

Public Law 111–321  
111th Congress

An Act

To amend the Small Business Act with respect to the Small Business Innovation Research Program and the Small Business Technology Transfer Program, and for other purposes.

Dec. 22, 2010

[H.R. 2965]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Don’t Ask, Don’t Tell Repeal Act of 2010”.

Don’t Ask, Don’t  
Tell Repeal Act of  
2010.

10 USC 654 note.

**SEC. 2. DEPARTMENT OF DEFENSE POLICY CONCERNING HOMOSEXUALITY IN THE ARMED FORCES.**

(a) **COMPREHENSIVE REVIEW ON THE IMPLEMENTATION OF A REPEAL OF 10 U.S.C. 654.**—

(1) **IN GENERAL.**—On March 2, 2010, the Secretary of Defense issued a memorandum directing the Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. 654 (section 654 of title 10, United States Code).

(2) **OBJECTIVES AND SCOPE OF REVIEW.**—The Terms of Reference accompanying the Secretary’s memorandum established the following objectives and scope of the ordered review:

(A) Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.

(B) Determine leadership, guidance, and training on standards of conduct and new policies.

(C) Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.

(D) Recommend appropriate changes (if any) to the Uniform Code of Military Justice.

(E) Monitor and evaluate existing legislative proposals to repeal 10 U.S.C. 654 and proposals that may be introduced in the Congress during the period of the review.

(F) Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.

(G) Evaluate the issues raised in ongoing litigation involving 10 U.S.C. 654.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (f) shall take effect 60 days after the date on which the last of the following occurs:

(1) The Secretary of Defense has received the report required by the memorandum of the Secretary referred to in subsection (a).

President.  
Certification.

(2) The President transmits to the congressional defense committees a written certification, signed by the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff, stating each of the following:

(A) That the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff have considered the recommendations contained in the report and the report's proposed plan of action.

(B) That the Department of Defense has prepared the necessary policies and regulations to exercise the discretion provided by the amendments made by subsection (f).

(C) That the implementation of necessary policies and regulations pursuant to the discretion provided by the amendments made by subsection (f) is consistent with the standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention of the Armed Forces.

(c) **NO IMMEDIATE EFFECT ON CURRENT POLICY.**—Section 654 of title 10, United States Code, shall remain in effect until such time that all of the requirements and certifications required by subsection (b) are met. If these requirements and certifications are not met, section 654 of title 10, United States Code, shall remain in effect.

(d) **BENEFITS.**—Nothing in this section, or the amendments made by this section, shall be construed to require the furnishing of benefits in violation of section 7 of title 1, United States Code (relating to the definitions of “marriage” and “spouse” and referred to as the “Defense of Marriage Act”).

(e) **NO PRIVATE CAUSE OF ACTION.**—Nothing in this section, or the amendments made by this section, shall be construed to create a private cause of action.

(f) **TREATMENT OF 1993 POLICY.**—

(1) **TITLE 10.**—Upon the effective date established by subsection (b), chapter 37 of title 10, United States Code, is amended—

(A) by striking section 654; and

(B) in the table of sections at the beginning of such chapter, by striking the item relating to section 654.

(2) **CONFORMING AMENDMENT.**—Upon the effective date established by subsection (b), section 571 of the National

Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) is amended by striking subsections (b), (c), and (d).

Approved December 22, 2010.

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LEGISLATIVE HISTORY—H.R. 2965 (S. 1233):

HOUSE REPORTS: No. 111-190, Pt. 1 (Comm. on Small Business) and Pt. 2 (Comm. on Science and Technology).

SENATE REPORTS: No. 111-37 (Comm. on Small Business and Entrepreneurship) accompanying S. 1233.

CONGRESSIONAL RECORD:

Vol. 155 (2009): July 8, considered and passed House.  
July 13, considered and passed Senate, amended, in lieu of S. 1233.

Vol. 156 (2010): Dec. 15, House concurred in Senate amendment with an amendment.  
Dec. 16, 18, Senate considered and concurred in House amendment.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2010):

Dec. 18, Presidential statement.

