Forces'' in item for chapter 55, and struck out ''Care of the Dead'' and substituted ''1475'' for ''1481'' in item for chapter 75.

PART I—ORGANIZATION AND GENERAL MILITARY POWERS

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AMENDMENTS

2008—Pub. L. 110–181, div. A, title X, §1068(a)(4)(B), Jan. 28, 2008, 122 Stat. 326, substituted ''Insurrection'' for ''Enforcement of the Laws to Restore Public Order'' in item for chapter 15.

2006—Pub. L. 109–364, div. A, title X, §1076(a)(4)(A), Oct. 17, 2006, 120 Stat. 2405, substituted ''Enforcement of the Laws to Restore Public Order'' for ''Insurrection'' in item for chapter 15.

2004—Pub. L. 108–375, div. A, title X, §1084(d)(1), Oct. 28, 2004, 118 Stat. 2061, substituted ''480'' for ''481'' in item for chapter 23.

2003—Pub. L. 108–136, div. A, title IX, §921(d)(8), Nov. 24, 2003, 117 Stat. 1569, substituted ''Geospatial-Intelligence'' for ''Imagery and Mapping'' in item for chapter 22.

1997—Pub. L. 105–85, div. A, title X, §1073(a)(1), Nov. 18, 1997, 111 Stat. 1900, substituted ''481'' for ''471'' in item for chapter 23.

1996—Pub. L. 104–201, div. A, title XI, §1123(a)(2), Sept. 23, 1996, 110 Stat. 2688, substituted ''National Imagery and Mapping Agency'' for ''Miscellaneous Studies and Reports'' and ''441'' for ''451'' in item for chapter 22 and added item for chapter 23.

1994—Pub. L. 103–337, div. A, title V, §554(a)(2), Oct. 5, 1994, 108 Stat. 2773, added item for chapter 22.

1991—Pub. L. 102–190, div. A, title X, §1002(a)(2), Dec. 5, 1991, 105 Stat. 1455, substituted ''Defense Budget Matters'' for ''Regular Components'' and inserted ''221'' in item for chapter 9.

1988—Pub. L. 100–456, div. A, title XI, §1104(b), Sept. 29, 1988, 102 Stat. 2046, substituted ''Support for'' for ''Cooperation With'' and ''Agencies'' for ''Officials'' in item for chapter 18.

1987—Pub. L. 100–180, div. A, title III, §332(c), Dec. 4, 1987, 101 Stat. 1080, substituted ''Humanitarian and Other Assistance'' for ''Humanitarian and Civic Assistance Provided in Conjunction With Military Operations'' in item for chapter 20.

Pub. L. 100–26, §9(b)(4), Apr. 21, 1987, 101 Stat. 287, added item for chapter 21.

1986—Pub. L. 99–661, div. A, title III, §333(a)(2), Nov. 14, 1986, 100 Stat. 3859, added item for chapter 20.

Pub. L. 99–433, title VI, §605(a), Oct. 1, 1986, 100 Stat. 1075a, added items for chapters 2 and 6, inserted ''and Functions'' in item for chapter 3, substituted ''Office of the Secretary of Defense'' for ''Department of Defense'' in item for chapter 4, substituted ''151'' for ''141'' as section number in item for chapter 5, reenacted item for chapter 7 without change, and inserted ''and Department of Defense Field activities'' in item for chapter 8.

1982—Pub. L. 97–269, title V, §501(b), Sept. 27, 1982, 96 Stat. 1145, added item for chapter 8.

1981—Pub. L. 97–86, title IX, §905(a)(2), Dec. 1, 1981, 95 Stat. 1116, added item for chapter 18.

1962—Pub. L. 87–651, title II, §203, Sept. 7, 1962, 76 Stat. 519, added item for chapter 4.

CHAPTER 1—DEFINITIONS

Sec.
101. Definitions.

§101. Definitions

(a) IN GENERAL.—The following definitions apply in this title:

(1) The term ''United States'', in a geographic sense, means the States and the District of Columbia.

[(2) Repealed. Pub. L. 109–163, div. A, title X, §1057(a)(1), Jan. 6, 2006, 119 Stat. 3440.]

(3) The term ''possessions'' includes the Virgin Islands, Guam, American Samoa, and the Guano Islands, so long as they remain possessions, but does not include any Commonwealth.

(4) The term ''armed forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(5) The term ''uniformed services'' means—

(A) the armed forces;

(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

(C) the commissioned corps of the Public Health Service.

(6) The term ''department'', when used with respect to a military department, means the executive part of the department and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, such term means the executive part of the department, including the executive parts of the military departments, and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of Defense, including those of the military departments.

(7) The term ''executive part of the department'' means the executive part of the Department of Defense, Department of the Army, Department of the Navy, or Department of the Air Force, as the case may be, at the seat of government.

(8) The term ''military departments'' means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

(9) The term ''Secretary concerned'' means—

(A) the Secretary of the Army, with respect to matters concerning the Army;

(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Department of the Navy;

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

(10) The term ''service acquisition executive'' means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.

(11) The term ''Defense Agency'' means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

(B) that is designated by the Secretary of Defense as a Defense Agency.

(12) The term ''Department of Defense Field Activity'' means an organizational entity of the Department of Defense—

(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department; and

(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.

(13) The term ''contingency operation'' means a military operation that—

(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or

(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

(14) The term ''supplies'' includes material, equipment, and stores of all kinds.

(15) The term ''pay'' includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

(16) The term ''congressional defense committees'' means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(17) The term ''base closure law'' means the following:

(A) Section 2687 of this title.

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(C) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(18) The term ''acquisition workforce'' means the persons serving in acquisition positions within the Department of Defense, as designated pursuant to section 1721(a) of this title.

(b) PERSONNEL GENERALLY.—The following definitions relating to military personnel apply in this title:

(1) The term ''officer'' means a commissioned or warrant officer.

(2) The term ''commissioned officer'' includes a commissioned warrant officer.

(3) The term ''warrant officer'' means a person who holds a commission or warrant in a warrant officer grade.

(4) The term ''general officer'' means an officer of the Army, Air Force, or Marine Corps serving in or having the grade of general, lieutenant general, major general, or brigadier general.

(5) The term ''flag officer'' means an officer of the Navy or Coast Guard serving in or having the grade of admiral, vice admiral, rear admiral, or rear admiral (lower half).

(6) The term ''enlisted member'' means a person in an enlisted grade.

(7) The term ''grade'' means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

(8) The term ''rank'' means the order of precedence among members of the armed forces.

(9) The term ''rating'' means the name (such as ''boatswain's mate'') prescribed for members of an armed force in an occupational field. The term ''rate'' means the name (such as ''chief boatswain's mate'') prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

(10) The term ''original'', with respect to the appointment of a member of the armed forces in a regular or reserve component, refers to that member's most recent appointment in that component that is neither a promotion nor a demotion.

(11) The term ''authorized strength'' means the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces.

(12) The term ''regular'', with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office in a regular component of an armed force.

(13) The term ''active-duty list'' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers described in section 641 of this title, who are serving on active duty.

(14) The term ''medical officer'' means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer.

(15) The term ''dental officer'' means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

(16) The term ''Active Guard and Reserve'' means a member of a reserve component who is on active duty pursuant to section 12301(d) of this title or, if a member of the Army National Guard or Air National Guard, is on full-time National Guard duty pursuant to section 502(f) of title 32, and who is performing Active Guard and Reserve duty.

(c) RESERVE COMPONENTS.—The following definitions relating to the reserve components apply in this title:

(1) The term ''National Guard'' means the Army National Guard and the Air National Guard.

(2) The term ''Army National Guard'' means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(3) The term ''Army National Guard of the United States'' means the reserve component of the Army all of whose members are members of the Army National Guard.

(4) The term ''Air National Guard'' means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized.

(5) The term ''Air National Guard of the United States'' means the reserve component of the Air Force all of whose members are members of the Air National Guard.

(6) The term ''reserve'', with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office held as a Reserve of one of the armed forces.

(7) The term ''reserve active-status list'' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 14002 of this title) that contains the names of all officers of that armed force except warrant officers (including commissioned warrant officers) who are in an active status in a reserve component of the Army, Navy, Air Force, or Marine Corps and are not on an active-duty list.

(d) DUTY STATUS.—The following definitions relating to duty status apply in this title:

(1) The term ''active duty'' means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

(2) The term ''active duty for a period of more than 30 days'' means active duty under a call or order that does not specify a period of 30 days or less.

(3) The term ''active service'' means service on active duty or full-time National Guard duty.

(4) The term ''active status'' means the status of a member of a reserve component who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve.

(5) The term ''full-time National Guard duty'' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

(6)(A) The term ''active Guard and Reserve duty'' means active duty performed by a member of a reserve component of the Army, Navy, Air Force, or Marine Corps, or full-time National Guard duty performed by a member of the National Guard pursuant to an order to full-time National Guard duty, for a period of 180 consecutive days or more for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.

(B) Such term does not include the following:

(i) Duty performed as a member of the Reserve Forces Policy Board provided for under section 10301 of this title.

(ii) Duty performed as a property and fiscal officer under section 708 of title 32.

(iii) Duty performed for the purpose of interdiction and counter-drug activities for which funds have been provided under section 112 of title 32.

(iv) Duty performed as a general or flag officer.

(v) Service as a State director of the Selective Service System under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)).

(7) The term ''inactive-duty training'' means—

(A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 or any other provision of law; and

(B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them

on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

(e) FACILITIES AND OPERATIONS.—The following definitions relating to facilities and operations apply in this title:

(1) RANGE.—The term ''range'', when used in a geographic sense, means a designated land or water area that is set aside, managed, and used for range activities of the Department of Defense. Such term includes the following:

(A) Firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, electronic scoring sites, buffer zones with restricted access, and exclusionary areas.

(B) Airspace areas designated for military use in accordance with regulations and procedures prescribed by the Administrator of the Federal Aviation Administration.

(2) RANGE ACTIVITIES.—The term ''range activities'' means—

(A) research, development, testing, and evaluation of military munitions, other ordnance, and weapons systems; and

(B) the training of members of the armed forces in the use and handling of military munitions, other ordnance, and weapons systems.

(3) OPERATIONAL RANGE.—The term ''operational range'' means a range that is under the jurisdiction, custody, or control of the Secretary of a military department and—

(A) that is used for range activities, or

(B) although not currently being used for range activities, that is still considered by the Secretary to be a range and has not been put to a new use that is incompatible with range activities.

(4) MILITARY MUNITIONS.—(A) The term ''military munitions'' means all ammunition products and components produced for or used by the armed forces for national defense and security, including ammunition products or components under the control of the Department of Defense, the Coast Guard, the Department of Energy, and the National Guard.

(B) Such term includes the following:

(i) Confined gaseous, liquid, and solid propellants.

(ii) Explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries, including bulk explosives and chemical warfare agents.

(iii) Chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, and demolition charges.

(iv) Devices and components of any item specified in clauses (i) through (iii).

(C) Such term does not include the following:

(i) Wholly inert items.

(ii) Improvised explosive devices.

(iii) Nuclear weapons, nuclear devices, and nuclear components, other than nonnuclear components of nuclear devices that are managed under the nuclear weapons program of the Department of Energy after all required sanitization operations under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) have been completed.

(5) UNEXPLODED ORDNANCE.—The term ''unexploded ordnance'' means military munitions that—

(A) have been primed, fused, armed, or otherwise prepared for action;

(B) have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installations, personnel, or material; and

(C) remain unexploded, whether by malfunction, design, or any other cause.

(f) RULES OF CONSTRUCTION.—In this title—

(1) ''shall'' is used in an imperative sense;

(2) ''may'' is used in a permissive sense;

(3) ''no person may * * *'' means that no person is required, authorized, or permitted to do the act prescribed;

(4) ''includes'' means ''includes but is not limited to''; and

(5) ''spouse'' means husband or wife, as the case may be.

(g) REFERENCE TO TITLE 1 DEFINITIONS.—For other definitions applicable to this title, see sections 1 through 5 of title 1.

(Aug. 10, 1956, ch. 1041, 70A Stat. 3; Pub. L. 85–861, §§1(1), 33(a)(1), Sept. 2, 1958, 72 Stat. 1437, 1564; Pub. L. 86–70, §6(a), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, §4(a), July 12, 1960, 74 Stat. 411; Pub. L. 87–649, §6(f)(1), Sept. 7, 1962, 76 Stat. 494; Pub. L. 90–235, §7(a)(1), Jan. 2, 1968, 81 Stat. 762; Pub. L. 90–623, §2(1), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 92–492, §1, Oct. 13, 1972, 86 Stat. 810; Pub. L. 96–513, title I, §§101, 115(a), title V, §501(2), Dec. 12, 1980, 94 Stat. 2839, 2877, 2907; Pub. L. 97–22, §2(a), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title IV, §405(b)(1), Dec. 1, 1981, 95 Stat. 1105; Pub. L. 98–525, title IV, §414(a)(1), Oct. 19, 1984, 98 Stat. 2518; Pub. L. 99–145, title V, §514(b)(1), Nov. 8, 1985, 99 Stat. 628; Pub. L. 99–348, title III, §303, July 1, 1986, 100 Stat. 703; Pub. L. 99–433, title III, §302, Oct. 1, 1986, 100 Stat. 1022; Pub. L. 100–26, §7(i), (k)(1), Apr. 21, 1987, 101 Stat. 282, 283; Pub. L. 100–180, div. A, title XII, §§1231(1), (20), 1233(a)(2), Dec. 4, 1987, 101 Stat. 1160, 1161; Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–510, div. A, title XII, §1204, Nov. 5, 1990, 104 Stat. 1658; Pub. L. 102–190, div. A, title VI, §631(a), Dec. 5, 1991, 105 Stat. 1380; Pub. L. 102–484, div. A, title X, §1051(a), Oct. 23, 1992, 106 Stat. 2494; Pub. L. 103–337, div. A, title V, §514, title XVI, §§1621, 1671(c)(1), Oct. 5, 1994, 108 Stat. 2753, 2960, 3014; Pub. L. 104–106, div. A, title XV, §1501(c)(1), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104–201, div. A, title V, §522, Sept. 23, 1996, 110 Stat. 2517; Pub. L. 107–296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108–136, div. A, title X, §§1042(a), 1043(a), 1045(a)(2), Nov. 24, 2003, 117 Stat. 1608, 1610, 1612; Pub. L. 108–375, div. A, title X, §1084(a), Oct. 28, 2004, 118 Stat. 2060;

Pub. L. 109–163, div. A, title X, §§1056(c)(1), 1057(a)(1), (2), Jan. 6, 2006, 119 Stat. 3439, 3440; Pub. L. 109–364, div. A, title V, §524, Oct. 17, 2006, 120 Stat. 2193; Pub. L. 111–383, div. A, title VIII, §876, Jan. 7, 2011, 124 Stat. 4305.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
101(1)	50:351 (clause (b)).	Sept. 16, 1942, ch. 561, §401 (clause (b)); added Apr. 1, 1944, ch. 150, §401 (clause (b)); restated Apr. 19, 1946, ch. 142, §401 (clause (b)), 60 Stat. 102.
101(2)	32:4c (1st 33 words).	
101(3)	[No source].	
101(4)	50:901(e).	
101(5)	5:181–1(c) (for definition purposes); 5:411a(a) (for definition purposes); 5:626(c) (for definition purposes).	July 9, 1952, ch. 608, §101(d) (less 2d sentence), (e), (g), §702 (for definition purposes), 66 Stat. 481, 482, 501.
101(6)	[No source].	
101(7)	5:171(b) (last 23 words of clause (1), for definition purposes).	
101(8)	10:600(a); 34:135(a).	July 26, 1947, ch. 343, §§205(c) (for definition purposes), 206(a) (for definition purposes), 207(c) (for definition purposes), 61 Stat. 501, 502.
101(9)	[No source].	
101(10)	32:2 (for definition purposes); 32:4b (for definition purposes).	
101(11)	50:1112(a) (for definition purposes).	
101(12)	10:1835 (less last 16 words, for definition purposes); 32:2 (for definition purposes); 32:4b (for definition purposes).	July 26, 1947, ch. 343, §201(b) (last 31 words of clause (1), for definition purposes); restated Aug. 10, 1949, ch. 412, §4 (last 31 words of clause (1) of 201(b), for definition purposes), 63 Stat. 579.
101(13)	50:1112(b) (for definition purposes).	
101(14)	5:181–3(b) (less last sentence); 10:1a(b) (less last sentence); 10:1801(b) (less last sentence); 37:231(c) (1st sentence, for definition purposes); 50:901(g).	June 3, 1916, ch. 134, §62 (1st 36 words of last proviso), 39 Stat. 198. June 3, 1916, ch. 134, §117 (for definition purposes), 39 Stat. 212.
101(15)	[No source].	
101(16)	10:600(b); 34:135(b).	June 3, 1916, ch. 134, §71 (for definition purposes); added June 15, 1933, ch. 87, §9 (for definition purposes), 48 Stat. 157; Oct. 12, 1949, ch. 681, §530 (for definition purposes), 63 Stat. 837; July 9, 1952, ch. 608, §803 (9th par., for definition purposes), 66 Stat. 505.
101(17)	5:181–3(b) (last sentence); 10:1a(b) (last sentence); 10:1801(b) (last sentence); 50:551(9).	
101(18)	[No source].	
101(19)	[No source].	
101(20)	[No source].	
101(21)	[No source].	
101(22)	10:1036e(d) (for definition purposes); 34: 440m(d) (for definition purposes).	
101(23)	[No source].	Sept. 19, 1951, ch. 407, §§2(b), 305 (less last 16 words, for definition purposes), 65 Stat. 326, 330.
101(24)	[No source].	
101(26)	[No source].	
101(27)	[No source].	
101(28)	[No source].	
101(29)	[No source].	June 28, 1950, ch. 383, §2(b), 64 Stat. 263; July 9, 1952, ch. 608, §807(a), 66 Stat. 508.
101(30)	[No source].	
101(31)	50:901(d) (less 2d sentence).	
101(32)	[No source].	Oct. 12, 1949, ch. 681, §102(c) (1st sentence, for definition purposes), 63 Stat. 804.
101(33)	[No source].	
101(34)	[No source].	May 5, 1950, ch. 169, §1 (Art. 1 (clause (9))), 64 Stat. 108. May 29, 1954, ch. 249, §2(a), (b), 68 Stat. 157. June 29, 1948, ch. 708, §306(d) (for definition purposes), 62 Stat. 1089.

The definitions in clauses (3), (15), (18)–(21), (23)–(30), and (31)–(33) reflect the adoption of terminology which, though undefined in the source statutes restated in this title, represents the closest practicable approximation of the ways in which the terms defined have been most commonly used. A choice has been made where established uses conflict.

In clause (2), the definition of ''Territory'' in 32:4c is executed throughout this revised title by specific reference, where applicable, to the Territories, Puerto Rico and the Canal Zone.

In clause (4), the definition of ''armed forces'' is based on the source statute instead of 50:551(2), which does not include an express reference to the Marine Corps. The words ''including all components thereof'' are omitted as surplusage.

In clause (5), the term ''Department'' is defined to give it the broad sense of ''Establishment'', to conform to the source statute and the usage preferred by the Department of Defense, instead of the more limited sense defined by 5:421g(a) and 423a(a), and 10:1a(d) and 1801(d).

In clause (6), the term ''executive part of the department'' is created for convenience in referring to what is described in the source statutes for this title as ''department'' in the limited sense of the executive part at the seat of government. This is required by the adoption of the word ''department'' in clause (5) to cover the broader concept of ''establishment''.

In clause (8), the term ''Secretary concerned'' is created and defined for legislative convenience.

In clause (9), a definition of ''National Guard'' is inserted for clarity.

In clause (10)(A), the words ''a land force'' are substituted for 32:2 (as applicable to Army National Guard). The National Defense Act of 1916, §117 (last 66 words), 39 Stat. 212, is not contained in 32:2. It is also omitted from the revised section as repealed by the Act of February 28, 1925, ch. 374, §3, 43 Stat. 1081.

In clauses (10) and (11), the word ''Army'' is inserted to distinguish the organizations defined from their Air Force counterparts.

In clauses (10) and (12), the words ''unless the context or subject matter otherwise requires'' and ''as provided in this title'', in 32:4b, are omitted as surplusage.

In clauses (10)(B) and (12)(B), the words ''has its officers appointed'' are substituted for the word ''officered'', in 32:4b.

In clauses (11) and (13), only that much of the description of the composition of the Army National Guard of the United States and the Air National Guard of the United States is used as is necessary to distinguish these reserve components, respectively, from the other reserve components.

In clause (12)(A), the words ''an air force'' are substituted for the words ''for which Federal responsibility has been vested in the Secretary of the Air Force or the Department of the Air Force pursuant to law'', in 10:1835, and for 32:2 (as applicable to Air National Guard), to make the definition of ''Air National Guard'' parallel with the definition of ''Army National Guard'', and to make explicit the intent of Congress, in creating the Air National Guard, that the organized militia henceforth should consist of three mutually exhaustive classes comprising the Army, Air, and Naval militia.

In clause (14), the definition of ''officer'' is based on the source statutes instead of 50:551(5), which excludes warrant officers. The reference to appointment in 10:1a(b) (2d sentence and 10:1801(b) (2d sentence), and the words ''commissioned warrant officer'', ''flight officer'', and ''either permanent or temporary'', in 37:231(c) (1st sentence), are omitted as surplusage. 5:181–3(b) (1st sentence), 10:1a(b) (1st sentence), and 10:1801(b) (1st sentence) are omitted as covered by the definitions in clauses (14) and (16) of the revised section and by section 3062(c) and section 8062(d) of this title.

In clause (16), the words ''unless otherwise qualified'', ''permanent or temporary'', and ''in the Army, Navy, Air Force, Marine Corps, or Coast Guard, including any component thereof'' are omitted as surplusage. The word ''person'' is substituted for the word ''officer''.

In clause (22), the definition of ''active duty'' is based on the definition of ''active Federal service'' in the source statute, since it is believed to be closer to general usage than the definition in 50:901(b), which excludes active duty for training from the general concept of active duty.

1958 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
101(25)	50:1181(6).	Sept. 3, 1954, ch. 1257, §102(6), 68 Stat. 1150.

The words ", other than a commissioned warrant officer," are inserted to reflect 50:1181(1).

[Clause (35).] The word "original" is defined to make clear that when used in relation to an appointment it refers to the member's first appointment in his current series of appointments and excludes any appointment made before a lapse in service.

REFERENCES IN TEXT

Section 125(d) of this title, referred to in subsec. (a)(12)(A), was repealed by Pub. L. 99–433, title III, § 301(b)(1), Oct. 1, 1986, 100 Stat. 1022.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (a)(17)(B), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Tables.

The Defense Authorization Amendments and Base Closure and Realignment Act, referred to in subsec. (a)(17)(C), is Pub. L. 100–526, Oct. 24, 1988, 102 Stat. 2623, as amended. Title II of the Act is set out as a note under section 2687 of this title. For complete classification of this Act to the Code, see Short Title of 1988 Amendment note set out under section 2687 of this title and Tables.

The Atomic Energy Act of 1954, referred to in subsec. (e)(4)(C)(iii), is act Aug. 1, 1946, ch. 724, as added by act Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 921, and amended, which is classified generally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables.

CODIFICATION

Pub. L. 107–296, § 1704(b)(1), which directed amendment of section 101(9) of this title by substituting of "of Homeland Security" for "of Transportation" wherever appearing, could not be executed because there is no section 101(9).

AMENDMENTS

2011—Subsec. (a)(18). Pub. L. 111–383 added par. (18).

2006—Subsec. (a)(2). Pub. L. 109–163, § 1057(a)(1), struck out par. (2) which read as follows: "The term 'Territory' (except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States) means any Territory organized after August 10, 1956, so long as it remains a Territory."

Subsec. (a)(3). Pub. L. 109–163, § 1057(a)(2), struck out "Territory or" before "Commonwealth".

Subsec. (b)(16). Pub. L. 109–364, § 524(1), added par. (16).

Subsec. (d)(6)(A). Pub. L. 109–364, § 524(2), struck out "or full-time National Guard duty" after "means active duty" and substituted "pursuant to an order to full-time National Guard duty," for ", pursuant to an order to active duty or full-time National Guard duty".

Subsec. (e)(4)(B)(ii). Pub. L. 109–163, § 1056(c)(1), struck out comma after "bulk explosives".

2004—Subsec. (e)(3). Pub. L. 108–375 substituted "Secretary of a military department" for "Secretary of Defense" in introductory provisions.

2003—Subsec. (a)(9)(D). Pub. L. 108–136, § 1045(a)(2), substituted "Homeland Security" for "Transportation".

Subsec. (a)(16), (17). Pub. L. 108–136, § 1043(a), added pars. (16) and (17).

Subsecs. (e) to (g). Pub. L. 108–136, § 1042(a), added subsec. (e) and redesignated former subsecs. (e) and (f) as (f) and (g), respectively.

1996—Subsec. (d)(4). Pub. L. 104–201 substituted "a member of a reserve component" for "a reserve commissioned officer, other than a commissioned warrant officer,".

Subsec. (d)(6)(B)(i). Pub. L. 104–160 substituted "section 10301" for "section 175".

1994—Subsec. (a)(13)(B). Pub. L. 103–337, § 1671(c)(1), substituted "688, 12301(a), 12302, 12304, 12305, or 12406" for "672(a), 673, 673b, 673c, 688, 3500, or 8500".

Subsec. (c)(7). Pub. L. 103–337, § 1621, added par. (7).

Subsec. (d)(6), (7). Pub. L. 103–337, § 514, added par. (6) and redesignated former par. (6) as (7).

1992—Pub. L. 102–484 amended section generally, substituting subsecs. (a) to (f) for former pars. (1) to (47) which defined terms for purposes of this title.

1991—Par. (47). Pub. L. 102–190 added par. (47).

1990—Par. (46). Pub. L. 101–510 added par. (46).

1988—Pars. (3), (10), (12). Pub. L. 100–456 struck out "the Canal Zone," after "the Virgin Islands," in par. (3) and after "Puerto Rico," in pars. (10) and (12).

1987—Par. (1). Pub. L. 100–26, § 7(k)(1)(A), inserted "The term" after par. designation.

Par. (2). Pub. L. 100–26, § 7(1)(k)(B), inserted "the term" after "Air National Guard of the United States,".

Pub. L. 100–180, § 1233(a)(2), amended directory language of Pub. L. 100–26, § 7(k)(1)(C), by adding par. (2) to those pars. excepted from direction that initial letter of first word after open quotation marks in each par. be made lowercase rather than uppercase.

Pars. (3) to (7). Pub. L. 100–26, § 7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (8) to (13). Pub. L. 100–26, § 7(k)(1)(A), inserted "The term" after par. designation.

Par. (14). Pub. L. 100–180, § 1231(1), inserted "a" after "means".

Pub. L. 100–26, § 7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (15) to (19). Pub. L. 100–26, § 7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Par. (20). Pub. L. 100–180, § 1231(20), substituted "The term 'rate' for " 'Rate' in second sentence.

Pub. L. 100–26, § 7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (21) to (43). Pub. L. 100–26, § 7(k)(1)(A), (C), inserted "The term" after par. designation and struck out uppercase letter of first word after open quotation marks and substituted lowercase letter.

Pars. (44), (45). Pub. L. 100–26, § 7(i)(1), (k)(1)(A), inserted "The term" after par. designation and substituted "October 1, 1986" for "the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986".

1986—Par. (43). Pub. L. 99–348 added par. (43).

Pars. (44), (45). Pub. L. 99–433 added pars. (44) and (45).

1985—Par. (41). Pub. L. 99–145 substituted "rear admiral (lower half)" for "commodore".

1984—Par. (22). Pub. L. 98–525, § 414(a)(1)(A), inserted "It does not include full-time National Guard duty."

Par. (24). Pub. L. 98–525, § 414(a)(1)(B), inserted "or full-time National Guard duty".

Par. (42). Pub. L. 98–525, § 414(a)(1)(C), added par. (42).

1981—Par. (41). Pub. L. 97–86 substituted "commodore" for "commodore admiral".

Pub. L. 97–22 inserted "or Coast Guard" after "Navy".

1980—Par. (22). Pub. L. 96–513, § 501(2), struck out "duty on the active list," after "It includes".

Par. (36). Pub. L. 96–513, § 115(a), struck out par. (36) which provided that "dependent", with respect to a female member of an armed force, did not include her husband, unless he was in fact dependent on her for his chief support, or her child, unless his father was dead or he was in fact dependent on her for his chief support.

Pars. (37) to (41). Pub. L. 96–513, § 101, added pars. (37) to (41).

1972—Par. (2). Pub. L. 92–492 inserted "Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States," before "Territory".

1968—Par. (8)(D). Pub. L. 90–623 substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

Par. 36. Pub. L. 90–235 added par. (36).

1962—Par. (31)(A). Pub. L. 87–649 substituted ''section 206 of title 37'' for ''section 301 of title 37''.

1960—Par. (2). Pub. L. 80–624 struck out reference to Hawaii.

1959—Par. (2). Pub. L. 80–70 struck out reference to Alaska.

1958—Par. (25). Pub. L. 85–861, §1(1), added par. (25).

Par. (35). Pub. L. 85–861, §33(a)(1), added par. (35).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–296, title XVII, §1704(g), Nov. 25, 2002, 116 Stat. 2316, provided that: ''The amendments made by this section (other than subsection (f)) [see Tables for classification] shall take effect on the date of transfer of the Coast Guard to the Department [of Homeland Security].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1621 of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 1233(c)[(1)] of Pub. L. 100–180 provided that: ''The amendments made by subsection (a) [amending this section, section 2432 of this title, and section 406b of Title 37, Pay and Allowances of the Uniformed Services] shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100–26).''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 405(f) of Pub. L. 97–86 provided that: ''The amendments made by this section [amending this section, sections 525, 601, 611, 612, 619, 625, 634, 635, 637, 638, 645, 741, 5138, 5149, 5155, 5442, 5444, 5457, 5501, and 6389 of this title, section 201 of Title 37, Pay and Allowances of the Uniformed Services, and a provision set out as a note under section 611 of this title] shall take effect as of September 15, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 701 of Pub. L. 96–513 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on September 15, 1981.

''(b)(1) The authority to prescribe regulations under the amendments made by titles I through IV and under the provisions of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

''(2) The amendment made by section 415 [enacting section 302(h) of Title 37, Pay and Allowances of the Uniformed Services] shall take effect as of July 1, 1980.

''(3) The amendments made by part B of title V shall take effect on the date of the enactment of this Act [Dec. 12, 1980].

''(4) Part D of title VI shall take effect on the date of the enactment of this Act [Dec. 12, 1980].''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90–623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–649 effective Nov. 1, 1962, see section 15 of Pub. L. 87–649, set out as an Inconsistent Provisions note preceding section 101 of Title 37, Pay and Allowances of the Uniformed Services.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 33(g) of Pub. L. 85–861 provided that: ''This section [see Tables for classification] is effective as of August 10, 1956, for all purposes.''

SHORT TITLE OF 2009 AMENDMENT

Pub. L. 111–23, §1(a), May 22, 2009, 123 Stat. 1704, provided that: ''This Act [enacting sections 139c, 139d, 2334, and 2433a of this title, amending sections 139a, 181, 2306b, 2366a, 2366b, 2430, 2433, 2434, 2445c, 2501, and 2505 of this title and section 5315 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 139a, 139c, 181, 2302, 2366a, 2366b, 2430, and 2433a of this title, and amending provisions set out as a note under section 2304 of this title] may be cited as the 'Weapon Systems Acquisition Reform Act of 2009'.''

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–317, §1(a), Aug. 29, 2008, 122 Stat. 3526, provided that: ''This Act [amending sections 1145, 1146, and 1174 of this title, sections 2108 and 8521 of Title 5, Government Organization and Employees, section 685 of Title 26, Internal Revenue Code, section 303a of Title 37, Pay and Allowances of the Uniformed Services, and sections 3011, 3012, 3702, and 4211 of Title 38, Veterans' Benefits, and enacting provisions set out as notes under section 2108 of Title 5 and section 685 of Title 26] may be cited as the 'Hubbard Act'.''

Pub. L. 110–181, div. A, title VIII, §800, Jan. 28, 2008, 122 Stat. 202, provided that: ''This title [see Tables for classification] may be cited as the 'Acquisition Improvement and Accountability Act of 2007'.''

Pub. L. 110–181, div. A, title XVIII, §1801, Jan. 28, 2008, 122 Stat. 496, provided that: ''This title [enacting section 10508 of this title, amending sections 113, 164, 526, 10501 to 10503, 10541, 14508, 14511, and 14512 of this title, and enacting provisions set out as notes under sections 113 and 164 of this title and section 104 of Title 32, National Guard] may be cited as the 'National Guard Empowerment Act of 2007'.''

SHORT TITLE OF 2005 AMENDMENT

Pub. L. 109–148, div. A, title VIII, §8126(a), Dec. 30, 2005, 119 Stat. 2728, which provided that this Act, probably meaning section 8126 of div. A of Pub. L. 109–148, which amended section 2554 of this title and section 5309 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 2554 of this title and section 301 of Title 5, Government Organization and Employees, could be cited as the ''Support Our Scouts Act of 2005'', was repealed by Pub. L. 109–364, div. A, title X, §1071(f)(3), Oct. 17, 2006, 120 Stat. 2402.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–38, §1, July 22, 1999, 113 Stat. 205, provided that: ''This Act [enacting provisions set out as notes under section 2431 of this title and section 5901 of Title 22, Foreign Relations and Intercourse] may be cited as the 'National Missile Defense Act of 1999'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–25, §1, Apr. 6, 1991, 105 Stat. 75, provided that: ''This Act [see Tables for classification] may be cited as the 'Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991'.''

SHORT TITLE OF 1987 AMENDMENT

Section 1 of Pub. L. 100–26 provided that: ''This Act [see Tables for classification] may be cited as the 'Defense Technical Corrections Act of 1987'.''

SHORT TITLE OF 1981 AMENDMENT

Section 1(a) of Pub. L. 97–22 provided that: ''this Act [see Tables for classification] may be cited as the 'Defense Officer Personnel Management Act Technical Corrections Act'.''

SHORT TITLE OF 1980 AMENDMENT

Section 1(a) of Pub. L. 96–513 provided that: ''This Act [see Tables for classification] may be cited as the 'Defense Officer Personnel Management Act'.''

SAVINGS PROVISION

Section 703 of Pub. L. 96–513 provided that: ''Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act [see Tables for classification] do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act [see Effective Date of 1980 Amendment note above].''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

LAWS IN SUSPENDED STATUS PRIOR TO 1980 AMENDMENT BY PUB. L. 96–513

Section 702 of Pub. L. 96–513 provided that: ''If a provision of law that is in a suspended status on the day before the effective date of this Act [see Effective Date of 1980 Amendment note above] is amended by this Act [see Tables for classification], the suspended status of that provision is not affected by that amendment.''

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority vested by this title in ''military departments'', ''the Secretary concerned'', or ''the Secretary of Defense'' to be exercised, with respect to commissioned officer corps of National Oceanic and Atmospheric Administration, by Secretary of Commerce or Secretary's designee, see section 3071 of Title 33, Navigation and Navigable Waters.

PUBLIC HEALTH SERVICE

Authority vested by this title in ''military departments'', ''the Secretary concerned'', or ''the Secretary of Defense'' to be exercised, with respect to commissioned officers of Public Health Service, by Secretary of Health and Human Services or his designee, see section 213a of Title 42, The Public Health and Welfare.

COORDINATION OF CERTAIN SECTIONS OF AN ACT WITH OTHER PROVISIONS OF THAT ACT

Pub. L. 109–364, div. A, title X, §1071(i), Oct. 17, 2006, 120 Stat. 2403, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 107–107, div. A, title X, §1048(j), Dec. 28, 2001, 115 Stat. 1230, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 106–398, §1 [[div. A], title X, §1087(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [section 1087 of H.R. 5408, as enacted by section 1 of Pub. L. 106–398, see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 106–65, div. A, title X, §1066(e), Oct. 5, 1999, 113 Stat. 773, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 105–261, div. A, title X, §1069(e), Oct. 17, 1998, 112 Stat. 2137, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 105–85, div. A, title X, §1073(i), Nov. 18, 1997, 111 Stat. 1907, provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Section 1074(e) of Pub. L. 104–201 provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Section 1506 of title XV of div. A of Pub. L. 104–106 provided that: ''For purposes of applying amendments made by provisions of this Act other than provisions of this title [see Tables for classification], this title shall be treated as having been enacted immediately before the other provisions of this Act.''

Section 1070(h) of Pub. L. 103–337 provided that: ''For purposes of applying amendments made by provisions of this Act other than this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Pub. L. 103–160, div. A, title XI, §1182(h), Nov. 30, 1993, 107 Stat. 1774, provided that: ''For purposes of applying the amendments made by provisions of this Act other than this section [see Tables for classification], this section shall be treated as having been enacted immediately before the other provisions of this Act.''

Section 1055 of Pub. L. 102–484 provided that: ''For purposes of applying the amendments made by provisions of this Act other than sections 1052, 1053, and 1054 [see Tables for classification], those sections shall be treated as having been enacted immediately before the other provisions of this Act.''

CONGRESSIONAL DEFENSE COMMITTEES DEFINED

The following provisions provided that the term ''congressional defense committees'' for purposes of the Acts in which they were contained has the meaning given that term in subsec. (a)(16) of this section:

Pub. L. 111–383, §3, Jan. 7, 2011, 124 Stat. 4151.
Pub. L. 111–84, §3, Oct. 28, 2009, 123 Stat. 2208.
Pub. L. 110–417, §3, Oct. 14, 2008, 122 Stat. 4372.
Pub. L. 110–181, §3, Jan. 28, 2007, 122 Stat. 23.
Pub. L. 109–364, §3, Oct. 17, 2006, 120 Stat. 2100.
Pub. L. 109–163, §3, Jan. 6, 2006, 119 Stat. 3152.
Pub. L. 108–375, §3, Oct. 28, 2004, 118 Stat. 1825.

Pub. L. 109–148, div. A, title VIII, §8028, Dec. 30, 2005, 119 Stat. 2704, provided that for purposes of Pub. L. 109–148 the term ''congressional defense committees'' means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives and, for any matter pertaining to basic allowance for housing, facilities sustainment, restoration and modernization, environmental restoration and the Defense Health Program, ''congressional defense committees'' also means the Subcommittee on Military Quality of Life and Veterans Affairs, and Related Agencies [subcommittee jurisdiction now in Subcommittee on Military Construction, Veterans Affairs, and Related Agencies and Subcommittee on Defense] of the Committee on Appropriations of the House of Representatives.

