IN TEXT

Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, referred to in subsec. (a)(1)(D),

(2)(A), is section 1251 of Pub. L. 111-84, which is set out as a note under section 2523 of Title 50, War and National Defense.

#### CODIFICATION

The text of this section is based on Pub. L. 112-81, div. A, title X, §1045, Dec. 31, 2011, 125 Stat. 1577; Pub. L. 112-239, div. A, title X, §1076(a)(19), Jan. 2, 2013, 126 Stat. 1949. Section 1045 of Pub. L. 112-81, formerly classified to section 2523b of Title 50, War and National Defense, was transferred to this section by Pub. L. 112-239, §1033(b)(1)(A)-(C).

#### AMENDMENTS

2017—Subsec. (b)(2)(B). Pub. L. 115-91 substituted “of this title” for “of title 10”.

2014—Subsec. (d)(1). Pub. L. 113-291 substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))”.

2013—Pub. L. 112-239, §1033(b)(2)(B), made technical amendments to conform section enumerator and catchline to the style of this title. See Codification note above.

Subsec. (a)(2). Pub. L. 112-239, §1033(b)(1)(D), amended par. (2) generally. Prior to amendment, par. (2) related to a Presidential report to Congress regarding resource shortfalls.

Subsec. (c)(1), (2)(A), (B)(ii). Pub. L. 113-66 substituted “December 31, 2011” for “the date of the enactment of this Act”.

Subsec. (d). Pub. L. 112-239, §1034, added subsec. (d).

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-239, div. A, title X, §1033(b)(4), Jan. 2, 2013, 126 Stat. 1922, provided that: “The amendment made by paragraph (1)(D) [amending this section] shall take effect on October 1, 2012.”

#### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective Dec. 31, 2021, of provisions in subsec. (b) of this section requiring submittal of annual report to Congress, see section 1061 of Pub. L. 114-328, set out as a note under section 111 of this title.

#### REPORT ON IMPLEMENTATION OF THE NEW START TREATY

Pub. L. 114-92, div. A, title XII, §1247, Nov. 25, 2015, 129 Stat. 1066, provided that:

“(a) REPORT.—

“(1) IN GENERAL.—During each year described in paragraph (2), the President shall transmit to the appropriate congressional committees a report explaining the reasons that the continued implementation of the New START Treaty is in the national security interests of the United States.

“(2) YEAR DESCRIBED.—A year described in this paragraph is a year in which the President implements the New START Treaty and determines that any of the following circumstances apply:

“(A) The Russian Federation illegally occupies Ukrainian territory.

“(B) The Russian Federation is not respecting the sovereignty of all Ukrainian territory.

“(C) The Russian Federation is not in full compliance with the INF treaty.

“(D) The Russian Federation is not in compliance with the CFE Treaty and has not lifted its suspension of Russian observance of its treaty obligations.

“(E) The Russian Federation is not reducing its deployed strategic delivery vehicles.

“(b) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

“(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

“(2) CFE TREATY.—The term ‘CFE Treaty’ means the Treaty on Conventional Armed Forces in Europe,

signed at Paris November 19, 1990, and entered into force July 17, 1992.

“(3) INF TREATY.—The term ‘INF Treaty’ means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles, commonly referred to as the Intermediate-Range Nuclear Forces (INF) Treaty, signed at Washington December 8, 1987, and entered into force June 1, 1988.

“(4) NEW START TREATY.—The term ‘New START Treaty’ means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.”

[For delegation of functions vested in President by section 1247 of Pub. L. 114-92, set out above, see Memorandum of President of the United States, July 26, 2016, 81 F.R. 51773, set out below.]

#### RETENTION OF MISSILE SILOS

Pub. L. 113-291, div. A, title XVI, § 1644, Dec. 19, 2014, 128 Stat. 3651, provided that:

“(a) REQUIREMENT.—During the period in which the New START Treaty (as defined in section 494(a)(2)(D) of title 10, United States Code) is in effect, the Secretary of Defense shall preserve each intercontinental ballistic missile silo that contains a deployed missile as of the date of the enactment of this Act [Dec. 19, 2014] in, at minimum, a warm status that enables such silo to—

“(1) remain a fully functioning element of the interconnected and redundant command and control system of the missile field; and

“(2) be made fully operational with a deployed missile.

