

113TH CONGRESS
1ST SESSION

H. R. 559

To reduce by 5 percent the discretionary budget authority of any Federal agency for a fiscal year if the financial statement of the agency for the previous fiscal year does not receive a qualified or unqualified audit opinion by an external independent auditor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 6, 2013

Ms. LEE of California (for herself, Ms. SCHAKOWSKY, Mr. ELLISON, Mr. GRIJALVA, Mr. CONYERS, Mr. LEWIS, Mr. HONDA, Ms. CLARKE, Mr. BURGESS, Mr. RUSH, Mr. SCHRADER, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce by 5 percent the discretionary budget authority of any Federal agency for a fiscal year if the financial statement of the agency for the previous fiscal year does not receive a qualified or unqualified audit opinion by an external independent auditor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Audit the Pentagon
3 Act of 2013”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are as follows:

6 (1) To strengthen American national security
7 by ensuring that—

8 (A) military planning, operations, weapons
9 development, and a long-term national security
10 strategy are connected to sound financial con-
11 trols; and

12 (B) defense dollars are spent efficiently.

13 (2) To instill a culture of accountability at the
14 Department of Defense that supports the vast ma-
15 jority of dedicated members of the Armed Forces
16 and civilians who want to ensure proper accounting
17 and prevent waste, fraud, and abuse.

18 **SEC. 3. FINDINGS.**

19 Congress finds the following:

20 (1) The 2012 Financial Report of the United
21 States Government found that 21 of 24 major Fed-
22 eral agencies received clean audit opinions. Two
23 more, the Department of Homeland Security and
24 the Department of State, received “qualified” audit
25 opinions but are making progress. Only the Depart-
26 ment of Defense had a “disclaimer” because it

1 lacked any auditable reporting or accounting avail-
2 able for independent review. In the Financial Re-
3 port, the Treasury Department summarized: “Over
4 the past 20 years, an increasing number of Federal
5 agencies have initiated and sustained disciplined and
6 consistent financial reporting operations, imple-
7 mented effective internal controls around financial
8 reporting, and have successfully integrated trans-
9 action processing and accounting records. These ef-
10 forts have resulted in improved results on financial
11 statement audits. However, weaknesses in basic fi-
12 nancial management practices and other limitations
13 continue to prevent one major agency, and the Gov-
14 ernment as a whole, from achieving an audit opin-
15 ion.”.

16 (2) The financial management of the Depart-
17 ment of Defense has been on the “High-Risk” list
18 of the Government Accountability Office (GAO). The
19 GAO found that the Department is not consistently
20 able to “control costs; ensure basic accountability;
21 anticipate future costs and claims on the budget;
22 measure performance; maintain funds control; and
23 prevent and detect fraud, waste, and abuse”.

24 (3) At a September 2010 hearing of the Senate,
25 the Government Accountability Office stated that

1 past expenditures by the Department of Defense of
2 \$5,800,000,000 to improve financial information,
3 and billions of dollars more of anticipated expendi-
4 tures on new information technology systems for
5 that purpose, may not suffice to achieve full audit
6 readiness of the financial statement of the Depart-
7 ment. At that hearing, the Government Account-
8 ability Office could not predict when the Department
9 would achieve full audit readiness of such state-
10 ments.

11 (4) Section 9 of article 1 of the Constitution of
12 the United States requires all agencies of the Fed-
13 eral Government, including the Department of De-
14 fense, to publish “a regular statement and account
15 of the receipts and expenditures of all public
16 money”.

17 (5) Section 303(d) of the Chief Financial Offi-
18 cers Act of 1990 (Public Law 101–576) required
19 that financial statements be prepared and independ-
20 ently audited for the Department of the Army by
21 March 31, 1992, and for the Department of the Air
22 Force by March 31, 1993. Neither the Department
23 of the Army nor the Department of the Air Force
24 has complied.

1 (6) Section 3515 of title 31, United States
2 Code, requires the agencies of the Federal Govern-
3 ment, including the Department of Defense, to
4 present auditable financial statements beginning not
5 later than March 1, 1997. The Department has not
6 complied with this law.

7 (7) The Federal Financial Management Im-
8 provement Act of 1996 (31 U.S.C. 3512 note) re-
9 quires financial systems acquired by the Federal
10 Government, including the Department of Defense,
11 to be able to provide information to leaders to man-
12 age and control the cost of government. The Depart-
13 ment has not complied with this law.

14 (8) The National Defense Authorization Act for
15 Fiscal Year 2002 (Public Law 107–107) requires
16 the Secretary of Defense to report to Congress an-
17 nually on the reliability of the financial statements
18 of the Department of Defense, to minimize resources
19 spent on producing unreliable financial statements,
20 and to use resources saved to improve financial man-
21 agement policies, procedures, and internal controls.