The following provisions defined the term ''congressional defense committees'' for purposes of the Acts in which they were contained to mean the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives:

Pub. L. 111–118, div. A, title VIII, §8028, Dec. 19, 2009, 123 Stat. 3434.

Pub. L. 110–329, div. C, title VIII, §8028, Sept. 30, 2008, 122 Stat. 3627 (definition applies to div. C only).

Pub. L. 110–116, div. A, title VIII, §8027, Nov. 13, 2007, 121 Stat. 1320.

Pub. L. 109–289, div. A, title VIII, §8025, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 108–287, title VIII, §8030, Aug. 5, 2004, 118 Stat. 977.

Pub. L. 108–87, title VIII, §8031, Sept. 30, 2003, 117 Stat. 1079.

Pub. L. 107–248, title VIII, §8031, Oct. 23, 2002, 116 Stat. 1543.

Pub. L. 107–117, div. A, title VIII, §8034, Jan. 10, 2002, 115 Stat. 2255.

Pub. L. 106–259, title VIII, §8034, Aug. 9, 2000, 114 Stat. 682.

Pub. L. 106–79, title VIII, §8036, Oct. 25, 1999, 113 Stat. 1239.

The following provisions defined the term ''congressional defense committees'' for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives:

Pub. L. 108–136, §3, Nov. 24, 2003, 117 Stat. 1406.

Pub. L. 107–314, §3, Dec. 2, 2002, 116 Stat. 2471.

Pub. L. 107–107, §3, Dec. 28, 2001, 115 Stat. 1027.

Pub. L. 106–398, §1 [§3], Oct. 30, 2000, 114 Stat. 1654, 1654A–19.

Pub. L. 106–65, §3, Oct. 5, 1999, 113 Stat. 529.

Pub. L. 103–337, §3, Oct. 5, 1994, 108 Stat. 2678.

Pub. L. 103–160, §3, Nov. 30, 1993, 107 Stat. 1562.

Pub. L. 102–484, §3, Oct. 23, 1992, 106 Stat. 2331.

Pub. L. 102–190, §3, Dec. 5, 1991, 105 Stat. 1301.

Pub. L. 102–25, §3(4), Apr. 6, 1991, 105 Stat. 77.

Pub. L. 101–510, §3, Nov. 5, 1990, 104 Stat. 1498.

Pub. L. 101–189, §4, Nov. 29, 1989, 103 Stat. 1364.

The following provisions defined the term ''congressional defense committees'' for purposes of the Acts in which they were contained to mean the National Security Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on National Security of the Committee on Appropriations of the House of Representatives:

Pub. L. 105–262, title VIII, §8036, Oct. 17, 1998, 112 Stat. 2305.

Pub. L. 105–56, title VIII, §8038, Oct. 8, 1997, 111 Stat. 1229.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8040], Sept. 30, 1996, 110 Stat. 3009–71, 3009–97.

Pub. L. 104–61, title VIII, §8049, Dec. 1, 1995, 109 Stat. 661.

The following provisions defined the term ''congressional defense committees'' for purposes of the Acts in which they were contained to mean the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the House of Representatives:

Pub. L. 105–261, §3, Oct. 17, 1998, 112 Stat. 1935.

Pub. L. 105–85, §3, Nov. 18, 1997, 111 Stat. 1645.

Pub. L. 104–201, §3, Sept. 23, 1996, 110 Stat. 2439.

Pub. L. 104–106, §3, Feb. 10, 1996, 110 Stat. 204.

The following provisions defined the term ''congressional defense committees'' for purposes of the Acts in which they were contained to mean the Committees on Armed Services, the Committees on Appropriations, and the subcommittees on Defense of the Committee on Appropriations, of the Senate and the House of Representatives:

Pub. L. 103–335, title VIII, §8056, Sept. 30, 1994, 108 Stat. 2631.

Pub. L. 103–139, title VIII, §8067, Nov. 11, 1993, 107 Stat. 1455.

Pub. L. 102–172, title VIII, §8116, Nov. 26, 1991, 105 Stat. 1203.

DEFINITIONS FOR PURPOSES OF PUB. L. 102–25

Pub. L. 102–25, §3, Apr. 6, 1991, 105 Stat. 77, as amended by Pub. L. 102–190, div. A, title XII, §1203(a), Dec. 5, 1991, 105 Stat. 1508, provided that: ''For the purposes of this Act [see Short Title of 1991 Amendment note above]:

''(1) The term 'Operation Desert Storm' means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield, Operation Desert Storm, and Operation Provide Comfort).

''(2) The term 'incremental costs associated with Operation Desert Storm' means costs referred to in section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(ii)).

''(3) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

''(4) The term 'congressional defense committees' has the meaning given that term in section 3 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1498).''

CHAPTER 2—DEPARTMENT OF DEFENSE

Sec.

111. Executive department.
112. Department of Defense: seal.
113. Secretary of Defense.
113a. Transmission of annual defense authorization request.
114. Annual authorization of appropriations.
[114a. Renumbered.]
115. Personnel strengths: requirement for annual authorization.
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AMENDMENTS

2009—Pub. L. 111–84, div. A, title XI, §§1108(a)(2), 1109(b)(2)(B)(ii), Oct. 28, 2009, 123 Stat. 2491, 2493, amended item 115a generally, substituting ''Annual defense manpower requirements report'' for ''Annual manpower requirements report'', and added item 115b.

2008—Pub. L. 110–417, [div. A], title X, §1061(a)(1), Oct. 14, 2008, 122 Stat. 4612, added item 118b.

2002—Pub. L. 107–314, div. A, title V, §581(a)(2), title X, §1061(b), Dec. 2, 2002, 116 Stat. 2561, 2649, added items 113a and 118a.

1999—Pub. L. 106–65, div. A, title IX, §901(a)(2), Oct. 5, 1999, 113 Stat. 717, added item 118.

1998—Pub. L. 105–261, div. A, title III, §373(a)(2), Oct. 17, 1998, 112 Stat. 1992, added item 117.

1994—Pub. L. 103–337, div. A, title XVI, §1671(b)(1), Oct. 5, 1994, 108 Stat. 3013, struck out item 115b ''Annual report on National Guard and reserve component equipment''.

1992—Pub. L. 102–484, div. A, title X, § 1002(d)(1), Oct. 23, 1992, 106 Stat. 2480, struck out item 114a ''Multiyear Defense Program: submission to Congress; consistency in budgeting''.

1990—Pub. L. 101–510, div. A, title XIV, § 1402(a)(3)(B), Nov. 5, 1990, 104 Stat. 1674, which directed amendment of item 114a by substituting ''Multiyear'' for ''Five-year'', was executed by substituting ''Multiyear'' for ''Five-Year'' as the probable intent of Congress.

Pub. L. 101–510, div. A, title XIII, § 1331(1), title XIV, § 1483(c)(1), Nov. 5, 1990, 104 Stat. 1673, 1715, substituted ''Personnel strengths: requirement for annual authorization'' for ''Annual authorization of personnel strengths; annual manpower requirements report'' in item 115, added items 115a and 115b, and struck out items 117 ''Annual report on North Atlantic Treaty Organization readiness'' and 118 ''Sale or transfer of defense articles: reports to Congress''.

1989—Pub. L. 101–189, div. A, title XVI, § 1602(a)(2), Nov. 29, 1989, 103 Stat. 1597, added item 114a.

1987—Pub. L. 100–180, div. A, title XI, § 1132(a)(2), Dec. 4, 1987, 101 Stat. 1152, added item 119.

1986—Pub. L. 99–433, title I, § 101(a)(1), Oct. 1, 1986, 100 Stat. 994, added chapter heading and analysis of sections for chapter 2, consisting of items 111 to 118.

§ 111. Executive department

(a) The Department of Defense is an executive department of the United States.

(b) The Department is composed of the following:

(1) The Office of the Secretary of Defense.

(2) The Joint Chiefs of Staff.

(3) The Joint Staff.

(4) The Defense Agencies.

(5) Department of Defense Field Activities.

(6) The Department of the Army.

(7) The Department of the Navy.

(8) The Department of the Air Force.

(9) The unified and specified combatant commands.

(10) Such other offices, agencies, activities, and commands as may be established or designated by law or by the President.

(11) All offices, agencies, activities, and commands under the control or supervision of any element named in paragraphs (1) through (10).

(c) If the President establishes or designates an office, agency, activity, or command in the Department of Defense of a kind other than those described in paragraphs (1) through (9) of subsection (b), the President shall notify Congress not later than 60 days thereafter.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 517, § 131; renumbered § 111 and amended Pub. L. 99–433, title I, § 101(a)(2), (b), Oct. 1, 1986, 100 Stat. 994, 995.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
131	5:171(a) (less last 10 words), (b).	July 26, 1947, ch. 343, § 201(a) (less last 10 words), (b); restated Aug. 10, 1949, ch. 412, § 4 (1st (less last 10 words) and 2d pars.), 63 Stat. 579.

The words ''There is established'', in 5 U.S.C. 171(a), are omitted as executed. 5 U.S.C. 171(b) (1st 26 words) is omitted as covered by the definitions of ''department'' and ''military departments'' in section 101(5) and (7), respectively, of this title. 5 U.S.C. 171(b) (27th through 49th words) is omitted as executed. 5 U.S.C. 171(b) (last 18 words) is omitted as surplusage.

AMENDMENTS

1986—Pub. L. 99–433 renumbered section 131 of this title as this section, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

CHANGE OF NAME

Pub. L. 104–106, div. A, title IX, § 908, Feb. 10, 1996, 110 Stat. 406, provided that:

''(a) REDESIGNATION.—The agency in the Department of Defense known as the Advanced Research Projects Agency shall after the date of the enactment of this Act [Feb. 10, 1996] be designated as the Defense Advanced Research Projects Agency.

''(b) REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States or in any provision of this Act to the Advanced Research Projects Agency shall be considered to be a reference to the Defense Advanced Research Projects Agency.''

SHORT TITLE OF 1986 AMENDMENT

Section 1(a) of Pub. L. 99–433 provided that: ''This Act [see Tables for classification] may be cited as the 'Goldwater-Nichols Department of Defense Reorganization Act of 1986'.''

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the Department of Defense, including the functions of the Secretary of Defense relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 121(g)(2), 183(2), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Missions and functions of elements of Department of Defense as specified in classified annex to Pub. L. 104–201, and related personnel, assets, and balances of appropriations and authorizations of appropriations, transferred to National Imagery and Mapping Agency, see sections 1111 and 1113 of Pub. L. 104–201, set out as notes under section 441 of this title.

INTERAGENCY POLICY COORDINATION

Pub. L. 110–181, div. A, title IX, § 952, Jan. 28, 2008, 122 Stat. 291, provided that:

''(a) PLAN REQUIRED.—Not later than 180 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall develop and submit to Congress a plan to improve and reform the Department of Defense's participation in and contribution to the interagency coordination process on national security issues.

''(b) ELEMENTS.—The elements of the plan shall include the following:

''(1) Assigning either the Under Secretary of Defense for Policy or another official to be the lead policy official for improving and reforming the interagency coordination process on national security issues for the Department of Defense, with an explanation of any decision to name an official other than the Under Secretary and the relative advantages and disadvantages of such decision.

''(2) Giving the official assigned under paragraph (1) the following responsibilities:

''(A) To be the lead person at the Department of Defense for the development of policy affecting the national security interagency process.

''(B) To serve, or designate a person to serve, as the representative of the Department of Defense in Federal Government forums established to address interagency policy, planning, or reforms.

''(C) To advocate, on behalf of the Secretary, for greater interagency coordination and contributions in the execution of the National Security Strategy and particularly specific operational objectives undertaken pursuant to that strategy.

''(D) To make recommendations to the Secretary of Defense on changes to existing Department of Defense regulations or laws to improve the interagency process.

''(E) To serve as the coordinator for all planning and training assistance that is—

''(i) designed to improve the interagency process or the capabilities of other agencies to work with the Department of Defense; and

''(ii) provided by the Department of Defense at the request of other agencies.

''(F) To serve as the lead official in Department of Defense for the development of deployable joint interagency task forces.

''(c) FACTORS TO BE CONSIDERED.—In drafting the plan, the Secretary of Defense shall also consider the following factors:

''(1) How the official assigned under subsection (b)(1) shall provide input to the Secretary of Defense on an ongoing basis on how to incorporate the need to coordinate with other agencies into the establishment and reform of combatant commands.

''(2) How such official shall develop and make recommendations to the Secretary of Defense on a regular or an ongoing basis on changes to military and civilian personnel to improve interagency coordination.

''(3) How such official shall work with the combatant command that has the mission for joint warfighting experimentation and other interested agencies to develop exercises to test and validate interagency planning and capabilities.

''(4) How such official shall lead, coordinate, or participate in after-action reviews of operations, tests, and exercises to capture lessons learned regarding the functioning of the interagency process and how those lessons learned will be disseminated.

''(5) The role of such official in ensuring that future defense planning guidance takes into account the capabilities and needs of other agencies.

''(d) RECOMMENDATION ON CHANGES IN LAW.—The Secretary of Defense may submit with the plan or with any future budget submissions recommendations for any changes to law that are required to enhance the ability of the official assigned under subsection (b)(1) in the Department of Defense to coordinate defense interagency efforts or to improve the ability of the Department of Defense to work with other agencies.

''(e) ANNUAL REPORT.—If an official is named by the Secretary of Defense under subsection (b)(1), the official shall annually submit to Congress a report, beginning in the fiscal year following the naming of the official, on those actions taken by the Department of Defense to enhance national security interagency coordination, the views of the Department of Defense on efforts and challenges in improving the ability of agencies to work together, and suggestions on changes needed to laws or regulations that would enhance the coordination of efforts of agencies.

''(f) DEFINITION.—In this section, the term 'interagency coordination', within the context of Department of Defense involvement, means the coordination that occurs between elements of the Department of Defense and engaged Federal Government agencies for the purpose of achieving an objective.

''(g) CONSTRUCTION.—Nothing in this provision shall be construed as preventing the Secretary of Defense from naming an official with the responsibilities listed in subsection (b) before the submission of the report required under this section.''

COMMISSION ON REVIEW OF OVERSEAS MILITARY FACILITY STRUCTURE OF THE UNITED STATES

Pub. L. 108–132, §128, Nov. 22, 2003, 117 Stat. 1382, as amended by Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108–324, div. A, §127, Oct. 13, 2004, 118 Stat. 1229, established the Commission on the Review of the Overseas Military Facility Structure of the United States to conduct a thorough study of matters relating to the military facility structure of the United States overseas, directed the Commission to submit a report to the President and Congress not later than Aug. 15, 2005, and provided that the Commission would terminate 45 days after such date.

COMMISSION TO ASSESS UNITED STATES NATIONAL SECURITY SPACE MANAGEMENT AND ORGANIZATION

Pub. L. 106–65, div. A, title XVI, subtitle C, Oct. 5, 1999, 113 Stat. 813, as amended by Pub. L. 106–398, §1 [[div. A], title X, §1091], Oct. 30, 2000, 114 Stat. 1654, 1654A–300, established Commission To Assess United States National Security Space Management and Organization for purpose of assessing (1) manner in which military space assets may be exploited to provide support for United States military operations, (2) current interagency coordination process regarding operation of national security space assets, (3) relationship between intelligence and nonintelligence aspects of national security space, and potential costs and benefits of partial or complete merger of programs, projects, (4) manner in which military space issues are addressed by professional military education institutions, (5) potential costs and benefits of establishing changes to existing organizational structure of Department of Defense for national security space management and organization, and (6) advisability of certain actions relating to assignment of specified officers in United States Space Command; and further provided for report to Congress and Secretary of Defense on its findings and conclusions not later than six months after first meeting, submission to Congress by Secretary of Defense of assessment of Commission's report not later than 90 days after submission of Commission's report, and for termination of Commission 60 days after submission of its report to Congress.

COMMISSION ON NATIONAL MILITARY MUSEUM

Pub. L. 106–65, div. B, title XXIX, Oct. 5, 1999, 113 Stat. 881, as amended by Pub. L. 107–107, div. A, title X, §1048(g)(9), Dec. 28, 2001, 115 Stat. 1228, established the Commission on the National Military Museum to conduct a study regarding construction of a national military museum in the National Capital Area, directed that appointments to the Commission be made not later than 90 days after Oct. 5, 1999, directed the Commission to convene its first meeting not later than 60 days after all appointments, directed the Commission to submit a report to Congress not later than 12 months after its first meeting, and provided for the termination of the Commission 60 days after submission of its report.

PROHIBITION ON RESTRICTION OF ARMED FORCES UNDER KYOTO PROTOCOL TO UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

Pub. L. 105–261, div. A, title XII, §1232, Oct. 17, 1998, 112 Stat. 2155, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of law, no provision of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, or any regulation issued pursuant to such protocol, shall restrict the training or operations of the United States Armed Forces or limit the military equipment procured by the United States Armed Forces.

''(b) WAIVER.—A provision of law may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law—

''(1) specifically refers to this section; and

''(2) specifically states that such provision of law modifies or supersedes the provisions of this section.

''(c) MATTERS NOT AFFECTED.—Nothing in this section shall be construed to preclude the Department of Defense from implementing any measure to achieve ef-

ficiencies or for any other reason independent of the Kyoto Protocol.''

APPLICABILITY OF CERTAIN PAY AUTHORITIES TO MEMBERS OF SPECIFIED INDEPENDENT STUDY ORGANIZATIONS

Pub. L. 105–85, div. A, title X, § 1081, Nov. 18, 1997, 111 Stat. 1916, provided that:

''(a) APPLICABILITY OF CERTAIN PAY AUTHORITIES.—(1) An individual who is a member of a commission or panel specified in subsection (b) and is an annuitant otherwise covered by section 8344 or 8468 of title 5, United States Code, by reason of membership on the commission or panel is not subject to the provisions of that section with respect to such membership.

''(2) An individual who is a member of a commission or panel specified in subsection (b) and is a member or former member of a uniformed service is not subject to the provisions of subsections (b) and (c) of section 5532 of such title with respect to membership on the commission or panel.

''(b) SPECIFIED ENTITIES.—Subsection (a) applies—

''(1) effective as of September 23, 1996, to members of the National Defense Panel established by section 924 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2626) [formerly set out below]; and

''(2) effective as of October 9, 1996, to members of the Commission on Servicemembers and Veterans Transition Assistance established by section 701 of the Veterans' Benefits Improvements Act of 1996 (Public Law 104–275; 110 Stat. 3346; 38 U.S.C. 545 note).''

MISSION OF WHITE HOUSE COMMUNICATIONS AGENCY

Pub. L. 104–201, div. A, title IX, § 912, Sept. 23, 1996, 110 Stat. 2623, as amended by Pub. L. 109–163, div. A, title IX, § 906, Jan. 6, 2006, 119 Stat. 3402, provided that:

''(a) TELECOMMUNICATIONS SUPPORT AND AUDIOVISUAL SUPPORT SERVICES.—The Secretary of Defense shall ensure that the activities of the White House Communications Agency in providing support services on a nonreimbursable basis for the President from funds appropriated for the Department of Defense for any fiscal year are limited to the provision of telecommunications support and audiovisual support services to the President and Vice President and to related elements (as defined in regulations of that agency and specified by the President with respect to particular individuals within those related elements).

''(b) OTHER SUPPORT.—Support services other than telecommunications and audiovisual support services described in subsection (a) may be provided by the Department of Defense for the President through the White House Communications Agency on a reimbursable basis.

''(c) WHITE HOUSE COMMUNICATIONS AGENCY.—For purposes of this section, the term 'White House Communications Agency' means the element of the Department of Defense within the Defense Communications Agency that is known on the date of the enactment of this Act [Sept. 23, 1996] as the White House Communications Agency and includes any successor agency.''

MILITARY FORCE STRUCTURE REVIEW

Pub. L. 104–201, div. A, title IX, subtitle B, Sept. 23, 1996, 110 Stat. 2623, directed Secretary of Defense, in consultation with Chairman of the Joint Chiefs of Staff, to complete in 1997 a review of defense program of United States, which was to include comprehensive examination of defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of defense program and policies with view toward determining and expressing defense strategy of United States and establishing revised defense program through year 2005, further established National Defense Panel to complete review and report to Secretary not later than Dec. 1, 1997, further directed Secretary to submit final report to Congress not later than Dec. 15, 1997, and provided for termination of Panel 30 days after submission of report to Secretary.

COMMISSION ON ROLES AND MISSIONS OF ARMED FORCES

Pub. L. 103–160, div. A, title IX, subtitle E, Nov. 30, 1993, 107 Stat. 1738, as amended by Pub. L. 103–337, div. A, title IX, § 923(a)(1), (2), (b)–(d), Oct. 5, 1994, 108 Stat. 2830, 2831, established the Commission on Roles and Missions of the Armed Forces to review the efficacy and appropriateness of post-Cold War era allocations of roles, missions, and functions among the Armed Forces and to evaluate and report on alternatives and make recommendations for changes, directed that appointments to the Commission be made within 45 days after Nov. 30, 1993, and that the Commission convene its first meeting within 30 days of all appointments, and thereafter submit a report not later than one year after the date of its first meeting, directed the Secretary of Defense to submit comments on the report not later than 90 days following receipt, and provided for the termination of the Commission on the last day of the sixteenth month after its first meeting or no earlier than 30 days after submission of comments by the Secretary of Defense.

TERMINATION OF DEPARTMENT OF DEFENSE REPORTING REQUIREMENTS DETERMINED BY SECRETARY OF DEFENSE TO BE UNNECESSARY OR INCOMPATIBLE WITH EFFICIENT MANAGEMENT OF DEPARTMENT OF DEFENSE

Pub. L. 103–160, div. A, title XI, § 1151, Nov. 30, 1993, 107 Stat. 1758, provided that:

''(a) TERMINATION OF REPORT REQUIREMENTS.—Unless otherwise provided by a law enacted after the date of the enactment of this Act [Nov. 30, 1993], each provision of law requiring the submittal to Congress (or any committee of Congress) of any report specified in the list submitted under subsection (b) shall, with respect to that requirement, cease to be effective on October 30, 1995.

''(b) PREPARATION OF LIST.—(1) The Secretary of Defense shall submit to Congress a list of each provision of law that, as of the date specified in subsection (c), imposes upon the Secretary of Defense (or any other officer of the Department of Defense) a reporting requirement described in paragraph (2). The list of provisions of law shall include a statement or description of the report required under each such provision of law.

''(2) Paragraph (1) applies to a requirement imposed by law to submit to Congress (or specified committees of Congress) a report on a recurring basis, or upon the occurrence of specified events, if the Secretary determines that the continued requirement to submit that report is unnecessary or incompatible with the efficient management of the Department of Defense.

''(3) The Secretary shall submit with the list an explanation, for each report specified in the list, of the reasons why the Secretary considers the continued requirement to submit the report to be unnecessary or incompatible with the efficient management of the Department of Defense.

''(c) SUBMISSION OF LIST.—The list under subsection (a) shall be submitted not later than April 30, 1994.

''(d) SCOPE OF SECTION.—For purposes of this section, the term 'report' includes a certification, notification, or other characterization of a communication.

''(e) INTERPRETATION OF SECTION.—This section does not require the Secretary of Defense to review each report required of the Department of Defense by law.''

REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101–510, div. A, title XIII, § 1321, Nov. 5, 1990, 104 Stat. 1670, provided that section 1322 of Pub. L. 101–510, with respect to Goldwater-Nichols terminations, repeals certain provisions of law containing terminated report requirements and section 1323 of Pub. L. 101–510, with respect to such terminations, re-

stores effectiveness of selected other provisions of law containing such requirements and described Goldwater-Nichols terminations for purposes of such repeals or restorations.

RESTORATION OF CERTAIN REPORTING REQUIREMENTS OF TITLE 10 TERMINATED BY GOLDWATER-NICHOLS ACT

Pub. L. 101–510, div. A, title XIII, §1323, Nov. 5, 1990, 104 Stat. 1672, restored effectiveness of following report and notification provisions previously terminated by section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, Pub. L. 99–433, formerly set out below: (1) the quarterly report required by section 127(c) of this title relating to emergency and extraordinary expenses, (2) the notifications required by section 2672a(b) of this title relating to urgent acquisitions of interests in land, (3) the notifications required by section 7308(c) of this title relating to the transfer or gift of obsolete, condemned, or captured vessels, and (4) the notifications required by section 7309(b) of this title relating to construction or repair of vessels in foreign shipyards.

GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986; CONGRESSIONAL DECLARATION OF POLICY

Section 3 of Pub. L. 99–433 provided that: ''In enacting this Act [see Short Title of 1986 Amendment note above], it is the intent of Congress, consistent with the congressional declaration of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401)—

''(1) to reorganize the Department of Defense and strengthen civilian authority in the Department;

''(2) to improve the military advice provided to the President, the National Security Council, and the Secretary of Defense;

''(3) to place clear responsibility on the commanders of the unified and specified combatant commands for the accomplishment of missions assigned to those commands;

''(4) to ensure that the authority of the commanders of the unified and specified combatant commands is fully commensurate with the responsibility of those commanders for the accomplishment of missions assigned to their commands;

''(5) to increase attention to the formulation of strategy and to contingency planning;

''(6) to provide for more efficient use of defense resources;

''(7) to improve joint officer management policies; and

''(8) otherwise to enhance the effectiveness of military operations and improve the management and administration of the Department of Defense.''

REDUCTION OF REPORTING REQUIREMENTS

Section 602 of Pub. L. 99–433, as amended by Pub. L. 100–180, div. A, title XIII, §1314(a)(4), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title II, §243, Nov. 29, 1989, 103 Stat. 1402; Pub. L. 101–510, div. A, title XIII, §1324, Nov. 5, 1990, 104 Stat. 1673; Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406, directed Secretary of Defense to compile a list of all provisions of law in effect on or after Oct. 1, 1986, and before Feb. 1, 1987, which require President or any official or employee of Department of Defense to submit a report, notification, or study to Congress or any committee of Congress and to submit this list not later than six months after Oct. 1, 1986, with any recommendation or draft of legislation to implement any changes in law recommended by the Secretary.

LEGISLATION TO MAKE REQUIRED CONFORMING CHANGES IN LAW

Section 604 of Pub. L. 99–433 directed Secretary of Defense, not later than six months after Oct. 1, 1986, to submit to Committees on Armed Services of Senate and House of Representatives a draft of legislation to make any technical and conforming changes to title 10, United States Code, and other provisions of law that are required or should be made by reason of the amendments made by Pub. L. 99–433.

READINESS STATUS OF MILITARY FORCES OF THE NORTH ATLANTIC TREATY ORGANIZATION; ASSESSMENT, FINDINGS, AND REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 96–107, title VIII, §808, Nov. 9, 1979, 93 Stat. 814, which directed Secretary of Defense to report annually to Congress on readiness of military forces of NATO, was repealed and restated as section 133a (renumbered §117 and repealed) of this title by Pub. L. 97–295, §§1(2)(A), 6(b), Oct. 12, 1982, 96 Stat. 1287, 1314.

DEFENSE MANPOWER COMMISSION

Pub. L. 93–155, title VII, §§701–708, Nov. 16, 1973, 87 Stat. 609–611, established the Commission; provided for its composition, duties, powers, compensation, staff, appropriations, and use of General Services Administration; and directed that interim reports to President and Congress be submitted and that Commission terminate 60 days after its final report which was to be submitted not more than 24 months after appointment of Commission.

AIR FORCE RESERVE AND AIR NATIONAL GUARD OF UNITED STATES; STUDY AND INVESTIGATION OF RELATIVE STATUS; ADVANTAGES AND DISADVANTAGES OF ALTERNATIVES; MODERNIZATION AND MANPOWER NEEDS; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 93–155, title VIII, §810, Nov. 16, 1973, 87 Stat. 618, directed the Secretary of Defense to study the relative status of the Air Force Reserve and the Air National Guard of the United States; to measure the effects on costs and combat capability as well as other advantages and disadvantages of (1) merging the Reserve into the Guard, (2) merging the Guard into the Reserve, and (3) retaining the status quo; and to consider the modernization needs and manpower problems of both; and also directed that a report of such study be submitted to the President and to the Congress no later than Jan. 31, 1975.

REORGANIZATION PLAN NO. 6 OF 1953

Eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638, as amended Aug. 6, 1958, Pub. L. 85–559, §10(b), 72 Stat. 521; Sept. 7, 1962, Pub. L. 87–651, title III, §307C, 76 Stat. 526

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see 5 U.S.C. 901 et seq.].

DEPARTMENT OF DEFENSE

SECTION 1. TRANSFERS OF FUNCTIONS

(a) All functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations are hereby transferred to the Secretary of Defense.

(b) The selection of the Director of the Joint Staff by the Joint Chiefs of Staff, and his tenure, shall be subject to the approval of the Secretary of Defense.

(c) The selection of the members of the Joint Staff by the Joint Chiefs of Staff, and their tenure, shall be subject to the approval of the Chairman of the Joint Chiefs of Staff.

(d) The functions of the Joint Chiefs of Staff with respect to managing the Joint Staff and the Director thereof are hereby transferred to the Chairman of the Joint Chiefs of Staff.

SEC. 2. ABOLITION OF AGENCIES AND FUNCTIONS

(a) There are hereby abolished the Munitions Board, the Research and Development Board, and the Defense Supply Management Agency.

(b) The offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Di-

rector of the Defense Supply Management Agency, Deputy Director of the Defense Supply Management Agency, and Director of Installations are hereby abolished.

(c) The Secretary of Defense shall provide for winding up any outstanding affairs of the said abolished agency, boards, and offices, not otherwise provided for in this reorganization plan.

(d) The function of guidance to the Munitions Board in connection with strategic and logistic plans as required by section 213(c) of the National Security Act of 1947, as amended [section 171h(c) of former Title 5], is hereby abolished.

SEC. 3. ASSISTANT SECRETARIES OF DEFENSE

[Repealed. Pub. L. 85–599, § 10(b), Aug. 6, 1958, 72 Stat. 521, eff. six months after Aug. 6, 1958. Section authorized appointment of six additional Assistant Secretaries and prescribed their duties and compensation.]

SEC. 4. GENERAL COUNSEL

[Repealed. Pub. L. 87–651, title III, § 307C, Sept. 7, 1962, 76 Stat. 526. Section authorized appointment of a General Counsel for the Department of Defense. See section 140 of this title.]

SEC. 5. PERFORMANCE OF FUNCTIONS

[Repealed. Pub. L. 87–651, title III, § 307C, Sept. 7, 1962, 76 Stat. 526. Section authorized the Secretary of Defense from time to time to make such provisions as he deemed appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary. See section 113 of this title.]

SEC. 6. MISCELLANEOUS PROVISIONS

(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762).

EXECUTIVE ORDER NO. 12049

Ex. Ord. No. 12049, Mar. 27, 1978, 43 F.R. 13363, as amended by Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord. No. 12608, Sept. 9, 1987, 52 F.R. 34617, which provided for establishment of Defense Economic Adjustment Program and continued the Economic Adjustment Committee, was superseded by Ex. Ord. No. 12788, Jan. 15, 1992, 57 F.R. 2213, set out as a note under section 2391 of this title.

§ 112. Department of Defense: seal

The Secretary of Defense shall have a seal for the Department of Defense. The design of the seal is subject to approval by the President. Judicial notice shall be taken of the seal.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 517, § 132; renumbered § 112 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 110(d)(1), Oct. 1, 1986, 100 Stat. 994, 1002.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
132	5:171a(e).	July 26, 1947, ch. 343, § 202(e); added Aug. 10, 1949, ch. 412, § 5 (10th par.), 63 Stat. 580.

AMENDMENTS

1986—Pub. L. 99–433 renumbered section 132 of this title as this section and substituted ''Department of Defense: seal'' for ''Seal'' in section catchline.

§ 113. Secretary of Defense

(a) There is a Secretary of Defense, who is the head of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Secretary is the principal assistant to the President in all matters relating to the Department of Defense. Subject to the direction of the President and to this title and section 2 of the National Security Act of 1947 (50 U.S.C. 401), he has authority, direction, and control over the Department of Defense.

(c)(1) The Secretary shall report annually in writing to the President and the Congress on the expenditures, work, and accomplishments of the Department of Defense during the period covered by the report, together with—

(A) a report from each military department on the expenditures, work, and accomplishments of that department;

(B) itemized statements showing the savings of public funds, and the eliminations of unnecessary duplications, made under sections 125 and 191 of this title; and

(C) such recommendations as he considers appropriate.

(2) At the same time that the Secretary submits the annual report under paragraph (1), the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on on[1] any reserve component matter that the Reserve Forces Policy Board considers appropriate to include in the report.

(d) Unless specifically prohibited by law, the Secretary may, without being relieved of his responsibility, perform any of his functions or duties, or exercise any of his powers through, or with the aid of, such persons in, or organizations of, the Department of Defense as he may designate.

(e)(1) The Secretary shall include in his annual report to Congress under subsection (c)—

(A) a description of the major military missions and of the military force structure of the United States for the next fiscal year;

(B) an explanation of the relationship of those military missions to that force structure; and

(C) the justification for those military missions and that force structure.

(2) In preparing the matter referred to in paragraph (1), the Secretary shall take into consideration the content of the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a) for the fiscal year concerned.

(f) When a vacancy occurs in an office within the Department of Defense and the office is to

[1] So in original.

be filled by a person appointed from civilian life by the President, by and with the advice and consent of the Senate, the Secretary of Defense shall inform the President of the qualifications needed by a person serving in that office to carry out effectively the duties and responsibilities of that office.

(g)(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the heads of Department of Defense components written policy guidance for the preparation and review of the program recommendations and budget proposals of their respective components. Such guidance shall include guidance on—

(A) national security objectives and policies;

(B) the priorities of military missions; and

(C) the resource levels projected to be available for the period of time for which such recommendations and proposals are to be effective.

(2) The Secretary of Defense, with the approval of the President and after consultation with the Chairman of the Joint Chiefs of Staff, shall provide to the Chairman written policy guidance for the preparation and review of contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities. Such guidance shall be provided every two years or more frequently as needed and shall include guidance on the specific force levels and specific supporting resource levels projected to be available for the period of time for which such plans are to be effective.

(h) The Secretary of Defense shall keep the Secretaries of the military departments informed with respect to military operations and activities of the Department of Defense that directly affect their respective responsibilities.

(i)(1) The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries.

(2) Each such report shall—

(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities and programs during the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221 of this title;

(C) include a description of the means by which the Department of Defense will maintain the capability to reconstitute or expand the defense capabilities and programs of the armed forces of the United States on short notice to meet a resurgent or increased threat to the national security of the United States;

(D) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

(E) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.

(j)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

(3) In this subsection, the term ''United States'', when used in a geographic sense, includes the territories and possessions of the United States.

(k) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.

(*l*) The Secretary shall include in the annual report to Congress under subsection (c) the following:

(1) A comparison of the amounts provided in the defense budget for support and for mission activities for each of the preceding five fiscal years.

(2) A comparison of the number of military and civilian personnel, shown by major occupational category, assigned to support posi-

tions and to mission positions for each of the preceding five fiscal years.

(3) An accounting, shown by service and by major occupational category, of the number of military and civilian personnel assigned to support positions during each of the preceding five fiscal years.

(4) A listing of the number of military and civilian personnel assigned to management headquarters and headquarters support activities as a percentage of military end-strength for each of the preceding five fiscal years.

(m) INFORMATION TO ACCOMPANY FUNDING REQUEST FOR CONTINGENCY OPERATION.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

(1) What clear and distinct objectives guide the activities of United States forces in the operation.

(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 517, § 133; amended Pub. L. 96–513, title V, § 511(3), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–252, title XI, § 1105, Sept. 8, 1982, 96 Stat. 739; Pub. L. 97–295, § 1(1), Oct. 12, 1982, 96 Stat. 1287; renumbered § 113 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 102, 110(b)(2), (d)(2), title III, § 301(b)(2), title VI, § 603(b), Oct. 1, 1986, 100 Stat. 994, 996, 1002, 1022, 1075; Pub. L. 100–26, § 7(d)(1), Apr. 21, 1987, 101 Stat. 280; Pub. L. 100–180, div. A, title XII, § 1214, Dec. 4, 1987, 101 Stat. 1157; Pub. L. 100–370, § 1(*o*)(1), July 19, 1988, 102 Stat. 850; Pub. L. 100–456, div. A, title VII, § 731, title XI, § 1101, Sept. 29, 1988, 102 Stat. 2003, 2042; Pub. L. 101–189, div. A, title XVI, § 1622(c)(1), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 101–510, div. A, title XIII, § 1322(a)(1), Nov. 5, 1990, 104 Stat. 1671; Pub. L. 102–190, div. A, title III, § 341, Dec. 5, 1991, 105 Stat. 1343; Pub. L. 103–337, div. A, title X, § 1070(a)(1), title XVI, § 1671(c)(2), Oct. 5, 1994, 108 Stat. 2855, 3014; Pub. L. 104–106, div. A, title XV, §§ 1501(a)(8)(B), 1502(a)(3), 1503(a)(1), Feb. 10, 1996, 110 Stat. 495, 502, 510; Pub. L. 104–201, div. A, title XII, § 1255(c), Sept. 23, 1996, 110 Stat. 2698; Pub. L. 105–85, div. A, title IX, § 903, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 105–261, div. A, title IX, § 915(a), title XII, § 1212(b), Oct. 17, 1998, 112 Stat. 2101, 2152; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 110–181, div. A, title IX, § 903(a), title XVIII, § 1815(e), Jan. 28, 2008, 122 Stat. 273, 500; Pub. L. 111–383, div. A, title V, § 514(b), Jan. 7, 2011, 124 Stat. 4213.)