“(b) RULE OF CONSTRUCTION.—Nothing in subsection (b) shall be construed to prohibit the Secretary of Defense from temporarily placing an intercontinental ballistic missile silo offline to perform maintenance activities.”

#### IMPLEMENTATION OF NEW START TREATY

Pub. L. 113-66, div. A, title X, § 1056(a)(2), (3), (f), Dec. 26, 2013, 127 Stat. 862-864, provided that:

“(a) IMPLEMENTATION.—

“(2) CONSOLIDATED BUDGET DISPLAY.—The Secretary [of Defense] shall include with the defense budget materials for each fiscal year specified in paragraph (3) a consolidated budget justification display that individually covers each program and activity associated with the implementation of the New START Treaty for the period covered by the future-years defense program submitted under section 221 of title 10, United States Code, at or about the time as such defense budget materials are submitted.

“(3) FISCAL YEAR SPECIFIED.—A fiscal year specified in this paragraph is each fiscal year that occurs during the period beginning with fiscal year 2015 and ending on the date on which the New START Treaty is no longer in force.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘defense budget materials’ has the meaning given that term in section 231(f) of title 10, United States Code.

“(2) The term ‘New START Treaty’ means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.”

#### “CONGRESSIONAL DEFENSE COMMITTEES” DEFINED

Congressional defense committees has the meaning given that term in section 101(a)(16) of this title, see section 3 of Pub. L. 112-81, Dec. 31, 2011, 125 Stat. 1316. See also note under section 101 of this title.

DELEGATION OF REPORTING FUNCTIONS SPECIFIED IN SECTION 1045 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012, AND CONDITION 9 OF THE RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION OF THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE RUSSIAN FEDERATION ON THE MEASURES FOR THE FURTHER REDUCTION AND LIMITATION OF STRATEGIC OFFENSIVE ARMS (THE “NEW START TREATY”)

Memorandum of President of the United States, Mar. 16, 2012, 77 F.R. 16649, provided:

Memorandum for the Secretary of State[,] the Secretary of Defense[, and] the Secretary of Energy

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, I hereby delegate to the Secretaries of Defense and Energy the reporting functions conferred upon the President by section 1045 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) [see Codification note above], and by section (a)(9)(B) of the Resolution of Advice and Consent to Ratification of the New START Treaty. Subsection (a)(9)(B)(iv) of the Resolution shall be fulfilled in coordination with the Secretary of State.

The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

DELEGATION OF AUTHORITY UNDER SECTION 1247 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2016

Memorandum of President of the United States, July 26, 2016, 81 F.R. 51773, provided:

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate the functions and authorities vested in the President by section 1247 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92) (the “Act”) to the Secretary of State.

Any reference in this memorandum to the Act shall be deemed to be a reference to any future act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

#### § 495. Strategic delivery systems

(a) ANNUAL CERTIFICATION.—Beginning in fiscal year 2013, the President shall annually certify in writing to the congressional defense committees whether plans to modernize or replace strategic delivery systems are fully funded at levels equal to or more than the levels set forth in the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84; 123 Stat. 2549), including plans regarding—

- (1) a heavy bomber and air-launched cruise missile;
- (2) an intercontinental ballistic missile;
- (3) a submarine-launched ballistic missile;
- (4) a ballistic missile submarine; and
- (5) maintaining the nuclear command and control system (as first reported under section 1043 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81; 125 Stat. 1576)).

(b) ADDITIONAL REPORT MATTERS FOLLOWING CERTAIN CERTIFICATIONS.—If in any year before fiscal year 2020 the President certifies under

subsection (a) that plans to modernize or replace strategic delivery systems are not fully funded, the President shall include in the next annual report transmitted to Congress under section 1043 of the National Defense Authorization Act for Fiscal Year 2012 the following:

(1) A determination of whether or not the lack of full funding will result in a loss of military capability when compared with the November 2010 update to the plan referred to in section 1251 of the National Defense Authorization Act for Fiscal Year 2010.

