

118TH CONGRESS
2D SESSION

S. 5497

To promote military readiness by ensuring the Department of Defense retains the right to repair equipment it acquires and owns.

IN THE SENATE OF THE UNITED STATES

DECEMBER 12, 2024

Ms. WARREN introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To promote military readiness by ensuring the Department of Defense retains the right to repair equipment it acquires and owns.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Servicemember Right-
5 to-Repair Act of 2024”.

1 **SEC. 2. CONSIDERATION OF OPERATION AND**
2 **SUSTAINMENT COST SAVINGS AS PART OF**
3 **ACQUISITION STRATEGIES.**

4 (a) IN GENERAL.—Section 4211(c) of title 10,
5 United States Code, is amended by adding at the end the
6 following paragraph:

7 “(3)(A) Each strategy shall include not fewer than
8 3 cost-saving proposals, each of which shall include—

9 “(i) the amount of money projected to be saved;

10 “(ii) the expected time frame for achieving the
11 savings; and

12 “(iii) the likelihood of achieving the savings.

13 “(B) The cost savings required under subparagraph
14 (A)—

15 “(i) may be achieved through potential invest-
16 ments that would substantially reduce operating and
17 support costs over the lifecycle of the program; and

18 “(ii) may not be achieved through reducing per-
19 formance requirements, reducing materiel and oper-
20 ational availability rates, or buying fewer end
21 items.”.

22 (b) REPORT.—Not later than 1 year after the date
23 of the enactment of this Act, the Under Secretary of De-
24 fense for Acquisition and Sustainment shall submit to the
25 congressional defense committees and publish on a pub-
26 licly available website of the Department of Defense a re-

1 port that identifies the cost-saving proposals required by
 2 section 4211(c)(3) of title 10, United States Code, as
 3 added by this section.

4 **SEC. 3. CONSIDERATION OF REPAIR COSTS ASSOCIATED**
 5 **WITH INTELLECTUAL PROPERTY RIGHTS.**

6 Section 4323(b) of title 10, United States Code, is
 7 amended by adding at the end the following new para-
 8 graph:

9 “(11) An evaluation of the cost-effectiveness of the
 10 implementation by the Department of Defense of the intel-
 11 lectual property strategy for system support, including an
 12 assessment of cost saving from the acquisition or use of
 13 intellectual property or increased support costs from fail-
 14 ing to acquire or use sufficient intellectual property.”.

15 **SEC. 4. REQUIREMENT FOR CONTRACTORS TO PROVIDE**
 16 **REASONABLE ACCESS TO REPAIR MATE-**
 17 **RIALS.**

18 (a) IN GENERAL.—Chapter 363 of title 10, United
 19 States Code, is amended by adding at the end the fol-
 20 lowing new section:

21 **“§ 4663. Requirement for contractors to provide rea-**
 22 **sonable access to repair materials**

23 “(a) IN GENERAL.—The head of an agency may not
 24 enter into a contract for the procurement of goods or serv-
 25 ices unless the contractor agrees in writing to provide the

1 Department of Defense fair and reasonable access to all
2 the repair materials, including parts, tools, and informa-
3 tion, used by the manufacturer or provider or their author-
4 ized repair providers to diagnose, maintain, or repair the
5 good or service.

6 “(b) FAIR AND REASONABLE ACCESS DEFINED.—In
7 this section, the term ‘fair and reasonable access’ means,
8 as applicable—

9 “(1) terms and conditions that allow the De-
10 partment of Defense to provide the repair materials
11 to an authorized contractor for the purpose of diag-
12 nosing, maintaining, or repairing the good or serv-
13 ice;

14 “(2) provision at prices, terms, and conditions
15 that are equivalent to the most favorable prices,
16 terms, and conditions under which the manufacturer
17 or an authorized reseller or distributor offers the
18 part, tool, or information to an authorized repair
19 provider, accounting for any discount, rebate, con-
20 venient and timely means of delivery, means of ena-
21 bling fully restored and updated functionality, rights
22 of use, or other incentive or preference the manufac-
23 turer or an authorized reseller or distributor offers
24 to an authorized repair provider; and

“4663. Requirement for contractors to provide reasonable access to repair materials.”.

