shall ensure that the implementation of section 922 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114–328; 130 Stat. 2354) [enacting section 139b of this title and amending this section and section 167 of this title] and the amendments made by that section is fully complete by not later than 90 days after the date of the enactment of this Act [Aug. 13, 2018].''

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Stat. 1514, which limited the maximum number of Deputy Assistant Secretaries of Defense to 48 after Dec. 12, 2017, was repealed by Pub. L. 117–263, div. A, title IX, §901(c)(2), Dec. 23, 2022, 136 Stat. 2747. See subsec. (e) of this section.

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 component 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 4201 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, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering 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, the Under Secretary of Defense for Acquisition and Sustainment, and the Under Secretary of Defense for Research and Engineering 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 4172 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 and Sustainment, the Under Secretary of Defense for Research and Engineering, 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 prepa-