(2) If the determination under paragraph (1) is that the lack of full funding will result in a loss of military capability—

(A) a plan to preserve or retain the military capability that would otherwise be lost; or

(B) a report setting forth—

(i) an assessment of the impact of the lack of full funding on the strategic delivery systems specified in subsection (a); and

(ii) a description of the funding required to restore or maintain the capability.

(3) A certification by the President of whether or not the President is committed to accomplishing the modernization and replacement of strategic delivery systems and will meet the obligations concerning nuclear modernization as set forth in declaration 12 of the Resolution of Advice and Consent to Ratification of the New START Treaty.

(c) **PRIOR NOTIFICATION.**—Not later than 60 days before the date on which the President carries out any reduction to the number of strategic delivery systems, the President shall—

(1) make the certification under subsection (a) for the fiscal year for which the reductions are proposed to be carried out;

(2) transmit the additional report matters under subsection (b) for such fiscal year, if such additional report matters are so required; and

(3) certify to the congressional defense committees whether the Russian Federation is in compliance with its strategic arms control obligations with the United States and is not engaged in activity in violation of, or inconsistent with, such obligations.

(d) **TREATMENT OF CERTAIN REDUCTIONS.**—Any certification under subsection (a) shall not take into account the following:

(1) Reductions made to ensure the safety, security, reliability, and credibility of the nuclear weapons stockpile and strategic delivery systems, including activities related to surveillance, assessment, certification, testing, and maintenance of nuclear warheads and delivery systems.

(2) Strategic delivery systems that are retired or awaiting dismantlement on the date of the certification under subsection (a).

(e) **DEFINITIONS.**—In this section:

(1) The term “New START Treaty” means the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms, signed on April 8, 2010, and entered into force on February 5, 2011.

(2) The term “strategic delivery system” means a delivery system for nuclear weapons.

(Added Pub. L. 112-239, div. A, title X, §1035(a), Jan. 2, 2013, 126 Stat. 1923; amended Pub. L. 112-240, title VIII, §801(a), Jan. 2, 2013, 126 Stat. 2369.)

#### REFERENCES IN TEXT

Section 1251 of the National Defense Authorization Act for Fiscal Year 2010, referred to in subsecs. (a) and (b)(1), is section 1251 of Pub. L. 111-84, which is set out as a note under section 2523 of Title 50, War and National Defense.

Section 1043 of the National Defense Authorization Act for Fiscal Year 2012, referred to in subsecs. (a)(5) and (b), is section 1043 of title X of div. A of Pub. L. 112-81, Dec. 31, 2011, 125 Stat. 1576, which is not classified to the Code.

#### AMENDMENTS

2013—Subsec. (c)(3). Pub. L. 112-240 substituted “whether the Russian Federation” for “that the Russian Federation” and inserted “strategic” before “arms control obligations”.

#### EFFECTIVE DATE OF 2013 AMENDMENT

Pub. L. 112-240, title VIII, §801(b), Jan. 2, 2013, 126 Stat. 2369, provided that: “The amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2013 [Pub. L. 112-239].”

#### RETENTION OF CAPABILITY TO REDEPLOY MULTIPLE INDEPENDENTLY TARGETABLE REENTRY VEHICLES

Pub. L. 113-66, div. A, title X, §1057, Dec. 26, 2013, 127 Stat. 864, provided that:

“(a) **DEPLOYMENT CAPABILITY.**—The Secretary of the Air Force shall ensure that the Air Force is capable of—

“(1) deploying multiple independently targetable reentry vehicles to Minuteman III intercontinental ballistic missiles; and

“(2) commencing such deployment not later than 180 days after the date on which the President determines such deployment necessary.