21 SEC. 5. RIGHTS IN TECHNICAL DATA.

•S 5497 IS

1 (1) in paragraph (3)(C), by striking “mainte-
2 nance,” and inserting “maintenance, diagnosis, re-
3 pair,”;

4 (2) in paragraph (4)(B), by striking “such
5 data” and inserting “such data, unless further re-
6 lease, disclosure, or use is required to provide the re-
7 pair or overhaul”; and

8 (3) in paragraph (5)(B)—

9 (A) by redesignating clauses (ii) through
10 (iv) as clauses (iii) through (v), respectively;
11 and

12 (B) by inserting after clause (i) the fol-
13 lowing new clause:

14 “(ii) The interest of the United States
15 in balancing acquisition and sustainment
16 costs, and enhancing military readiness, by
17 ensuring the United States has access on
18 fair and reasonable terms, consistent with
19 section 4663 of this title, to repair mate-
20 rials required to effect the diagnosis, main-
21 tenance, and repair of the items it owns or
22 acquires.”.

1 **SEC. 6. ACCOUNTING OF COMPLIANCE WITH RIGHT-TO-RE-**
2 **PAIR REQUIREMENTS.**

3 (a) **ACCOUNTING FOR RIGHT-TO-REPAIR OBSTRUC-**
4 **TIONS.—**

5 (1) **IN GENERAL.**—The Under Secretary of De-
6 fense for Acquisition and Sustainment, in coordina-
7 tion with the Secretaries of the military depart-
8 ments, shall establish a system to account for right-
9 to-repair obstructions. The system shall include a re-
10 quirement for members of the Armed Forces respon-
11 sible for the maintenance and sustainment of equip-
12 ment to log right-to-repair obstructions, including
13 the information described in paragraph (2).

14 (2) **INFORMATION TO BE INCLUDED.**—The in-
15 formation referred to in paragraph (1) is as follows:

16 (A) Whether the Department of Defense
17 owns the equipment that was the subject of the
18 right-to-repair obstruction.

19 (B) The identity of the contractor that re-
20 paired the equipment.

21 (C) A description of the equipment and the
22 nature of the repair.

23 (D) An explanation of why members of the
24 Armed Forces were not able to repair the
25 equipment.

1 (E) The length of time the contractor took
2 to repair the equipment.

3 (b) ANNUAL REPORT OF RIGHT-TO-REPAIR OB-
4 STRUCTIONS.—Not later than 180 days after the enact-
5 ment of this Act, and annually thereafter, the Assistant
6 Secretary of Defense for Sustainment shall post on a pub-
7 licly available website and submit to the congressional de-
8 fense committees a report summarizing the information
9 about right-to-repair obstructions logged pursuant to sub-
10 section (a) during the previous fiscal year.

11 (c) RIGHT-TO-REPAIR OBSTRUCTION DEFINED.—In
12 this section, the term “right-to-repair obstruction” means
13 any instance where due to circumstances created or condi-
14 tions imposed by the contractor, it is necessary for—

15 (1) the contractor to travel to the military in-
16 stallation or facility to repair the equipment;

17 (2) military personnel to ship the equipment to
18 the contractor for repair; or

19 (3) military personnel to discard, abandon, or
20 decommission the equipment.

21 **SEC. 7. GAO COMPLIANCE REPORT.**

22 Not later than 2 years after the date of the enact-
23 ment of this Act, and every 2 years thereafter, the Comp-
24 troller General of the United States shall submit to the

1 congressional defense committees a report that assesses
2 the compliance of the Secretary of Defense with—

3 (1) the requirements of this Act;

4 (2) the requirements of section 4211(c), section
5 4323(b), and 3771(b) of title 10, as amended by this
6 Act, and section 4663 of title 10, as added by this
7 Act; and

8 (3) any related matter as determined by the
9 Comptroller General.

10 **SEC. 8. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.**

11 In this Act, the term “congressional defense commit-
12 tees” has the meaning given the term in section
13 101(a)(16) of title 10, United States Code.

○