

**Editorial Notes****AMENDMENTS**

2017—Subsec. (a). Pub. L. 115–91 amended subsec. (a) generally. Prior to amendment, subsec. (a) required the Secretary of Defense to submit the Strategic Sourcing Plan of Action to Congress annually.

**§ 2476. Minimum capital investment for certain depots**

(a) **MINIMUM INVESTMENT.**—(1) Each fiscal year, the Secretary of a military department shall invest in the capital budgets of the covered depots of that military department a total amount equal to not less than eight percent of the average total combined maintenance, repair, and overhaul workload funded at all the depots of that military department for the preceding three fiscal years.

(2) Of the amount required to be invested in the capital budgets of the covered depots of a military department under paragraph (1) for each fiscal year—

(A) 75 percent shall be used for the modernization or improvement of the efficiency of depot facilities, equipment, work environment, or processes in direct support of depot operations; and

(B) 25 percent shall be used for the sustainment, restoration, and modernization (as such terms are defined in the Department of Defense Financial Management Regulation 7000.14–R, or successor regulation) of existing facilities or infrastructure.

(b) **CAPITAL BUDGET.**—For purposes of this section, the capital budget of a depot includes investment funds spent to modernize or improve the efficiency of depot facilities, equipment, work environment, or processes in direct support of depot operations.

(c) **COMPLIANCE WITH CERTAIN REQUIREMENTS RELATING TO PERSONNEL AND TOTAL FORCE MANAGEMENT.**—In identifying amounts to invest pursuant to the requirement under subsection (a)(1), the Secretary of a military department shall comply with all applicable requirements of sections 129 and 129a of this title.

(d) **WAIVER.**—The Secretary of Defense may waive the requirement under subsection (a)(1) with respect to a military department for a fiscal year if the Secretary determines that the waiver is necessary for reasons of national security. Whenever the Secretary makes such a waiver, the Secretary shall notify the congressional defense committees of the waiver and the reasons for the waiver.

(e) **ANNUAL REPORT.**—(1) Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, the Secretary of Defense shall submit to the congressional defense committees a report containing budget justification documents summarizing the level of capital investment for each military department as of the end of the preceding fiscal year.

(2) Each report submitted under paragraph (1) shall include the following:

(A) A specification of any statutory, regulatory, or operational impediments to achieving the requirement under subsection (a)(1) with respect to each military department.

(B) A description of the benchmarks for capital investment established for each covered depot and military department and the relationship of the benchmarks to applicable performance measurement methods used in the private sector.

(C) If the requirement under subsection (a)(1) is not met for a military department for the fiscal year covered by the report, a statement of the reasons why the requirement was not met and a plan of actions for meeting the requirement for the fiscal year beginning in the year in which such report is submitted.

(D) Separate consideration and reporting of Navy depots and Marine Corps depots.

(E) A table showing the funded workload performed by each covered depot for the preceding three fiscal years and actual investment funds allocated to each depot for the period covered by the report.

(F) A table enumerating, for the period covered by the report, the amounts invested to meet the requirement under subsection (a)(1), disaggregated by funding source and whether the amount is allocated pursuant to subparagraph (A) or subparagraph (B) of subsection (a)(2).

(f) **COVERED DEPOT.**—In this section, the term “covered depot” means any of the following:

(1) With respect to the Department of the Army:

(A) Anniston Army Depot, Alabama.

(B) Letterkenny Army Depot, Pennsylvania.

(C) Tobyhanna Army Depot, Pennsylvania.

(D) Corpus Christi Army Depot, Texas.

(E) Red River Army Depot, Texas.

(F) Watervliet Arsenal, New York.

(G) Rock Island Arsenal, Illinois.

(H) Pine Bluff Arsenal, Arkansas.

(I) Tooele Army Depot, Utah.

(2) With respect to the Department of the Navy:

(A) The following Navy depots:

(i) Fleet Readiness Center East Site, Cherry Point, North Carolina.

(ii) Fleet Readiness Center Southwest Site, North Island, California.

(iii) Fleet Readiness Center Southeast Site, Jacksonville, Florida.

(iv) Portsmouth Naval Shipyard, Maine.

(v) Pearl Harbor Naval Shipyard, Hawaii.

(vi) Puget Sound Naval Shipyard, Washington.

(vii) Norfolk Naval Shipyard, Virginia.