“(b) **WARHEAD CAPABILITY.**—The Nuclear Weapons Council established by section 179 of title 10, United States Code, shall ensure that—

“(1) the nuclear weapons stockpile contains a sufficient number of nuclear warheads that are capable of being deployed as multiple independently targetable reentry vehicles with respect to Minuteman III intercontinental ballistic missiles; and

“(2) such deployment is capable of being commenced not later than 180 days after the date on which the President determines such deployment necessary.”

#### SENSES OF CONGRESS ON ENSURING THE MODERNIZATION OF THE NUCLEAR FORCES OF THE UNITED STATES

Pub. L. 113-66, div. A, title X, §1062(a), Dec. 26, 2013, 127 Stat. 866, provided that: “It is the policy of the United States to—

“(1) modernize or replace the triad of strategic nuclear delivery systems;

“(2) proceed with a robust stockpile stewardship program;

“(3) maintain and modernize the nuclear weapons production capabilities that will ensure the safety, security, reliability, and performance of the nuclear forces of the United States at the levels required by the New START Treaty; and

“(4) underpin deterrence by meeting the requirements for hedging against possible international developments or technical problems, in accordance with the policies of the United States.”



DELEGATION OF AUTHORITY PURSUANT TO SECTION 1035 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

Memorandum of President of the United States, June 29, 2015, 80 F.R. 37921, provided:

Memorandum for the Secretary of Defense

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of Defense the authority to fulfill the certification requirement specified in section 1035 of the National Defense Authorization Act for Fiscal Year 2013 (Public Law 112-239) [probably means section 495 of this title, as added by section 1035 of Pub. L. 112-239].

Any reference in this memorandum to section 1035 of the National Defense Authorization Act for Fiscal Year 2013 shall be deemed to be a reference to any future provision that is the same or substantially the same provision.

You are authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

**§ 496. Consideration of expansion of nuclear forces of other countries**

(a) REPORT AND CERTIFICATION.—Not later than 60 days before the President recommends any reductions to the nuclear forces of the United States—

(1) the President shall transmit to the appropriate congressional committees a report detailing, for each country with nuclear weapons, the high-, medium-, and low- confidence assessment of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) with respect to—

(A) the number of each type of nuclear weapons possessed by such country;

(B) the modernization plans for such weapons of such country;

(C) the production capacity of nuclear warheads and strategic delivery systems (as defined in section 495(e)(2) of this title) of such country;

(D) the nuclear doctrine of such country; and

(E) the impact of such recommended reductions on the deterrence and extended deterrence capabilities of the United States; and

(2) the Commander of the United States Strategic Command shall certify to the appropriate congressional committees whether such recommended reductions in the nuclear forces of the United States will—

(A) impair the ability of the United States to address—

(i) unplanned strategic or geopolitical events; or

(ii) technical challenge; or

(B) degrade the deterrence or assurance provided by the United States to friends and allies of the United States.

(b) FORM.—The reports required by subsection (a)(1) shall be submitted in unclassified form, but may include a classified annex.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means the following:

(1) The congressional defense committees.

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

(Added Pub. L. 112-239, div. A, title X, §1036(a), Jan. 2, 2013, 126 Stat. 1924; amended Pub. L. 113-291, div. A, title X, §1071(c)(10), Dec. 19, 2014, 128 Stat. 3509.)

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-291 substituted “(50 U.S.C. 3003(4))” for “(50 U.S.C. 401a(4))” in introductory provisions.

**§ 497. Notification required for reduction, consolidation, or withdrawal of nuclear forces based in Europe**

(a) NOTIFICATION.—Upon any decision to reduce, consolidate, or withdraw the nuclear forces of the United States that are based in Europe, the President shall transmit to the appropriate congressional committees a notification containing—

(1) justification for such reduction, consolidation, or withdrawal; and

(2) an assessment of how member states of the North Atlantic Treaty Organization, in light of such reduction, consolidation, or withdrawal, assess the credibility of the deterrence capability of the United States in support of its commitments undertaken pursuant to article 5 of the North Atlantic Treaty, signed at Washington, District of Columbia, on April 4, 1949, and entered into force on August 24, 1949 (63 Stat. 2241; TIAS 1964).