HISTORICAL AND REVISION NOTES

1962 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
133(a)	5:171(a) (last 10 words).	July 26, 1947, ch. 343, §§ 201(a) (last 10 words), 202(a),(b); restated Aug. 10, 1949, ch. 412, §§ 4 (last 10 words of 1st par.), 5 (1st and 2d pars.), 63 Stat. 579, 580.
133(b)	5:171a(a).	
133(c)	5:171a(b).	
133(d)	5:171a(d).	
	5:171a–1.	
	5:171a(f).	
	5:171n(a) (as applicable to 5:171a(f)).	July 26, 1947, ch. 343, § 202(d); added Apr. 2, 1949, ch. 47, § 1; restated Aug. 10, 1949, ch. 412, § 5 (9th par.); restated Aug. 6, 1958, Pub. L. 85–599, § 3(b), 72 Stat. 516.
	[Uncodified: 1953 Reorg. Plan No. 6, § 5, eff. June 30, 1953, 67 Stat. 639].	
	5:171n(a).	July 26, 1947, ch. 343, § 202(f); added Aug. 10, 1949, ch. 412, § 5 (11th par.), 63 Stat. 581. July 26, 1947, ch. 343, § 308(a) (as applicable to § 202(f)), 61 Stat. 509. July 9, 1952, ch. 608, § 257(e), 66 Stat. 497; Sept. 3, 1954, ch. 1257, § 702(c), 68 Stat. 1189. 1953 Reorg. Plan No. 6, § 5, eff. June 30, 1953, 67 Stat. 639.

In subsection (a), the last sentence is substituted for 5 U.S.C. 171a(a) (proviso).

In subsection (b), the words ''this title and section 401 of title 50'' are substituted for 5 U.S.C. 171a(b) (13th through 30th words of last sentence), since those words merely described the coverage of this title and section 401 of title 50.

In subsection (c), the words ''during the period covered by the report'' are inserted for clarity. The following substitutions are made: ''under section 125 of this title'' for ''pursuant to the provisions of this Act'' since 125 of this title relates to the duty of the Secretary of Defense to take action to save public funds and to eliminate duplication in the Department of Defense; and the last 22 words of clause (3) for 5 U.S.C. 171a–1 (last 13 words).

In subsection (d), section 5 of 1953 Reorganization Plan No. 6 is omitted as covered by 5 U.S.C. 171a(f).

1982 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
133(e)	10:133 (note).	Oct. 7, 1975, Pub. L. 94–106, § 812, 89 Stat. 540.

The words ''prepare and'' are omitted as surplus.

1988 ACT

Subsection (k) is based on Pub. L. 100–202, § 101(b) [title VIII, § 8042], 101 Stat. 1329–69.

Section 8042 of the FY88 Defense Appropriations Act (Public Law 100–202) established a requirement for the Secretary of Defense to submit an annual report on the cost of stationing United States forces overseas. Under that section, the annual report is to be sent to the Committees on Appropriations of the two Houses. In codifying that section as section 113(k) of title 10, the committee added the two Armed Services Committees as committees to be sent the annual report. This minor change from the source law does not change the nature of the report to be submitted.

The committee notes that the source section does not specify the period of time to be covered by the report. In the absence of statutory language specifying the period to be covered by the report, it would seem reasonable to conclude that the report should cover the previous fiscal year. The committee notes, however, that the report of the Senate Appropriations Committee on its FY88 defense appropriations bill (S. Rpt. 100–235)

states that this new annual report ''should cover the budget years and the 2 previous fiscal years'' (page 54). The committee believes that such a requirement may be unnecessarily burdensome and in any case, if such a requirement is intended, should be stated in the statute. In the absence of clear intent, the provision is proposed to be codified without specifying the period of time to be covered by the annual report.

In codifying this provision, the committee also changed the term ''United States troops'' in the source law to ''United States forces'' for consistency in usage in title 10 and as being preferable usage. No change in meaning is intended. The committee also changed ''overseas'' to ''outside the United States'' and defined ''United States'' for this purpose to include the territories and possessions of the United States. The committee was concerned that the term ''overseas'' read literally could include Hawaii or Guam, an interpretation clearly not intended in enacting section 8042. The committee notes that the Senate report referred to above states ''For the purposes of this report [meaning the new DOD annual report], U.S. forces stationed overseas are considered to be those outside of the United States and its territories.''. The committee extrapolates from this statement that provisions in the report requirement relating to expenditures ''overseas'' and costs incurred ''overseas'' are also to be construed as relating to matters outside the United States and its territories and has prepared the codified provision accordingly.

AMENDMENTS

2011—Subsec. (c)(2). Pub. L. 111–383 substituted ''on any reserve component matter'' for ''the reserve programs of the Department of Defense and on any other matters''.

2008—Subsec. (a). Pub. L. 110–181, §903(a), substituted ''seven'' for ''10''.

Subsec. (g)(2). Pub. L. 110–181, §1815(e), substituted ''contingency plans, including plans for providing support to civil authorities in an incident of national significance or a catastrophic incident, for homeland defense, and for military support to civil authorities'' for ''contingency plans''.

1999—Subsec. (j)(1). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security'' in introductory provisions.

1998—Subsec. (*l*). Pub. L. 105–261, §915(a), added subsec. (*l*).

Subsec. (m). Pub. L. 105–261, §1212(b), added subsec. (m).

1997—Subsec. (g)(2). Pub. L. 105–85 struck out ''annually'' after ''Staff, shall provide'' and inserted ''be provided every two years or more frequently as needed and shall'' after ''Such guidance shall''.

1996—Subsec. (c). Pub. L. 104–201, §1255(c)(2)–(5), inserted ''(1)'' after ''(c)'', redesignated former pars. (1), (2), and (4) as subpars. (A), (B), and (C), respectively, inserted ''and'' at end of subpar. (B), and added par. (2).

Subsec. (c)(3). Pub. L. 104–201, §1255(c)(1), struck out par. (3) which read as follows: ''a report from the Reserve Forces Policy Board on the reserve programs of the Department of Defense, including a review of the effectiveness of chapters 51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers; and''.

Pub. L. 104–106, §1501(a)(8)(B), made technical correction to directory language of Pub. L. 103–337, §1671(c)(2). See 1994 Amendment note below.

Subsec. (i)(2)(B). Pub. L. 104–106, §1503(a)(1), substituted ''the period covered by the future-years defense program submitted to Congress during that year pursuant to section 221'' for ''the five years covered by the five-year defense program submitted to Congress during that year pursuant to section 114(g)''.

Subsec. (j)(1). Pub. L. 104–106, §1502(a)(3), substituted ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the'' for ''Committees on Armed Services and Committees on Appropriations of the Senate and''.

1994—Subsec. (c)(3). Pub. L. 103–337, §1671(c)(2), as amended by Pub. L. 104–106, §1501(a)(8)(B), which directed the substitution of ''1219 and 1401 through 1411 of this title'' for ''51, 337, 361, 363, 549, 573, 837, 861 and 863 of this title, as far as they apply to reserve officers'', effective Oct. 1, 1996, could not be executed because of the intervening amendment by Pub. L. 104–201, §1255(c)(1). See 1996 Amendment note above.

Subsec. (e)(2). Pub. L. 103–337, §1070(a)(1), substituted ''section 108'' for ''section 104''.

1991—Subsec. (i)(2)(C) to (E). Pub. L. 102–190 added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

1990—Subsecs. (i) to (*l*). Pub. L. 101–510 redesignated subsecs. (j) to (*l*) as (i) to (k), respectively, and struck out former subsec. (i) which read as follows: ''The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.''

1989—Subsec. (j)(2)(B). Pub. L. 101–189 substituted ''five-year defense program'' for ''Five-Year Defense Program''.

1988—Subsec. (j). Pub. L. 100–456, §731, designated existing provisions as par. (1), struck out provision requiring that each report be transmitted in both a classified and an unclassified form, and added pars. (2) and (3).

Subsec. (k). Pub. L. 100–370 added subsec. (k).

Subsec. (*l*). Pub. L. 100–456, §1101, added subsec. (*l*).

1987—Subsec. (e)(2). Pub. L. 100–26 inserted ''(50 U.S.C. 404a)'' after ''National Security Act of 1947''.

Subsec. (j). Pub. L. 100–180 added subsec. (j).

1986—Pub. L. 99–433, §110(d)(2), struck out '': appointment; powers and duties; delegation by'' at end of section catchline.

Subsecs. (a) to (e). Pub. L. 99–443, §101(a)(2), redesignated subsecs. (a) to (e) of section 133 of this title as subsecs. (a) to (e) of this section.

Pub. L. 99–433, §301(b)(2), substituted ''sections 125 and 191'' for ''section 125'' in subsec. (c)(2).

Pub. L. 99–433, §603(b), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''After consulting with the Secretary of State, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives before February 1 of each year a written report on—

''(1) the foreign policy and military force structure for the next fiscal year;

''(2) the relationship of that policy and structure to each other; and

''(3) the justification for the policy and structure.''

Subsecs. (f) to (h). Pub. L. 99–433, §102, added subsecs. (f) to (h).

Subsec. (i). Pub. L. 99–433, §§101(a)(2), 110(b)(2), successively redesignated subsec. (h) of section 138 of this title as subsec. (h) of section 114 of this title and then as subsec. (i) of this section.

1982—Subsec. (e). Pub. L. 97–295 added subsec. (e).

Subsec. (i) [formerly §138(h)]. Pub. L. 97–252, §1105, added subsec. (h). See 1986 Amendment note above.

1980—Subsec. (b). Pub. L. 96–513 substituted ''section 2 of the National Security Act of 1947 (50 U.S.C. 401)'' for ''section 401 of title 50''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(f)(3) of Pub. L. 104–106 provided that: ''The amendments made by this section [see Tables for classification] shall take effect as if included in the Reserve Officer Personnel Management Act [Pub. L. 103–337, div. A, title XVI] as enacted on October 5, 1994.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1671(c)(2) of Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

Functions of President under various sections delegated to Secretary of Defense, see Ex. Ord. No. 10621, July 1, 1955, 20 F.R. 4759, as amended by Ex. Ord. No. 11294, Aug. 4, 1966, 31 F.R. 10601; see Ex. Ord. No. 10661, Feb. 27, 1956, 21 F.R. 1315; see Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841; all set out as notes under section 301 of Title 3, The President.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Defense, see Parts 1, 2, and 5 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, set out as a note under section 3345 of Title 5, Government Organization and Employees.

COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVES DATABASE

Pub. L. 111–383, div. A, title I, §124, Jan. 7, 2011, 124 Stat. 4159, provided that:

''(a) COMPREHENSIVE DATABASE.—

''(1) IN GENERAL.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall develop and maintain a comprehensive database containing appropriate information for coordinating, tracking, and archiving each counter-improvised explosive device initiative within the Department of Defense. The database shall, at a minimum, ensure the visibility of each counter-improvised explosive device initiative.

''(2) USE OF INFORMATION.—Using information contained in the database developed under paragraph (1), the Secretary, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

''(A) identify and eliminate redundant counter-improvised explosive device initiatives;

''(B) facilitate the transition of counter-improvised explosive device initiatives from funding under the Joint Improvised Explosive Device Defeat Fund to funding provided by the military departments; and

''(C) notify the appropriate personnel and organizations prior to a counter-improvised explosive device initiative being funded through the Joint Improvised Explosive Device Defeat Fund.

''(3) COORDINATION.—In carrying out paragraph (1), the Secretary shall ensure that the Secretary of each military department coordinates and collaborates on development of the database to ensure its interoperability, completeness, consistency, and effectiveness.

''(b) METRICS.—The Secretary of Defense, acting through the Director of the Joint Improvised Explosive Device Defeat Organization, shall—

''(1) develop appropriate means to measure the effectiveness of counter-improvised explosive device initiatives; and

''(2) prioritize the funding of such initiatives according to such means.

''(c) COUNTER-IMPROVISED EXPLOSIVE DEVICE INITIATIVE DEFINED.—In this section, the term 'counter-improvised explosive device initiative' means any project, program, or research activity funded by any component of the Department of Defense that is intended to assist or support efforts to counter, combat, or defeat the use of improvised explosive devices.''

PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF THE KOREAN WAR

Pub. L. 111–383, div. A, title V, §574, Jan. 7, 2011, 124 Stat. 4223, provided that:

''(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may establish and conduct a program to commemorate the 60th anniversary of the Korean War (in this section referred to as the 'commemorative program'). In conducting the commemorative program, the Secretary of Defense shall coordinate and support other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Korean War.

''(b) SCHEDULE.—If the Secretary of Defense establishes the commemorative program, the Secretary shall determine the schedule of major events and priority of efforts for the commemorative program to achieve the commemorative objectives specified in subsection (c). The Secretary of Defense may establish a committee to assist the Secretary in determining the schedule and conducting the commemorative program.

''(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

''(1) To thank and honor veterans of the Korean War, including members of the Armed Forces who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States.

''(2) To thank and honor the families of veterans of the Korean War for their sacrifices and contributions, especially families who lost a loved one in the Korean War.

''(3) To highlight the service of the Armed Forces during the Korean War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

''(4) To pay tribute to the sacrifices and contributions made on the home front by the people of the United States during the Korean War.

''(5) To provide the people of the United States with a clear understanding and appreciation of the lessons and history of the Korean War.

''(6) To highlight the advances in technology, science, and medicine related to military research conducted during the Korean War.

''(7) To recognize the contributions and sacrifices made by the allies of the United States during the Korean War.

''(d) USE OF THE UNITED STATES OF AMERICA KOREAN WAR COMMEMORATION AND SYMBOLS.—Subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1918)[10 U.S.C. 113 note], as amended by section 1067 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 2134) and section 1052 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 764), shall apply to the commemorative program.

''(e) COMMEMORATIVE FUND.—

''(1) ESTABLISHMENT OF NEW ACCOUNT.—If the Secretary of Defense establishes the commemorative program, the Secretary [of] the Treasury shall establish in the Treasury of the United States an account to be known as the 'Department of Defense Korean War Commemoration Fund' (in this section referred to as the 'Fund').

''(2) ADMINISTRATION AND USE OF FUND.—The Fund shall be available to, and administered by, the Secretary of Defense. The Secretary of Defense shall use

the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary of Defense considers to be necessary.

''(3) DEPOSITS.—There shall be deposited into the Fund the following:

''(A) Amounts appropriated to the Fund.

''(B) Proceeds derived from the use by the Secretary of Defense of the exclusive rights described in subsection (c) of section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1918).

''(C) Donations made in support of the commemorative program by private and corporate donors.

''(4) AVAILABILITY.—Subject to paragraph (5), amounts in the Fund shall remain available until expended.

''(5) TREATMENT OF UNOBLIGATED FUNDS; TRANSFER.—If unobligated amounts remain in the Fund as of September 30, 2013, the Secretary of the Treasury shall transfer the remaining amounts to the Department of Defense Vietnam War Commemorative Fund established pursuant to section 598(e) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 10 U.S.C. 113 note). The transferred amounts shall be merged with, and available for the same purposes as, other amounts in the Department of Defense Vietnam War Commemorative Fund.

''(f) ACCEPTANCE OF VOLUNTARY SERVICES.—

''(1) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

''(2) COMPENSATION FOR WORK-RELATED INJURY.—A person providing voluntary services under this subsection shall be considered to be a Federal employee for purposes of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries. The person shall also be considered a special governmental employee for purposes of standards of conduct and sections 202, 203, 205, 207, 208, and 209 of title 18, United States Code. A person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of voluntary services under this subsection.

''(3) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary of Defense may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

''(g) REPORT REQUIRED.—If the Secretary of Defense conducts the commemorative program, the Inspector General of the Department of Defense shall submit to Congress, not later than 60 days after the end of the commemorative program, a report containing an accounting of—

''(1) all of the funds deposited into and expended from the Fund;

''(2) any other funds expended under this section; and

''(3) any unobligated funds remaining in the Fund as of September 30, 2013, that are transferred to the Department of Defense Vietnam War Commemorative Fund pursuant to subsection (e)(5).

''(h) LIMITATION ON EXPENDITURES.—Using amounts appropriated to the Department of Defense, the Secretary of Defense may not expend more than $5,000,000 to carry out the commemorative program.''

REPORT ON ORGANIZATIONAL STRUCTURE AND POLICY GUIDANCE OF THE DEPARTMENT OF DEFENSE REGARDING INFORMATION OPERATIONS

Pub. L. 111–383, div. A, title IX, §943, Jan. 7, 2011, 124 Stat. 4341, provided that:

''(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the organizational structure and policy guidance of the Department of Defense with respect to information operations.

''(b) REVIEW.—In preparing the report required by subsection (a), the Secretary shall review the following:

''(1) The extent to which the current definition of 'information operations' in Department of Defense Directive 3600.1 is appropriate.

''(2) The location of the office within the Department of the lead official responsible for information operations of the Department, including assessments of the most effective location and the need to designate a principal staff assistant to the Secretary of Defense for information operations.

''(3) Departmental responsibility for the development, coordination, and oversight of Department policy on information operations and for the integration of such operations.

''(4) Departmental responsibility for the planning, execution, and oversight of Department information operations.

''(5) Departmental responsibility for coordination within the Department, and between the Department and other departments and agencies of the Federal Government, regarding Department information operations, and for the resolution of conflicts in the discharge of such operations, including an assessment of current coordination bodies and decisionmaking processes.

''(6) The roles and responsibilities of the military departments, combat support agencies, the United States Special Operations Command, and the other combatant commands in the development and implementation of information operations.

''(7) The roles and responsibilities of the defense intelligence agencies for support of information operations.

''(8) The role in information operations of the following Department officials:

''(A) The Assistant Secretary of Defense for Public Affairs.

''(B) The Assistant Secretary of Defense for Special Operations and Low-Intensity Conflict.

''(C) The senior official responsible for information processing and networking capabilities.

''(9) The role of related capabilities in the discharge of information operations, including public affairs capabilities, civil-military operations capabilities, defense support of public diplomacy, and intelligence.

''(10) The management structure of computer network operations in the Department for the discharge of information operations, and the policy in support of that component.

''(11) The appropriate use, management, and oversight of contractors in the development and implementation of information operations, including an assessment of current guidance and policy directives pertaining to the uses of contractors for these purposes.

''(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, with a classified annex, if necessary.

''(d) DEPARTMENT OF DEFENSE DIRECTIVE.—Upon the submittal of the report required by subsection (a), the Secretary shall prescribe a revised directive for the Department of Defense on information operations. The di-

rective shall take into account the results of the review conducted for purposes of the report.

''(e) INFORMATION OPERATIONS DEFINED.—In this section, the term 'information operations' means the information operations specified in Department of Defense Directive 3600.1, as follows:

''(1) Electronic warfare.

''(2) Computer network operations.

''(3) Psychological operations.

''(4) Military deception.

''(5) Operations security.''

BIENNIAL REPORT ON NUCLEAR TRIAD

Pub. L. 111–383, div. A, title X, § 1054, Jan. 7, 2011, 124 Stat. 4358, provided that:

''(a) REPORT.—Not later than March 1 of each even-numbered year, beginning March 1, 2012, the Secretary of Defense, in consultation with the Administrator for Nuclear Security, shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the nuclear triad.

''(b) MATTERS INCLUDED.—The report under subsection (a) shall include the following:

''(1) A detailed discussion of the modernization and sustainment plans for each component of the nuclear triad over the 10-year period beginning on the date of the report.

''(2) The funding required for each platform of the nuclear triad with respect to operation and maintenance, modernization, and replacement.

''(3) Any industrial capacities that the Secretary considers vital to ensure the viability of the nuclear triad.

''(c) NUCLEAR TRIAD DEFINED.—In this section, the term 'nuclear triad' means the nuclear deterrent capabilities of the United States composed of ballistic missile submarines, land-based missiles, and strategic bombers.''

TREATMENT OF SUCCESSOR CONTINGENCY OPERATION TO OPERATION IRAQI FREEDOM

Pub. L. 111–383, div. A, title X, § 1077, Jan. 7, 2011, 124 Stat. 4379, provided that: ''Any law applicable to Operation Iraqi Freedom shall apply in the same manner and to the same extent to the successor contingency operation known as Operation New Dawn, except as specifically provided in this Act [see Tables for classification], any amendment made by this Act, or any other law enacted after the date of the enactment of this Act [Jan. 7, 2011].''

POLICY AND REQUIREMENTS TO ENSURE THE SAFETY OF FACILITIES, INFRASTRUCTURE, AND EQUIPMENT FOR MILITARY OPERATIONS

Pub. L. 111–84, div. A, title VIII, § 807, Oct. 28, 2009, 123 Stat. 2404, provided that:

''(a) POLICY.—It shall be the policy of the Department of Defense that facilities, infrastructure, and equipment that are intended for use by military or civilian personnel of the Department in current or future military operations should be inspected for safety and habitability prior to such use, and that such facilities should be brought into compliance with generally accepted standards for the safety and health of personnel to the maximum extent practicable and consistent with the requirements of military operations and the best interests of the Department of Defense, to minimize the safety and health risk posed to such personnel.

''(b) REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act [Oct. 28, 2009], the Secretary of Defense shall—

''(1) ensure that each contract or task or delivery order entered into for the construction, installation, repair, maintenance, or operation of facilities for use by military or civilian personnel of the Department complies with the policy established in subsection (a);

''(2) ensure that contracts entered into prior to the date that is 60 days after the date of the enactment of this Act comply with such policy to the maximum extent practicable;

''(3) define the term 'generally accepted standards' with respect to fire protection, structural integrity, electrical systems, plumbing, water treatment, waste disposal, and telecommunications networks for the purposes of this section; and

''(4) provide such exceptions and limitations as may be needed to ensure that this section can be implemented in a manner that is consistent with the requirements of military operations and the best interests of the Department of Defense.''

DEFENSE INTEGRATED MILITARY HUMAN RESOURCES SYSTEM DEVELOPMENT AND TRANSITION

Pub. L. 111–84, div. A, title IX, § 932, Oct. 28, 2009, 123 Stat. 2433, provided that:

''(a) IN GENERAL.—The Secretary of Defense shall establish a Defense Integrated Military Human Resources System development and transition Council to provide advice to the Secretary of Defense and the Secretaries of the military departments on the modernization of the integrated pay and personnel system for each military department and the collection of data generated by each such system into the enterprise information warehouse.

''(b) COUNCIL.—The Council shall include the following members:

''(1) The Deputy Chief Management Officer of the Department of Defense.

''(2) The Director of the Business Transformation Agency.

''(3) The Under Secretary of Defense for Acquisition, Technology, and Logistics, or a designated representative.

''(4) The Under Secretary of Defense for Personnel and Readiness, or a designated representative.

''(5) One representative from each of the Army, Navy, Air Force, and Marine Corps who is a lieutenant general or vice admiral, or a civilian equivalent.

''(6) One representative of the National Guard Bureau who is a lieutenant general or vice admiral, or a civilian equivalent.

''(7) The Assistant Secretary of Defense for Networks and Information Integration, or a designated representative.

''(8) The Director of Operational Test and Evaluation, or a designated representative.

''(9) Such other individuals as may be designated by the Deputy Secretary of Defense, acting in the Deputy Secretary's capacity as the Chief Management Officer.

''(c) MEETINGS.—The Council shall meet not less than twice a year, or more often as specified by the Deputy Secretary of Defense.

''(d) DUTIES.—The Council shall have the following responsibilities:

''(1) Resolution of significant policy, programmatic, or budgetary issues impeding modernization or deployment of integrated personnel and pay systems for each military department, including issues relating to—

''(A) common interfaces, architectures, and systems engineering;

''(B) ensuring that developmental systems are consistent with current and future enterprise accounting and pay and personnel standards and practices; and

''(C) ensuring that developmental systems are consistent with current and future Department of Defense business enterprise architecture.

''(2) Coordination of implementation of the integrated personnel and pay system within defense organizations to ensure interoperability between all appropriate elements of the system.

''(3) Establishment of metrics to assess the following:

''(A) Business process re-engineering needed for successful deployment of the integrated pay and personnel system.

''(B) Interoperability between legacy, operational, and developmental pay and personnel systems.

''(C) Interface and systems architecture control and standardization.

''(D) Retirement of legacy systems.

''(E) Use of the enterprise information warehouse.

''(F) Any other relevant matters.

''(4) Such other responsibilities as the Secretary determines are appropriate.

''(e) TERMINATION.—This section shall not be in effect after September 30, 2013.

''(f) REPORT.—Not later than March 1, 2010, 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 report on actions taken pursuant to this section.''

REQUIREMENT FOR COMMON GROUND STATIONS AND PAYLOADS FOR MANNED AND UNMANNED AERIAL VEHICLE SYSTEMS

Pub. L. 110–417, [div. A], title I, §144, Oct. 14, 2008, 122 Stat. 4382, provided that:

''(a) POLICY AND ACQUISITION STRATEGY REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall establish a policy and an acquisition strategy for intelligence, surveillance, and reconnaissance payloads and ground stations for manned and unmanned aerial vehicle systems. The policy and acquisition strategy shall be applicable throughout the Department of Defense and shall achieve integrated research, development, test, and evaluation, and procurement commonality.

''(b) OBJECTIVES.—The policy and acquisition strategy required by subsection (a) shall have the following objectives:

''(1) Procurement of common payloads by vehicle class, including—

''(A) signals intelligence;

''(B) electro optical;

''(C) synthetic aperture radar;

''(D) ground moving target indicator;

''(E) conventional explosive detection;

''(F) foliage penetrating radar;

''(G) laser designator;

''(H) chemical, biological, radiological, nuclear, [or] explosive detection; and

''(I) national airspace operations avionics or sensors, or both.

''(2) Commonality of ground system architecture by vehicle class.

''(3) Common management of vehicle and payloads procurement.

''(4) Ground station interoperability standardization.

''(5) Maximum use of commercial standard hardware and interfaces.

''(6) Open architecture software.

''(7) Acquisition of technical data rights in accordance with section 2320 of title 10, United States Code.

''(8) Acquisition of vehicles, payloads, and ground stations through competitive procurement.

''(9) Common standards for exchange of data and metadata.

''(c) AFFECTED SYSTEMS.—For the purposes of this section, the Secretary shall establish manned and unmanned aerial vehicle classes for all intelligence, surveillance, and reconnaissance programs of record based on factors such as vehicle weight, payload capacity, and mission.

''(d) REPORT.—Not later than 120 days after the date of the enactment of this Act [Oct. 14, 2008], the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives], the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate a report containing—

''(1) the policy required by subsection (a); and

''(2) the acquisition strategy required by subsection (a).''

REPORT ON COMMAND AND CONTROL STRUCTURE FOR MILITARY FORCES OPERATING IN AFGHANISTAN

Pub. L. 110–417, [div. A], title XII, §1216, Oct. 14, 2008, 122 Stat. 4633, as amended by Pub. L. 111–84, div. A, title XII, §1229, Oct. 28, 2009, 123 Stat. 2528, provided that:

''(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act [Oct. 14, 2008], or December 1, 2008, whichever occurs later, the Secretary of Defense shall submit to the appropriate congressional committees a report on the command and control structure for military forces operating in Afghanistan.

''(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include the following:

''(1) A detailed description of efforts by the Secretary of Defense, in coordination with senior leaders of NATO ISAF forces, including the commander of NATO ISAF forces, to modify the chain of command structure for military forces operating in Afghanistan to better coordinate and de-conflict military operations and achieve unity of command whenever possible in Afghanistan, and the results of such efforts, including—

''(A) any United States or NATO ISAF plan for improving the command and control structure for military forces operating in Afghanistan; and

''(B) any efforts to establish a headquarters in Afghanistan that is led by a commander—

''(i) with command authority over NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom and charged with closely coordinating the efforts of such forces; and

''(ii) responsible for coordinating other United States and international security efforts in Afghanistan.

''(2) A description of how rules of engagement are determined and managed for United States forces operating under NATO ISAF or Operation Enduring Freedom, and a description of any key differences between rules of engagement for NATO ISAF forces and separate United States forces operating under Operation Enduring Freedom.

''(3) An assessment of how any modifications to the command and control structure for military forces operating in Afghanistan would impact coordination of military and civilian efforts in Afghanistan.

''(c) UPDATE OF REPORT.—The Secretary of Defense shall submit to the appropriate congressional committees an update of the report required under subsection (a) as warranted by any modifications to the command and control structure for military forces operating in Afghanistan as described in the report.

''(d) FORM.—The report required under subsection (a) and any update of the report required under subsection (c) shall be submitted in an unclassified form, but may include a classified annex, if necessary. Any update of the report required under subsection (c) may be included in the report required under section 1230 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 385).

''(e) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

''(2) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.''

PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE VIETNAM WAR

Pub. L. 110–181, div. A, title V, §598, Jan. 28, 2008, 122 Stat. 141, provided that:

''(a) COMMEMORATIVE PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a program to com-

memorate the 50th anniversary of the Vietnam War. In conducting the commemorative program, the Secretary shall coordinate, support, and facilitate other programs and activities of the Federal Government, State and local governments, and other persons and organizations in commemoration of the Vietnam War.

''(b) SCHEDULE.—The Secretary of Defense shall determine the schedule of major events and priority of efforts for the commemorative program in order to ensure achievement of the objectives specified in subsection (c).

''(c) COMMEMORATIVE ACTIVITIES AND OBJECTIVES.—The commemorative program may include activities and ceremonies to achieve the following objectives:

''(1) To thank and honor veterans of the Vietnam War, including personnel who were held as prisoners of war or listed as missing in action, for their service and sacrifice on behalf of the United States and to thank and honor the families of these veterans.

''(2) To highlight the service of the Armed Forces during the Vietnam War and the contributions of Federal agencies and governmental and non-governmental organizations that served with, or in support of, the Armed Forces.

''(3) To pay tribute to the contributions made on the home front by the people of the United States during the Vietnam War.

''(4) To highlight the advances in technology, science, and medicine related to military research conducted during the Vietnam War.

''(5) To recognize the contributions and sacrifices made by the allies of the United States during the Vietnam War.

''(d) NAMES AND SYMBOLS.—The Secretary of Defense shall have the sole and exclusive right to use the name 'The United States of America Vietnam War Commemoration', and such seal, emblems, and badges incorporating such name as the Secretary may lawfully adopt. Nothing in this section may be construed to supersede rights that are established or vested before the date of the enactment of this Act [Jan. 28, 2008].

''(e) COMMEMORATIVE FUND.—

''(1) ESTABLISHMENT AND ADMINISTRATION.—If the Secretary establishes the commemorative program under subsection (a), the Secretary the Treasury shall establish in the Treasury of the United States an account to be known as the 'Department of Defense Vietnam War Commemoration Fund' (in this section referred to as the 'Fund'). The Fund shall be administered by the Secretary of Defense.

''(2) USE OF FUND.—The Secretary shall use the assets of the Fund only for the purpose of conducting the commemorative program and shall prescribe such regulations regarding the use of the Fund as the Secretary considers to be necessary.

''(3) DEPOSITS.—There shall be deposited into the Fund—

''(A) amounts appropriated to the Fund;

''(B) proceeds derived from the Secretary's use of the exclusive rights described in subsection (d);

''(C) donations made in support of the commemorative program by private and corporate donors; and

''(D) funds transferred to the Fund by the Secretary from funds appropriated for fiscal year 2008 and subsequent years for the Department of Defense.

''(4) AVAILABILITY.—Subject to subsection (g)(2), amounts deposited under paragraph (3) shall constitute the assets of the Fund and remain available until expended.

''(5) BUDGET REQUEST.—The Secretary of Defense may establish a separate budget line for the commemorative program. In the budget justification materials submitted by the Secretary in support of the budget of the President for any fiscal year for which the Secretary establishes the separate budget line, the Secretary shall—

''(A) identify and explain any amounts expended for the commemorative program in the fiscal year preceding the budget request;

''(B) identify and explain the amounts being requested to support the commemorative program for the fiscal year of the budget request; and

''(C) present a summary of the fiscal status of the Fund.

''(f) ACCEPTANCE OF VOLUNTARY SERVICES.—

''(1) AUTHORITY TO ACCEPT SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the commemorative program. The Secretary of Defense shall prohibit the solicitation of any voluntary services if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in the program.

''(2) REIMBURSEMENT OF INCIDENTAL EXPENSES.—The Secretary may provide for reimbursement of incidental expenses incurred by a person providing voluntary services under this subsection. The Secretary shall determine which expenses are eligible for reimbursement under this paragraph.

''(g) FINAL REPORT.—

''(1) REPORT REQUIRED.—Not later than 60 days after the end of the commemorative program, if established by the Secretary of Defense under subsection (a), the Secretary shall submit to Congress a report containing an accounting of—

''(A) all of the funds deposited into and expended from the Fund;

''(B) any other funds expended under this section; and

''(C) any unobligated funds remaining in the Fund.

''(2) TREATMENT OF UNOBLIGATED FUNDS.—Unobligated amounts remaining in the Fund as of the end of the commemorative period specified in subsection (b) shall be held in the Fund until transferred by law.

''(h) LIMITATION ON EXPENDITURES.—Total expenditures from the Fund, using amounts appropriated to the Department of Defense, may not exceed $5,000,000 for fiscal year 2008 or for any subsequent fiscal year to carry out the commemorative program.

''(i) FUNDING.—Of the amount authorized to be appropriated pursuant to section 301(5) [122 Stat. 53] for Defense-wide activities, $1,000,000 shall be available for deposit in the Fund for fiscal year 2008 if the Fund is established under subsection (e).''

STANDARDS REQUIRED FOR ENTRY TO MILITARY INSTALLATIONS IN UNITED STATES

Pub. L. 110–181, div. A, title X, § 1069, Jan. 28, 2008, 122 Stat. 326, as amended by Pub. L. 110–417, [div. A], title X, § 1059, Oct. 14, 2008, 122 Stat. 4611; Pub. L. 111–84, div. A, title X, § 1073(c)(11), Oct. 28, 2009, 123 Stat. 2475, provided that:

''(a) DEVELOPMENT OF STANDARDS.—

''(1) ACCESS STANDARDS FOR VISITORS.—The Secretary of Defense shall develop access standards applicable to all military installations in the United States. The standards shall require screening standards appropriate to the type of installation involved, the security level, category of individuals authorized to visit the installation, and level of access to be granted, including—

''(A) protocols to determine the fitness of the individual to enter an installation; and

''(B) standards and methods for verifying the identity of the individual.

''(2) ADDITIONAL CRITERIA.—The standards required under paragraph (1) may—

''(A) provide for expedited access to a military installation for Department of Defense personnel and employees and family members of personnel who reside on the installation;

''(B) provide for closer scrutiny of categories of individuals determined by the Secretary of Defense to pose a higher potential security risk; and

''(C) in the case of an installation that the Secretary determines contains particularly sensitive

facilities, provide additional screening requirements, as well as physical and other security measures for the installation.

''(b) USE OF TECHNOLOGY.—The Secretary of Defense is encouraged to procure and field existing identification screening technology and to develop additional technology only to the extent necessary to assist commanders of military installations in implementing the standards developed under this section at points of entry for such installations.

''(c) DEADLINES.—

''(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary of Defense shall develop the standards required under this section by not later than February 1, 2009, and implement such standards by not later than October 1, 2010.

''(2) SUBMISSION TO CONGRESS.—Not later than August 1, 2009, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives the standards developed pursuant to paragraph (1).''

[Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(11) to section 1059 of Pub. L. 110–417, included in the credit set out above, is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.]

PROTECTION OF CERTAIN INDIVIDUALS

Pub. L. 110–181, div. A, title X, §1074, Jan. 28, 2008, 122 Stat. 330, provided that:

''(a) PROTECTION FOR DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to the following persons who, by nature of their positions, require continuous security and protection:

''(1) Secretary of Defense.

''(2) Deputy Secretary of Defense.

''(3) Chairman of the Joint Chiefs of Staff.

''(4) Vice Chairman of the Joint Chiefs of Staff.

''(5) Secretaries of the military departments.

''(6) Chiefs of the Services.

''(7) Commanders of combatant commands.

''(b) PROTECTION FOR ADDITIONAL PERSONNEL.—

''(1) AUTHORITY TO PROVIDE.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and personal security within the United States to individuals other than individuals described in paragraphs (1) through (7) of subsection (a) if the Secretary determines that such protection and security are necessary because—

''(A) there is an imminent and credible threat to the safety of the individual for whom protection is to be provided; or

''(B) compelling operational considerations make such protection essential to the conduct of official Department of Defense business.

''(2) PERSONNEL.—Individuals authorized to receive physical protection and personal security under this subsection include the following:

''(A) Any official, military member, or employee of the Department of Defense.

''(B) A former or retired official who faces serious and credible threats arising from duties performed while employed by the Department for a period of up to two years beginning on the date on which the official separates from the Department.

''(C) A head of a foreign state, an official representative of a foreign government, or any other distinguished foreign visitor to the United States who is primarily conducting official business with the Department of Defense.

''(D) Any member of the immediate family of a person authorized to receive physical protection and personal security under this section.

''(E) An individual who has been designated by the President, and who has received the advice and consent of the Senate, to serve as Secretary of Defense, but who has not yet been appointed as Secretary of Defense.

''(3) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to authorize the provision of physical protection and personal security under this subsection may be delegated only to the Deputy Secretary of Defense.

''(4) REQUIREMENT FOR WRITTEN DETERMINATION.—A determination of the Secretary of Defense to provide physical protection and personal security under this subsection shall be in writing, shall be based on a threat assessment by an appropriate law enforcement, security, or intelligence organization, and shall include the name and title of the officer, employee, or other individual affected, the reason for such determination, the duration of the authorized protection and security for such officer, employee, or individual, and the nature of the arrangements for the protection and security.

''(5) DURATION OF PROTECTION.—

''(A) INITIAL PERIOD OF PROTECTION.—After making a written determination under paragraph (4), the Secretary of Defense may provide protection and security to an individual under this subsection for an initial period of not more than 90 calendar days.

''(B) SUBSEQUENT PERIOD.—If, at the end of the period that protection and security is provided to an individual under subsection (A), the Secretary determines that a condition described in subparagraph (A) or (B) of paragraph (1) continues to exist with respect to the individual, the Secretary may extend the period that such protection and security is provided for additional 60-day periods. The Secretary shall review such a determination at the end of each 60-day period to determine whether to continue to provide such protection and security.

''(C) REQUIREMENT FOR COMPLIANCE WITH REGULATIONS.—Protection and personal security provided under subparagraph (B) shall be provided in accordance with the regulations and guidelines referred to in paragraph (1).

''(6) SUBMISSION TO CONGRESS.—

''(A) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees each determination made under paragraph (4) to provide protection and security to an individual and of each determination under paragraph (5)(B) to extend such protection and security, together with the justification for such determination, not later than 15 days after the date on which the determination is made.

''(B) FORM OF REPORT.—A report submitted under subparagraph (A) may be made in classified form.