(B) The following Marine Corps depots:

(i) Marine Corps Logistics Base, Albany, Georgia.

(ii) Marine Corps Logistics Base, Barstow, California.

(3) With respect to the Department of the Air Force:

(A) Warner-Robins Air Logistics Center, Georgia.

(B) Ogden Air Logistics Center, Utah.

(C) Oklahoma City Air Logistics Center, Oklahoma.

(Added Pub. L. 109–364, div. A, title III, §332(a), Oct. 17, 2006, 120 Stat. 2149; amended Pub. L.

110–417, [div. A], title III, §327, Oct. 14, 2008, 122 Stat. 4418; Pub. L. 111–383, div. A, title X, §1075(b)(36), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 112–81, div. A, title III, §325, Dec. 31, 2011, 125 Stat. 1364; Pub. L. 117–263, div. A, title III, §374(a), (b)(1), Dec. 23, 2022, 136 Stat. 2541, 2542.)

### Editorial Notes

#### AMENDMENTS

2022—Subsec. (a). Pub. L. 117–263, §374(a)(1), designated existing provisions as par. (1), substituted “eight percent” for “six percent”, and added par. (2).

Subsec. (b). Pub. L. 117–263, §374(a)(2), struck out “, but does not include funds spent for sustainment of existing facilities, infrastructure, or equipment” before period at end.

Subsec. (c). Pub. L. 117–263, §374(a)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 117–263, §374(a)(3), (b)(1), redesignated subsecs. (c) and (d) as (d) and (e), respectively, and substituted “subsection (a)(1)” for “subsection (a)” wherever appearing. Former subsec. (e) redesignated (f).

Subsec. (e)(2)(F). Pub. L. 117–263, §374(a)(5), added subpar. (F).

Subsec. (f). Pub. L. 117–263, §374(a)(3), redesignated subsec. (e) as (f).

2011—Subsec. (a). Pub. L. 112–81, §325(1), inserted “maintenance, repair, and overhaul” after “combined”.

Subsec. (b). Pub. L. 112–81, §325(2), substituted “includes investment funds spent to modernize or improve the efficiency of depot facilities, equipment, work environment, or processes in direct support” for “includes investment funds spent on depot infrastructure, equipment, and process improvement in direct support” and inserted “, but does not include funds spent for sustainment of existing facilities, infrastructure, or equipment” before period at end.

Subsec. (d)(2)(D). Pub. L. 111–383 substituted “Navy depots” for “Navy Depots”.

Subsec. (d)(2)(E). Pub. L. 112–81, §325(3), which directed addition of subpar. (E) at end of subsec. (d), was executed by adding subpar. (E) at end of par. (2) of subsec. (d) to reflect the probable intent of Congress.

Subsec. (e)(1)(I). Pub. L. 112–81, §325(4), added subpar. (I).

2008—Subsec. (d)(2)(D). Pub. L. 110–417, §327(b)(1), added subpar. (D).

Subsec. (e)(1)(F) to (H). Pub. L. 110–417, §327(a), added subpars. (F) to (H).

Subsec. (e)(2). Pub. L. 110–417, §327(b)(2), inserted introductory provisions for subpars. (A) and (B), redesignated former subpars. (A) to (G) as cls. (i) to (vii), respectively, of subpar. (A) and realigned margins, and redesignated former subpars. (H) and (I) as cls. (i) and (ii), respectively, of subpar. (B) and realigned margins.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–263, div. A, title III, §374(c), Dec. 23, 2022, 136 Stat. 2542, provided that: “The amendments made by this section [amending this section and section 2861 of this title] shall apply with respect to fiscal years beginning on or after October 1, 2023.”

#### EFFECTIVE DATE

Pub. L. 109–364, div. A, title III, §332(c), Oct. 17, 2006, 120 Stat. 2150, provided that: “Section 2476 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2006.”

#### CLARIFICATION OF CALCULATION FOR CERTAIN WORKLOAD CARRYOVER OF DEPARTMENT OF THE ARMY

Pub. L. 117–263, div. A, title III, §377, Dec. 23, 2022, 136 Stat. 2542, as amended by Pub. L. 118–31, div. A, title III, §345, Dec. 22, 2023, 137 Stat. 225, provided that: “For

purposes of calculating the amount of workload carryover with respect to the depots and arsenals of the Department of the Army, the Secretary of Defense shall authorize the Secretary of the Army to use a calculation for such carryover that—

- “(1) applies a material end of period exclusion; and
- “(2) excludes from the calculated carryover amount the proceeds of any foreign military sale.”