(b) PRIOR NOTIFICATION REQUIRED.—

(1) IN GENERAL.—The President shall transmit the notification required by subsection (a) by not later than 60 days before the date on which the President commences a reduction, consolidation, or withdrawal of the nuclear forces of the United States that are based in Europe described in such notification.

(2) EXCEPTION.—The limitation in paragraph (1) shall not apply to a reduction, consolidation, or withdrawal of nuclear weapons of the United States that are based in Europe made to ensure the safety, security, reliability, and credibility of such weapons.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committees on Armed Services of the House of Representatives and the Senate; and

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

(Added Pub. L. 112-239, div. A, title X, §1037(b)(1), Jan. 2, 2013, 126 Stat. 1926.)

**§ 497a. Notification required for reduction or consolidation of dual-capable aircraft based in Europe**

(a) NOTIFICATION.—Not less than 90 days before the date on which the Secretary of Defense reduces or consolidates the dual-capable aircraft of the United States that are based in Europe, the Secretary shall submit to the congressional defense committees a notification of such

planned reduction or consolidation, including the following:

(1) The reasons for such planned reduction or consolidation.

(2) Any effects of such planned reduction or consolidation on the extended deterrence mission of the United States.

(3) The manner in which the military requirements of the North Atlantic Treaty Organization (NATO) will continue to be met in light of such planned reduction or consolidation.

(4) A statement by the Secretary on the response of NATO to such planned reduction or consolidation.

(5) Whether there is any change in the force posture of the Russian Federation as a result of such planned reduction or consolidation, including with respect to the nonstrategic nuclear weapons of Russia that are within range of the member states of NATO.

(b) **DUAL-CAPABLE AIRCRAFT DEFINED.**—In this section, the term “dual-capable aircraft” means aircraft that can perform both conventional and nuclear missions.

(Added Pub. L. 113–66, div. A, title X, §1051(b)(1), Dec. 26, 2013, 127 Stat. 858.)

**§ 498. Unilateral change in nuclear weapons stockpile of the United States**

(a) **IN GENERAL.**—Other than pursuant to a treaty, if the President has under consideration to unilaterally change the size of the total stockpile of nuclear weapons of the United States by more than 25 percent, prior to doing so the President shall initiate a Nuclear Posture Review.

(b) **TERMS OF REFERENCE.**—Prior to the initiation of a Nuclear Posture Review under this section, the President shall determine the terms of reference for the Nuclear Posture Review, which the President shall provide to the congressional defense committees.

(c) **NUCLEAR POSTURE REVIEW.**—Upon completion of a Nuclear Posture Review under this section, the President shall submit the Nuclear Posture Review to the congressional defense committees prior to implementing any change in the nuclear weapons stockpile by more than 25 percent.

(d) **CONSTRUCTION.**—This section shall not apply to changes to the nuclear weapons stockpile resulting from treaty obligations.

(e) **FORM.**—A Nuclear Posture Review under this section shall be submitted in unclassified form, but may include a classified annex.

(Added Pub. L. 112–239, div. A, title X, §1038(a), Jan. 2, 2013, 126 Stat. 1927; amended Pub. L. 113–66, div. A, title X, §1091(a)(6), Dec. 26, 2013, 127 Stat. 875.)

**AMENDMENTS**

2013—Pub. L. 113–66 inserted a period after the enumerator in section catchline.

**§ 499. Annual assessment of cyber resiliency of nuclear command and control system**

(a) **IN GENERAL.**—Not less frequently than annually, the Commander of the United States

Strategic Command and the Commander of the United States Cyber Command (in this section referred to collectively as the “Commanders”) shall jointly conduct an assessment of the cyber resiliency of the nuclear command and control system.

(b) **ELEMENTS.**—In conducting the assessment required by subsection (a), the Commanders shall—

(1) conduct an assessment of the sufficiency and resiliency of the nuclear command and control system to operate through a cyber attack from the Russian Federation, the People’s Republic of China, or any other country or entity the Commanders identify as a potential threat; and

(2) develop recommendations for mitigating any concerns of the Commanders resulting from the assessment.