''(C) REGULATIONS AND GUIDELINES.—The Secretary of Defense shall submit to the congressional defense committees the regulations and guidelines prescribed pursuant to paragraph (1) not less than 20 days before the date on which such regulations take effect.

''(c) DEFINITIONS.—In this section:

''(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term 'congressional defense committees' means the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

''(2) QUALIFIED MEMBERS OF THE ARMED FORCES AND QUALIFIED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—The terms 'qualified members of the Armed Forces' and 'qualified civilian employees of the Department of Defense' refer collectively to members or employees who are assigned to investigative, law enforcement, or security duties of any of the following:

''(A) The Army Criminal Investigation Command.

''(B) The Naval Criminal Investigative Service.

''(C) The Air Force Office of Special Investigations.

''(D) The Defense Criminal Investigative Service.

''(E) The Pentagon Force Protection Agency.

''(d) CONSTRUCTION.—

''(1) NO ADDITIONAL LAW ENFORCEMENT OR ARREST AUTHORITY.—Other than the authority to provide protection and security under this section, nothing in this section may be construed to bestow any additional law enforcement or arrest authority upon the qualified members of the Armed Forces and qualified civilian employees of the Department of Defense.

''(2) POSSE COMITATUS.—Nothing in this section shall be construed to abridge section 1385 of title 18, United States Code.

''(3) AUTHORITIES OF OTHER DEPARTMENTS.—Nothing in this section may be construed to preclude or limit, in any way, the express or implied powers of the Secretary of Defense or other Department of Defense officials, or the duties and authorities of the Secretary of State, the Director of the United States Secret Service, the Director of the United States Marshals Service, or any other Federal law enforcement agency.''

AUTHORITY TO PROVIDE AUTOMATIC IDENTIFICATION SYSTEM DATA ON MARITIME SHIPPING TO FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Pub. L. 110–181, div. A, title XII, §1208, Jan. 28, 2008, 122 Stat. 367, provided that:

''(a) AUTHORITY TO PROVIDE DATA.—The Secretary of Defense, with the concurrence of the Secretary of State, may authorize the Secretary of a military department or a commander of a combatant command to exchange or furnish automatic identification system data broadcast by merchant or private ships and collected by the United States to a foreign country or international organization pursuant to an agreement for the exchange or production of such data. Such data may be transferred pursuant to this section without cost to the recipient country or international organization.

''(b) DEFINITIONS.—In this section:

''(1) AUTOMATIC IDENTIFICATION SYSTEM.—The term 'automatic identification system' means a system that is used to satisfy the requirements of the Automatic Identification System under the International Convention for the Safety of Life at Sea, signed at London on November 1, 1974 (TIAS 9700) [see 33 U.S.C. 1602 and notes thereunder].

''(2) GEOGRAPHIC COMBATANT COMMANDER.—The term 'commander of a combatant command' means a commander of a combatant command (as such term is defined in section 161(c) of title 10, United States Code) with a geographic area of responsibility.''

REPORT ON SUPPORT FROM IRAN FOR ATTACKS AGAINST COALITION FORCES IN IRAQ

Pub. L. 110–181, div. A, title XII, §1225, Jan. 28, 2008, 122 Stat. 375, which required the Secretary of Defense, in coordination with the Director of National Intelligence, to submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives reports describing and assessing any support provided to anti-coalition forces in Iraq by Iran or its agents, the strategy and ambitions in Iraq of Iran, and any strategy or efforts by the United States to counter the activities of agents of Iran in Iraq, was repealed by Pub. L. 111–383, div. A, title XII, §1233(f)(2), Jan. 7, 2011, 124 Stat. 4397.

REQUIREMENT FOR SECRETARY OF DEFENSE TO PREPARE PLAN FOR RESPONSE TO NATURAL DISASTERS AND TERRORIST EVENTS

Pub. L. 110–181, div. A, title XVIII, §1814, Jan. 28, 2008, 122 Stat. 498, provided that:

''(a) REQUIREMENT FOR PLAN.—

''(1) IN GENERAL.—Not later than June 1, 2008, the Secretary of Defense, in consultation with the Secretary of Homeland Security, the Chairman of the Joint Chiefs of Staff, the commander of the United States Northern Command, and the Chief of the National Guard Bureau, shall prepare and submit to Congress a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and other man-made disasters as identified in the national planning scenarios described in subsection (e).

''(2) UPDATE.—Not later than June 1, 2010, the Secretary, in consultation with the persons consulted under paragraph (1), shall submit to Congress an update of the plan required under paragraph (1).

''(b) INFORMATION TO BE PROVIDED TO SECRETARY.—To assist the Secretary of Defense in preparing the plan, the National Guard Bureau, pursuant to its purpose as channel of communications as set forth in section 10501(b) of title 10, United States Code, shall provide to the Secretary information gathered from Governors, adjutants general of States, and other State civil authorities responsible for homeland preparation and response to natural and man-made disasters.

''(c) TWO VERSIONS.—The plan shall set forth two versions of response, one using only members of the National Guard, and one using both members of the National Guard and members of the regular components of the Armed Forces.

''(d) MATTERS COVERED.—The plan shall cover, at a minimum, the following:

''(1) Protocols for the Department of Defense, the National Guard Bureau, and the Governors of the several States to carry out operations in coordination with each other and to ensure that Governors and local communities are properly informed and remain in control in their respective States and communities.

''(2) An identification of operational procedures, command structures, and lines of communication to ensure a coordinated, efficient response to contingencies.

''(3) An identification of the training and equipment needed for both National Guard personnel and members of the Armed Forces on active duty to provide military assistance to civil authorities and for other domestic operations to respond to hazards identified in the national planning scenarios.

''(e) NATIONAL PLANNING SCENARIOS.—The plan shall provide for response to the following hazards:

''(1) Nuclear detonation, biological attack, biological disease outbreak/pandemic flu, the plague, chemical attack-blister agent, chemical attack-toxic industrial chemicals, chemical attack-nerve agent, chemical attack-chlorine tank explosion, major hurricane, major earthquake, radiological attack-radiological dispersal device, explosives attack-bombing using improvised explosive device, biological attack-food contamination, biological attack-foreign animal disease and cyber attack.

''(2) Any other hazards identified in a national planning scenario developed by the Homeland Security Council.''

DETERMINATION OF DEPARTMENT OF DEFENSE CIVIL SUPPORT REQUIREMENTS

Pub. L. 110–181, div. A, title XVIII, §1815(a)–(d), Jan. 28, 2008, 122 Stat. 499, provided that:

''(a) DETERMINATION OF REQUIREMENTS.—The Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine the military-unique capabilities needed to be provided by the Department of Defense to support civil authorities in an incident of national significance or a catastrophic incident.

''(b) PLAN FOR FUNDING CAPABILITIES.—

''(1) PLAN.—The Secretary of Defense shall develop and implement a plan, in coordination with the Secretaries of the military departments and the Chair-

man of the Joint Chiefs of Staff, for providing the funds and resources necessary to develop and maintain the following:

''(A) The military-unique capabilities determined under subsection (a).

''(B) Any additional capabilities determined by the Secretary to be necessary to support the use of the active components and the reserve components of the Armed Forces for homeland defense missions, domestic emergency responses, and providing military support to civil authorities.

''(2) TERM OF PLAN.—The plan required under paragraph (1) shall cover at least five years.

''(c) BUDGET.—The Secretary of Defense shall include in the materials accompanying the budget submitted for each fiscal year a request for funds necessary to carry out the plan required under subsection (b) during the fiscal year covered by the budget. The defense budget materials shall delineate and explain the budget treatment of the plan for each component of each military department, each combatant command, and each affected Defense Agency.

''(d) DEFINITIONS.—In this section:

''(1) The term 'military-unique capabilities' means those capabilities that, in the view of the Secretary of Defense—

''(A) cannot be provided by other Federal, State, or local civilian agencies; and

''(B) are essential to provide support to civil authorities in an incident of national significance or a catastrophic incident.

''(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.''

MILITARY SEVERELY INJURED CENTER

Pub. L. 109–364, div. A, title V, §564, Oct. 17, 2006, 120 Stat. 2222, provided that:

''(a) CENTER REQUIRED.—In support of the comprehensive policy on the provision of assistance to severely wounded or injured servicemembers required by section 563 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3269; 10 U.S.C. 113 note), the Secretary of Defense shall establish within the Department of Defense a center to augment and support the programs and activities of the military departments for the provision of such assistance, including the programs of the military departments referred to in subsection (c).

''(b) DESIGNATION.—The center established under subsection (a) shall be known as the 'Military Severely Injured Center' (in this section referred to as the 'Center').

''(c) PROGRAMS OF THE MILITARY DEPARTMENTS.—The programs of the military departments referred to in this subsection are the following:

''(1) The Army Wounded Warrior Support Program.

''(2) The Navy Safe Harbor Program.

''(3) The Palace HART Program of the Air Force.

''(4) The Marine for Life Injured Support Program of the Marine Corps.

''(d) ACTIVITIES OF CENTER.—

''(1) IN GENERAL.—The Center shall carry out such programs and activities to augment and support the programs and activities of the military departments for the provision of assistance to severely wounded or injured servicemembers and their families as the Secretary of Defense, in consultation with the Secretaries of the military departments and the heads of other appropriate departments and agencies of the Federal Government (including the Secretary of Labor and the Secretary of Veterans Affairs), determines appropriate.

''(2) DATABASE.—The activities of the Center under this subsection shall include the establishment and maintenance of a central database. The database shall be transparent and shall be accessible for use by all of the programs of the military departments referred to in subsection (c).

''(e) RESOURCES.—The Secretary of Defense shall allocate to the Center such personnel and other resources as the Secretary of Defense, in consultation with the Secretaries of the military departments, considers appropriate in order to permit the Center to carry out effectively the programs and activities assigned to the Center under subsection (d).''

QUARTERLY REPORTS ON DEPARTMENT OF DEFENSE RESPONSE TO THREAT POSED BY IMPROVISED EXPLOSIVE DEVICES

Pub. L. 109–364, div. A, title XIV, §1402, Oct. 17, 2006, 120 Stat. 2433, provided that:

''(a) REPORTS REQUIRED.—

''(1) INITIAL REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 17, 2006], the Secretary of Defense shall submit to Congress a report—

''(A) regarding the status of the threat posed to United States and allied forces in Iraq and Afghanistan by improvised explosive devices; and

''(B) describing efforts being undertaken by the Department of Defense to defeat that threat.

''(2) SUPPLEMENTAL QUARTERLY REPORTS.—After the submission of the report under paragraph (1), the Secretary shall submit to Congress a supplemental report, not later than 30 days after the end of each calendar-year quarter, to account for every reported incident involving the detonation or discovery of an improvised explosive device during the preceding quarter that involved United States or allied forces in Iraq and Afghanistan.

''(3) CLASSIFICATION OF REPORTS.—Reports under this section shall be transmitted in an unclassified manner with a classified annex, if necessary.

''(b) JOINT IED DEFEAT ORGANIZATION AND RELATED OFFICES.—Each report under subsection (a) shall provide the following information regarding the joint entity in the Office of the Secretary of Defense known as the 'Joint IED Defeat Organization' and those portions of all other organizational elements within the Department of Defense that are focused on countering improvised explosive devices:

''(1) The number of Department of Defense personnel assigned to the Joint IED Defeat Organization and each other organizational element.

''(2) The major locations to which such personnel are assigned and the organizational structure of those elements.

''(3) The projected budget of the Joint IED Defeat Organization and those other elements relating to the counter-IED mission.

''(4) The level of funding required for administrative costs relating to the counter-IED mission.

''(c) EXISTING THREAT AND COUNTER MEASURES.—Each report under subsection (a) shall include the following information regarding the threat posed by improvised explosive devices and the countermeasures employed to defeat those threats:

''(1) The number of improvised explosive devices being encountered by United States and allied military personnel, including general trends in tactics and technology used by the enemy.

''(2) Passive countermeasures employed and the success rate of each such countermeasure.

''(3) Active countermeasures employed and the success rate of each such countermeasure.

''(4) Any evidence of assistance to the enemy by foreign countries or other entities not directly involved in fighting United States and allied forces in Iraq and Afghanistan.

''(5) A summary of data collected and reports generated by the Department of Defense on efforts to counter improvised explosive devices in Iraq and Afghanistan and other fronts in the Global War on Terrorism.

''(d) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OF NEW COUNTERMEASURES.—Each report under subsection (a) shall include the following information regarding research, development, test, and evaluation ac-

tivities relating to new active and passive countermeasures and any impediments to those activities:

''(1) The status of any effort within the Department of Defense to conduct research, development, test, and evaluation of passive and active countermeasures and to accelerate the introduction of those countermeasures into deployed units.

''(2) Impediments to introduction of new passive and active countermeasures.

''(e) INTERDICTION EFFORTS.—

''(1) DESCRIPTION OF INTERDICTION EFFORTS.—Each report under subsection (a) shall identify those portions of any office within the Department of Defense (in addition to those discussed pursuant to subsection (b)) that are focused on interdiction of improvised explosive devices, together with the personnel and funding requirements for that office (as specified in subsection (b)) and the success of the interdiction efforts of that office.

''(2) INTERDICTION DEFINED.—For purposes of this subsection, the term 'interdiction' includes—

''(A) the development of intelligence regarding persons and locations involved in the manufacture or deployment of improvised explosive devices; and

''(B) subsequent action against those persons or locations, including efforts to prevent emplacement of improvised explosive devices.''

DATABASE OF EMERGENCY RESPONSE CAPABILITIES

Pub. L. 109–364, div. A, title XIV, §1406, Oct. 17, 2006, 120 Stat. 2436, provided that: ''The Secretary of Defense shall maintain a database of emergency response capabilities that includes the following:

''(1) The types of emergency response capabilities that each State's National Guard, as reported by the States, may be able to provide in response to a domestic natural or manmade disaster, both to their home States and under State-to-State mutual assistance agreements.

''(2) The types of emergency response capabilities that the Department of Defense may be able to provide in support of the National Response Plan's Emergency Support Functions, and identification of the units that provide these capabilities.''

REPORT REGARDING EFFECT ON MILITARY READINESS OF UNDOCUMENTED IMMIGRANTS TRESPASSING UPON OPERATIONAL RANGES

Pub. L. 109–163, div. A, title III, §354, Jan. 6, 2006, 119 Stat. 3204, provided that:

''(a) REPORT CONTAINING ASSESSMENT AND RESPONSE PLAN.—Not later than April 15, 2006, the Secretary of Defense shall submit to Congress a report containing—

''(1) an assessment of the impact on military readiness caused by undocumented immigrants whose entry into the United States involves trespassing upon operational ranges of the Department of Defense; and

''(2) a plan for the implementation of measures to prevent such trespass.

''(b) PREPARATION AND ELEMENTS OF ASSESSMENT.—The assessment required by subsection (a)(1) shall be prepared by the Secretary of Defense. The assessment shall include the following:

''(1) A listing of the operational ranges adversely affected by the trespass of undocumented immigrants upon operational ranges.

''(2) A description of the types of range activities affected by such trespass.

''(3) A determination of the amount of time lost for range activities, and the increased costs incurred, as a result of such trespass.

''(4) An evaluation of the nature and extent of such trespass and means of travel.

''(5) An evaluation of the factors that contribute to the use by undocumented immigrants of operational ranges as a means to enter the United States.

''(6) A description of measures currently in place to prevent such trespass, including the use of barriers to vehicles and persons, military patrols, border patrols, and sensors.

''(c) PREPARATION AND ELEMENTS OF PLAN.—The plan required by subsection (a)(2) shall be prepared jointly by the Secretary of Defense and the Secretary of Homeland Security. The plan shall include the following:

''(1) The types of measures to be implemented to improve prevention of trespass of undocumented immigrants upon operational ranges, including the specific physical methods, such as barriers and increased patrols or monitoring, to be implemented and any legal or other policy changes recommended by the Secretaries.

''(2) The costs of, and timeline for, implementation of the plan.

''(d) IMPLEMENTATION REPORTS.—Not later than September 15, 2006, March 15, 2007, September 15, 2007, and March 15, 2008, the Secretary of Defense shall submit to Congress a report detailing the progress made by the Department of Defense, during the period covered by the report, in implementing measures recommended in the plan required by subsection (a)(2) to prevent undocumented immigrants from trespassing upon operational ranges. Each report shall include the number and types of mitigation measures implemented and the success of such measures in preventing such trespass.

''(e) DEFINITIONS.—In this section, the terms 'operational range' and 'range activities' have the meaning given those terms in section 101(e) of title 10, United States Code.''

REPORTS BY OFFICERS AND SENIOR ENLISTED MEMBERS OF CONVICTION OF CRIMINAL LAW

Pub. L. 109–163, div. A, title V, §554, Jan. 6, 2006, 119 Stat. 3264, provided that:

''(a) REQUIREMENT FOR REPORTS.—

''(1) IN GENERAL.—The Secretary of Defense shall prescribe in regulations a requirement that each covered member of the Armed Forces shall submit to an authority in the military department concerned designated pursuant to such regulations a timely report of any conviction of such member by any law enforcement authority of the United States for a violation of a criminal law of the United States, whether or not the member is on active duty at the time of the conduct that provides the basis for the conviction. The regulations shall apply uniformly throughout the military departments.

''(2) COVERED MEMBERS.—In this section, the term 'covered member of the Armed Forces' means a member of the Army, Navy, Air Force, or Marine Corps who is on the active-duty list or the reserve active-status list and who is—

''(A) an officer; or

''(B) an enlisted member in a pay grade above pay grade E–6.

''(b) LAW ENFORCEMENT AUTHORITY OF THE UNITED STATES.—For purposes of this section, a law enforcement authority of the United States includes—

''(1) a military or other Federal law enforcement authority;

''(2) a State or local law enforcement authority; and

''(3) such other law enforcement authorities within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

''(c) CRIMINAL LAW OF THE UNITED STATES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this section, a criminal law of the United States includes—

''(A) any military or other Federal criminal law;

''(B) any State, county, municipal, or local criminal law or ordinance; and

''(C) such other criminal laws and ordinances of jurisdictions within the United States as the Secretary shall specify in the regulations prescribed pursuant to subsection (a).

''(2) EXCEPTION.—For purposes of this section, a criminal law of the United States shall not include a law or ordinance specifying a minor traffic offense (as

determined by the Secretary for purposes of such regulations).

''(d) TIMELINESS OF REPORTS.—The regulations prescribed pursuant to subsection (a) shall establish requirements for the timeliness of reports under this section.

''(e) FORWARDING OF INFORMATION.—The regulations prescribed pursuant to subsection (a) shall provide that, in the event a military department receives information that a covered member of the Armed Forces under the jurisdiction of another military department has become subject to a conviction for which a report is required by this section, the Secretary of the military department receiving such information shall, in accordance with such procedures as the Secretary of Defense shall establish in such regulations, forward such information to the authority in the military department having jurisdiction over such member designated pursuant to such regulations.

''(f) CONVICTIONS.—In this section, the term 'conviction' includes any plea of guilty or nolo contendere.

''(g) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a), including the requirement in subsection (e), shall go into effect not later than the end of the 180-day period beginning on the date of the enactment of this Act [Jan. 6, 2006].

''(h) APPLICABILITY OF REQUIREMENT.—The requirement under the regulations required by subsection (a) that a covered member of the Armed Forces submit notice of a conviction shall apply only to a conviction that becomes final after the date of the enactment of this Act [Jan. 6, 2006].''

POLICY AND PROCEDURES ON ASSISTANCE TO SEVERELY WOUNDED OR INJURED SERVICE MEMBERS

Pub. L. 109–163, div. A, title V, §563, Jan. 6, 2006, 119 Stat. 3269, provided that:

''(a) COMPREHENSIVE POLICY.—

''(1) POLICY REQUIRED.—Not later than June 1, 2006, the Secretary of Defense shall prescribe a comprehensive policy for the Department of Defense on the provision of assistance to members of the Armed Forces who incur severe wounds or injuries in the line of duty (in this section referred to as 'severely wounded or injured servicemembers').

''(2) CONSULTATION.—The Secretary shall develop the policy required by paragraph (1) in consultation with the Secretaries of the military departments, the Secretary of Veterans Affairs, and the Secretary of Labor.

''(3) INCORPORATION OF PAST EXPERIENCE AND PRACTICE.—The policy required by paragraph (1) shall be based on—

''(A) the experience and best practices of the military departments, including the Army Wounded Warrior Program, the Marine Corps Marine for Life Injured Support Program, the Air Force Palace HART program, and the Navy Wounded Marines and Sailors Initiative;

''(B) the recommendations of nongovernment organizations with demonstrated expertise in responding to the needs of severely wounded or injured servicemembers; and

''(C) such other matters as the Secretary of Defense considers appropriate.

''(4) PROCEDURES AND STANDARDS.—The policy shall include guidelines to be followed by the military departments in the provision of assistance to severely wounded or injured servicemembers. The procedures and standards shall be uniform across the military departments except to the extent necessary to reflect the traditional practices or customs of a particular military department. The procedures and standards shall establish a minimum level of support and shall specify the duration of programs.

''(b) ELEMENTS OF POLICY.—The comprehensive policy developed under subsection (a) shall address the following matters:

''(1) Coordination with the Severely Injured Joint Support Operations Center of the Department of Defense.

''(2) Promotion of a seamless transition to civilian life for severely wounded or injured servicemembers who are or are likely to be separated on account of their wound or injury.

''(3) Identification and resolution of special problems or issues related to the transition to civilian life of severely wounded or injured servicemembers who are members of the reserve components.

''(4) The qualifications, assignment, training, duties, supervision, and accountability for the performance of responsibilities for the personnel providing assistance to severely wounded or injured servicemembers.

''(5) Centralized, short-term and long-term case-management procedures for assistance to severely wounded or injured servicemembers by each military department, including rapid access for severely wounded or injured servicemembers to case managers and counselors.

''(6) The provision, through a computer accessible Internet website and other means and at no cost to severely wounded or injured servicemembers, of personalized, integrated information on the benefits and financial assistance available to such members from the Federal Government.

''(7) The provision of information to severely wounded or injured servicemembers on mechanisms for registering complaints about, or requests for, additional assistance.

''(8) Participation of family members.

''(9) Liaison with the Department of Veterans Affairs and the Department of Labor in order to ensure prompt and accurate resolution of issues relating to benefits administered by those agencies for severely wounded or injured servicemembers.

''(10) Data collection regarding the incidence and quality of assistance provided to severely wounded or injured servicemembers, including surveys of such servicemembers and military and civilian personnel whose assigned duties include assistance to severely wounded or injured servicemembers.

''(c) ADOPTION BY MILITARY DEPARTMENTS.—Not later than September 1, 2006, the Secretary of each military department shall prescribe regulations, or modify current regulations, on the policies and procedures of such military department on the provision of assistance to severely wounded or injured servicemembers in order to conform such policies and procedures to the policy prescribed under subsection (a).''

PRESERVATION OF RECORDS PERTAINING TO RADIOACTIVE FALLOUT FROM NUCLEAR WEAPONS TESTING

Pub. L. 109–163, div. A, title X, §1055, Jan. 6, 2006, 119 Stat. 3438, provided that:

''(a) PROHIBITION OF DESTRUCTION OF CERTAIN RECORDS.—The Secretary of Defense may not destroy any official record in the custody or control of the Department of Defense that contains information relating to radioactive fallout from nuclear weapons testing.

''(b) PRESERVATION AND PUBLICATION OF INFORMATION.—The Secretary of Defense shall identify, preserve, and make available any unclassified information contained in official records referred to in subsection (a).''

SAFE DELIVERY OF MAIL IN MILITARY MAIL SYSTEM

Pub. L. 109–163, div. A, title X, §1071, Jan. 6, 2006, 119 Stat. 3446, provided that:

''(a) PLAN FOR SAFE DELIVERY OF MILITARY MAIL.—

''(1) PLAN REQUIRED.—The Secretary of Defense shall develop and implement a plan to ensure that the mail within the military mail system is safe for delivery. The plan shall provide for the screening of all mail within the military mail system in order to detect the presence of biological, chemical, or radiological weapons, agents, or pathogens or explosive devices before mail within the military mail system is delivered to its intended recipients.

''(2) FUNDING.—The budget justification materials submitted to Congress with the budget of the Presi-

dent for fiscal year 2007 and each fiscal year thereafter shall include a description of the amounts required in such fiscal year to carry out the plan.

''(b) REPORT ON SAFETY OF MAIL FOR DELIVERY.—

''(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary shall submit to Congress a report on the safety of mail within the military mail system for delivery.

''(2) ELEMENTS.—The report shall include the following:

''(A) An assessment of any existing deficiencies in the military mail system in ensuring that mail within the military mail system is safe for delivery.

''(B) The plan required by subsection (a).

''(C) An estimate of the time and resources required to implement the plan.

''(D) A description of the delegation within the Department of Defense of responsibility for ensuring that mail within the military mail system is safe for delivery, including responsibility for the development, implementation, and oversight of improvements to the military mail system to ensure that mail within the military mail system is safe for delivery.

''(3) FORM.—The report shall be submitted in unclassified form, but may include a classified annex.

''(c) MAIL WITHIN THE MILITARY MAIL SYSTEM DEFINED.—

''(1) IN GENERAL.—In this section, the term 'mail within the military mail system' means—

''(A) any mail that is posted through the Military Post Offices (including Army Post Offices (APOs) and Fleet Post Offices (FPOs)), Department of Defense mail centers, military Air Mail Terminals, and military Fleet Mail Centers; and

''(B) any mail or package posted in the United States that is addressed to an unspecified member of the Armed Forces.

''(2) INCLUSIONS AND EXCEPTION.—The term includes any official mail posted by the Department of Defense. The term does not include any mail posted as otherwise described in paragraph (1) that has been screened for safety for delivery by the United States Postal Service before such posting.''

WAR-RELATED REPORTING REQUIREMENTS

Pub. L. 109–163, div. A, title XII, § 1221, Jan. 6, 2006, 119 Stat. 3462, as amended by Pub. L. 109–364, div. A, title XV, § 1518, Oct. 17, 2006, 120 Stat. 2443; Pub. L. 111–84, div. A, title XII, § 1233, Oct. 28, 2009, 123 Stat. 2531, provided that:

''(a) REPORT REQUIRED FOR OPERATION IRAQI FREEDOM, OPERATION ENDURING FREEDOM, AND OPERATION NOBLE EAGLE.—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], in accordance with this section, a report on procurement and equipment maintenance costs for each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle and on facility infrastructure costs associated with each of Operation Iraqi Freedom and Operation Enduring Freedom. The report shall include the following:

''(1) PROCUREMENT.—A specification of costs of procurement funding requested since fiscal year 2003, together with end-item quantities requested and the purpose of the request (such as replacement for battle losses, improved capability, increase in force size, restructuring of forces), shown by service.

''(2) EQUIPMENT MAINTENANCE.—A cost comparison of the requirements for equipment maintenance expenditures during peacetime and for such requirements during wartime, as shown by the requirements in each of Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. The cost comparison shall include—

''(A) a description of the effect of war operations on the backlog of maintenance requirements over the period of fiscal years 2003 to the time of the report; and

''(B) an examination of the extent to which war operations have precluded maintenance from being performed because equipment was unavailable.

''(3) OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM INFRASTRUCTURE.—A specification of the number of United States military personnel that can be supported by the facility infrastructure in Iraq and Afghanistan and in the neighboring countries from where Operation Iraq Freedom and Operation Enduring Freedom are supported.

''(b) SUBMISSION REQUIREMENTS.—The report under subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act [Jan. 6, 2006]. The Secretary of Defense shall submit an updated report on procurement, equipment maintenance, and military construction costs, as specified in subsection (a), concurrently with any request made to Congress after the date of the enactment of this Act for war-related funding.

''(c) SUBMISSION TO CONGRESS AND GAO OF CERTAIN REPORTS ON COSTS.—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] and the Comptroller General, not later than 45 days after the end of each reporting month, the Department of Defense Supplemental and Cost of War Execution reports.''

ANNUAL REPORT ON DEPARTMENT OF DEFENSE COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS

Pub. L. 109–163, div. A, title XII, § 1224, Jan. 6, 2006, 119 Stat. 3463, provided that:

''(a) REQUIREMENT FOR ANNUAL REPORT.—

''(1) DEPARTMENT OF DEFENSE COSTS.—Not later than April 30 of each year, the Secretary of Defense shall submit to the congressional committees specified in paragraph (2) a report on Department of Defense costs during the preceding fiscal year to carry out United Nations resolutions.

''(2) SPECIFIED COMMITTEES.—The committees specified in this paragraph are—

''(A) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

''(B) the Committee on Armed Services, the Committee on International Relations [now Committee on Foreign Affairs], and the Committee on Appropriations of the House of Representatives.

''(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall set forth the following:

''(1) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for—

''(A) international sanctions;

''(B) international peacekeeping operations;

''(C) international peace enforcement operations;

''(D) monitoring missions;

''(E) observer missions; or

''(F) humanitarian missions.

''(2) An aggregate of all such Department of Defense costs by operation or mission and the total cost to United Nations members of each operation or mission.

''(3) All direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding fiscal year in training, equipping, and otherwise assisting, preparing, providing resources for, and transporting foreign defense or security forces for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution specified in paragraph (1).

''(4) All efforts made to seek credit against past United Nations expenditures.

''(5) All efforts made to seek compensation from the United Nations for costs incurred by the Department

of Defense in implementing and supporting United Nations activities.

''(c) COORDINATION.—The report under subsection (a) each year shall be prepared in coordination with the Secretary of State.

''(d) FORM OF REPORT.—Each report required by this section shall be submitted in unclassified form, but may include a classified annex.''

REQUIREMENT FOR ESTABLISHMENT OF CERTAIN CRITERIA APPLICABLE TO GLOBAL POSTURE REVIEW

Pub. L. 109–163, div. A, title XII, §1233, Jan. 6, 2006, 119 Stat. 3469, provided that:

''(a) CRITERIA.—As part of the Integrated Global Presence and Basing Strategy (IGPBS) developed by the Department of Defense that is referred to as the 'Global Posture Review', the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop criteria for assessing, with respect to each type of facility specified in subsection (c) that is to be located in a foreign country, the following factors:

''(1) The effect of any new basing arrangements on the strategic mobility requirements of the Department of Defense.

''(2) The ability of units deployed to overseas locations in areas in which United States Armed Forces have not traditionally been deployed to meet mobility response times required by operational planners.

''(3) The cost of deploying units to areas referred to in paragraph (2) on a rotational basis (rather than on a permanent basing basis).

''(4) The strategic benefit of rotational deployments through countries with which the United States is developing a close or new security relationship.

''(5) Whether the relative speed and complexity of conducting negotiations with a particular country is a discriminator in the decision to deploy forces within the country.

''(6) The appropriate and available funding mechanisms for the establishment, operation, and sustainment of specific Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

''(7) The effect on military quality of life of the unaccompanied deployment of units to new facilities in overseas locations.

''(8) Other criteria as Secretary of Defense determines appropriate.

''(b) ANALYSIS OF ALTERNATIVES TO BASING OR OPERATING LOCATIONS.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall develop a mechanism for analyzing alternatives to any particular overseas basing or operating location. Such a mechanism shall incorporate the factors specified in each of paragraphs (1) through (5) of subsection (a).

''(c) MINIMAL INFRASTRUCTURE REQUIREMENTS FOR OVERSEAS INSTALLATIONS.—The Secretary of Defense shall develop a description of minimal infrastructure requirements for each of the following types of facilities:

''(1) Facilities categorized as Main Operating Bases.

''(2) Facilities categorized as Forward Operating Bases.

''(3) Facilities categorized as Cooperative Security Locations.

''(d) NOTIFICATION REQUIRED.—Not later than 30 days after an agreement is entered into between the United States and a foreign country to support the deployment of elements of the United States Armed Forces in that country, 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 written notification of such agreement. The notification under this subsection shall include the terms of the agreement, any costs to the United States resulting from the agreement, and a timeline to carry out the terms of the agreement.

''(e) ANNUAL BUDGET ELEMENT.—The Secretary of Defense shall submit to Congress, as an element of the annual budget request of the Secretary, information regarding the funding sources for the establishment, operation, and sustainment of individual Main Operating Bases, Forward Operating Bases, or Cooperative Security Locations.

''(f) REPORT.—Not later than March 30, 2006, the Secretary of Defense shall submit to Congress a report on the matters specified in subsections (a) through (c).''

PROCESSING OF FORENSIC EVIDENCE COLLECTION KITS AND ACQUISITION OF SUFFICIENT STOCKS OF SUCH KITS

Pub. L. 108–375, div. A, title V, §573, Oct. 28, 2004, 118 Stat. 1921, provided that:

''(a) ELIMINATION OF BACKLOG, ETC.—The Secretary of Defense shall take such steps as may be necessary to ensure that—

''(1) the United States Army Criminal Investigation Laboratory has the personnel and resources to effectively process forensic evidence used by the Department of Defense within 60 days of receipt by the laboratory of such evidence;

''(2) consistent policies are established among the Armed Forces to reduce the time period between the collection of forensic evidence and the receipt and processing of such evidence by United States Army Criminal Investigation Laboratory; and

''(3) there is an adequate supply of forensic evidence collection kits—

''(A) for all United States military installations, including the military service academies; and

''(B) for units of the Armed Forces deployed in theaters of operation.

''(b) TRAINING.—The Secretary shall take such measures as the Secretary considers appropriate to ensure that personnel are appropriately trained—

''(1) in the use of forensic evidence collection kits; and

''(2) in the prescribed procedures to ensure protection of the chain of custody of such kits once used.''

POLICY FOR TIMELY NOTIFICATION OF NEXT OF KIN OF MEMBERS SERIOUSLY ILL OR INJURED IN COMBAT ZONES

Pub. L. 108–375, div. A, title VII, §724, Oct. 28, 2004, 118 Stat. 1990, provided that:

''(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe the policy of the Department of Defense for providing, in the case of the serious illness or injury of a member of the Armed Forces in a combat zone, timely notification to the next of kin of the member regarding the illness or injury, including information on the condition of the member and the location at which the member is receiving treatment. In prescribing the policy, the Secretary shall ensure respect for the expressed desires of individual members of the Armed Forces regarding the notification of next of kin and shall include standards of timeliness for both the initial notification of next of kin under the policy and subsequent updates regarding the condition and location of the member.

''(b) SUBMISSION OF POLICY.—Not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004], the Secretary of Defense shall submit to Congress a copy of the policy.''

SECRETARY OF DEFENSE CRITERIA FOR AND GUIDANCE ON IDENTIFICATION AND INTERNAL TRANSMISSION OF CRITICAL INFORMATION

Pub. L. 108–375, div. A, title IX, §932, Oct. 28, 2004, 118 Stat. 2031, provided that:

''(a) CRITERIA FOR CRITICAL INFORMATION.—(1) The Secretary of Defense shall establish criteria for determining categories of critical information that should be made known expeditiously to senior civilian and military officials in the Department of Defense. Those categories should be limited to matters of extraordinary significance and strategic impact to which rapid access by those officials is essential to the successful accomplishment of the national security strategy or a major military mission. The Secretary may from time

to time modify the list to suit the current strategic situation.

''(2) The Secretary shall provide the criteria established under paragraph (1) to the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, the commanders of the unified and specified commands, the commanders of deployed forces, and such other elements of the Department of Defense as the Secretary considers necessary.

''(b) MATTERS TO BE INCLUDED.—The criteria established under subsection (a) shall include, at a minimum, requirement for identification of the following:

''(1) Any incident that may result in a contingency operation, based on the incident's nature, gravity, or potential for significant adverse consequences to United States citizens, military personnel, interests, or assets, including an incident that could result in significant adverse publicity having a major strategic impact.

''(2) Any event, development, or situation that could be reasonably assumed to escalate into an incident described in paragraph (1).

''(3) Any deficiency or error in policy, standards, or training that could be reasonably assumed to have the effects described in paragraph (1).

''(c) REQUIREMENTS FOR TRANSMISSION OF CRITICAL INFORMATION.—The criteria under subsection (a) shall include such requirements for transmission of such critical information to such senior civilian and military officials of the Department of Defense as the Secretary of Defense considers appropriate.

''(d) TIME FOR ISSUANCE OF CRITERIA.—The Secretary of Defense shall establish the criteria required by subsection (a) not later than 120 days after the date of the enactment of this Act [Oct. 28, 2004].''

PROGRAM TO COMMEMORATE 60TH ANNIVERSARY OF WORLD WAR II

Pub. L. 108–375, div. A, title X, §1032, Oct. 28, 2004, 118 Stat. 2045, authorized the Secretary of Defense to conduct a program during fiscal year 2005 to commemorate the 60th anniversary of World War II.

PRESERVATION OF SEARCH AND RESCUE CAPABILITIES OF THE FEDERAL GOVERNMENT

Pub. L. 108–375, div. A, title X, §1085, Oct. 28, 2004, 118 Stat. 2065, as amended by Pub. L. 110–181, div. A, title III, §360(c), Jan. 28, 2008, 122 Stat. 78; Pub. L. 111–383, div. A, title X, §1075(i)(2), Jan. 7, 2011, 124 Stat. 4378, provided that: ''The Secretary of Defense may not reduce or eliminate search and rescue capabilities at any military installation in the United States unless the Secretary, after reviewing the search and rescue capabilities report prepared by the Secretary of the Air Force under section 360(a) of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 77), first certifies to the Committees on Armed Services of the Senate and the House of Representatives that equivalent search and rescue capabilities will be provided, without interruption and consistent with the policies and objectives set forth in the United States National Search and Rescue Plan entered into force on January 1, 1999, by—

''(1) the Department of Interior, the Department of Commerce, the Department of Homeland Security, the Department of Transportation, the Federal Communications Commission, or the National Aeronautics and Space Administration; or

''(2) the Department of Defense, either directly or through a Department of Defense contract with an emergency medical service provider or other private entity to provide such capabilities.''

SUNKEN MILITARY CRAFT

Pub. L. 108–375, div. A, title XIV, Oct. 28, 2004, 118 Stat. 2094, provided that:

''SEC. 1401. PRESERVATION OF TITLE TO SUNKEN MILITARY CRAFT AND ASSOCIATED CONTENTS.

''Right, title, and interest of the United States in and to any United States sunken military craft—

''(1) shall not be extinguished except by an express divestiture of title by the United States; and

''(2) shall not be extinguished by the passage of time, regardless of when the sunken military craft sank.