#### PILOT PROGRAM ON DIGITAL OPTIMIZATION OF ORGANIC INDUSTRIAL BASE MAINTENANCE AND REPAIR OPERATIONS

Pub. L. 117–81, div. A, title III, §354, Dec. 27, 2021, 135 Stat. 1656, provided that:

“(a) IN GENERAL.—Beginning not later than 180 days after the date of the enactment of this Act [Dec. 27, 2021], the Assistant Secretary of Defense for Sustainment, in coordination with the Secretaries of the military departments, shall undertake a pilot program under which the digitization of the facilities and operations of at least one covered depot shall be provided for by the Secretary concerned.

“(b) ELEMENTS OF PILOT PROGRAM.—In carrying out the pilot program under this section, the Secretary concerned shall provide for each of the following at the covered depot or depots at which the program is carried out:

“(1) The creation of a digital twin model of the maintenance, repair, and remanufacturing infrastructure and activities.

“(2) The modeling and simulation of optimized facility configuration, logistics systems, and processes.

“(3) The analysis of material flow and resource use to achieve key performance metrics for all levels of maintenance and repair.

“(4) An assessment of automated, advanced, and additive manufacturing technologies that could improve maintenance, repair, and remanufacturing operations.

“(c) REPORT.—Not later than 60 days after the completion of the digital twin model and associated analysis, the Assistant Secretary of Defense for Sustainment shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the pilot program. Such report shall include—

“(1) a summary of the cost of the pilot program;

“(2) a description of the efficiencies identified under the pilot program;

“(3) a description of the infrastructure, workforce, and capital equipment investments necessary to achieve such efficiencies;

“(4) any plans to undertake such investments; and

“(5) the assessment of the Assistant Secretary of the value of the pilot program and the potential applicability of the findings of the pilot program to other covered depots.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘covered depot’ includes any depot covered under section 2476(e) [now 2476(f)] of title 10, United States Code, except for the following:

“(A) Portsmouth Naval Shipyard, Maine.

“(B) Pearl Harbor Naval Shipyard, Hawaii.

“(C) Puget Sound Naval Shipyard, Washington.

“(D) Norfolk Naval Shipyard, Virginia.

“(2) The terms ‘military departments’ and ‘Secretary concerned’ have the meanings given such terms in section 101 of title 10, United States Code.”

#### STRATEGY TO IMPROVE INFRASTRUCTURE OF CERTAIN DEPOTS OF THE DEPARTMENT OF DEFENSE

Pub. L. 116–92, div. A, title III, §359, Dec. 20, 2019, 133 Stat. 1323, provided that:

“(a) STRATEGY REQUIRED.—Not later than October 1, 2020, 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 comprehensive strategy for improving the depot infrastructure of the military de-

partments with the objective of ensuring that all covered depots have the capacity and capability to support the readiness and material availability goals of current and future weapon systems of the Department of Defense.

“(b) ELEMENTS.—The strategy under subsection (a) shall include the following:

“(1) A comprehensive review of the conditions and performance at each covered depot, including the following:

“(A) An assessment of the current status of the following elements:

“(i) Cost and schedule performance of the depot.

“(ii) Material availability of weapon systems supported at the depot and the impact of the performance of the depot on that availability.

“(iii) Work in progress and non-operational items awaiting depot maintenance.

“(iv) The condition of the depot.

“(v) The backlog of restoration and modernization projects at the depot.

“(vi) The condition of equipment at the depot.

“(vii) the vulnerability of the depot to adverse environmental conditions and, if necessary, the investment required to withstand those conditions.

“(B) An identification of analytically based goals relating to the elements identified in subparagraph (A).

“(2) A business-case analysis that assesses investment alternatives comparing cost, performance, risk, and readiness outcomes and recommends an optimal investment approach across the Department of Defense to ensure covered depots efficiently and effectively meet the readiness goals of the Department, including an assessment of the following alternatives:

“(A) The minimum investment necessary to meet investment requirements under section 2476 of title 10, United States Code.

“(B) The investment necessary to ensure the current inventory of facilities at covered depots can meet the mission-capable, readiness, and contingency goals of the Secretary of Defense.