22 (9) In 2005, the Department of Defense cre-
23 ated a Financial Improvement and Audit Readiness
24 (FIAR) Plan, overseen by a directorate within the
25 office of the Under Secretary of Defense (Comp-

troller), to improve Department business processes with the goal of producing timely, reliable, and accurate financial information that could generate an audit-ready annual financial statement. In December 2005, that directorate, known as the FIAR Directorate, issued the first of a series of semiannual reports on the status of the Financial Improvement and Audit Readiness Plan.

(10) The National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) requires regular status reports on the Financial Improvement and Audit Readiness Plan described in paragraph (9), and codified as a statutory requirement the goal of the Plan in ensuring that Department of Defense financial statements are validated as ready for audit not later than September 30, 2017.

**SEC. 4. SPENDING REDUCTIONS FOR AGENCIES WITHOUT
CLEAN AUDITS.**

(a) APPLICABILITY.—

(1) IN GENERAL.—Subject to paragraph (2), this section applies to each Federal agency identified by the Director of the Office of Management and Budget as required to have an audited financial statement under section 3515 of title 31, United States Code.

1 (2) APPLICABILITY TO MILITARY DEPARTMENTS
2 AND DEFENSE AGENCIES.—For purposes of para-
3 graph (1), in the case of the Department of Defense,
4 each military department and each Defense Agency
5 shall be treated as a separate Federal agency.

6 (b) DEFINITIONS.—In this section, the terms “finan-
7 cial statement” and “external independent auditor” have
8 the same meanings as those terms have under section
9 3521(e) of title 31, United States Code.

10 (c) ADJUSTMENTS FOR FINANCIAL ACCOUNT-
11 ABILITY.—

12 (1) On March 2 of fiscal year 2014 and each
13 subsequent fiscal year, the discretionary budget au-
14 thority available for each Federal agency for such
15 fiscal year is adjusted as provided in paragraph (2).

16 (2) If a Federal agency has not submitted a fi-
17 nancial statement for the previous fiscal year, or if
18 such financial statement has not received either an
19 unqualified or a qualified audit opinion by an inde-
20 pendent external auditor, the discretionary budget
21 authority available for the Federal agency is reduced
22 by 5 percent, with the reduction applied proportion-
23 ately to each account (other than an account listed
24 in subsection (d) or an account for which a waiver
25 is made under subsection (e)).

1 (3) An amount equal to the total amount of any
2 reduction under paragraph (2) shall be retained in
3 the general fund of the Treasury for the purposes of
4 deficit reduction.

5 (d) ACCOUNTS EXCLUDED.—The following accounts
6 are excluded from any reductions referred to in subsection
7 (c)(2):

8 (1) Military personnel, reserve personnel, and
9 National Guard personnel accounts of the Depart-
10 ment of Defense.

11 (2) The Defense Health Program account of
12 the Department of Defense.

13 (e) WAIVER.—The President may waive subsection
14 (c)(2) with respect to an account if the President certifies
15 that applying the subsection to that account would harm
16 national security or members of the Armed Forces who
17 are in combat.

18 (f) REPORT.—Not later than 60 days after an adjust-
19 ment under subsection (c), the Director of the Office of
20 Management and Budget shall submit to Congress a re-
21 port describing the amount and account of each adjust-
22 ment.

1 **SEC. 5. REPORT ON DEPARTMENT OF DEFENSE REPORT-**
2 **ING REQUIREMENTS.**

3 Not later than 180 days after the date of the enact-
4 ment of this Act, the Under Secretary of Defense (Comp-
5 troller) shall submit to Congress a report setting forth a
6 list of each report of the Department required by law to
7 be submitted to Congress which, in the opinion of the
8 Under Secretary, interferes with the capacity of the De-
9 partment to achieve an audit of the financial statements
10 of the Department with an unqualified opinion.

11 **SEC. 6. SENSE OF CONGRESS.**

12 It is the sense of Congress that—

13 (1) as the overall defense budget is cut, con-
14 gressional defense committees and the Department
15 of Defense should not endanger the Nation's troops
16 by reducing wounded warrior accounts or vital pro-
17 tection (such as body armor) for members of the
18 Armed Forces in harm's way;

19 (2) the valuation of legacy assets by the De-
20 partment of Defense should be simplified without
21 compromising essential controls or generally accept-
22 ed government auditing standards; and

23 (3) nothing in this Act should be construed to
24 require or permit the declassification of accounting
25 details about classified defense programs, and, as re-
26 quired by law, the Department of Defense should en-

- 1 sure financial accountability in such programs using
- 2 proven practices, including using auditors with secu-
- 3 rity clearances.