''SEC. 1402. PROHIBITIONS.

''(a) UNAUTHORIZED ACTIVITIES DIRECTED AT SUNKEN MILITARY CRAFT.—No person shall engage in or attempt to engage in any activity directed at a sunken military craft that disturbs, removes, or injures any sunken military craft, except—

''(1) as authorized by a permit under this title;

''(2) as authorized by regulations issued under this title; or

''(3) as otherwise authorized by law.

''(b) POSSESSION OF SUNKEN MILITARY CRAFT.—No person may possess, disturb, remove, or injure any sunken military craft in violation of—

''(1) this section; or

''(2) any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

''(c) LIMITATIONS ON APPLICATION.—

''(1) ACTIONS BY UNITED STATES.—This section shall not apply to actions taken by, or at the direction of, the United States.

''(2) FOREIGN PERSONS.—This section shall not apply to any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

''(A) generally recognized principles of international law;

''(B) an agreement between the United States and the foreign country of which the person is a citizen; or

''(C) in the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

''(3) LOAN OF SUNKEN MILITARY CRAFT.—This section does not prohibit the loan of United States sunken military craft in accordance with regulations issued by the Secretary concerned.

''SEC. 1403. PERMITS.

''(a) IN GENERAL.—The Secretary concerned may issue a permit authorizing a person to engage in an activity otherwise prohibited by section 1402 with respect to a United States sunken military craft, for archaeological, historical, or educational purposes, in accordance with regulations issued by such Secretary that implement this section.

''(b) CONSISTENCY WITH OTHER LAWS.—The Secretary concerned shall require that any activity carried out under a permit issued by such Secretary under this section must be consistent with all requirements and restrictions that apply under any other provision of Federal law.

''(c) CONSULTATION.—In carrying out this section (including the issuance after the date of the enactment of this Act [Oct. 28, 2004] of regulations implementing this section), the Secretary concerned shall consult with the head of each Federal agency having authority under Federal law with respect to activities directed at sunken military craft or the locations of such craft.

''(d) APPLICATION TO FOREIGN CRAFT.—At the request of any foreign State, the Secretary of the Navy, in consultation with the Secretary of State, may carry out this section (including regulations promulgated pursuant to this section) with respect to any foreign sunken military craft of that foreign State located in United States waters.

''SEC. 1404. PENALTIES.

''(a) IN GENERAL.—Any person who violates this title, or any regulation or permit issued under this title, shall be liable to the United States for a civil penalty under this section.

''(b) ASSESSMENT AND AMOUNT.—The Secretary concerned may assess a civil penalty under this section,

after notice and an opportunity for a hearing, of not more than $100,000 for each violation.

''(c) CONTINUING VIOLATIONS.—Each day of a continued violation of this title or a regulation or permit issued under this title shall constitute a separate violation for purposes of this section.

''(d) IN REM LIABILITY.—A vessel used to violate this title shall be liable in rem for a penalty under this section for such violation.

''(e) OTHER RELIEF.—If the Secretary concerned determines that there is an imminent risk of disturbance of, removal of, or injury to any sunken military craft, or that there has been actual disturbance of, removal of, or injury to a sunken military craft, the Attorney General, upon request of the Secretary concerned, may seek such relief as may be necessary to abate such risk or actual disturbance, removal, or injury and to return or restore the sunken military craft. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

''(f) LIMITATIONS.—An action to enforce a violation of section 1402 or any regulation or permit issued under this title may not be brought more than 8 years after the date on which—

''(1) all facts material to the right of action are known or should have been known by the Secretary concerned; and

''(2) the defendant is subject to the jurisdiction of the appropriate district court of the United States or administrative forum.

''SEC. 1405. LIABILITY FOR DAMAGES.

''(a) IN GENERAL.—Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under this title that disturbs, removes, or injures any United States sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

''(b) INCLUDED DAMAGES.—Damages referred to in subsection (a) may include—

''(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under this title; and

''(2) the cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

''SEC. 1406. RELATIONSHIP TO OTHER LAWS.

''(a) IN GENERAL.—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited by this title, nothing in this title is intended to affect—

''(1) any activity that is not directed at a sunken military craft; or

''(2) the traditional high seas freedoms of navigation, including—

''(A) the laying of submarine cables and pipelines;

''(B) operation of vessels;

''(C) fishing; or

''(D) other internationally lawful uses of the sea related to such freedoms.

''(b) INTERNATIONAL LAW.—This title and any regulations implementing this title shall be applied in accordance with generally recognized principles of international law and in accordance with the treaties, conventions, and other agreements to which the United States is a party.

''(c) LAW OF FINDS.—The law of finds shall not apply to—

''(1) any United States sunken military craft, wherever located; or

''(2) any foreign sunken military craft located in United States waters.

''(d) LAW OF SALVAGE.—No salvage rights or awards shall be granted with respect to—

''(1) any United States sunken military craft without the express permission of the United States; or

''(2) any foreign sunken military craft located in United States waters without the express permission of the relevant foreign state.

''(e) LAW OF CAPTURE OR PRIZE.—Nothing in this title is intended to alter the international law of capture or prize with respect to sunken military craft.

''(f) LIMITATION OF LIABILITY.—Nothing in sections 4281 through 4287 and 4289 of the Revised Statutes ([former] 46 U.S.C. App. 181 et seq.) [see chapter 305 of Title 46, Shipping] or section 3 of the Act of February 13, 1893 (chapter 105; 27 Stat. 445; [former] 46 U.S.C. App. 192) [now 46 U.S.C. 30706], shall limit the liability of any person under this section.

''(g) AUTHORITIES OF THE COMMANDANT OF THE COAST GUARD.—Nothing in this title is intended to preclude or limit the application of any other law enforcement authorities of the Commandant of the Coast Guard.

''(h) PRIOR DELEGATIONS, AUTHORIZATIONS, AND RELATED REGULATIONS.—Nothing in this title shall invalidate any prior delegation, authorization, or related regulation that is consistent with this title.

''(i) CRIMINAL LAW.—Nothing in this title is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of any applicable criminal law.

''SEC. 1407. ENCOURAGEMENT OF AGREEMENTS WITH FOREIGN COUNTRIES.

''The Secretary of State, in consultation with the Secretary of Defense, is encouraged to negotiate and conclude bilateral and multilateral agreements with foreign countries with regard to sunken military craft consistent with this title.

''SEC. 1408. DEFINITIONS.

''In this title:

''(1) ASSOCIATED CONTENTS.—The term 'associated contents' means—

''(A) the equipment, cargo, and contents of a sunken military craft that are within its debris field; and

''(B) the remains and personal effects of the crew and passengers of a sunken military craft that are within its debris field.

''(2) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) subject to subparagraph (B), the Secretary of a military department; and

''(B) in the case of a Coast Guard vessel, the Secretary of the Department in which the Coast Guard is operating.

''(3) SUNKEN MILITARY CRAFT.—The term 'sunken military craft' means all or any portion of—

''(A) any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

''(B) any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank; and

''(C) the associated contents of a craft referred to in subparagraph (A) or (B),

if title thereto has not been abandoned or transferred by the government concerned.

''(4) UNITED STATES CONTIGUOUS ZONE.—The term 'United States contiguous zone' means the contiguous zone of the United States under Presidential Proclamation 7219, dated September 2, 1999 [43 U.S.C. 1331 note].

''(5) UNITED STATES INTERNAL WATERS.—The term 'United States internal waters' means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

''(6) UNITED STATES TERRITORIAL SEA.—The term 'United States territorial sea' means the waters of the United States territorial sea under Presidential Proclamation 5928, dated December 27, 1988 [43 U.S.C. 1331 note].

''(7) UNITED STATES WATERS.—The term 'United States waters' means United States internal waters,

the United States territorial sea, and the United States contiguous zone.''

REPORTS ON WEAPONS AND AMMUNITION OBTAINED BY IRAQ

Pub. L. 108–177, title III, § 358, Dec. 13, 2003, 117 Stat. 2621, directed the Director of the Defense Intelligence Agency, not later than one year after Dec. 13, 2003, to submit preliminary and final reports to committees of Congress on information obtained by the Department of Defense and the intelligence community on the conventional weapons and ammunition obtained by Iraq in violation of applicable resolutions of the United Nations Security Council adopted since the invasion of Kuwait by Iraq in 1990.

Pub. L. 108–136, div. A, title XII, § 1204, Nov. 24, 2003, 117 Stat. 1649, directed the Secretary of Defense, not later than one year after Nov. 24, 2003, to submit to comittees of Congress a report on the acquisition by Iraq of weapons of mass destruction and associated delivery systems and the acquisition by Iraq of advanced conventional weapons.

STUDIES OF FLEET PLATFORM ARCHITECTURES FOR THE NAVY

Pub. L. 108–136, div. A, title II, § 216, Nov. 24, 2003, 117 Stat. 1418, directed the Secretary of Defense to provide for the performance of two independent studies of alternative future fleet platform architectures for the Navy and to forward the results of each study to congressional defense committees not later than Jan. 15, 2005.

REPORT REGARDING IMPACT OF CIVILIAN COMMUNITY ENCROACHMENT AND CERTAIN LEGAL REQUIREMENTS ON MILITARY INSTALLATIONS AND RANGES AND PLAN TO ADDRESS ENCROACHMENT

Pub. L. 108–136, div. A, title III, § 320, Nov. 24, 2003, 117 Stat. 1435, provided that:

''(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the impact, if any, of the following types of encroachment issues affecting military installations and operational ranges:

''(1) Civilian community encroachment on those military installations and ranges whose operational training activities, research, development, test, and evaluation activities, or other operational, test and evaluation, maintenance, storage, disposal, or other support functions require, or in the future reasonably may require, safety or operational buffer areas. The requirement for such a buffer area may be due to a variety of factors, including air operations, ordnance operations and storage, or other activities that generate or might generate noise, electro-magnetic interference, ordnance arcs, or environmental impacts that require or may require safety or operational buffer areas.

''(2) Compliance by the Department of Defense with State Implementation Plans for Air Quality under section 110 of the Clean Air Act (42 U.S.C. 7410).

''(3) Compliance by the Department of Defense with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

''(b) MATTERS TO BE INCLUDED WITH RESPECT TO CIVILIAN COMMUNITY ENCROACHMENTS.—With respect to paragraph (1) of subsection (a), the study shall include the following:

''(1) A list of all military installations described in subsection (a)(1) at which civilian community encroachment is occurring.

''(2) A description and analysis of the types and degree of such civilian community encroachment at each military installation included on the list.

''(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such civilian community encroachment on operational training activities, research, development, test, and evaluation activities, and other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions performed by military installations included on the list. The analysis shall include the following:

''(A) A review of training and test ranges at military installations, including laboratories and technical centers of the military departments, included on the list.

''(B) A description and explanation of the trends of such encroachment, as well as consideration of potential future readiness problems resulting from unabated encroachment.

''(4) An estimate of the costs associated with current and anticipated partnerships between the Department of Defense and non-Federal entities to create buffer zones to preclude further development around military installations included on the list, and the costs associated with the conveyance of surplus property around such military installations for purposes of creating buffer zones.

''(5) Options and recommendations for possible legislative or budgetary changes necessary to mitigate current and anticipated future civilian community encroachment problems.

''(c) MATTERS TO BE INCLUDED WITH RESPECT TO COMPLIANCE WITH SPECIFIED LAWS.—With respect to paragraphs (2) and (3) of subsection (a), the study shall include the following:

''(1) A list of all military installations and other locations at which the Armed Forces are encountering problems related to compliance with the laws specified in such paragraphs.

''(2) A description and analysis of the types and degree of compliance problems encountered.

''(3) An analysis, including views and estimates of the Secretary of Defense, of the current and potential future impact of such compliance problems on the following functions performed at military installations:

''(A) Operational training activities.

''(B) Research, development, test, and evaluation activities.

''(C) Other significant operational, test and evaluation, maintenance, storage, disposal, or other support functions.

''(4) A description and explanation of the trends of such compliance problems, as well as consideration of potential future readiness problems resulting from such compliance problems.

''(d) PLAN TO RESPOND TO ENCROACHMENT ISSUES.—On the basis of the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c), the Secretary of Defense shall prepare a plan to respond to the encroachment issues described in subsection (a) affecting military installations and operational ranges.

''(e) REPORTING REQUIREMENTS.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the following reports regarding the study conducted under subsection (a), including the specific matters required to be addressed by subsections (b) and (c):

''(1) Not later than January 31, 2004, an interim report describing the progress made in conducting the study and containing the information collected under the study as of that date.

''(2) Not later than January 31, 2006, a report containing the results of the study and the encroachment response plan required by subsection (d).

''(3) Not later than January 31, 2007, and each January 31 thereafter through January 31, 2010, a report describing the progress made in implementing the encroachment response plan.''

HIGH-PERFORMING ORGANIZATION BUSINESS PROCESS REENGINEERING PILOT PROGRAM

Pub. L. 108–136, div. A, title III, § 337, Nov. 24, 2003, 117 Stat. 1445, provided that:

''(a) PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program under which the Secretary

concerned shall create, or continue the implementation of, high-performing organizations through the conduct of a Business Process Reengineering initiative at selected military installations and facilities under the jurisdiction of the Secretary concerned.

''(b) EFFECT OF PARTICIPATION IN PILOT PROGRAM.—(1) During the period of an organization's participation in the pilot program, including the periods referred to in paragraphs (2) and (3) of subsection (f), the Secretary concerned may not require the organization to undergo any Office of Management and Budget Circular A–76 competition or other public-private competition involving any function of the organization covered by the Business Process Reengineering initiative. The organization may elect to undergo such a competition as part of the initiative.

''(2) Civilian employee or military personnel positions of the participating organization that are part of the Business Process Reengineering initiative shall be counted toward any numerical goals, target, or quota that the Secretary concerned is required or requested to meet during the term of the pilot program regarding the number of positions to be covered by public-private competitions.

''(c) ELIGIBLE ORGANIZATIONS.—Subject to subsection (d), the Secretary concerned may select two types of organizations to participate in the pilot program:

''(1) Organizations that underwent a Business Process Reengineering initiative within the preceding five years, achieved major performance enhancements under the initiative, and will be able to sustain previous or achieve new performance goals through the continuation of its existing or completed Business Process Reengineering plan.

''(2) Organizations that have not undergone or have not successfully completed a Business Process Reengineering initiative, but which propose to achieve, and reasonably could reach, enhanced performance goals through implementation of a Business Process Reengineering initiative.

''(d) ADDITIONAL ELIGIBILITY REQUIREMENTS.—(1) To be eligible for selection to participate in the pilot program under subsection (c)(1), an organization described in such subsection shall demonstrate, to the satisfaction of the Secretary concerned, the completion of a total organizational assessment that resulted in enhanced performance measures at least comparable to those performance measures that might be achieved through competitive sourcing.

''(2) To be eligible for selection to participate in the pilot program under subsection (c)(2), an organization described in such subsection shall identify, to the satisfaction of the Secretary concerned—

''(A) functions, processes, and measures to be studied under the Business Process Reengineering initiative;

''(B) adequate resources to carry out the Business Process Reengineering initiative; and

''(C) labor-management agreements in place to ensure effective implementation of the Business Process Reengineering initiative.

''(e) LIMITATION ON NUMBER OF PARTICIPANTS.—Total participants in the pilot program is limited to eight military installations and facilities, with some participants to be drawn from organizations described in subsection (c)(1) and some participants to be drawn from organizations described in subsection (c)(2).

''(f) IMPLEMENTATION AND DURATION.—(1) The implementation and management of a Business Process Reengineering initiative under the pilot program shall be the responsibility of the commander of the military installation or facility at which the Business Process Reengineering initiative is carried out.

''(2) An organization selected to participate in the pilot program shall be given a reasonable initial period, to be determined by the Secretary concerned, in which the organization must implement the Business Process Reengineering initiative. At the end of this period, the Secretary concerned shall determine whether the organization has achieved initial progress toward designation as a high-performing organization. In the absence of such progress, the Secretary concerned shall terminate the organization's participation in the pilot program.

''(3) If an organization successfully completes implementation of the Business Process Reengineering initiative under paragraph (2), the Secretary concerned shall designate the organization as a high-performing organization and grant the organization an additional five-year period in which to achieve projected or planned efficiencies and savings under the pilot program.

''(g) REVIEWS AND REPORTS.—The Secretary concerned shall conduct annual performance reviews of the participating organizations or functions under the jurisdiction of the Secretary concerned. Reviews and reports shall evaluate organizational performance measures or functional performance measures and determine whether organizations are performing satisfactorily for purposes of continuing participation in the pilot program.

''(h) PERFORMANCE MEASURES.—Performance measures utilized in the pilot program should include the following, which shall be measured against organizational baselines determined before participation in the pilot program:

''(1) Costs, savings, and overall financial performance of the organization.

''(2) Organic knowledge, skills or expertise.

''(3) Efficiency and effectiveness of key functions or processes.

''(4) Efficiency and effectiveness of the overall organization.

''(5) General customer satisfaction.

''(i) DEFINITIONS.—In this section[:]

''(1) The term 'Business Process Reengineering' refers to an organization's complete and thorough analysis and reengineering of mission and support functions and processes to achieve improvements in performance, including a fundamental reshaping of the way work is done to better support an organization's mission and reduce costs.

''(2) The term 'high-performing organization' means an organization whose performance exceeds that of comparable providers, whether public or private.

''(3) The term 'Secretary concerned' means the Secretary of a military department and the Secretary of Defense, with respect to matters concerning the Defense Agencies.''

ASSESSMENT BY SECRETARY OF DEFENSE

Pub. L. 108–136, div. A, title V, §517(b), Nov. 24, 2003, 117 Stat. 1461, directed the Secretary of Defense to submit to committees of Congress, not later than one year after Nov. 24, 2003, a description of the effects on reserve component recruitment and retention that have resulted from calls and orders to active duty and the tempo of such service, an assessment of the process for calling and ordering reserve members to active duty, preparing such members for active duty, processing such members into the force, and deploying such members, and a description of changes in the Armed Forces envisioned by the Secretary of Defense.

POLICY ON PUBLIC IDENTIFICATION OF CASUALTIES

Pub. L. 108–136, div. A, title V, §546, Nov. 24, 2003, 117 Stat. 1479, provided that:

''(a) REQUIREMENT FOR POLICY.—Not later than 180 days after the date of the enactment of this Act [Nov. 24, 2003], the Secretary of Defense shall prescribe the policy of the Department of Defense on public release of the name or other personally identifying information of any member of the Army, Navy, Air Force, or Marine Corps who while on active duty or performing inactive-duty training is killed or injured, whose duty status becomes unknown, or who is otherwise considered to be a casualty.

''(b) GUIDANCE ON TIMING OF RELEASE.—The policy under subsection (a) shall include guidance for ensuring

that any public release of information on a member under the policy occurs only after the lapse of an appropriate period following notification of the next-of-kin regarding the casualty status of such member.''

PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY

Pub. L. 110–181, div. A, title II, § 243, Jan. 28, 2008, 122 Stat. 51, provided that:

''(a) RESEARCH, DEVELOPMENT, AND TESTING PLAN.—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 research, development, and testing plan for prompt global strike program objectives for fiscal years 2008 through 2013.

''(b) PLAN FOR OBLIGATION AND EXPENDITURE OF FUNDS.—

''(1) IN GENERAL.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a plan for obligation and expenditure of funds available for prompt global strike for fiscal year 2008. The plan shall include correlations between each technology application being developed in fiscal year 2008 and the prompt global strike alternative or alternatives toward which the technology application applies.

''(2) LIMITATION.—The Under Secretary shall not implement the plan required by paragraph (1) until at least 10 days after the plan is submitted as required by that paragraph.''

Pub. L. 108–136, div. A, title X, § 1032, Nov. 24, 2003, 117 Stat. 1605, as amended by Pub. L. 110–181, div. A, title X, § 1043, Jan. 28, 2008, 122 Stat. 311, provided that:

''(a) INTEGRATED PLAN FOR PROMPT GLOBAL STRIKE CAPABILITY.—The Secretary of Defense shall establish an integrated plan for developing, deploying, and sustaining a prompt global strike capability in the Armed Forces. The Secretary shall update the plan annually.

''(b) ANNUAL REPORTS.—(1) Not later than April 1 of each of 2004, 2005, and 2006, and each of 2007, 2008, and 2009, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report on the plan established under subsection (a).

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

''(A) A description and assessment of the targets against which long-range strike assets might be directed and the conditions under which those assets might be used.

''(B) The role of, and plans for ensuring, sustainment and modernization of current long-range strike assets, including bombers, intercontinental ballistic missiles, and submarine-launched ballistic missiles.

''(C) A description of the capabilities desired for advanced long-range strike assets and plans to achieve those capabilities.

''(D) A description of the capabilities desired for advanced conventional munitions and the plans to achieve those capabilities.

''(E) An assessment of advanced nuclear concepts that could contribute to the prompt global strike mission.

''(F) An assessment of the command, control, and communications capabilities necessary to support prompt global strike capabilities.

''(G) An assessment of intelligence, surveillance, and reconnaissance capabilities necessary to support prompt global strike capabilities.

''(H) A description of how prompt global strike capabilities are to be integrated with theater strike capabilities.

''(I) An estimated schedule for achieving the desired prompt global strike capabilities.

''(J) The estimated cost of achieving the desired prompt global strike capabilities.

''(K) A description of ongoing and future studies necessary for updating the plan appropriately.''

REPORTS ON MILITARY OPERATIONS AND RECONSTRUCTION ACTIVITIES IN IRAQ AND AFGHANISTAN

Pub. L. 109–13, div. A, title I, § 1024(c), May 11, 2005, 119 Stat. 253, provided that:

''(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

''(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

''(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

''(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

''(2) The provisions of law referred to in this paragraph are as follows:

''(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

''(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).''

Pub. L. 108–287, title IX, § 9010, Aug. 5, 2004, 118 Stat. 1008, as amended by Pub. L. 108–324, div. B, § 306, Oct. 13, 2004, 118 Stat. 1243, provided that:

''(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

''(b) Each report shall include the following information:

''(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

''(2) An assessment of the progress made toward preventing attacks on United States personnel.

''(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

''(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

''(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

''(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

''(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12302 of title 10, United States Code.

''(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12302 of title 10, United States Code, the following information:

''(A) The unit.

''(B) The projected date of return of the unit to its home station.

''(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.''

Pub. L. 108–106, title I, §1120, Nov. 6, 2003, 117 Stat. 1219, provided that:

''(a) Not later than April 30 and October 31 of each year, the Secretary of Defense shall submit to Congress a report on the military operations of the Armed Forces and the reconstruction activities of the Department of Defense in Iraq and Afghanistan.

''(b) Each report shall include the following information:

''(1) For each of Iraq and Afghanistan for the half-fiscal year ending during the month preceding the due date of the report, the amount expended for military operations of the Armed Forces and the amount expended for reconstruction activities, together with the cumulative total amounts expended for such operations and activities.

''(2) An assessment of the progress made toward preventing attacks on United States personnel.

''(3) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the readiness of the Armed Forces.

''(4) An assessment of the effects of the operations and activities in Iraq and Afghanistan on the recruitment and retention of personnel for the Armed Forces.

''(5) For the half-fiscal year ending during the month preceding the due date of the report, the costs incurred for repair of Department of Defense equipment used in the operations and activities in Iraq and Afghanistan.

''(6) The foreign countries, international organizations, and nongovernmental organizations that are contributing support for the ongoing military operations and reconstruction activities, together with a discussion of the amount and types of support contributed by each during the half-fiscal year ending during the month preceding the due date of the report.

''(7) The extent to which, and the schedule on which, the Selected Reserve of the Ready Reserve of the Armed Forces is being involuntarily ordered to active duty under section 12304 of title 10, United States Code.

''(8) For each unit of the National Guard of the United States and the other reserve components of the Armed Forces on active duty pursuant to an order to active duty under section 12304 of title 10, United States Code, the following information:

''(A) The unit.

''(B) The projected date of return of the unit to its home station.

''(C) The extent (by percentage) to which the forces deployed within the United States and outside the United States in support of a contingency operation are composed of reserve component forces.''

UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES

Pub. L. 107–314, div. A, title II, §233, Dec. 2, 2002, 116 Stat. 2490, provided that:

''(a) REQUIREMENT FOR SYSTEM.—The Secretary of Defense shall implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense. The Secretary shall implement such system as soon as practicable, and shall establish the objective that such system be implemented not later than September 30, 2006.

''(b) SYSTEM FEATURES.—The system required by subsection (a) shall be designed to achieve, at a minimum, the following functional objectives:

''(1) Enable managers within the Department of Defense to compare the costs of carrying out test and evaluation activities in the various facilities of the military departments.

''(2) Enable the Secretary of Defense—

''(A) to make prudent investment decisions; and

''(B) to reduce the extent to which unnecessary costs of owning and operating test and evaluation facilities of the Department of Defense are incurred.

''(3) Enable the Department of Defense to track the total cost of test and evaluation activities.

''(4) Comply with the financial management architecture established by the Secretary.''

TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY

Pub. L. 107–314, div. A, title III, §366, Dec. 2, 2002, 116 Stat. 2522, as amended by Pub. L. 109–364, div. A, title III, §348, Oct. 17, 2006, 120 Stat. 2159; Pub. L. 110–181, div. A, title X, §1063(c)(2), Jan. 28, 2008, 122 Stat. 322; Pub. L. 111–383, div. A, title X, §1075(g)(2), Jan. 7, 2011, 124 Stat. 4376, provided that:

''(a) PLAN REQUIRED.—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address training constraints caused by limitations on the use of military lands, marine areas, and airspace that are available in the United States and overseas for training of the Armed Forces.

''(2) As part of the preparation of the plan, the Secretary of Defense shall conduct the following:

''(A) An assessment of current and future training range requirements of the Armed Forces.

''(B) An evaluation of the adequacy of current Department of Defense resources (including virtual and constructive training assets as well as military lands, marine areas, and airspace available in the United States and overseas) to meet those current and future training range requirements.

''(3) The plan shall include the following:

''(A) Proposals to enhance training range capabilities and address any shortfalls in current Department of Defense resources identified pursuant to the assessment and evaluation conducted under paragraph (2).

''(B) Goals and milestones for tracking planned actions and measuring progress.

''(C) Projected funding requirements for implementing planned actions.

''(D) Designation of an office in the Office of the Secretary of Defense and in each of the military departments that will have lead responsibility for overseeing implementation of the plan.

''(4) At the same time as the President submits to Congress the budget for fiscal year 2004, the Secretary of Defense shall submit to Congress a report describing the progress made in implementing this subsection, including—

''(A) the plan developed under paragraph (1);

''(B) the results of the assessment and evaluation conducted under paragraph (2); and

''(C) any recommendations that the Secretary may have for legislative or regulatory changes to address training constraints identified pursuant to this section.

''(5) At the same time as the President submits to Congress the budget for each of fiscal years 2005 through 2013, the Secretary shall submit to Congress a report describing the progress made in implementing the plan and any additional actions taken, or to be taken, to address training constraints caused by limitations on the use of military lands, marine areas, and airspace.

''(b) READINESS REPORTING IMPROVEMENT.—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System to reflect the readiness

impact that training constraints caused by limitations on the use of military lands, marine areas, and airspace have on specific units of the Armed Forces.

''(c) TRAINING RANGE INVENTORY.—(1) The Secretary of Defense shall develop and maintain a training range inventory for each of the Armed Forces—

''(A) to identify all available operational training ranges;

''(B) to identify all training capacities and capabilities available at each training range; and

''(C) to identify training constraints caused by limitations on the use of military lands, marine areas, and airspace at each training range.

''(2) The Secretary of Defense shall submit an initial inventory to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an updated inventory to Congress at the same time as the President submits the budget for fiscal years 2005 through 2013.

''(d) GAO EVALUATION.—The Secretary of Defense shall transmit copies of each report required by subsections (a) and (b) to the Comptroller General. Within 90 days of receiving a report, the Comptroller General shall submit to Congress an evaluation of the report.

''(e) ARMED FORCES DEFINED.—In this section, the term 'Armed Forces' means the Army, Navy, Air Force, and Marine Corps.''

DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE

Pub. L. 107–314, div. A, title X, § 1004, Dec. 2, 2002, 116 Stat. 2629, which required Secretary of Defense to develop a financial management enterprise architecture for all budgetary, accounting, finance, enterprise resource planning, and mixed information systems of the Department of Defense by May 1, 2003, was repealed by Pub. L. 108–375, div. A, title III, § 332(f), Oct. 28, 2004, 118 Stat. 1856.

RELIABILITY OF DEPARTMENT OF DEFENSE FINANCIAL STATEMENTS

Pub. L. 107–107, div. A, title X, § 1008, Dec. 28, 2001, 115 Stat. 1204, provided that:

''(a) ANNUAL REPORT ON RELIABILITY.—(1) Not later than September 30 of each year but subject to subsection (f), the Secretary of Defense shall submit to the recipients specified in paragraph (3) a report on the reliability of the Department of Defense financial statements, including the financial statements of each component of the Department that is required to prepare a financial statement under section 3515(c) of title 31, United States Code.

''(2) The annual report shall contain the following:

''(A) A conclusion regarding whether the policies and procedures of the Department of Defense, and the systems used within the Department of Defense, for the preparation of financial statements allow the achievement of reliability in those financial statements.

''(B) For each of the financial statements prepared for the Department of Defense for the fiscal year in which the report is submitted, a conclusion regarding the expected reliability of the financial statement (evaluated on the basis of Office of Management and Budget guidance on financial statements), together with a discussion of the major deficiencies to be expected in the statement.

''(C) A summary of the specific sections of the annual Financial Management Improvement Plan of the Department of Defense, current as of the date of the report, that—

''(i) detail the priorities, milestones, and measures of success that apply to the preparation of the financial statements;

''(ii) detail the planned improvements in the process for the preparation of financial statements that are to be implemented within 12 months after the date on which the plan is issued; and

''(iii) provide an estimate of when each financial statement will convey reliable information.

''(3) The annual report shall be submitted to the following:

''(A) The Committee on Armed Services and the Committee on Governmental Affairs [now Committee on Homeland Security and Governmental Affairs] of the Senate.

''(B) The Committee on Armed Services and the Committee on Government Reform [now Committee on Oversight and Government Reform] of the House of Representatives.

''(C) The Director of the Office of Management and Budget.

''(D) The Secretary of the Treasury.

''(E) The Comptroller General of the United States.

''(4) The Secretary of Defense shall make a copy of the annual report available to the Inspector General of the Department of Defense.

''(b) MINIMIZATION OF USE OF RESOURCES FOR UNRELIABLE FINANCIAL STATEMENTS.—(1) With respect to each financial statement for a fiscal year that the Secretary of Defense assesses as being expected to be unreliable in the annual report under subsection (a), the Under Secretary of Defense (Comptroller) shall take appropriate actions to minimize, consistent with the benefits to be derived, the resources (including contractor support) that are used to develop, compile, and report the financial statement.

''(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, the following information:

''(A) An estimate of the resources that the Department of Defense is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the preparation of financial statements.

''(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected or are to be redirected from the preparation of financial statements to the improvement of systems underlying financial management within the Department of Defense and to the improvement of financial management policies, procedures, and internal controls within the Department of Defense.

''(c) INFORMATION TO AUDITORS.—Not later than October 31 of each year, the Under Secretary of Defense (Comptroller) and the Assistant Secretary of each military department with responsibility for financial management and comptroller functions shall each provide to the auditors of the financial statement of that official's department for the fiscal year ending during the preceding month that official's preliminary management representation, in writing, regarding the expected reliability of the financial statement. The representation shall be consistent with guidance issued by the Director of the Office of Management and Budget and shall include the basis for the reliability assessment stated in the representation.

''(d) LIMITATION ON INSPECTOR GENERAL AUDITS.—(1) On each financial statement that an official asserts is unreliable under subsection (b) or (c), the Inspector General of the Department of Defense shall only perform the audit procedures required by generally accepted government auditing standards consistent with any representation made by management.

''(2) With the annual budget justifications for the Department of Defense submitted to Congress each year, the Under Secretary of Defense (Comptroller) shall submit, with respect to the fiscal year in which submitted, the preceding fiscal year, and the following fiscal year, information which the Inspector General shall report to the Under Secretary, as follows:

''(A) An estimate of the resources that the Inspector General is saving or expects to save as a result of actions taken and to be taken under paragraph (1) with respect to the auditing of financial statements.

''(B) A discussion of how the resources saved as estimated under subparagraph (A) have been redirected

or are to be redirected from the auditing of financial statements to the oversight and improvement of systems underlying financial management within the Department of Defense and to the oversight and improvement of financial management policies, procedures, and internal controls within the Department of Defense.

''(e) EFFECTIVE DATE.—The requirements of this section shall apply with respect to financial statements for fiscal years after fiscal year 2001 and to the auditing of those financial statements.

''(f) TERMINATION OF APPLICABILITY.—If the Secretary of Defense certifies to the Inspector General of the Department of Defense that the financial statement for the Department of Defense, or a financial statement for a component of the Department of Defense, for a fiscal year is reliable, this section shall not apply with respect to that financial statement or to any successive financial statement for the Department of Defense, or for that component, as the case may be, for any later fiscal year.''

ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM

Pub. L. 107–314, div. A, title X, §1043, Dec. 2, 2002, 116 Stat. 2646, provided that:

''(a) REPORTS REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (d) an annual report on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report, which shall include a definition of the military operations carried out as part of Operation Enduring Freedom, shall be submitted not later than June 15, 2003. Subsequent reports shall be submitted not later than June 15 each year, and the final report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

''(2) Each report under this section shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, the Director of Central Intelligence, and such other officials as the Secretary considers appropriate.

''(3) Each such report shall be submitted in both a classified form and an unclassified form, as necessary.

''(b) SPECIAL MATTERS TO BE INCLUDED.—Each report under this section shall include the following:

''(1) A discussion of the command, control, coordination, and support relationship between United States special operations forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

''(2) Recommendations to improve operational readiness and effectiveness of these forces and elements.

''(c) OTHER MATTERS TO BE INCLUDED.—Each report under this section shall include a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters with respect to Operation Enduring Freedom:

''(1) The political and military objectives of the United States.

''(2) The military strategy of the United States to achieve those political and military objectives.

''(3) The concept of operations, including any new operational concepts, for the operation.

''(4) The benefits and disadvantages of operating with local opposition forces.

''(5) The benefits and disadvantages of operating in a coalition with the military forces of allied and friendly nations.

''(6) The cooperation of nations in the region for overflight, basing, command and control, and logistic and other support.

''(7) The conduct of relief operations both during and after the period of hostilities.

''(8) The conduct of close air support (CAS), particularly with respect to the timeliness, efficiency, and effectiveness of such support.

''(9) The use of unmanned aerial vehicles for intelligence, surveillance, reconnaissance, and combat support to operational forces.

''(10) The use and performance of United States and coalition military equipment, weapon systems, and munitions.

''(11) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

''(12) The importance and effectiveness of the International Security Assistance Force.

''(13) The importance and effectiveness of United States civil affairs forces.

''(14) The anticipated duration of the United States military presence in Afghanistan.

''(15) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

''(d) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

''(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

''(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS

Pub. L. 107–314, div. A, title XIV, §1402, Dec. 2, 2002, 116 Stat. 2675, provided that:

''(a) COMPREHENSIVE PLAN.—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, including attacks involving the use or threat of use of weapons of mass destruction.

''(b) PREPAREDNESS STRATEGY.—The plan under subsection (a) shall include a preparedness strategy that includes each of the following:

''(1) Identification of long-term goals and objectives for improving the preparedness of military installations for preventing and responding to terrorist attacks.

''(2) Identification of budget and other resource requirements necessary to achieve those goals and objectives.

''(3) Identification of factors beyond the control of the Secretary that could impede the achievement of those goals and objectives.

''(4) A discussion of the extent to which local, regional, or national military response capabilities are to be developed, integrated, and used.

''(5) A discussion of how the Secretary will coordinate the capabilities referred to in paragraph (4) with local, regional, or national civilian and other military capabilities.

''(c) PERFORMANCE PLAN.—The plan under subsection (a) shall include a performance plan that includes each of the following:

''(1) A reasonable schedule, with milestones, for achieving the goals and objectives of the strategy under subsection (b).

''(2) Performance criteria for measuring progress in achieving those goals and objectives.

''(3) A description of the process, together with a discussion of the resources, necessary to achieve those goals and objectives.

''(4) A description of the process for evaluating results in achieving those goals and objectives.

''(d) SUBMITTAL TO CONGRESS.—The Secretary shall submit the comprehensive plan developed under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act [Dec. 2, 2002].

''(e) COMPTROLLER GENERAL REVIEW AND REPORT.—Not later than 60 days after the date on which the Secretary submits the comprehensive plan under subsection (a), the Comptroller General shall review the plan and submit to the committees referred to in subsection (d) the Comptroller General's assessment of the plan.

''(f) ANNUAL REPORT.—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan developed under subsection (a) with the materials that the Secretary submits to Congress in support of the budget submitted by the President that year pursuant to section 1105(a) of title 31, United States Code.

''(2) Each such report shall include—

''(A) a discussion of any revision that the Secretary has made in the comprehensive plan developed under subsection (a) since the last report under this subsection or, in the case of the first such report, since the plan was submitted under subsection (d); and

''(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

''(3) If the Secretary includes in the report for 2004 or 2005 under this subsection a declaration that the goals and objectives of the preparedness strategy set forth in the comprehensive plan have been achieved, no further report is required under this subsection.''

POLICY CONCERNING RIGHTS OF INDIVIDUALS WHOSE NAMES HAVE BEEN ENTERED INTO DEPARTMENT OF DEFENSE OFFICIAL CRIMINAL INVESTIGATIVE REPORTS

Pub. L. 106–398, § 1 [[div. A], title V, § 552], Oct. 30, 2000, 114 Stat. 1654, 1654A–125, provided that:

''(a) POLICY REQUIREMENT.—The Secretary of Defense shall establish a policy creating a uniform process within the Department of Defense that—

''(1) affords any individual who, in connection with the investigation of a reported crime, is designated (by name or by any other identifying information) as a suspect in the case in any official investigative report, or in a central index for potential retrieval and analysis by law enforcement organizations, an opportunity to obtain a review of that designation; and

''(2) requires the expungement of the name and other identifying information of any such individual from such report or index in any case in which it is determined the entry of such identifying information on that individual was made contrary to Department of Defense requirements.