(c) **REPORT REQUIRED.**—(1) The Commanders shall jointly submit to the Chairman of the Joint Chiefs of Staff, for submission to the Council on Oversight of the National Leadership Command, Control, and Communications System established under section 171a of this title, a report on the assessment required by subsection (a) that includes the following:

(A) The recommendations developed under subsection (b)(2).

(B) A statement of the degree of confidence of each of the Commanders in the mission assurance of the nuclear deterrent against a top tier cyber threat.

(C) A detailed description of the approach used to conduct the assessment required by subsection (a) and the technical basis of conclusions reached in conducting that assessment.

(D) Any other comments of the Commanders.

(2) The Council shall submit to the Secretary of Defense the report required by paragraph (1) and any comments of the Council on the report.

(3) The Secretary of Defense shall submit to the congressional defense committees the report required by paragraph (1), any comments of the Council on the report under paragraph (2), and any comments of the Secretary on the report.

(d) **QUARTERLY BRIEFINGS.**—Not less than once every quarter, the Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff shall jointly provide to the Committees on Armed Services of the House of Representatives and the Senate a briefing on any known or suspected critical intelligence parameter breaches that were identified during the previous quarter, including an assessment of any known or suspected impacts of such breaches to the mission effectiveness of military capabilities as of the date of the briefing or thereafter.

(e) **TERMINATION.**—The requirements of this section shall terminate on December 31, 2027.

(Added Pub. L. 115–91, div. A, title XVI, §1651(a), Dec. 12, 2017, 131 Stat. 1756.)

**§ 499a. Collection, storage, and sharing of data relating to nuclear security enterprise and nuclear forces**

(a) **IN GENERAL.**—The Secretary of Defense, acting through the Director of Cost Assessment

and Program Evaluation, and the Administrator for Nuclear Security, acting through the Director for Cost Estimating and Program Evaluation, shall collect and store cost, programmatic, and technical data relating to programs and projects of the nuclear security enterprise and nuclear forces.

(b) SHARING OF DATA.—If the Director of Cost Assessment and Program Evaluation or the Director for Cost Estimating and Program Evaluation requests data relating to programs or projects from any element of the Department of Defense or from any element of the nuclear security enterprise of the National Nuclear Security Administration, that element shall provide that data in a timely manner.

(c) STORAGE OF DATA.—(1) Data collected by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation under this section shall be—

(A) stored in the data storage system of the Defense Cost and Resource Center, or successor center, or in a data storage system of the National Nuclear Security Administration that is comparable to the data storage system of the Defense Cost and Resource Center; and

(B) made accessible to other Federal agencies as such Directors consider appropriate.

(2) The Secretary and the Administrator shall ensure that the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation have sufficient information system support, as determined by such Directors, to facilitate the timely hosting, handling, and sharing of data relating to programs and projects of the nuclear security enterprise under this section at the appropriate level of classification.

(3) The Deputy Administrator for Naval Reactors of the National Nuclear Security Administration may coordinate with the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation to ensure that, at the discretion of the Deputy Administrator, data relating to programs and projects of the Office of Naval Reactors are correctly represented in the data storage system pursuant to paragraph (1)(A).

(d) CONTRACT REQUIREMENTS.—The Secretary and the Administrator shall ensure that any relevant contract relating to a program or project of the nuclear security enterprise and nuclear forces that is entered into on or after the date of the enactment of this section appropriately includes—

(1) requirements and standards for data collection; and

(2) requirements for reporting on cost, programmatic, and technical data using procedures, standards, and formats approved by the Director of Cost Assessment and Program Evaluation and the Director for Cost Estimating and Program Evaluation.

(e) NUCLEAR SECURITY ENTERPRISE DEFINED.—In this section, the term “nuclear security enterprise” has the meaning given that term in section 4002 of the Atomic Energy Defense Act (50 U.S.C. 2501).

(Added Pub. L. 115–91, div. A, title XVI, § 1652(a), Dec. 12, 2017, 131 Stat. 1757.)

## REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 115–91, which was approved Dec. 12, 2017.

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