“(C) The investment necessary to execute the depot infrastructure optimization plans of each military department.

“(D) Any other strategies for investment in covered depots, as identified by the Secretary.

“(3) A plan to improve conditions and performance of covered depots that identifies the following:

“(A) The approach of the Secretary of Defense for achieving the goals outlined in paragraph (1)(B).

“(B) The resources and investments required to implement the plan.

“(C) The activities and milestones required to implement the plan.

“(D) A results-oriented approach to assess—

“(i) the progress of each military department in achieving such goals; and

“(ii) the progress of the Department in implementing the plan.

“(E) Organizational roles and responsibilities for implementing the plan.

“(F) A process for conducting regular management review and coordination of the progress of each military department in implementing the plan and achieving such goals.

“(G) The extent to which the Secretary has addressed recommendations made by the Comptroller General of the United States relating to depot operations during the five-year period preceding the date of submittal of the strategy under this section.

“(H) Risks to implementing the plan and mitigation strategies to address those risks.

“(c) ANNUAL REPORT ON PROGRESS.—As part of the annual budget submission of the President under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report describing the progress made in—

“(1) implementing the strategy under subsection (a); and

“(2) achieving the goals outlined in subsection (b)(1)(B).

“(d) COMPTROLLER GENERAL REPORTS.—

“(1) ASSESSMENT OF STRATEGY.—Not later than January 1, 2021, the Comptroller General of the United States shall submit to the congressional defense committees a report assessing the extent to which the strategy under subsection (a) meets the requirements of this section.

“(2) ASSESSMENT OF IMPLEMENTATION.—Not later than April 1, 2022, the Comptroller General shall submit to the congressional defense committees a report setting forth an assessment of the extent to which the strategy under subsection (a) has been effectively implemented by each military department and the Secretary of Defense.

“(e) COVERED DEPOT DEFINED.—In this section, the term ‘covered depot’ has the meaning given that term in section 2476(e) [now 2476(f)] of title 10, United States Code.”

TWO YEAR PHASE-IN FOR DEPARTMENTS OF THE ARMY AND THE NAVY

Pub. L. 109-364, div. A, title III, §332(d), Oct. 17, 2006, 120 Stat. 2150, reduced the percentage of required investment in covered depots pursuant to subsec. (a) of this section for fiscal years 2007 and 2008.

CHAPTER 147—COMMISSARIES AND EXCHANGES AND OTHER MORALE, WELFARE, AND RECREATION ACTIVITIES

Table with 2 columns: Subchapter and Sec. Subchapter I: Defense Commissary and Exchange Systems (2481); Subchapter II: Relationship, Continuation, and Common Policies of Defense Commissary and Exchange Systems (2487); Subchapter III: Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities (2491)

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AMENDMENTS

2004—Pub. L. 108-375, div. A, title VI, §651(a)(1), (3), Oct. 28, 2004, 118 Stat. 1964, added items for subchapters I to III and struck out items 2481 “Existence of defense commissary system and exchange stores system”, 2482 “Commissary stores: operation”, 2482a “Non-appropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide and obtain goods and services”, 2483 “Commissary stores: reimbursement for use of commissary facilities by military departments”, 2484 “Commissary stores: use of appropriated funds to cover operating expenses”, 2485 “Donation of unusable food: commissary stores and other activities”, 2486 “Commissary stores: merchandise that may be sold; uniform surcharges and pricing”, 2487 “Commissary stores: release of certain commercially valuable information to the public”, 2488 “Non-appropriated fund instrumentalities: purchase of alcoholic beverages”, 2489 “Overseas package stores: treatment of United States wines”, 2489a “Sale or rental of sexually explicit material prohibited”, 2490a “Combined exchange and commissary stores”, 2492 “Overseas commissary and exchange stores: access and purchase restrictions”, 2493 “Fisher Houses: administration as nonappropriated fund instrumentality”, and 2494 “Uniform funding and management of morale, welfare, and recreation programs”.

2003—Pub. L. 108-136, div. A, title VI, §652(b), Nov. 24, 2003, 117 Stat. 1522, added item 2481.

2002—Pub. L. 107-314, div. A, title III, §323(b), Dec. 2, 2002, 116 Stat. 2511, added item 2494.

2001—Pub. L. 107-107, div. A, title III, §§332(b), 333(b), Dec. 28, 2001, 115 Stat. 1058, 1059, added item 2483 and