''(b) EFFECTIVE DATE.—The policy required by subsection (a) shall be established not later than 120 days after the date of the enactment of this Act [Oct. 30, 2000].''

TEST OF ABILITY OF RESERVE COMPONENT INTELLIGENCE UNITS AND PERSONNEL TO MEET CURRENT AND EMERGING DEFENSE INTELLIGENCE NEEDS

Pub. L. 106–398, § 1 [[div. A], title V, § 576], Oct. 30, 2000, 114 Stat. 1654, 1654A–138, directed the Secretary of Defense to conduct a three-year test program to determine the most effective peacetime structure and operational employment of reserve component intelligence assets and to establish a means to coordinate and transition the peacetime intelligence support network into use for meeting wartime needs, and to submit to Congress interim and final reports on such program not later than Dec. 1, 2004.

STUDY ON CIVILIAN PERSONNEL SERVICES

Pub. L. 106–398, § 1 [[div. A], title XI, § 1105], Oct. 30, 2000, 114 Stat. 1654, 1654A–311, directed the Secretary of Defense to conduct a study to assess the manner in which personnel services were provided for civilian personnel in the Department of Defense and to submit a report on such study to committees of Congress not later than Jan. 1, 2002.

PILOT PROGRAM FOR REENGINEERING EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCESS

Pub. L. 106–398, § 1 [[div. A], title XI, § 1111], Oct. 30, 2000, 114 Stat. 1654, 1654A–312, directed the Secretary of Defense to carry out a three-year pilot program to improve processes for the resolution of equal employment opportunity complaints by civilian employees of the Department of Defense, and directed the Comptroller General to submit to Congress a report on such program not later than 90 days following the end of the first and last full or partial fiscal years during which such program had been implemented.

WORK SAFETY DEMONSTRATION PROGRAM

Pub. L. 106–398, § 1 [[div. A], title XI, § 1112], Oct. 30, 2000, 114 Stat. 1654, 1654A–313, as amended by Pub. L. 107–314, div. A, title III, § 363, Dec. 2, 2002, 116 Stat. 2520, directed the Secretary of Defense to carry out a defense employees work safety demonstration program under which work safety models used by employers in the private sector would be adopted and any improvement to work safety records would be assessed, directed that such program would terminate on Sept. 30, 2003, and required the Secretary to submit interim and final reports on such program to committees of Congress not later than Dec. 1, 2003.

GAO STUDY ON BENEFITS AND COSTS OF UNITED STATES MILITARY ENGAGEMENT IN EUROPE

Pub. L. 106–398, § 1 [[div. A], title XII, § 1223], Oct. 30, 2000, 114 Stat. 1654, 1654A–328, directed the Comptroller General to conduct a study assessing the benefits and costs to the United States and United States national security interests of the engagement of United States forces in Europe and of United States military strategies used to shape the international security environment in Europe and to submit to committees of Congress a report on the results of such study not later than Dec. 1, 2001.

ESTABLISHMENT OF LOGISTICS STANDARDS FOR SUSTAINED MILITARY OPERATIONS

Pub. L. 106–65, div. A, title III, § 366, Oct. 5, 1999, 113 Stat. 578, provided that:

''(a) ESTABLISHMENT OF STANDARDS.—The Secretary of each military department shall establish, for deployable units of each of the Armed Forces under the jurisdiction of the Secretary, standards regarding—

''(1) the level of spare parts that the units must have on hand; and

''(2) similar logistics and sustainment needs of the units.

''(b) BASIS FOR STANDARDS.—The standards to be established for a unit under subsection (a) shall be based upon the following:

''(1) The unit's wartime mission, as reflected in the war-fighting plans of the relevant combatant commanders.

''(2) An assessment of the likely requirement for sustained operations under each such war-fighting plan.

''(3) An assessment of the likely requirement for that unit to conduct sustained operations in an austere environment, while drawing exclusively on its own internal logistics capabilities.

''(c) SUFFICIENCY CAPABILITIES.—The standards to be established by the Secretary of a military department under subsection (a) shall reflect those spare parts and similar logistics capabilities that the Secretary consid-

ers sufficient for the units of each of the Armed Forces under the Secretary's jurisdiction to successfully execute their missions under the conditions described in subsection (b).

''(d) RELATION TO READINESS REPORTING SYSTEM.—The standards established under subsection (a) shall be taken into account in designing the comprehensive readiness reporting system for the Department of Defense required by section 117 of title 10, United States Code, and shall be an element in determining a unit's readiness status.

''(e) RELATION TO ANNUAL FUNDING NEEDS.—The Secretary of Defense shall consider the standards established under subsection (a) in establishing the annual funding requirements for the Department of Defense.

''(f) REPORTING REQUIREMENT.—The Secretary of Defense shall include in the annual report required by section 113(c) of title 10, United States Code, an analysis of the then current spare parts, logistics, and sustainment standards of the Armed Forces, as described in subsection (a), including any shortfalls and the cost of addressing these shortfalls.''

USE OF SMART CARD TECHNOLOGY IN THE DEPARTMENT OF DEFENSE

Pub. L. 106–65, div. A, title III, §373(a)–(g), Oct. 5, 1999, 113 Stat. 580, 581, provided that:

''(a) DEPARTMENT OF NAVY AS LEAD AGENCY.—The Department of the Navy shall serve as the lead agency for the development and implementation of a Smart Card program for the Department of Defense.

''(b) COOPERATION OF OTHER MILITARY DEPARTMENTS.—The Department of the Army and the Department of the Air Force shall each establish a project office and cooperate with the Department of the Navy to develop implementation plans for exploiting the capability of Smart Card technology as a means for enhancing readiness and improving business processes throughout the military departments.

''(c) SENIOR COORDINATING GROUP.—(1) Not later than November 30, 1999, the Secretary of Defense shall establish a senior coordinating group to develop and implement—

''(A) Department-wide interoperability standards for use of Smart Card technology; and

''(B) a plan to exploit Smart Card technology as a means for enhancing readiness and improving business processes.

''(2) The senior coordinating group shall be chaired by a representative of the Secretary of the Navy and shall include senior representatives from each of the Armed Forces and such other persons as the Secretary of Defense considers appropriate.

''(3) Not later than March 31, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing a detailed discussion of the progress made by the senior coordinating group in carrying out its duties.

''(d) ROLE OF DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICE.—The senior coordinating group established under subsection (c) shall report to and receive guidance from the Department of Defense Chief Information Office.

''(e) INCREASED USE TARGETED TO CERTAIN NAVAL REGIONS.—Not later than November 30, 1999, the Secretary of the Navy shall establish a business plan to implement the use of Smart Cards in one major Naval region of the continental United States that is in the area of operations of the United States Atlantic Command and one major Naval region of the continental United States that is in the area of operations of the United States Pacific Command. The regions selected shall include a major fleet concentration area. The implementation of the use of Smart Cards in each region shall cover the Navy and Marine Corps bases and all non-deployed units in the region. The Secretary of the Navy shall submit the business plan to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives].

''(f) FUNDING FOR INCREASED USE OF SMART CARDS.—Of the funds authorized to be appropriated for the Navy by section 102(a)(4) [113 Stat. 530] or 301(2) [113 Stat. 557], the Secretary of the Navy—

''(1) shall allocate such amounts as may be necessary, but not to exceed $30,000,000, to ensure that significant progress is made toward complete implementation of the use of Smart Card technology in the Department of the Navy; and

''(2) may allocate additional amounts for the conversion of paper-based records to electronic media for records systems that have been modified to use Smart Card technology.

''(g) DEFINITIONS.—In this section:

''(1) The term 'Smart Card' means a credit card-size device, normally for carrying and use by personnel, that contains one or more integrated circuits and may also employ one or more of the following technologies:

''(A) Magnetic stripe.

''(B) Bar codes, linear or two-dimensional.

''(C) Non-contact and radio frequency transmitters.

''(D) Biometric information.

''(E) Encryption and authentication.

''(F) Photo identification.

''(2) The term 'Smart Card technology' means a Smart Card together with all of the associated information technology hardware and software that comprise the system for support and operation.''

SECRETARY OF DEFENSE REVIEW OF ARMY TECHNICIAN COSTING PROCESS

Pub. L. 106–65, div. A, title V, §526, Oct. 5, 1999, 113 Stat. 600, required Secretary of Defense to review process used by the Army to develop estimates of annual authorizations and appropriations required for civilian personnel of Department of the Army generally and for National Guard and Army Reserve technicians in particular and to report on results of review to the Committees on Armed Services of the Senate and House of Representatives not later than Mar. 31, 2000.

SURVEY OF MEMBERS LEAVING MILITARY SERVICE ON ATTITUDES TOWARD MILITARY SERVICE

Pub. L. 106–65, div. A, title V, §581, Oct. 5, 1999, 113 Stat. 633, directed the Secretary of Defense to develop and implement a survey on attitudes toward military service to be completed by all members of the Armed Forces who had been voluntarily discharged or separated or transferred from a regular to a reserve component between Jan. 1, 2000, and June 30, 2000, and to submit a report to Congress on the results of such survey not later than Oct. 1, 2000.

ANNUAL REPORT ON UNITED STATES MILITARY ACTIVITIES IN COLOMBIA

Pub. L. 106–65, div. A, title X, §1025, Oct. 5, 1999, 113 Stat. 748, provided that: ''Not later than January 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives a report detailing the number of members of the United States Armed Forces deployed or otherwise assigned to duty in Colombia at any time during the preceding year, the length and purpose of the deployment or assignment, and the costs and force protection risks associated with such deployments and assignments.''

REPORT ON NATO DEFENSE CAPABILITIES INITIATIVE

Pub. L. 106–65, div. A, title X, §1039, Oct. 5, 1999, 113 Stat. 756, as amended by Pub. L. 108–136, div. A, title X, §1031(h)(3), Nov. 24, 2003, 117 Stat. 1605, provided findings of Congress relating to the Defense Capabilities Initiative.

COMMEMORATION OF THE VICTORY OF FREEDOM IN THE COLD WAR

Pub. L. 106–65, div. A, title X, § 1053, Oct. 5, 1999, 113 Stat. 764, as amended by Pub. L. 107–107, div. A, title X, § 1048(g)(7), Dec. 28, 2001, 115 Stat. 1228, established a commission to review and make recommendations regarding the celebration of victory in the Cold War, directed the President to transmit to Congress a report on the content of a Presidential proclamation and a plan for appropriate ceremonies and activities, and authorized funds.

ANNUAL REPORT ON MILITARY AND SECURITY DEVELOPMENTS INVOLVING THE PEOPLE'S REPUBLIC OF CHINA

Pub. L. 106–65, div. A, title XII, § 1202, Oct. 5, 1999, 113 Stat. 781, as amended by Pub. L. 107–107, div. A, title XII, § 1221, Dec. 28, 2001, 115 Stat. 1252; Pub. L. 110–181, div. A, title XII, § 1263, Jan. 28, 2008, 122 Stat. 407; Pub. L. 111–84, div. A, title XII, § 1246(a)–(c), Oct. 28, 2009, 123 Stat. 2544, 2545, provided that:

''(a) ANNUAL REPORT.—Not later than March 1 each year, the Secretary of Defense shall submit to the specified congressional committees a report, in both classified and unclassified form, on military and security developments involving the People's Republic of China. The report shall address the current and probable future course of military-technological development of the People's Liberation Army and the tenets and probable development of Chinese security strategy and military strategy, and of military organizations and operational concepts, through the next 20 years. The report shall also address United States-China engagement and cooperation on security matters during the period covered by the report, including through United States-China military-to-military contacts, and the United States strategy for such engagement and cooperation in the future.

''(b) MATTERS TO BE INCLUDED.—Each report under this section shall include analyses and forecasts of the following:

''(1) The goals and factors shaping Chinese security strategy and military strategy.

''(2) Trends in Chinese security and military behavior that would be designed to achieve, or that are inconsistent with, the goals described in paragraph (1).

''(3) The security situation in the Taiwan Strait.

''(4) Chinese strategy regarding Taiwan.

''(5) The size, location, and capabilities of Chinese strategic, land, sea, and air forces, including detailed analysis of those forces facing Taiwan.

''(6) Developments in Chinese military doctrine and training.

''(7) Efforts, including technology transfers and espionage, by the People's Republic of China to develop, acquire, or gain access to information, communication, space and other advanced technologies that would enhance military capabilities.

''(8) An assessment of any challenges during the preceding year to the deterrent forces of the Republic of China on Taiwan, consistent with the commitments made by the United States in the Taiwan Relations Act (Public Law 96–8) [22 U.S.C. 3301 et seq.].

''(9) Developments in China's asymmetric capabilities, including efforts to acquire, develop, and deploy cyberwarfare capabilities.

''(10) In consultation with the Secretary of Energy and the Secretary of State, developments regarding United States-China engagement and cooperation on security matters.

''(11) The current state of United States military-to-military contacts with the People's Liberation Army, which shall include the following:

''(A) A comprehensive and coordinated strategy for such military-to-military contacts and updates to the strategy.

''(B) A summary of all such military-to-military contacts during the period covered by the report, including a summary of topics discussed and questions asked by the Chinese participants in those contacts.

''(C) A description of such military-to-military contacts scheduled for the 12-month period following the period covered by the report and the plan for future contacts.

''(D) The Secretary's assessment of the benefits the Chinese expect to gain from such military-to-military contacts.

''(E) The Secretary's assessment of the benefits the Department of Defense expects to gain from such military-to-military contacts, and any concerns regarding such contacts.

''(F) The Secretary's assessment of how such military-to-military contacts fit into the larger security relationship between the United States and the People's Republic of China.

''(12) Other military and security developments involving the People's Republic of China that the Secretary of Defense considers relevant to United States national security.

''(c) SPECIFIED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'specified congressional committees' means the following:

''(1) The Committee on Armed Services and the Committee on Foreign Relations of the Senate.

''(2) The Committee on Armed Services and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives.

''(d) REPORT ON SIGNIFICANT SALES AND TRANSFERS TO CHINA.—(1) The report to be submitted under this section not later than March 1, 2002, shall include in a separate section a report describing any significant sale or transfer of military hardware, expertise, and technology to the People's Republic of China. The report shall set forth the history of such sales and transfers since 1995, forecast possible future sales and transfers, and address the implications of those sales and transfers for the security of the United States and its friends and allies in Asia.

''(2) The report shall include analysis and forecasts of the following matters related to military cooperation between selling states and the People's Republic of China:

''(A) The extent in each selling state of government knowledge, cooperation, or condoning of sales or transfers of military hardware, expertise, or technology to the People's Republic of China.

''(B) An itemization of significant sales and transfers of military hardware, expertise, or technology from each selling state to the People's Republic of China that have taken place since 1995, with a particular focus on command, control, communications, and intelligence systems.

''(C) Significant assistance by any selling state to key research and development programs of China, including programs for development of weapons of mass destruction and delivery vehicles for such weapons, programs for development of advanced conventional weapons, and programs for development of unconventional weapons.

''(D) The extent to which arms sales by any selling state to the People's Republic of China are a source of funds for military research and development or procurement programs in the selling state.

''(3) The report under paragraph (1) shall include, with respect to each area of analysis and forecasts specified in paragraph (2)—

''(A) an assessment of the military effects of such sales or transfers to entities in the People's Republic of China;

''(B) an assessment of the ability of the People's Liberation Army to assimilate such sales or transfers, mass produce new equipment, or develop doctrine for use; and

''(C) the potential threat of developments related to such effects on the security interests of the United States and its friends and allies in Asia.''

[Pub. L. 111–84, div. A, title XII, § 1246(e), Oct. 28, 2009, 123 Stat. 2545, provided that:

[''(1) IN GENERAL.—The amendments made by this section [amending section 1202 of Pub. L. 106–65, set out

above, and provisions set out as a note under section 168 of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to reports required to be submitted under subsection (a) of section 1202 of the National Defense Authorization Act for Fiscal Year 2000 [Pub. L. 106–65, set out above], as so amended, on or after that date.

[''(2) STRATEGY AND UPDATES FOR MILITARY-TO-MILITARY CONTACTS WITH PEOPLE'S LIBERATION ARMY.—The requirement to include the strategy described in paragraph (11)(A) of section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000, as so amended, in the report required to be submitted under section 1202(a) of such Act, as so amended, shall apply with respect to the first report required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act. The requirement to include updates to such strategy shall apply with respect to each subsequent report required to be submitted under section 1202(a) of such Act on or after the date of the enactment of this Act.'']

NUCLEAR MISSION MANAGEMENT PLAN

Pub. L. 106–65, div. C, title XXXI, §3163(d), Oct. 5, 1999, 113 Stat. 945, provided that:

''(1) The Secretary of Defense shall develop and implement a plan to ensure the continued reliability of the capability of the Department of Defense to carry out its nuclear deterrent mission.

''(2) The plan shall do the following:

''(A) Articulate the current policy of the United States on the role of nuclear weapons and nuclear deterrence in the conduct of defense and foreign relations matters.

''(B) Establish stockpile viability and capability requirements with respect to that mission, including the number and variety of warheads required.

''(C) Establish requirements relating to the contractor industrial base, support infrastructure, and surveillance, testing, assessment, and certification of nuclear weapons necessary to support that mission.

''(3) The plan shall take into account the following:

''(A) Requirements for the critical skills, readiness, training, exercise, and testing of personnel necessary to meet that mission.

''(B) The relevant programs and plans of the military departments and the Defense Agencies with respect to readiness, sustainment (including research and development), and modernization of the strategic deterrent forces.''

REPORT ON SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS ASSISTANCE FOR MEMBERS OF ARMED FORCES

Pub. L. 105–262, title VIII, §8119, Oct. 17, 1998, 112 Stat. 2331, as amended by Pub. L. 110–234, title IV, §4002(b)(1)(B), (D), (E), (2)(K), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110–246, §4(a), title IV, §4002(b)(1)(B), (D), (E), (2)(K), June 18, 2008, 122 Stat. 1664, 1857, 1858, directed the Secretary of Defense to submit to committees of Congress, at the same time that materials relating to Department of Defense funding for fiscal year 2001 were to be submitted, a report on supplemental nutrition assistance program benefits assistance for members of the Armed Forces.

DEFENSE REFORM INITIATIVE ENTERPRISE PILOT PROGRAM FOR MILITARY MANPOWER AND PERSONNEL INFORMATION

Pub. L. 106–65, div. A, title IX, §924, Oct. 5, 1999, 113 Stat. 726, provided that:

''(a) EXECUTIVE AGENT.—The Secretary of Defense may designate the Secretary of the Navy as the Department of Defense executive agent for carrying out the pilot program described in subsection (c).

''(b) IMPLEMENTING OFFICE.—If the Secretary of Defense makes the designation referred to in subsection (a), the Secretary of the Navy, in carrying out that pilot program, shall act through the head of the Systems Executive Office for Manpower and Personnel of the Department of the Navy, who shall act in coordination with the Under Secretary of Defense for Personnel and Readiness and the Chief Information Officer of the Department of Defense.

''(c) PILOT PROGRAM.—The pilot program referred to in subsection (a) is the defense reform initiative enterprise pilot program for military manpower and personnel information established pursuant to section 8147 of the Department of Defense Appropriations Act, 1999 (Public Law 105–262; 112 Stat. 2341; 10 U.S.C. 113 note).''

Pub. L. 105–262, title VIII, §8147, Oct. 17, 1998, 112 Stat. 2341, provided that: ''The Secretary of Defense shall establish, through a revised Defense Integrated Military Human Resources System (DIMHRS), a defense reform initiative enterprise pilot program for military manpower and personnel information: *Provided*, That this pilot program should include all functions and systems currently included in DIMHRS and shall be expanded to include all appropriate systems within the enterprise of personnel, manpower, training, and compensation: *Provided further*, That in establishing a revised DIMHRS enterprise program for manpower and personnel information superiority the functions of this program shall include, but not be limited to: (1) an analysis and determination of the number and kinds of information systems necessary to support manpower and personnel within the Department of Defense; and (2) the establishment of programs to develop and implement information systems in support of manpower and personnel to include an enterprise level strategic approach, performance and results based management, business process improvement and other non-material solutions, the use of commercial or government off-the-shelf technology, the use of modular contracting as defined by Public Law 104–106 [see 41 U.S.C. 2308], and the integration and consolidation of existing manpower and personnel information systems: *Provided further*, That the Secretary of Defense shall re-instate fulfillment standards designated as ADS–97–03–GD, dated January, 1997: *Provided further*, That the requirements of this section should be implemented not later than 6 months after the date of the enactment of this Act [Oct. 17, 1998].''

OVERSIGHT OF DEVELOPMENT AND IMPLEMENTATION OF AUTOMATED IDENTIFICATION TECHNOLOGY

Pub. L. 105–261, div. A, title III, §344, Oct. 17, 1998, 112 Stat. 1977, as amended by Pub. L. 106–65, div. A, title III, §373(h), title X, §1067(3), Oct. 5, 1999, 113 Stat. 581, 774, directed the Secretary of the Navy to allocate up to $25,000,000 of fiscal year 1999 funds for the purpose of making progress toward the issuance and use of Smart Cards throughout the Navy and the Marine Corps and to equip with Smart Card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group in each of the United States Atlantic and Pacific Commands not later than June 30, 1999, and directed the Secretary of Defense, not later than Mar. 31, 1999, to submit to congressional defense committees a plan for the use of Smart Card technology by each military department.

PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT

Pub. L. 105–261, div. A, title III, §377, Oct. 17, 1998, 112 Stat. 1993, as amended by Pub. L. 106–398, §1 [[div. A], title III, §387], Oct. 30, 2000, 114 Stat. 1654, 1654A–88, provided that:

''(a) PILOT PROGRAM AUTHORIZED.—The Secretary of each military department may carry out a pilot program to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields of that department.

''(b) LANDING FEE DEFINED.—In this section, the term 'landing fee' means any fee that is established under or in accordance with regulations of the military department concerned (whether prescribed in a fee schedule or imposed under a joint-use agreement) to recover

costs incurred for use by civil aircraft of an airfield of the military department in the United States or in a territory or possession of the United States.

''(c) USE OF PROCEEDS.—Amounts received in payment of landing fees for use of a military airfield in a fiscal year of the pilot program shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of the military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

''(d) REPORT.—Not later than March 31, 2003, the Secretary of Defense shall submit to Congress a report on the pilot programs carried out under this section by the Secretaries of the military departments. The report shall specify the amounts of fees received and retained by each military department under its pilot program as of December 31, 2002.''

''(e) DURATION OF PILOT PROGRAM.—The pilot program under this section may not be carried out after September 30, 2010.''

REPORT ON TERMINOLOGY FOR ANNUAL REPORT REQUIREMENT

Pub. L. 105–261, div. A, title IX, § 915(b), Oct. 17, 1998, 112 Stat. 2102, directed the Secretary of Defense, not later than 90 days after Oct. 17, 1998, to submit to committees of Congress a report setting forth the definitions of the terms ''support'' and ''mission'' to use for purposes of the report requirement under subsec. (*l*) of this section.

PROGRAM TO INVESTIGATE FRAUD, WASTE, AND ABUSE WITHIN DEPARTMENT OF DEFENSE

Section 392 of Pub. L. 105–85, as amended by Pub. L. 105–261, div. A, title III, § 374, Oct. 17, 1998, 112 Stat. 1992, provided that: ''The Secretary of Defense shall maintain a specific coordinated program for the investigation of evidence of fraud, waste, and abuse within the Department of Defense, particularly fraud, waste, and abuse regarding finance and accounting matters and any fraud, waste, and abuse occurring in connection with overpayments made to vendors by the Department of Defense, including overpayments identified under section 354 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 2461 note).''

COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES

Subtitle F of title V of div. A of Pub. L. 105–85, as amended by Pub. L. 105–261, div. A, title V, § 524, Oct. 17, 1998, 112 Stat. 2014; Pub. L. 106–65, div. A, title X, § 1066(c)(2), Oct. 5, 1999, 113 Stat. 773, established a Commission on Military Training and Gender-Related Issues to review requirements and restrictions regarding cross-gender relationships of members of the Armed Forces, to review the basic training programs of the Army, Navy, Air Force, and Marine Corps, and to make recommendations on improvements to those programs, requirements, and restrictions, and further provided for composition, powers, and duties of Commission, administrative matters, funding, an interim report to Congress not later than Oct. 15, 1998, and a final report to Congress not later than Mar. 15, 1999, and for termination of Commission 60 days after submission of final report.

COORDINATION OF DEPARTMENT OF DEFENSE CRIMINAL INVESTIGATIONS AND AUDITS

Section 907 of Pub. L. 105–85 provided that:

''(a) MILITARY DEPARTMENT CRIMINAL INVESTIGATIVE ORGANIZATIONS.—(1) The heads of the military department criminal investigative organizations shall take such action as may be practicable to conserve the limited resources available to the military department criminal investigative organizations by sharing personnel, expertise, infrastructure, training, equipment, software, and other resources.

''(2) The heads of the military department criminal investigative organizations shall meet on a regular basis to determine the manner in which and the extent to which the military department criminal investigative organizations will be able to share resources.

''(b) DEFENSE AUDITING ORGANIZATIONS.—(1) The heads of the defense auditing organizations shall take such action as may be practicable to conserve the limited resources available to the defense auditing organizations by sharing personnel, expertise, infrastructure, training, equipment, software, and other resources.

''(2) The heads of the defense auditing organizations shall meet on a regular basis to determine the manner in which and the extent to which the defense auditing organizations will be able to share resources.

''(c) IMPLEMENTATION PLAN.—Not later than December 31, 1997, the Secretary of Defense shall submit to Congress a plan designed to maximize the resources available to the military department criminal investigative organizations and the defense auditing organizations, as required by this section.

''(d) DEFINITIONS.—For purposes of this section:

''(1) The term 'military department criminal investigative organizations' means—

''(A) the Army Criminal Investigation Command;

''(B) the Naval Criminal Investigative Service; and

''(C) the Air Force Office of Special Investigations.

''(2) The term 'defense auditing organizations' means—

''(A) the Office of the Inspector General of the Department of Defense;

''(B) the Defense Contract Audit Agency;

''(C) the Army Audit Agency;

''(D) the Naval Audit Service; and

''(E) the Air Force Audit Agency.''

PROVISION OF ADEQUATE TROOP PROTECTION EQUIPMENT FOR ARMED FORCES PERSONNEL ENGAGED IN PEACE OPERATIONS; REPORT ON ANTITERRORISM ACTIVITIES AND PROTECTION OF PERSONNEL

Section 1052 of Pub. L. 105–85 provided that:

''(a) PROTECTION OF PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that units of the Armed Forces engaged in a peace operation are provided adequate troop protection equipment for that operation.

''(b) SPECIFIC ACTIONS.—In taking actions under subsection (a), the Secretary shall—

''(1) identify the additional troop protection equipment, if any, required to equip a division (or the equivalent of a division) with adequate troop protection equipment for peace operations; and

''(2) establish procedures to facilitate the exchange or transfer of troop protection equipment among units of the Armed Forces.

''(c) DESIGNATION OF RESPONSIBLE OFFICIAL.—The Secretary of Defense shall designate an official within the Department of Defense to be responsible for—

''(1) ensuring the appropriate allocation of troop protection equipment among the units of the Armed Forces engaged in peace operations; and

''(2) monitoring the availability, status or condition, and location of such equipment.

''(d) TROOP PROTECTION EQUIPMENT DEFINED.—In this section, the term 'troop protection equipment' means the equipment required by units of the Armed Forces to defend against any hostile threat that is likely during a peace operation, including an attack by a hostile crowd, small arms fire, mines, and a terrorist bombing attack.

''(e) REPORT ON ANTITERRORISM ACTIVITIES OF THE DEPARTMENT OF DEFENSE AND PROTECTION OF PERSONNEL.—Not later than 120 days after the date of the enactment of this Act [Nov. 18, 1997], the Secretary of Defense shall submit to Congress a report, in classified and unclassified form, on antiterrorism activities of the Department of Defense and the actions taken by the Secretary under subsections (a), (b), and (c). The report shall include the following:

''(1) A description of the programs designed to carry out antiterrorism activities of the Department of Defense, any deficiencies in those programs, and any actions taken by the Secretary to improve implementation of such programs.

''(2) An assessment of the current policies and practices of the Department of Defense with respect to the protection of members of the Armed Forces overseas against terrorist attack, including any modifications to such policies or practices that are proposed or implemented as a result of the assessment.

''(3) An assessment of the procedures of the Department of Defense for determining accountability, if any, in the command structure of the Armed Forces in instances in which a terrorist attack results in the loss of life at an overseas military installation or facility.

''(4) A detailed description of the roles of the Office of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Secretaries of the military departments, and the combatant commanders in providing guidance and support with respect to the protection of members of the Armed Forces deployed overseas against terrorist attack (both before and after the November 1995 bombing in Riyadh, Saudi Arabia) and how these roles have changed since the June 25, 1996, terrorist bombing at Khobar Towers in Dhahran, Saudi Arabia.

''(5) A description of the actions taken by the Secretary of Defense under subsections (a), (b), and (c) to provide adequate troop protection equipment for units of the Armed Forces engaged in a peace operation.''

STUDY OF INVESTIGATIVE PRACTICES OF MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS RELATING TO SEX CRIMES

Pub. L. 105–85, div. A, title X, §1072, Nov. 18, 1997, 111 Stat. 1898, required the Secretary of Defense to provide for a study to be conducted by the National Academy of Public Administration of the policies, procedures, and practices of the military criminal investigative organizations for the conduct of investigations of complaints of sex crimes and other criminal sexual misconduct arising in the Armed Forces, required the Academy to submit a report to the Secretary not later than one year after Nov. 18, 1997, and directed the Secretary to submit the report and comments on the report to Congress not later than 30 days afterwards.

PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR

Pub. L. 105–85, div. A, title X, §1083, Nov. 18, 1997, 111 Stat. 1918, as amended by Pub. L. 105–129, §1(b)(1), Dec. 1, 1997, 111 Stat. 2551; Pub. L. 105–261, div. A, title X, §1067(a), (c), Oct. 17, 1998, 112 Stat. 2134; Pub. L. 106–65, div. A, title X, §1052(a), (b)(1), (c), Oct. 5, 1999, 113 Stat. 764; Pub. L. 107–107, div. A, title X, §1048(g)(6), (i)(1), Dec. 28, 2001, 115 Stat. 1228, 1229; Pub. L. 107–314, div. A, title X, §1069, Dec. 2, 2002, 116 Stat. 2660, authorized the Secretary of Defense to conduct a program to commemorate the 50th anniversary of the Korean War during fiscal years 2000 through 2004, provided that up to $10,000,000 of funds appropriated for the Army for such fiscal years be made available for the program, and directed the Secretary to submit to Congress a report containing an accounting not later than 60 days after completion of all activities and ceremonies.

ANNUAL REPORT ON MORATORIUM ON USE BY ARMED FORCES OF ANTIPERSONNEL LANDMINES

Section 1309 of Pub. L. 105–85 provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) The United States has stated its support for a ban on antipersonnel landmines that is global in scope and verifiable.

''(2) On May 16, 1996, the President announced that the United States, as a matter of policy, would eliminate its stockpile of non-self-destructing antipersonnel landmines, except those used for training purposes and in Korea, and that the United States would reserve the right to use self-destructing antipersonnel landmines in the event of conflict.

''(3) On May 16, 1996, the President also announced that the United States would lead an effort to negotiate an international treaty permanently banning the use of all antipersonnel landmines.

''(4) The United States is currently participating at the United Nations Conference on Disarmament in negotiations aimed at achieving a global ban on the use of antipersonnel landmines.

''(5) On August 18, 1997, the administration agreed to participate in international negotiations sponsored by Canada (the so-called 'Ottawa process') designed to achieve a treaty that would outlaw the production, use, and sale of antipersonnel landmines.

''(6) On September 17, 1997, the President announced that the United States would not sign the antipersonnel landmine treaty concluded in Oslo, Norway, by participants in the Ottawa process because the treaty would not provide a geographic exception to allow the United States to stockpile and use antipersonnel landmines in Korea or an exemption that would preserve the ability of the United States to use mixed antitank mine systems which could be used to deter an armored assault against United States forces.

''(7) The President also announced a change in United States policy whereby the United States—

''(A) would no longer deploy antipersonnel landmines, including self-destructing antipersonnel landmines, by 2003, except in Korea;

''(B) would seek to field alternatives by that date, or by 2006 in the case of Korea;

''(C) would undertake a new initiative in the United Nations Conference on Disarmament to establish a global ban on the transfer of antipersonnel landmines; and

''(D) would increase its current humanitarian demining activities around the world.

''(8) The President's decision would allow the continued use by United States forces of self-destructing antipersonnel landmines that are used as part of a mixed antitank mine system.

''(9) Under existing law (as provided in section 580 of Public Law 104–107; 110 Stat. 751), on February 12, 1999, the United States will implement a one-year moratorium on the use of antipersonnel landmines by United States forces except along internationally recognized national borders or in demilitarized zones within a perimeter marked area that is monitored by military personnel and protected by adequate means to ensure the exclusion of civilians.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) the United States should not implement a moratorium on the use of antipersonnel landmines by United States Armed Forces in a manner that would endanger United States personnel or undermine the military effectiveness of United States Armed Forces in executing their missions; and

''(2) the United States should pursue the development of alternatives to self-destructing antipersonnel landmines.

''(c) ANNUAL REPORT.—Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] a report concerning antipersonnel landmines. Each such report shall include the Secretary's description of the following:

''(1) The military utility of the continued deployment and use by the United States of antipersonnel landmines.

''(2) The effect of a moratorium on the production, stockpiling, and use of antipersonnel landmines on the ability of United States forces to deter and defend against attack on land by hostile forces, including on the Korean peninsula.

''(3) Progress in developing and fielding systems that are effective substitutes for antipersonnel landmines, including an identification and description of the types of systems that are being developed and fielded, the costs associated with those systems, and the estimated timetable for developing and fielding those systems.

''(4) The effect of a moratorium on the use of antipersonnel landmines on the military effectiveness of current antitank mine systems.

''(5) The number and type of pure antipersonnel landmines that remain in the United States inventory and that are subject to elimination under the President's September 17, 1997, declaration on United States antipersonnel landmine policy.

''(6) The number and type of mixed antitank mine systems that are in the United States inventory, the locations where they are deployed, and their effect on the deterrence and warfighting ability of United States Armed Forces.

''(7) The effect of the elimination of pure antipersonnel landmines on the warfighting effectiveness of the United States Armed Forces.

''(8) The costs already incurred and anticipated of eliminating antipersonnel landmines from the United States inventory in accordance with the policy enunciated by the President on September 17, 1997.

''(9) The benefits that would result to United States military and civilian personnel from an international treaty banning the production, use, transfer, and stockpiling of antipersonnel landmines.''

HATE CRIMES IN THE MILITARY

Section 571(a), (b) of Pub. L. 104–201 provided that:

''(a) HUMAN RELATIONS TRAINING.—(1) The Secretary of Defense shall ensure that the Secretary of each military department conducts ongoing programs for human relations training for all members of the Armed Forces under the jurisdiction of the Secretary. Matters to be covered by such training include race relations, equal opportunity, opposition to gender discrimination, and sensitivity to 'hate group' activity. Such training shall be provided during basic training (or other initial military training) and on a regular basis thereafter.

''(2) The Secretary of Defense shall also ensure that unit commanders are aware of their responsibilities in ensuring that impermissible activity based upon discriminatory motives does not occur in units under their command.

''(b) INFORMATION TO BE PROVIDED TO PROSPECTIVE RECRUITS.—The Secretary of Defense shall ensure that each individual preparing to enter an officer accession program or to execute an original enlistment agreement is provided information concerning the meaning of the oath of office or oath of enlistment for service in the Armed Forces in terms of the equal protection and civil liberties guarantees of the Constitution, and each such individual shall be informed that if supporting those guarantees is not possible personally for that individual, then that individual should decline to enter the Armed Forces.''

ANNUAL REPORT ON OPERATION PROVIDE COMFORT AND OPERATION ENHANCED SOUTHERN WATCH

Pub. L. 104–201, div. A, title X, § 1041, Sept. 23, 1996, 110 Stat. 2640, required the Secretary of Defense to submit to Congress a report on Operation Provide Comfort and Operation Enhanced Southern Watch not later than Mar. 1 of each year and provided for the termination of the requirement with respect to each operation upon the termination of United States involvement in that operation.

ANNUAL REPORT ON EMERGING OPERATIONAL CONCEPTS

Pub. L. 104–201, div. A, title X, § 1042, Sept. 23, 1996, 110 Stat. 2642, as amended by Pub. L. 106–65, div. A, title X, § 1067(5), Oct. 5, 1999, 113 Stat. 774, directed Secretary of Defense to submit to Committees on Armed Services of the Senate and the House of Representatives a report on emerging operational concepts not later than March 1 of each year through 2000, prior to repeal by Pub. L. 106–65, div. A, title II, § 241(b), Oct. 5, 1999, 113 Stat. 550.

GEORGE C. MARSHALL EUROPEAN CENTER FOR STRATEGIC SECURITY STUDIES

Pub. L. 104–201, div. A, title X, § 1065, Sept. 23, 1996, 110 Stat. 2653, as amended by Pub. L. 108–136, div. A, title X, § 1031(f)(2), Nov. 24, 2003, 117 Stat. 1604; Pub. L. 109–163, div. A, title IX, § 903(c)(2), Jan. 6, 2006, 119 Stat. 3399, provided that:

''(a) MARSHALL CENTER PARTICIPATION BY FOREIGN NATIONS.—Notwithstanding any other provision of law, the Secretary of Defense may authorize participation by a European or Eurasian nation in Marshall Center programs if the Secretary determines, after consultation with the Secretary of State, that such participation is in the national interest of the United States.

''(b) EXEMPTIONS FOR MEMBERS OF MARSHALL CENTER BOARD OF VISITORS FROM CERTAIN REQUIREMENTS.—(1) In the case of any person invited to serve without compensation on the Marshall Center Board of Visitors, the Secretary of Defense may waive any requirement for financial disclosure that would otherwise apply to that person solely by reason of service on such Board.

''(2) Notwithstanding any other provision of law, a member of the Marshall Center Board of Visitors may not be required to register as an agent of a foreign government solely by reason of service as a member of the Board.

''(3) Notwithstanding section 219 of title 18, United States Code, a non-United States citizen may serve on the Marshall Center Board of Visitors even though registered as a foreign agent.''

Pub. L. 103–337, div. A, title XIII, § 1306, Oct. 5, 1994, 108 Stat. 2892, as amended by Pub. L. 108–136, div. A, title XII, § 1223, Nov. 24, 2003, 117 Stat. 1652; Pub. L. 109–163, div. A, title IX, § 903(c)(1), Jan. 6, 2006, 119 Stat. 3399, provided that:

''(a) WAIVER OF CHARGES.—The Secretary of Defense may waive reimbursement of the costs of conferences, seminars, courses of instruction, or similar educational activities of the George C. Marshall European Center for Security Studies for military officers and civilian officials from states located in Europe or the territory of the former Soviet Union if the Secretary determines that attendance by such personnel without reimbursement is in the national security interest of the United States.

''(b) SOURCE OF FUNDS.—Costs for which reimbursement is waived pursuant to subsection (a) shall be paid from appropriations available for the Center.''

PARTICIPATION OF MEMBERS, DEPENDENTS, AND OTHER PERSONS IN CRIME PREVENTION EFFORTS AT INSTALLATIONS

Pub. L. 104–201, div. A, title X, § 1070, Sept. 23, 1996, 110 Stat. 2656, provided that:

''(a) CRIME PREVENTION PLAN.—The Secretary of Defense shall prepare and implement an incentive-based plan to encourage members of the Armed Forces, dependents of members, civilian employees of the Department of Defense, and employees of defense contractors performing work at military installations to report to an appropriate military law enforcement agency any crime or criminal activity that the person reasonably believes occurred on a military installation or involves a member of the Armed Forces.

''(b) INCENTIVES TO REPORT CRIMINAL ACTIVITY.—The Secretary of Defense shall include in the plan developed under subsection (a) incentives for members and other persons described in such subsection to provide information to appropriate military law enforcement agencies regarding any crime or criminal activity occurring on a military installation or involving a member of the Armed Forces.

''(c) REPORT REGARDING IMPLEMENTATION.—Not later than February 1, 1997, the Secretary shall submit to Congress a report describing the plan being developed under subsection (a).''

ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES

Pub. L. 104–193, title III, §363(a), Aug. 22, 1996, 110 Stat. 2247, as amended by Pub. L. 107–296, title XVII, §1704(e)(1)(A), Nov. 25, 2002, 116 Stat. 2315, provided that:

''(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Homeland Security, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

''(2) TYPE OF ADDRESS.—

''(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

''(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

''(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

''(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

''(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

''(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service established under section 453 of the Social Security Act [42 U.S.C. 653].''

REVIEW OF C4I BY NATIONAL RESEARCH COUNCIL

Pub. L. 104–106, div. A, title II, §262, Feb. 10, 1996, 110 Stat. 236, directed the Secretary of Defense, not later than 90 days after Feb. 10, 1996, to request the National Research Council of the National Academy of Sciences to conduct a two-year review of current and planned service and defense-wide programs for command, control, communications, computers, and intelligence, and required the Secretary to provide that the Council submit interim reports and a final report on the review to the Department of Defense and committees of Congress.

STRATEGY AND REPORT ON AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 104–106, div. A, title III, §366, Feb. 10, 1996, 110 Stat. 275, directed the Secretary of Defense to develop a strategy for the development or modernization of automated information systems for the Department of Defense and to submit to Congress a report on the development of such strategy not later than Apr. 15, 1996.

REPORT CONCERNING APPROPRIATE FORUM FOR JUDICIAL REVIEW OF DEPARTMENT OF DEFENSE PERSONNEL ACTIONS

Pub. L. 104–106, div. A, title V, §551, Feb. 10, 1996, 110 Stat. 318, directed the Secretary of Defense to establish an advisory committee to consider issues relating to the appropriate forum for judicial review of Department of Defense administrative personnel actions, required the committee to submit a report to the Secretary of Defense not later than Dec. 15, 1996, required the Secretary to transmit the committee's report to Congress not later than Jan. 1, 1997, and provided for the termination of the committee 30 days after the date of the submission of its report to Congress.

REQUIREMENTS FOR AUTOMATED INFORMATION SYSTEMS OF DEPARTMENT OF DEFENSE

Pub. L. 103–337, div. A, title III, §381, Oct. 5, 1994, 108 Stat. 2738, provided that:

''(a) DETERMINATION REQUIRED.—(1) Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall—

''(A) determine whether each automated information system described in paragraph (2) meets the requirements set forth in subsection (b); and

''(B) take appropriate action to end the modernization or development by the Department of Defense of any such system that the Secretary determines does not meet such requirements.

''(2) An automated information system referred to in paragraph (1) is an automated information system—

''(A) that is undergoing modernization or development by the Department of Defense;

''(B) that exceeds $50,000,000 in value; and

''(C) that is not a migration system, as determined by the Enterprise Integration Executive Board of the Department of Defense.

''(b) REQUIREMENTS.—The use of an automated information system by the Department of Defense shall—

''(1) contribute to the achievement of Department of Defense strategies for the use of automated information systems;

''(2) as determined by the Secretary, provide an acceptable benefit from the investment in the system or make a substantial contribution to the performance of the defense mission for which the system is used;

''(3) comply with Department of Defense directives applicable to life cycle management of automated information systems; and

''(4) be based on guidance developed under subsection (c).

''(c) GUIDANCE FOR USE.—The Secretary of Defense shall develop guidance for the use of automated information systems by the Department of Defense. In developing the guidance, the Secretary shall consider the following:

''(1) Directives of the Office of Management and Budget applicable to returns of investment for such systems.

''(2) A sound, functional economic analysis.

''(3) Established objectives for the Department of Defense information infrastructure.

''(4) Migratory assessment criteria, including criteria under guidance provided by the Defense Information Systems Agency.

''(d) WAIVER.—(1) The Secretary of Defense may waive the requirements of subsection (a) for an automated information system if the Secretary determines that the purpose for which the system is being modernized or developed is of compelling military importance.

''(2) If the Secretary exercises the waiver authority provided in paragraph (1), the Secretary shall include the following in the next report required by subsection (f):

''(A) The reasons for the failure of the automated information system to meet all of the requirements of subsection (b).

''(B) A determination of whether the system is expected to meet such requirements in the future, and if so, the date by which the system is expected to meet the requirements.

''(e) PERFORMANCE MEASURES AND MANAGEMENT CONTROLS.—(1) The Secretary of Defense shall establish performance measures and management controls for the supervision and management of the activities described in paragraph (2). The performance measures and management controls shall be adequate to ensure, to the maximum extent practicable, that the Department of Defense receives the maximum benefit possible from the development, modernization, operation, and maintenance of automated information systems.

''(2) The activities referred to in paragraph (1) are the following:

''(A) Accelerated implementation of migration systems.

''(B) Establishment of data standards.

''(C) Process improvement.

''(f) REPORTS.—Not later than March 15 in each of 1995, 1996, and 1997, the Secretary of Defense shall submit to Congress a report on the establishment and implementation of the performance measures and management controls referred to in subsection (e)(1). Each such report shall also specify—

''(1) the automated information systems that, as determined under subsection (a), meet the requirements of subsection (b);

''(2) the automated information systems that, as determined under subsection (a), do not meet the requirements of subsection (b) and the action taken by the Secretary to end the use of such systems; and

''(3) the automated information systems that, as determined by the Enterprise Integration Executive Board, are migration systems.

''(g) REVIEW BY COMPTROLLER GENERAL.—Not later than April 30, 1995, the Comptroller General of the United States shall submit to Congress a report that contains an evaluation of the following:

''(1) The progress made by the Department of Defense in achieving the goals of the corporate information management program of the Department.

''(2) The progress made by the Secretary of Defense in establishing the performance measures and management controls referred to in subsection (e)(1).

''(3) The progress made by the Department of Defense in using automated information systems that meet the requirements of subsection (b).

''(4) The report required by subsection (f) to be submitted in 1995.

''(h) DEFINITIONS.—In this section:

''(1) The term 'automated information system' means an automated information system of the Department of Defense described in the exhibits designated as 'IT-43' in the budget submitted to Congress by the President for fiscal year 1995 pursuant to section 1105 of title 31, United States Code.

''(2) The term 'migration system' has the meaning given such term in the document entitled 'Department of Defense Strategy for Acceleration of Migration Systems and Data Standards' attached to the memorandum of the Department of Defense dated October 13, 1993 (relating to accelerated implementation of migration systems, data standards, and process improvement).''

Section 830 of Pub. L. 104–201, as amended by Pub. L. 104–208, div. A, title I, § 101(f) [title VIII, § 808(c)], Sept. 30, 1996, 110 Stat. 3009–314, 3009–394, provided that Secretary of Defense was to include in report submitted in 1997 under section 381(f) of Pub. L. 103–337 [set out above] a discussion of progress made in implementing div. E of Pub. L. 104–106 [§§ 5001–5703, see Tables for classification] and strategy for development or modernization of automated information systems for Department of Defense, and plans of Department of Defense for establishing an integrated framework for management of information resources within the Department, and provided further specifications of the elements to be included in the discussion.

ANNUAL REPORT ON PERSONNEL READINESS FACTORS BY RACE AND GENDER

Section 533 of Pub. L. 103–337 provided that:

''(a) REQUIRED ASSESSMENT.—The Secretary of Defense shall submit to Congress an annual report on trends in recruiting, retention, and personnel readiness.

''(b) DATA TO BE COLLECTED.—Each annual report under subsection (a) shall include the following information with respect to the preceding fiscal year for the active components of each of the Armed Forces under the jurisdiction of the Secretary (as well as such additional information as the Secretary considers appropriate):

''(1) The numbers of members of the Armed Forces temporarily and permanently nondeployable and rates of temporary and permanent nondeployability, displayed by cause of nondeployability, rank, and gender.

''(2) The numbers and rates of complaints and allegations within the Armed Forces that involve gender and other unlawful discrimination and sexual harassment, and the rates of substantiation for those complaints and allegations.

''(3) The numbers and rates of disciplinary proceedings, displayed (A) by offense or infraction committed, (B) by gender, rank, and race, and (C) by the categories specified in paragraph (2).

''(4) The retention rates, by gender, rank, and race, with an analysis of factors influencing those rates.

''(5) The propensity of persons to enlist, displayed by gender and race, with an analysis of the factors influencing those propensities.

''(c) SUBMISSION TO CONGRESS.—The Secretary shall submit the report under this section for any fiscal year as part of the annual Department of Defense posture statement provided to Congress in connection with the Department of Defense budget request for that fiscal year.

''(d) INITIAL SUBMISSION.—The first report under this section shall be submitted in connection with the Department of Defense budget request for fiscal year 1996 and shall include data, to the degree such data already exists, for fiscal years after fiscal year 1991.''

VICTIMS' ADVOCATES PROGRAMS IN DEPARTMENT OF DEFENSE

Section 534 of Pub. L. 103–337 provided that:

''(a) ESTABLISHMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Personnel and Readiness, shall revise policies and regulations of the Department of Defense with respect to the programs of the Department of Defense specified in paragraph (2) in order to establish within each of the military departments a victims' advocates program.

''(2) Programs referred to in paragraph (1) are the following:

''(A) Victim and witness assistance programs.

''(B) Family advocacy programs.

''(C) Equal opportunity programs.

''(3) In the case of the Department of the Navy, separate victims' advocates programs shall be established for the Navy and the Marine Corps.

''(b) PURPOSE.—A victims' advocates program established pursuant to subsection (a) shall provide assistance described in subsection (d) to members of the Armed Forces and their dependents who are victims of any of the following:

''(1) Crime.

''(2) Intrafamilial sexual, physical, or emotional abuse.

''(3) Discrimination or harassment based on race, gender, ethnic background, national origin, or religion.

''(c) INTERDISCIPLINARY COUNCILS.—(1) The Secretary of Defense shall establish a Department of Defense council to coordinate and oversee the implementation of programs under subsection (a). The membership of the council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise or experience in a variety of disciplines and professions in order to ensure representation of the full range of services and expertise that will be needed in implementing those programs.

''(2) The Secretary of each military department shall establish similar interdisciplinary councils within that military department as appropriate to ensure the fullest coordination and effectiveness of the victims' advocates program of that military department. To the extent practicable, such a council shall be established at each significant military installation.

''(d) ASSISTANCE.—(1) Under a victims' advocates program established under subsection (a), individuals working in the program shall principally serve the interests of a victim by initiating action to provide (A)

information on available benefits and services, (B) assistance in obtaining those benefits and services, and (C) other appropriate assistance.

''(2) Services under such a program in the case of an individual who is a victim of family violence (including intrafamilial sexual, physical, and emotional abuse) shall be provided principally through the family advocacy programs of the military departments.

''(e) STAFFING.—The Secretary of Defense shall provide for the assignment of personnel (military or civilian) on a full-time basis to victims' advocates programs established pursuant to subsection (a). The Secretary shall ensure that sufficient numbers of such full-time personnel are assigned to those programs to enable those programs to be carried out effectively.

''(f) IMPLEMENTATION DEADLINE.—Subsection (a) shall be carried out not later than six months after the date of the enactment of this Act [Oct. 5, 1994].

''(g) IMPLEMENTATION REPORT.—Not later than 30 days after the date on which Department of Defense policies and regulations are revised pursuant to subsection (a), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation (and plans for implementation) of this section.''

ASSISTANCE TO FAMILY MEMBERS OF KOREAN CONFLICT AND COLD WAR POW/MIAS WHO REMAIN UNACCOUNTED FOR

Section 1031 of Pub. L. 103–337 provided that:

''(a) SINGLE POINT OF CONTACT.—The Secretary of Defense shall designate an official of the Department of Defense to serve as a single point of contact within the department—

''(1) for the immediate family members (or their designees) of any unaccounted-for Korean conflict POW/MIA; and

''(2) for the immediate family members (or their designees) of any unaccounted-for Cold War POW/MIA.

''(b) FUNCTIONS.—The official designated under subsection (a) shall serve as a liaison between the family members of unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs and the Department of Defense and other Federal departments and agencies that may hold information that may relate to such POW/MIAs. The functions of that official shall include assisting family members—

''(1) with the procedures the family members may follow in their search for information about the unaccounted-for Korean conflict POW/MIA or unaccounted-for Cold War POW/MIA, as the case may be;

''(2) in learning where they may locate information about the unaccounted-for POW/MIA; and

''(3) in learning how and where to identify classified records that contain pertinent information and that will be declassified.

''(c) ASSISTANCE IN OBTAINING DECLASSIFICATION.—The official designated under subsection (a) shall seek to obtain the rapid declassification of any relevant classified records that are identified.

''(d) REPOSITORY.—The official designated under subsection (a) shall provide all documents relating to unaccounted-for Korean conflict POW/MIAs and unaccounted-for Cold War POW/MIAs that are located as a result of the official's efforts to the National Archives and Records Administration, which shall locate them in a centralized repository.

''(e) DEFINITIONS.—For purposes of this section:

''(1) The term 'unaccounted-for Korean conflict POW/MIA' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the Korean conflict, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

''(2) The term 'unaccounted-for Cold War POW/MIA' means a member of the Armed Forces or civilian employee of the United States who, as a result of service during the period from September 2, 1945, to August 21, 1991, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

''(3) The term 'Korean conflict' has the meaning given such term in section 101(9) of title 38, United States Code.''

PLAN REQUIRING DISBURSING OFFICIALS OF DEPARTMENT OF DEFENSE TO MATCH DISBURSEMENTS TO PARTICULAR OBLIGATIONS

Pub. L. 111–118, div. A, title VIII, §8073, Dec. 19, 2009, 123 Stat. 3445, provided that: ''Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104–208; 110 Stat. 3009–111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2010.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. C, title VIII, §8073, Sept. 30, 2008, 122 Stat. 3637.

Pub. L. 110–116, div. A, title VIII, §8076, Nov. 13, 2007, 121 Stat. 1332.

Pub. L. 109–289, div. A, title VIII, §8074, Sept. 29, 2006, 120 Stat. 1291.

Pub. L. 109–148, div. A, title VIII, §8083, Dec. 30, 2005, 119 Stat. 2717.

Pub. L. 108–287, title VIII, §8091, Aug. 5, 2004, 118 Stat. 992.

Pub. L. 108–87, title VIII, §8092, Sept. 30, 2003, 117 Stat. 1094.

Pub. L. 107–248, title VIII, §8098, Oct. 23, 2002, 116 Stat. 1559.

Pub. L. 107–117, div. A, title VIII, §8118, Jan. 10, 2002, 115 Stat. 2273.

Pub. L. 106–259, title VIII, §8137, Aug. 9, 2000, 114 Stat. 704.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8106], Sept. 30, 1996, 110 Stat. 3009–71, 3009–111, as amended by Pub. L. 105–56, title VIII, §8113, Oct. 8, 1997, 111 Stat. 1245; Pub. L. 105–277, div. C, title I, §143, Oct. 21, 1998, 112 Stat. 2681–609; Pub. L. 106–79, title VIII, §8135, Oct. 25, 1999, 113 Stat. 1268, provided that:

''(a) The Secretary of Defense shall require each disbursement by the Department of Defense in an amount in excess of $500,000 be matched to a particular obligation before the disbursement is made.

''(b) The Secretary shall ensure that a disbursement in excess of the threshold amount applicable under section (a) is not divided into multiple disbursements of less than that amount for the purpose of avoiding the applicability of such section to that disbursement.''

[Section 8113 of Pub. L. 105–56 provided that the amendment made by that section [amending section 101(b) [title VIII, §8106] of Pub. L. 104–208] set out above, is effective June 30, 1998.]

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104–61, title VIII, §8102, Dec. 1, 1995, 109 Stat. 672.

Pub. L. 103–335, title VIII, §8137, Sept. 30, 1994, 108 Stat. 2654.

NOTICE TO CONGRESS OF PROPOSED CHANGES IN COMBAT ASSIGNMENTS TO WHICH FEMALE MEMBERS MAY BE ASSIGNED

Pub. L. 103–160, div. A, title V, §542, Nov. 30, 1993, 107 Stat. 1659, as amended by Pub. L. 106–398, §1 [[div. A], title V, §573(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–136; Pub. L. 107–107, div. A, title V, §591, Dec. 28, 2001, 115 Stat. 1125, which generally required the Secretary of Defense to transmit to the Committees on Armed Services of the Senate and House of Representatives notice of a proposed change in military personnel policies in order to make available to female members of the Armed Forces assignment to any type of combat unit,

class of combat vessel, or type of combat platform that was not open to such assignments, and also required the Secretary to submit to Congress a report providing notice of certain proposed changes to the ground combat exclusion policy, was repealed and restated as section 652 of this title by Pub. L. 109–163, div. A, title V, § 541(a)(1), (c), Jan. 6, 2006, 119 Stat. 3251, 3253.

GENDER-NEUTRAL OCCUPATIONAL PERFORMANCE STANDARDS

Pub. L. 103–160, div. A, title V, § 543, Nov. 30, 1993, 107 Stat. 1660, provided that:

''(a) GENDER NEUTRALITY REQUIREMENT.—In the case of any military occupational career field that is open to both male and female members of the Armed Forces, the Secretary of Defense—

''(1) shall ensure that qualification of members of the Armed Forces for, and continuance of members of the Armed Forces in, that occupational career field is evaluated on the basis of common, relevant performance standards, without differential standards or evaluation on the basis of gender;

''(2) may not use any gender quota, goal, or ceiling except as specifically authorized by law; and

''(3) may not change an occupational performance standard for the purpose of increasing or decreasing the number of women in that occupational career field.

''(b) REQUIREMENTS RELATING TO USE OF SPECIFIC PHYSICAL REQUIREMENTS.—(1) For any military occupational specialty for which the Secretary of Defense determines that specific physical requirements for muscular strength and endurance and cardiovascular capacity are essential to the performance of duties, the Secretary shall prescribe specific physical requirements for members in that specialty and shall ensure (in the case of an occupational specialty that is open to both male and female members of the Armed Forces) that those requirements are applied on a gender-neutral basis.

''(2) Whenever the Secretary establishes or revises a physical requirement for an occupational specialty, a member serving in that occupational specialty when the new requirement becomes effective, who is otherwise considered to be a satisfactory performer, shall be provided a reasonable period, as determined under regulations prescribed by the Secretary, to meet the standard established by the new requirement. During that period, the new physical requirement may not be used to disqualify the member from continued service in that specialty.

''(c) NOTICE TO CONGRESS OF CHANGES.—Whenever the Secretary of Defense proposes to implement changes to the occupational standards for a military occupational field that are expected to result in an increase, or in a decrease, of at least 10 percent in the number of female members of the Armed Forces who enter, or are assigned to, that occupational field, the Secretary of Defense shall submit to Congress a report providing notice of the change and the justification and rationale for the change. Such changes may then be implemented only after the end of the 60-day period beginning on the date on which such report is submitted.''

SECURITY CLEARANCES

Pub. L. 103–337, div. A, title X, § 1041, Oct. 5, 1994, 108 Stat. 2842, directed the Secretary of Defense to submit to Congress, not later than 90 days after the close of each of fiscal years 1995 through 2000, a report concerning the denial, revocation, or suspension of security clearances for Department of Defense military and civilian personnel, and for Department of Defense contractor employees, for that fiscal year.

Pub. L. 103–160, div. A, title XI, § 1183, Nov. 30, 1993, 107 Stat. 1774, provided that:

''(a) REVIEW OF SECURITY CLEARANCE PROCEDURES.—(1) The Secretary of Defense shall conduct a review of the procedural safeguards available to Department of Defense civilian employees who are facing denial or revocation of security clearances.

''(2) Such review shall specifically consider—

''(A) whether the procedural rights provided to Department of Defense civilian employees should be enhanced to include the procedural rights available to Department of Defense contractor employees;

''(B) whether the procedural rights provided to Department of Defense civilian employees should be enhanced to include the procedural rights available to similarly situated employees in those Government agencies that provide greater rights than the Department of Defense; and

''(C) whether there should be a difference between the rights provided to both Department of Defense civilian and contractor employees with respect to security clearances and the rights provided with respect to sensitive compartmented information and special access programs.

''(b) REPORT.—The Secretary shall submit to Congress a report on the results of the review required by subsection (a) not later than March 1, 1994.

''(c) REGULATIONS.—The Secretary shall revise the regulations governing security clearance procedures for Department of Defense civilian employees not later than May 15, 1994.''

FOREIGN LANGUAGE PROFICIENCY TEST PROGRAM

Pub. L. 103–160, div. A, title V, § 575, Nov. 30, 1993, 107 Stat. 1675, directed the Secretary of Defense to develop and carry out a test program for improving foreign language proficiency in the Department of Defense through improved management and other measures and to submit a report to committees of Congress not later than Apr. 1, 1994, containing a plan for the program, an explanation of the plan, and a discussion of proficiency pay adjustments, and provided for the program to begin on Oct. 1, 1994, or 180 days after the date of submission of the report and to terminate two years later.

INVESTIGATIONS OF DEATHS OF MEMBERS OF ARMED FORCES FROM SELF-INFLICTED CAUSES

Pub. L. 103–160, div. A, title XI, § 1185, Nov. 30, 1993, 107 Stat. 1774, required the Secretary of Defense to review, not later than June 30, 1994, the procedures of the military departments for investigating deaths of members of the Armed Forces that may have resulted from self-inflicted causes, to submit to Congress, not later than July 15, 1994, a report on the review, and to prescribe, not later than Oct. 1, 1994, regulations governing the investigation of deaths of members of the Armed Forces that may have resulted from self-inflicted causes, required the Inspector General of the Department of Defense to review certain death investigations, and required the Secretary of Transportation to implement with respect to the Coast Guard the requirements that were imposed on the Secretary of Defense and the Inspector General of the Department of Defense.

PROGRAM TO COMMEMORATE WORLD WAR II

Pub. L. 102–484, div. A, title III, § 378, Oct. 23, 1992, 106 Stat. 2387, as amended by Pub. L. 103–337, div. A, title III, § 382(a), Oct. 5, 1994, 108 Stat. 2740, authorized the Secretary of Defense, during fiscal years 1993 through 1996, to conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate commemoration programs and activities of Federal, State, and local governments.

REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS

Pub. L. 102–484, div. A, title III, § 383, Oct. 23, 1992, 106 Stat. 2392, provided that:

''(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

''(b) PURPOSE.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect

the public safety while meeting training requirements of the Armed Forces.

''(c) SPECIAL REQUIREMENT.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.''

REPORT ON ACTIONS TO REDUCE DISINCENTIVES FOR DEPENDENTS TO REPORT ABUSE BY MEMBERS OF ARMED FORCES

Pub. L. 102–484, div. A, title VI, §653(d), Oct. 23, 1992, 106 Stat. 2429, directed the Secretary of Defense to transmit a report to Congress not later than Dec. 15, 1993, on actions that had been taken and were planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse.

SURVIVOR NOTIFICATION AND ACCESS TO REPORTS RELATING TO SERVICE MEMBERS WHO DIE

Pub. L. 102–484, div. A, title X, §1072, Oct. 23, 1992, 106 Stat. 2508, provided that:

''(a) AVAILABILITY OF FATALITY REPORTS AND RECORDS.—

''(1) REQUIREMENT.—The Secretary of each military department shall ensure that fatality reports and records pertaining to any member of the Armed Forces who dies in the line of duty shall be made available to family members of the service member in accordance with this subsection.

''(2) INFORMATION TO BE PROVIDED AFTER NOTIFICATION OF DEATH.—Within a reasonable period of time after family members of a service member are notified of the member's death, but not more than 30 days after the date of notification, the Secretary concerned shall ensure that the family members—

''(A) in any case in which the cause or circumstances surrounding the death are under investigation, are informed of that fact, of the names of the agencies within the Department of Defense conducting the investigations, and of the existence of any reports by such agencies that have been or will be issued as a result of the investigations; and

''(B) are furnished, if the family members so desire, a copy of any completed investigative report and any other completed fatality reports that are available at the time family members are provided the information described in subparagraph (A) to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

''(3) ASSISTANCE IN OBTAINING REPORTS.—(A) In any case in which an investigative report or other fatality reports are not available at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death, the Secretary concerned shall ensure that a copy of such investigative report and any other fatality reports are furnished to the family members, if they so desire, when the reports are completed and become available, to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

''(B) In any case in which an investigative report or other fatality reports cannot be released at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death because of section 552 or 552a of title 5, United States Code, the Secretary concerned shall ensure that the family members—

''(i) are informed about the requirements and procedures necessary to request a copy of such reports; and

''(ii) are assisted, if the family members so desire, in submitting a request in accordance with such requirements and procedures.

''(C) The requirement of subparagraph (B) to inform and assist family members in obtaining copies of fatality reports shall continue until a copy of each report is obtained, or access to any such report is denied by competent authority within the Department of Defense.

''(4) WAIVER.—The requirements of paragraph (2) or (3) may be waived on a case-by-case basis, but only if the Secretary of the military department concerned determines that compliance with such requirements is not in the interests of national security.

''(b) REVIEW OF COMBAT FATALITY NOTIFICATION PROCEDURES.—

''(1) REVIEW.—The Secretary of Defense shall conduct a review of the fatality notification procedures used by the military departments. Such review shall examine the following matters:

''(A) Whether uniformity in combat fatality notification procedures among the military departments is desirable, particularly with respect to—

''(i) the use of one or two casualty notification and assistance officers;

''(ii) the use of standardized fatality report forms and witness statements;

''(iii) the use of a single center for all military departments through which combat fatality information may be processed; and

''(iv) the use of uniform procedures and the provision of a dispute resolution process for instances in which members of one of the Armed Forces inflict casualties on members of another of the Armed Forces.

''(B) Whether existing combat fatality report forms should be modified to include a block or blocks with which to identify the cause of death as 'friendly fire', 'U.S. ordnance', or 'unknown'.

''(C) Whether the existing 'Emergency Data' form prepared by members of the Armed Forces should be revised to allow members to specify provision for notification of additional family members in cases such as the case of a divorced service member who leaves children with both a current and a former spouse.

''(D) Whether the military departments should, in all cases, provide family members of a service member who died as a result of injuries sustained in combat with full and complete details of the death of the service member, regardless of whether such details may be graphic, embarrassing to the family members, or reflect negatively on the military department concerned.

''(E) Whether, and when, the military departments should inform family members of a service member who died as a result of injuries sustained in combat about the possibility that the death may have been the result of friendly fire.

''(F) The criteria and standards which the military departments should use in deciding when disclosure is appropriate to family members of a member of the military forces of an allied nation who died as a result of injuries sustained in combat when the death may have been the result of fire from United States armed forces and an investigation into the cause or circumstances of the death has been conducted.

''(2) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review conducted under paragraph (1). Such report shall be submitted not later than March 31, 1993, and shall include recommendations on the matters examined in the review and on any other matters the Secretary determines to be appropriate based upon the review or on any other reviews undertaken by the Department of Defense.

''(c) DEFINITIONS.—In this section:

''(1) The term 'fatality reports' includes investigative reports and any other reports pertaining to the cause or circumstances of death of a member of the Armed Forces in the line of duty (such as autopsy reports, battlefield reports, and medical reports).

''(2) The term 'family members' means parents, spouses, adult children, and such other relatives as the Secretary concerned considers appropriate.

''(d) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies with respect to deaths of members of the Armed Forces occurring after the date of the enactment of this Act [Oct. 23, 1992].

''(2) With respect to deaths of members of the Armed Forces occurring before the date of the enactment of this Act, the Secretary concerned shall provide fatality reports to family members upon request as promptly as practicable.''

LIMITATION ON SUPPORT FOR UNITED STATES CONTRACTORS SELLING ARMS OVERSEAS

Pub. L. 102–484, div. A, title X, § 1082, Oct. 23, 1992, 106 Stat. 2516, as amended by Pub. L. 108–136, div. A, title X, § 1031(d)(2), Nov. 24, 2003, 117 Stat. 1604, provided that:

''(a) SUPPORT FOR CONTRACTORS.—In the event that a United States defense contractor or industrial association requests the Department of Defense or a military department to provide support in the form of military equipment for any airshow or trade exhibition to be held outside the United States, such equipment may not be supplied unless the contractor or association agrees to reimburse the Treasury of the United States for—

''(1) all incremental costs of military personnel accompanying the equipment, including food, lodging, and local transportation;

''(2) all incremental transportation costs incurred in moving such equipment from its normally assigned location to the airshow or trade exhibition and return; and

''(3) any other miscellaneous incremental costs not included under paragraphs (1) and (2) that are incurred by the Federal Government but would not have been incurred had military support not been provided to the contractor or industrial association.

''(b) DEPARTMENT OF DEFENSE EXHIBITIONS.—(1) A military department may not participate directly in any airshow or trade exhibition held outside the United States unless the Secretary of Defense determines that it is in the national security interests of the United States for the military departments to do so.

''(2) The Secretary of Defense may not delegate the authority to make the determination referred to in [former] paragraph (1)(A) below the level of the Under Secretary of Defense for Policy.

''(c) DEFINITION.—In this section, the term 'incremental transportation cost' includes the cost of transporting equipment to an airshow or trade exhibition only to the extent that the provision of transportation by the Department of Defense described in subsection (a)(2) does not fulfill legitimate training requirements that would otherwise have to be met.''

OVERSEAS MILITARY END STRENGTH

Pub. L. 102–484, div. A, title XIII, § 1302, Oct. 23, 1992, 106 Stat. 2545, which provided that on and after Sept. 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on Sept. 30, 1992, with exceptions in the event of declarations of war or emergency, was repealed and restated as section 123b of this title by Pub. L. 103–337, § 1312(a), (c).

REPORTS ON OVERSEAS BASING

Pub. L. 111–84, div. A, title X, § 1063, Oct. 28, 2009, 123 Stat. 2469, as amended by Pub. L. 111–383, div. A, title X, § 1075(d)(14), Jan. 7, 2011, 124 Stat. 4373, provided that:

''(a) REPORT REQUIREMENT.—Concurrent with the delivery of the report on the 2009 quadrennial defense review required by section 118 of title 10, United States Code, 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 report on the plan for basing of forces outside the United States.

''(b) MATTERS COVERED.—The report required under subsection (a) shall contain a description of—

''(1) how the plan supports the United States national security strategy;

''(2) how the plan supports the security commitments undertaken by the United States pursuant to any international security treaty, including the North Atlantic Treaty, the Treaty of Mutual Cooperation and Security between the United States and Japan, and the Security Treaty Between Australia, New Zealand, and the United States of America;

''(3) how the plan addresses the current security environment in each geographic combatant command's area of responsibility, including United States participation in theater security cooperation activities and bilateral partnership, exchanges, and training exercises;

''(4) the impact that a permanent change in the basing of a unit currently stationed outside the United States would have on the matters described in paragraphs (1) through (3);

''(5) the impact the plan will have on the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy and the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations of the global defense posture of the United States;

''(6) any recommendations for additional closures or realignments of military installations outside of the United States; and

''(7) any comments resulting from an interagency review of the plan that includes the Department of State and other relevant Federal departments and agencies.

''(c) NOTIFICATION REQUIREMENT.—The Secretary of Defense shall notify Congress at least 30 days before the permanent relocation of a unit stationed outside the United States as of the date of the enactment of this Act [Oct. 28, 2009].

''(d) DEFINITIONS.—In this section:

''(1) UNIT.—The term 'unit' has the meaning determined by the Secretary of Defense for purposes of this section.

''(2) GEOGRAPHIC COMBATANT COMMAND.—The term 'geographic combatant command' means a combatant command with a geographic area of responsibility that does not include North America.''

Pub. L. 102–484, div. A, title XIII, § 1304, Oct. 23, 1992, 106 Stat. 2546, as amended by Pub. L. 103–160, div. B, title XXIX, § 2924(a), Nov. 30, 1993, 107 Stat. 1931; Pub. L. 104–106, div. A, title XV, § 1502(c)(2)(A), Feb. 10, 1996, 110 Stat. 506, provided that:

''(a) ANNUAL REPORT.—The Secretary of Defense shall, not later than March 31 of each year through 1997, submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of House of Representatives], either separately or as part of another relevant report, a report that specifies—

''(1) the stationing and basing plan by installation for United States military forces outside the United States;

''(2) the status of closures of United States military installations located outside the United States;

''(3) both—

''(A) the status of negotiations, if any, between the United States and the host government as to (i) United States claims for compensation for the fair market value of the improvements made by the United States at each installation referred to in paragraph (2), and (ii) any claims of the host government for damages or restoration of the installation; and

''(B) the representative of the United States in any such negotiations;

''(4) the potential savings to the United States resulting from such closures;

''(5) the cost to the United States of any improvements made at each installation referred to in paragraph (2) and the fair market value of such improvements, expressed in constant dollars based on the date of completion of the improvements;

''(6) in each case in which negotiations between the United States and a host government have resulted in an agreement for the payment to the United States by the host government of the value of improvements to an installation made by the United States, the amount of such payment, the form of such payment, and the expected date of such payment; and

''(7) efforts and progress toward achieving host nation offsets under section 1301(e) [106 Stat. 2545] and reduced end strength levels under section 1302 [set out above].

''(b) REPORT ON BUDGET IMPLICATIONS OF OVERSEAS BASING AGREEMENTS.—Whenever the Secretary of Defense enters into a basing agreement between the United States and a foreign country with respect to United States military forces outside the United States, the Secretary of Defense shall, in advance of the signing of the agreement, submit to the congressional defense committees a report on the Federal budget implications of the agreement.''

COMMISSION ON ASSIGNMENT OF WOMEN IN ARMED FORCES

Sections 541–550 of Pub. L. 102–190 provided for the creation of a Commission on the Assignment of Women in the Armed Forces to assess the laws and policies restricting the assignment of female service members and the implications, if any, for the combat readiness of the Armed Forces of permitting female members to qualify for assignment to positions in some or all categories of combat positions, with a report to be submitted to the President no later than Nov. 15, 1992, and to the Congress no later than Dec. 15, 1992, containing recommendations as to what roles female members should have in combat and what laws and policies restricting such assignments should be repealed or modified, and further provided for powers and procedures of the Commission, personnel matters, payment of Commission expenses and other miscellaneous administrative provisions, termination of the Commission 90 days after submission of its final report, and test assignments of female service members to combat positions.

REQUIREMENTS RELATING TO EUROPEAN MILITARY PROCUREMENT PRACTICES

Section 832 of Pub. L. 102–190 provided that:

''(a) EUROPEAN PROCUREMENT PRACTICES.—The Secretary of Defense shall—

''(1) compute the total value of American-made military goods and services procured each year by European governments or companies;

''(2) review defense procurement practices of European governments to determine what factors are considered in the selection of contractors and to determine whether American firms are discriminated against in the selection of contractors for purchases by such governments of military goods and services; and

''(3) establish a procedure for discussion with European governments about defense contract awards made by them that American firms believe were awarded unfairly.

''(b) DEFENSE TRADE AND COOPERATION WORKING GROUP.—The Secretary of Defense shall establish a defense trade and cooperation working group. The purpose of the group is to evaluate the impact of, and formulate United States positions on, European initiatives that affect United States defense trade, cooperation, and technology security. In carrying out the responsibilities of the working group, members of the group shall consult, as appropriate, with personnel in the Departments of State and Commerce and in the Office of the United States Trade Representative.

''(c) GAO REVIEW.—The Comptroller General shall conduct a review to determine how the members of the North Atlantic Treaty Organization are implementing their bilateral reciprocal defense procurement memoranda of understanding with the United States. The Comptroller General shall complete the review, and submit to Congress a report on the results of the review, not later than February 1, 1992.''

DEPARTMENT OF DEFENSE USE OF NATIONAL INTELLIGENCE COLLECTION SYSTEMS

Pub. L. 102–190, div. A, title IX, §924, Dec. 5, 1991, 105 Stat. 1454, provided that:

''(a) PROCEDURES FOR USE.—The Secretary of Defense, after consultation with the Director of Central Intelligence, shall prescribe procedures for regularly and periodically exercising national intelligence collection systems and exploitation organizations that would be used to provide intelligence support, including support of the combatant commands, during a war or threat to national security.

''(b) USE IN JOINT TRAINING EXERCISES.—In accordance with procedures prescribed under subsection (a), the Chairman of the Joint Chiefs of Staff shall provide for the use of the national intelligence collection systems and exploitation organizations in joint training exercises to the extent necessary to ensure that those systems and organizations are capable of providing intelligence support, including support of the combatant commands, during a war or threat to national security.

''(c) REPORT.—Not later than May 1, 1992, the Secretary of Defense and the Director of Central Intelligence shall submit to the congressional defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a joint report—

''(1) describing the procedures prescribed under subsection (a); and

''(2) stating the assessment of the Chairman of the Joint Chiefs of Staff of the performance in joint training exercises of the national intelligence collection systems and the Chairman's recommendations for any changes that the Chairman considers appropriate to improve that performance.''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

FAMILY SUPPORT CENTER FOR FAMILIES OF PRISONERS OF WAR AND PERSONS MISSING IN ACTION

Section 1083 of Pub. L. 102–190 provided that:

''(a) REQUEST FOR ESTABLISHMENT.—The President is authorized and requested to establish in the Department of Defense a family support center to provide information and assistance to members of the families of persons who at any time while members of the Armed Forces were classified as prisoners of war or missing in action in Southeast Asia and who have not been accounted for. Such a support center should be located in a facility in the National Capital region.

''(b) DUTIES.—The center should be organized and provided with such personnel as necessary to permit the center to assist family members referred to in subsection (a) in contacting the departments and agencies of the Federal Government having jurisdiction over matters relating to such persons.''

REPORTS ON FOREIGN CONTRIBUTIONS AND COSTS OF OPERATION DESERT STORM

Pub. L. 102–25, title IV, Apr. 6, 1991, 105 Stat. 99, directed Director of Office of Management and Budget to submit to Congress a number of reports on incremental

costs associated with Operation Desert Storm and amounts of contributions made to United States by foreign countries to offset those costs, with a final report due not later than Nov. 15, 1992, and directed Secretary of State and Secretary of the Treasury to jointly submit to Congress a number of reports on contributions made by foreign countries as part of international response to Persian Gulf crisis, with a final report due not later than Nov. 15, 1992.

CHILD CARE ASSISTANCE TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY DURING PERSIAN GULF CONFLICT

Pub. L. 102–25, title VI, § 601, Apr. 6, 1991, 105 Stat. 105, as amended by Pub. L. 102–190, div. A, title X, § 1063(d)(1), Dec. 5, 1991, 105 Stat. 1476; Pub. L. 102–484, div. A, title X, § 1053(8), Oct. 23, 1992, 106 Stat. 2502, authorized the Secretary of Defense to provide child care assistance for families of members of the Armed Forces and the National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm.

FAMILY EDUCATION AND SUPPORT SERVICES TO FAMILIES OF MEMBERS SERVING ON ACTIVE DUTY IN OPERATION DESERT STORM

Pub. L. 102–25, title VI, § 602, Apr. 6, 1991, 105 Stat. 106, as amended by Pub. L. 102–190, div. A, title X, § 1063(d)(2), Dec. 5, 1991, 105 Stat. 1476, authorized the Secretary of Defense to provide assistance to families of members of the Armed Forces and National Guard who had served on active duty during the Persian Gulf conflict in Operation Desert Storm in order to ensure that they would receive educational assistance and support services necessary to meet needs.

WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

Pub. L. 102–25, title VI, § 608, Apr. 6, 1991, 105 Stat. 112, provided that:

''(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act [Apr. 6, 1991], the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

''(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term 'nonpaying pledging nation' means a foreign nation that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

''(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

''(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States.''

PROGRAMMING LANGUAGE FOR DEPARTMENT OF DEFENSE SOFTWARE

Pub. L. 102–396, title IX, § 9070, Oct. 6, 1992, 106 Stat. 1918, provided that: ''Notwithstanding any other provision of law, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102–172, title VIII, § 8073, Nov. 26, 1991, 105 Stat. 1188.

Pub. L. 101–511, title VIII, § 8092, Nov. 5, 1990, 104 Stat. 1896.

CONTRIBUTIONS BY JAPAN TO SUPPORT OF UNITED STATES FORCES IN JAPAN

Pub. L. 101–511, title VIII, § 8105, Nov. 5, 1990, 104 Stat. 1902, as amended by Pub. L. 102–190, div. A, title X, § 1063(b), Dec. 5, 1991, 105 Stat. 1476, provided that:

''(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

''(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

''(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

''(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

''(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immediately informs Congress of the waiver and the reasons for the waiver.

''(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act [Nov. 5, 1990].''

Section 1455 of Pub. L. 101–510 provided that:

''(a) PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

''(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

''(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

''(2) It is the sense of Congress that—

''(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

''(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

''(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act [Nov. 5, 1990], the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States

military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

''(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

''(2) This section may be waived by the President if the President—

''(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

''(B) immediately informs the Congress of the waiver and the reasons for the waiver.''

NATIONAL MILITARY STRATEGY REPORTS

Pub. L. 101–510, div. A, title IX, §901, Nov. 5, 1990, 104 Stat. 1619, directed the Secretary of Defense to submit, with the Secretary's annual report to Congress during each of fiscal years 1992, 1993, and 1994, a report covering a period of at least ten years addressing threats facing the United States and strategic military plans to aid in the achievement of national objectives.

ANNUAL REPORT ON BALANCED TECHNOLOGY INITIATIVE

Section 211(e) of Pub. L. 101–189, which required Secretary of Defense to submit annual report to congressional defense committees on Balanced Technology Initiative, was repealed by Pub. L. 104–106, div. A, title X, §1061(*l*), Feb. 10, 1996, 110 Stat. 443.

MILITARY RELOCATION ASSISTANCE PROGRAMS

Section 661 of Pub. L. 101–189, which related to establishment by Secretary of Defense of programs to provide relocation assistance to members of Armed Forces and their families, was repealed and restated in section 1056 of this title by Pub. L. 101–510, div. A, title XIV, §1481(c)(1), (3), Nov. 5, 1990, 104 Stat. 1705.

MILITARY CHILD CARE

Title XV of div. A of Pub. L. 101–189, which provided that such title could be cited as the ''Military Child Care Act of 1989'', and which related to funding for military child care for fiscal year 1990, child care employees, parent fees, child abuse prevention and safety at facilities, parent partnerships with child development centers, report on 5-year demand for child care, subsidies for family home day care, early childhood education demonstration program, and deadline for regulations, was repealed and restated in subchapter II (§1791 et seq.) of chapter 88 of this title by Pub. L. 104–106, div. A, title V, §568(a)(1), (e)(2), Feb. 10, 1996, 110 Stat. 331, 336.

LEAD AGENCY FOR DETECTION OF TRANSIT OF ILLEGAL DRUGS

Section 1102 of Pub. L. 100–456, which designated the Department of Defense as the single lead agency of the Federal Government for detection and monitoring of aerial and maritime transit of illegal drugs into the United States, was repealed and restated as section 124 of this title by Pub. L. 101–189, §1202(a)(1), (b).

ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN PHILIPPINES

Section 1309 of Pub. L. 100–456 directed Secretary of Defense to submit to Congress annual reports assessing security at United States military facilities in Republic of Philippines, prior to repeal by Pub. L. 102–484, div. A, title X, §1074, Oct. 23, 1992, 106 Stat. 2511.

DEPARTMENT OF DEFENSE OVERSEAS PERSONNEL; ACTIONS RESULTING IN MORE BALANCED SHARING OF DEFENSE AND FOREIGN ASSISTANCE SPENDING BURDENS BY UNITED STATES AND ALLIES; REPORTS TO CONGRESS; LIMITATION ON ACTIVE DUTY ARMED FORCES MEMBERS IN JAPAN AND REPUBLIC OF KOREA

Pub. L. 100–463, title VIII, §8125, Oct. 1, 1988, 102 Stat. 2270–41, as amended by Pub. L. 101–189, div. A, title XVI, §1623, Nov. 29, 1989, 103 Stat. 1606; Pub. L. 103–236, title I, §162(j), Apr. 30, 1994, 108 Stat. 408; Pub. L. 104–106, div. A, title XV, §1502(f)(1), Feb. 10, 1996, 110 Stat. 509; Pub. L. 106–65, div. A, title X, §1067(14), Oct. 5, 1999, 113 Stat. 775, provided that:

''(a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

''(2) The report shall include a discussion of the following:

''(A) The current assignment of military missions among the member countries of NATO.

''(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

''(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

''(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assignment of military missions within NATO.

''(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assignment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

''[(c) Repealed. Pub. L. 103–236, title I, §162(j), Apr. 30, 1994, 108 Stat. 408.]

''(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in each budget submitted to Congress under section 1105 of title 31, United States Code, (1) the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and (2) the costs for all dependents who accompany Department of Defense personnel outside the Unied [sic] States.

''(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

''(f) As of September 30 of each fiscal year, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation in the preceding sentence may be increased if and when (1) a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and (2) the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

''(g)(1) After fiscal year 1990, budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989 and shall set forth a detailed description of (A) the types of

expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

''(2) The Secretary of Defense shall notify in advance the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives, through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore outside the United States will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs.

''(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

''(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and

''(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

''(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

''(i) In this section—

''(1) the term 'personnel' means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

''(2) the term 'Department of Defense overseas personnel' means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

''(3) the term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.''

ANNUAL REPORT ON COSTS OF STATIONING UNITED STATES TROOPS OVERSEAS

Pub. L. 100–202, § 101(b) [title VIII, § 8042], Dec. 22, 1987, 101 Stat. 1329–43, 1329–69, which required Secretary of Defense to submit annual report on full costs of stationing United States troops overseas, etc., was repealed and restated in subsec. (k) [now (j)] of this section by Pub. L. 100–370, § 1(*o*).

REGULATIONS REGARDING EMPLOYMENT AND VOLUNTEER WORK OF SPOUSES OF MILITARY PERSONNEL

Section 637 of Pub. L. 100–180 provided that: ''Not later than 60 days after the date of the enactment of this Act [Dec. 4, 1987], the Secretary of Defense shall prescribe regulations to establish the policy that—

''(1) the decision by a spouse of a member of the Armed Forces to be employed or to voluntarily participate in activities relating to the Armed Forces should not be influenced by the preferences or requirements of the Armed Forces; and

''(2) neither such decision nor the marital status of a member of the Armed Forces should have an effect on the assignment or promotion opportunities of the member.''

TEST PROGRAM FOR REIMBURSEMENT FOR ADOPTION EXPENSES

Section 638 of Pub. L. 100–180, as amended by Pub. L. 101–189, div. A, title VI, § 662, Nov. 29, 1989, 103 Stat. 1465; Pub. L. 101–510, div. A, title XIV, § 1484(*l*)(1), Nov. 5, 1990, 104 Stat. 1719, provided that the Secretary of Defense, with respect to members of the Armed Forces, and the Secretary of Transportation, with respect to members of the Coast Guard, were to carry out a test program providing for reimbursement for qualifying adoption expenses incurred by members of the Army, Navy, Air Force, or Marine Corps for adoption proceedings inititated after September 30, 1987, and before October 1, 1990, and for qualifying adoption expenses incurred by members of the Coast Guard for adoption proceedings inititated after September 30, 1989, and before October 1, 1990.

COUNTERINTELLIGENCE POLYGRAPH PROGRAM

Pub. L. 100–180, div. A, title XI, § 1121, Dec. 4, 1987, 101 Stat. 1147, as amended by Pub. L. 105–85, div. A, title X, § 1073(d)(5), Nov. 18, 1997, 111 Stat. 1906, which provided for a counterintelligence polygraph program to be carried out by the Secretary of Defense, was repealed and restated in section 1564a of this title by Pub. L. 108–136, div. A, title X, § 1041(a)(1),(b), Nov. 24, 2003, 117 Stat. 1607, 1608.

COORDINATION OF PERMANENT CHANGE OF STATION MOVES WITH SCHOOL YEAR

Pub. L. 99–661, div. A, title VI, § 612, Nov. 14, 1986, 100 Stat. 3878, provided that: ''The Secretary of each military department shall establish procedures to ensure that, to the maximum extent practicable within operational and other military requirements, permanent change of station moves for members of the Armed Forces under the jurisdiction of the Secretary who have dependents in elementary or secondary school occur at times that avoid disruption of the school schedules of such dependents.''

COMPARABLE BUDGETING FOR SIMILAR SYSTEMS

Pub. L. 99–500, § 101(c) [title X, § 955], Oct. 18, 1986, 100 Stat. 1783–82, 1783–173, and Pub. L. 99–591, § 101(c) [title X, § 955], Oct. 30, 1986, 100 Stat. 3341–82, 3341–173; Pub. L. 99–661, div. A, title IX, formerly title IV, § 955, Nov. 14, 1986, 100 Stat. 3953, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273, which provided that in preparing the defense budget for any fiscal year, the Secretary of Defense was to specifically identify each common procurement weapon system included in the budget, take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system, and identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems, and that the Secretary of Defense carry out this section through the Assistant Secretary of Defense (Comptroller), was repealed and restated in section 2217 of this title by Pub. L. 100–370, § 1(d)(3).

ANNUAL REPORT TO CONGRESS ON IMPLEMENTATION OF JOINT OFFICER PERSONNEL POLICY

Pub. L. 99–433, title IV, § 405, Oct. 1, 1986, 100 Stat. 1032, required the Secretary of Defense to include in the Secretary's annual report to Congress under subsec. (c) of this section for each year from 1987 through 1991 a detailed report on the implementation of title IV of Pub. L. 99–433.

INITIAL REPORT TO CONGRESS

Pub. L. 99–433, title IV, § 406(g), Oct. 1, 1986, 100 Stat. 1034, required that the first report submitted by the Secretary of Defense under subsec. (c) of this section after Oct. 1, 1986, would contain as much of the information required by section 667 of this title as had been available to the Secretary at the time of its preparation.

SECURITY AT MILITARY BASES ABROAD

Pub. L. 99–399, title XI, Aug. 27, 1986, 100 Stat. 894, directed the Secretary of Defense to report to Congress

not later than June 30, 1987, on actions taken to review the security of each base and installation of the Department of Defense outside the United States, to improve the security of such bases and installations, and to institute a training program for members of the Armed Forces stationed outside the United States and their families concerning security and antiterrorism.

SURCHARGE FOR SALES BY ANIMAL DISEASE PREVENTION AND CONTROL CENTERS; FEE FOR VETERINARY SERVICES

Pub. L. 99–145, title VI, §685(a), (b), (d), Nov. 8, 1985, 99 Stat. 666, provided that:

''(a) REQUIRED SURCHARGE.—The Secretary of Defense shall require that each time a sale is recorded at a military animal disease prevention and control center the person to whom the sale is made shall be charged a surcharge of $2.

''(b) DEPOSIT OF RECEIPTS IN TREASURY.—Amounts received from surcharges under this section shall be deposited in the Treasury in accordance with section 3302 of title 31.''

''(d) EFFECTIVE DATE.—This section shall take effect on October 1, 1985.''

Pub. L. 98–94, title X, §1033, Sept. 24, 1983, 97 Stat. 672, as amended by Pub. L. 98–525, title VI, §656, Oct. 19, 1984, 98 Stat. 2553, effective Oct. 1, 1985, required payment by a member of the Armed Forces of a $10 fee for veterinary services, prior to repeal by Pub. L. 99–145, title VI, §685(c), (d), Nov. 8, 1985, 99 Stat. 666, effective Oct. 1, 1985.

MILITARY FAMILY POLICY AND PROGRAMS

Pub. L. 99–145, title VIII, Nov. 8, 1985, 99 Stat. 678, as amended by Pub. L. 99–661, div. A, title VI, §653, Nov. 14, 1986, 100 Stat. 3890; Pub. L. 100–180, div. A, title VI, §635, Dec. 4, 1987, 101 Stat. 1106; Pub. L. 100–456, div. A, title V, §524, Sept. 29, 1988, 102 Stat. 1975, which provided that such title could be cited as the ''Military Family Act of 1985'', and which related to Office of Family Policy, transfer of Military Family Resource Center, surveys of military families, family members serving on advisory committees, employment opportunities for military spouses, youth sponsorship program, dependent student travel within United States, relocation and housing, food programs, reporting of child abuse, miscellaneous reporting requirements, and effective date, was repealed and restated in subchapter I (§1781 et seq.) of chapter 88 of this title by Pub. L. 104–106, div. A, title V, §568(a)(1), (e)(1), Feb. 10, 1996, 110 Stat. 329, 336.

ACADEMIC INSTITUTIONS ELIGIBLE TO PROVIDE EDUCATIONAL SERVICES; PROHIBITION OF CERTAIN RESTRICTIONS

Pub. L. 99–145, title XII, §1212, Nov. 8, 1985, 99 Stat. 726, as amended by Pub. L. 101–189, div. A, title V, §518, Nov. 29, 1989, 103 Stat. 1443, provided that:

''(a) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees may discriminate against or preclude any accredited academic institution authorized to award one or more associate degrees from offering courses within its lawful scope of authority solely on the basis of such institution's lack of authority to award a baccalaureate degree.

''(b) No solicitation, contract, or agreement for the provision of off-duty postsecondary education services for members of the Armed Forces of the United States, civilian employees of the Department of Defense, or the dependents of such members or employees, other than those for services at the graduate or postgraduate level, may limit the offering of such services or any group, category, or level of courses to a single academic institution. However, nothing in this section shall prohibit such actions taken in accordance with regulations of the Secretary of Defense which are uniform for all armed services as may be necessary to avoid unnecessary duplication of offerings, consistent with the purpose of this provision of ensuring the availability of alternative offerors of such services to the maximum extent feasible.

''(c)(1) The Secretary of Defense shall conduct a study to determine the current and future needs of members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees for postsecondary education services at overseas locations. The Secretary shall determine on the basis of the results of that study whether the policies and procedures of the Department in effect on the date of the enactment of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991 [probably means date of enactment of Pub. L. 101–189, Nov. 29, 1989] with respect to the procurement of such services are—

''(A) consistent with the provisions of subsections (a) and (b);

''(B) adequate to ensure the recipients of such services the benefit of a choice in the offering of such services; and

''(C) adequate to ensure that persons stationed at geographically isolated military installations or at installations with small complements of military personnel are adequately served.

The Secretary shall complete the study in such time as necessary to enable the Secretary to submit the report required by paragraph (2)(A) by the deadline specified in that paragraph.

''(2)(A) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study referred to in paragraph (1), together with a copy of any revisions in policies and procedures made as a result of such study. The report shall be submitted not later than March 1, 1990.

''(B) The Secretary shall include in the report an explanation of how determinations are made with regard to—

''(i) affording members, employees, and dependents a choice in the offering of courses of postsecondary education; and

''(ii) whether the services provided under a contract for such services should be limited to an installation, theater, or other geographic area.

''(3)(A) Except as provided in subparagraph (B), no contract for the provision of services referred to in subsection (a) may be awarded, and no contract or agreement entered into before the date of the enactment of this paragraph [Nov. 29, 1989] may be renewed or extended on or after such date, until the end of the 60-day period beginning on the date on which the report referred to in paragraph (2)(A) is received by the committees named in that paragraph.

''(B) A contract or an agreement in effect on October 1, 1989, for the provision of postsecondary education services in the European Theater for members of the Armed Forces, civilian employees of the Department of Defense, and the dependents of such members and employees may be renewed or extended without regard to the limitation in subparagraph (A).

''(C) In the case of a contract for services with respect to which a solicitation is pending on the date of the enactment of this paragraph [Nov. 29, 1989], the contract may be awarded—

''(i) on the basis of the solicitation as issued before the date of the enactment of this paragraph;

''(ii) on the basis of the solicitation issued before the date of the enactment of this paragraph modified so as to conform to any changes in policies and procedures the Secretary determines should be made as a result of the study required under paragraph (1); or

''(iii) on the basis of a new solicitation.

''(d) Nothing in this section shall be construed to require more than one academic institution to be authorized to offer courses aboard a particular naval vessel.''

REPORT OF UNOBLIGATED BALANCES

Pub. L. 99–145, title XIV, §1407, Nov. 8, 1985, 99 Stat. 745, required reports on unobligated balances, prior to

repeal by Pub. L. 99–661, div. A, title XIII, § 1307(b), Nov. 14, 1986, 100 Stat. 3981. See section 2215 of this title.

DEFENSE INDUSTRIAL BASE FOR TEXTILE AND APPAREL PRODUCTS

Pub. L. 99–145, title XIV, § 1456, Nov. 8, 1985, 99 Stat. 762, which directed Secretary of Defense to monitor capability of domestic textile and apparel industrial base to support defense mobilization requirements and to make annual reports to Congress on status of such industrial base, was repealed and restated in section 2510 of this title by Pub. L. 101–510, § 826(a)(1), (b).

HOTLINE BETWEEN UNITED STATES AND SOVIET UNION

Pub. L. 99–85, Aug. 8, 1985, 99 Stat. 286, as amended by Pub. L. 103–199, title IV, § 404(a), Dec. 17, 1993, 107 Stat. 2325, provided: ''That the Secretary of Defense may provide to Russia, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Russian part of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to Russia at the cost thereof to the United States.

''SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

''(b) Funds received from Russia as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.''

[Pub. L. 103–199, title IV, § 404(b), Dec. 17, 1993, 107 Stat. 2325, provided that: ''The amendment made by subsection (a)(2) [amending section 2(b) of Pub. L. 99–85, set out above] does not affect the applicability of section 2(b) of that joint resolution to funds received from the Soviet Union.'']

CONSOLIDATION OF FUNCTIONS OF MILITARY TRANSPORTATION COMMANDS PROHIBITED

Pub. L. 97–252, title XI, § 1110, Sept. 8, 1982, 96 Stat. 747, provided that none of funds appropriated pursuant to an authorization of appropriations could be used for purpose of consolidating any functions being performed on Sept. 8, 1982, by Military Traffic Management Command of Army, Military Sealift Command of Navy, or Military Airlift Command of Air Force with any function being performed on such date by either or both of the other commands, prior to repeal by Pub. L. 99–433, title II, § 213(a), Oct. 1, 1986, 100 Stat. 1018.

REPORTS TO CONGRESS ON RECOMMENDATIONS WITH RESPECT TO ELIMINATION OF WASTE, FRAUD, ABUSE, AND MISMANAGEMENT IN DEPARTMENT OF DEFENSE

Pub. L. 97–86, title IX, § 918, Dec. 1, 1981, 95 Stat. 1132, directed Secretary of Defense, not later than Jan. 15, 1982 and 1983, to submit to Congress reports containing recommendations to improve efficiency and management of, and to eliminate waste, fraud, abuse, and mismanagement in, operation of Department of Defense, and to include each recommendation by Comptroller General since Jan. 1, 1979, for elimination of waste, fraud, abuse, or mismanagement in Department of Defense with a statement as to which have been adopted and, to extent practicable actual and projected cost savings from each, and which have not been adopted and, to extent practicable, projected cost savings from each and an explanation of why each such recommendation was not adopted.

MILITARY INSTALLATIONS TO BE CLOSED IN UNITED STATES, GUAM, OR PUERTO RICO; STUDIES TO DETERMINE POTENTIAL USE

Pub. L. 94–431, title VI, § 610, Sept. 30, 1976, 90 Stat. 1365, authorized Secretary of Defense to conduct studies with regard to possible use of military installations being closed and to make recommendations with regard to such installations, prior to repeal by Pub. L. 97–86, title IX, § 912(b), Dec. 1, 1981, 95 Stat. 1123. See section 2391 of this title.

REPORTS TO CONGRESSIONAL COMMITTEES ON FOREIGN POLICY AND MILITARY FORCE STRUCTURE

Pub. L. 94–106, title VIII, § 812, Oct. 7, 1975, 89 Stat. 540, which directed Secretary of Defense, after consultation with Secretary of State, to prepare and submit not later than January 31 of each year to Committees on Armed Services of Senate and House of Representatives a written annual report on foreign policy and military force structure of United States for next fiscal year, how such policy and force structure relate to each other, and justification for each, was repealed and restated as subsec. (e) of section 133 [now § 113] of this title by Pub. L. 97–295, §§ 1(1), 6(b).

REPORT TO CONGRESS ON SALE OR TRANSFER OF DEFENSE ARTICLES

Pub. L. 94–106, title VIII, § 813, Oct. 7, 1975, 89 Stat. 540, as amended by Pub. L. 95–79, title VIII, § 814, July 30, 1977, 91 Stat. 337; Pub. L. 97–252, title XI, § 1104, Sept. 8, 1982, 96 Stat. 739, which directed Secretary of Defense to report to Congress on any letter proposing to transfer $50,000,000 or more of defense articles, detailing impact of such a sale on readiness, adequacy of price for replacement, and armed forces needs and supply for each article, was repealed and restated as section 133b (renumbered § 118 and repealed) of this title by Pub. L. 97–295, §§ 1(2)(A), 6(b).

PROCUREMENT OF AIRCRAFT, MISSILES, NAVAL VESSELS, TRACKED COMBAT VEHICLES, AND OTHER WEAPONS; AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT, RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES; SELECTED RESERVE OF RESERVE COMPONENTS: ANNUAL AUTHORIZATION OF PERSONNEL STRENGTH

Section 412 of Pub. L. 86–149, title IV, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87–436, § 2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88–174, title VI, § 610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89–37, title III, § 304, June 11, 1965, 79 Stat. 128; Pub. L. 90–168, § 6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91–121, title IV, § 405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–441, title V, §§ 505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92–129, title VII, § 701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92–436, title III, § 302, title VI, § 604, Sept. 26, 1972, 86 Stat. 736, 739, was repealed by Pub. L. 93–155, title VIII, § 803(b)(1), Nov. 16, 1973, 87 Stat. 615. See sections 114 to 116 of this title.

EX. ORD. NO. 12765. DELEGATION OF CERTAIN DEFENSE RELATED AUTHORITIES OF PRESIDENT TO SECRETARY OF DEFENSE

Ex. Ord. No. 12765, June 11, 1991, 56 F.R. 27401, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3 of the United States Code, and my authority as Commander in Chief of the Armed Forces of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 749 of title 10 of the United States Code to assign the command without regard to rank in grade to any commissioned officer otherwise eligible to command when two or more commissioned officers of the same grade or corresponding grades are assigned to the same area, field command, or organization.

SEC. 2. The Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7299a(a) of title 10 of

the United States Code to direct that combatant vessels and escort vessels be constructed in a Navy or private yard, as the case may be, if the requirement of the Act of March 27, 1934 (ch. 95, 48 Stat. 503) that the first and each succeeding alternate vessel of the same class be constructed in a Navy yard is inconsistent with the public interest.

SEC. 3. For vessels, and for any major component of the hull or superstructure of vessels to be constructed or repaired for any of the armed forces, the Secretary of Defense is hereby designated and empowered, without the approval, ratification, or other action by the President, to exercise the authority vested in the President by section 7309(b) of title 10 of the United States Code to authorize exceptions to the prohibition in section 7309(a) of title 10 of the United States Code. Such exceptions shall be based on a determination that it is in the national security interest of the United States to authorize an exception. The Secretary of Defense shall transmit notice of any such determination to the Congress, as required by section 7309(b).

SEC. 4. The Secretary of Defense may redelegate the authority delegated to him by this order, in accordance with applicable law.

SEC. 5. This order shall be effective immediately.

GEORGE BUSH.

WAIVER OF LIMITATION WITH RESPECT TO END STRENGTH LEVEL OF U.S. ARMED FORCES IN JAPAN FOR FISCAL YEAR 1991

Memorandum of the President of the United States, May 14, 1991, 56 F.R. 23991, provided:

Memorandum for the Secretary of Defense

Consistent with section 8105(d)(2) of the Department of Defense Appropriation Act, 1991 (Public Law 101–511; 104 Stat. 1856) [set out above], I hereby waive the limitation in section 8105(b) which states that the end strength level for each fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year, and declare that it is in the national interest to do so.

You are authorized and directed to inform the Congress of this waiver and of the reasons for the waiver contained in the attached justification, and to publish this memorandum in the Federal Register.

GEORGE BUSH.

JUSTIFICATION PURSUANT TO SECTION 8105(d)(2) OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1991 (PUBLIC LAW NO. 101–511; 104 STAT. 1856)

In January of this year the Department of Defense signed a new Host Nation Support Agreement with the Government of Japan in which that government agreed to pay all utility and Japanese labor costs incrementally over the next five years (worth $1.7 billion). Because United States forward deployed forces stationed in Japan have regional missions in addition to the defense of Japan, we did not seek to have the Government of Japan offset all of the direct costs incurred by the United States related to the presence of all United States military personnel in Japan (excluding military personnel title costs).

§113a. Transmission of annual defense authorization request

(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term ''defense authorization request'', with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

(3) Authority to carry out military construction projects, as required by section 2802 of this title.

(4) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.

(Added Pub. L. 107–314, div. A, title X, §1061(a), Dec. 2, 2002, 116 Stat. 2649; amended Pub. L. 108–136, div. A, title X, §1044(a), Nov. 24, 2003, 117 Stat. 1612.)

AMENDMENTS

2003—Subsec. (b)(3), (4). Pub. L. 108–136 added par. (3) and redesignated former par. (3) as (4).

§114. Annual authorization of appropriations

(a) No funds may be appropriated for any fiscal year to or for the use of any armed force or obligated or expended for—

(1) procurement of aircraft, missiles, or naval vessels;

(2) any research, development, test, or evaluation, or procurement or production related thereto;

(3) procurement of tracked combat vehicles;

(4) procurement of other weapons;

(5) procurement of naval torpedoes and related support equipment;

(6) military construction;

(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);

(8) procurement of ammunition; or

(9) other procurement by any armed force or by the activities and agencies of the Department of Defense (other than the military departments);

unless funds therefor have been specifically authorized by law.

(b) In subsection (a)(6), the term ''military construction'' includes any construction, development, conversion, or extension of any kind which is carried out with respect to any military facility or installation (including any Government-owned or Government-leased industrial facility used for the production of defense articles and any facility to which section 2353 of this title applies), any activity to which section 2807 of this title applies, any activity to which chapter 1803 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23. Such term does not include any activity to which section 2821 or 2854 of this title applies.

(c)(1) The size of the Special Defense Acquisition Fund established pursuant to chapter 5 of the Arms Export Control Act (22 U.S.C. 2795 et seq.) may not exceed $1,070,000,000.

(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to sub-

paragraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.

(d) Funds may be appropriated for the armed forces for use as an emergency fund for research, development, test, and evaluation, or related procurement or production, only if the appropriation of the funds is authorized by law after June 30, 1966.

(e) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of equipment for the reserve components of the armed forces (including the National Guard) shall be set forth separately from other amounts requested for procurement for the armed forces.

(f) In each budget submitted by the President to Congress under section 1105 of title 31, amounts requested for procurement of ammunition for the Navy and Marine Corps, and for procurement of ammunition for the Air Force, shall be set forth separately from other amounts requested for procurement.

(Added Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, § 138; amended Pub. L. 94–106, title VIII, § 801(a), Oct. 7, 1975, 89 Stat. 537; Pub. L. 94–361, title III, § 302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, § 303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–342, title X, § 1001(a)(1), (b)–(d)(1), Sept. 8, 1980, 94 Stat. 1117–1119; Pub. L. 96–513, title I, § 102, title V, § 511(4), Dec. 12, 1980, 94 Stat. 2840, 2920; Pub. L. 97–22, § 2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title III, § 302, title IX, §§ 901(a), 902, 903, Dec. 1, 1981, 95 Stat. 1104, 1113, 1114; Pub. L. 97–113, title I, § 108(b), Dec. 29, 1981, 95 Stat. 1524; Pub. L. 97–214, § 4, July 12, 1982, 96 Stat. 170; Pub. L. 97–252, title IV, § 402(a), title XI, §§ 1103, 1105, Sept. 8, 1982, 96 Stat. 725, 738, 739; Pub. L. 97–295, § 1(3), (4), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 98–525, title XIV, § 1405(2), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99–145, title XII, § 1208, title XIV, § 1403, Nov. 8, 1985, 99 Stat. 723, 743; renumbered § 114 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 110(b)(1)–(9), (11), Oct. 1, 1986, 100 Stat. 994, 1001, 1002; Pub. L. 99–661, div. A, title I, § 105(d), title XIII, § 1304(a), Nov. 14, 1986, 100 Stat. 3827, 3979; Pub. L. 100–26, § 7(j)(1), Apr. 21, 1987, 101 Stat. 282; Pub. L. 100–180, div. A, title XII, § 1203, Dec. 4, 1987, 101 Stat. 1154; Pub. L. 101–189, div. A, title XVI, § 1602(b), Nov. 29, 1989, 103 Stat. 1597; Pub. L. 101–510, div. A, title XIV, § 1481(a)(1), Nov. 5, 1990, 104 Stat. 1704; Pub. L. 104–106, div. A, title XV, § 1501(c)(2), Feb. 10, 1996, 110 Stat. 498; Pub. L. 104–201, div. A, title X, § 1005, Sept. 23, 1996, 110 Stat. 2632.)

HISTORICAL AND REVISION NOTES
1982 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
138(c)(5) ..	10:138 (note).	Aug. 5, 1974, Pub. L. 93–365, § 502, 88 Stat. 404.

HISTORICAL AND REVISION NOTES—CONTINUED
1982 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
138(i)	10:135 (note).	June 11, 1965, Pub. L. 89–37, § 305, 79 Stat. 128.

In subsection (c)(5), the words ''It is the sense of Congress that'' are omitted as unnecessary. The words ''Secretary of Defense'' are substituted for ''Department of Defense'' the first time it appears because the responsibility is in the head of the agency. The word ''Therefore'' is omitted as surplus. The word ''complete'' is substituted for ''full'', and the word ''personnel'' is substituted for ''manpower'' except in the phrase ''manpower requirements'', for consistency.

In subsection (i), the words ''may be . . . only if'' are substituted for ''No . . . may be . . . unless'' to use the positive voice. The words ''after June 30, 1966'' are substituted for ''after that date'' for clarity.

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (c), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended. Chapter 5 of the Arms Export Control Act is classified generally to subchapter V (§ 2795 et seq.) of chapter 39 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

PRIOR PROVISIONS

Provisions similar to those in subsec. (c)(2) of this section were contained in Pub. L. 101–165, title IX, § 9017, Nov. 21, 1989, 103 Stat. 1133, which was set out as a note below, prior to repeal by Pub. L. 101–510, § 1481(a)(2).

Prior similar provisions were contained in Pub. L. 86–149, title IV, § 412, Aug. 10, 1959, 73 Stat. 322, as amended by Pub. L. 87–436, § 2, Apr. 27, 1962, 76 Stat. 55; Pub. L. 88–174, title VI, § 610, Nov. 7, 1963, 77 Stat. 329; Pub. L. 89–37, title III, § 304, June 11, 1965, 79 Stat. 128; Pub. L. 90–168, § 6, Dec. 1, 1967, 81 Stat. 526; Pub. L. 91–121, title IV, § 405, Nov. 19, 1969, 83 Stat. 207; Pub. L. 91–441, title V, §§ 505, 509, Oct. 7, 1970, 84 Stat. 912, 913; Pub. L. 92–129, title VII, § 701, Sept. 28, 1971, 85 Stat. 362; Pub. L. 92–436, title III, § 302, title VI, § 604, Sept. 26, 1972, 86 Stat. 736, 739, prior to repeal by Pub. L. 93–155, § 803(b)(1).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted ''chapter 1803'' for ''chapter 133''.

Subsec. (f). Pub. L. 104–201 added subsec. (f).

1990—Subsec. (c). Pub. L. 101–510 designated existing provisions as par. (1) and added par. (2).

1989—Subsecs. (f), (g). Pub. L. 101–189 struck out subsecs. (f) and (g) which read as follows:

''(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

''(g) The Secretary of Defense shall submit to Congress not later than April 1 of each year, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget to support programs, projects, and activities of the Department of Defense.''

1987—Subsec. (e). Pub. L. 100–26 redesignated subsec. (f) as (e).

Subsec. (f). Pub. L. 100–180 added subsec. (f).

Pub. L. 100–26, §7(j)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 100–180, §1203, added subsec. (g).

1986—Pub. L. 99–433, §101(a)(2), renumbered section 138 of this title as this section.

Pub. L. 99–433, §110(b)(1), struck out ''and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports'' at end of section catchline.

Subsec. (a)(6). Pub. L. 99–433, §110(b)(3), struck out ''(as defined in subsection (f))'' after ''military construction''.

Subsec. (b). Pub. L. 99–433, §110(b)(4), (5), (8), redesignated subsec. (f)(1) as (b). Former subsec. (b) redesignated section 115(a) of this title.

Subsec. (c). Pub. L. 99–661, §1304(a), substituted ''$1,070,000,000'' for ''$1,000,000,000''.

Pub. L. 99–433, §110(b)(4), (5), (11), redesignated subsec. (g) as (c). Former subsec. (c) redesignated section 115(b) of this title.

Subsec. (d). Pub. L. 99–433, §110(b)(4), (5), (11), redesignated subsec. (i) as (d). Former subsec. (d) redesignated section 115(c) of this title.

Subsec. (e). Pub. L. 99–433, §110(b)(6), (7), redesignated subsec. (e) as section 116(a) of this title.

Subsec. (f). Pub. L. 99–661, §105(d), added subsec. (f).

Subsec. (f)(1). Pub. L. 99–433, §110(b)(8), redesignated subsec. (f)(1) as (b).

Subsec. (f)(2). Pub. L. 99–433, §110(b)(9), redesignated subsec. (f)(2) as section 116(b) of this title.

Subsec. (g). Pub. L. 99–433, §110(b)(11), redesignated subsec. (g) as (c).

Subsec. (h). Pub. L. 99–433, §110(b)(2), redesignated subsec. (h) as section 113(i) of this title.

Subsec. (i). Pub. L. 99–433, §110(b)(11), redesignated subsec. (i) as (d).

1985—Subsec. (b)(3). Pub. L. 99–145, §1208, added par. (3).

Subsec. (g). Pub. L. 99–145, §1403, substituted ''$1,000,000,000'' for ''$300,000,000 in fiscal year 1982, may not exceed $600,000,000 in fiscal year 1983, and may not exceed $900,000,000 in fiscal year 1984 or any fiscal year thereafter''.

1984—Subsec. (g). Pub. L. 98–525 inserted ''(22 U.S.C. 2795 et seq.)''.

1982—Subsec. (c)(1)(A). Pub. L. 97–252, §402(a), authorized increase in fiscal year end-strength authorizations determined by the Secretary of Defense to be in the national interest.

Subsec. (c)(5). Pub. L. 97–295, §1(3), added par. (5).

Subsec. (f)(1). Pub. L. 97–214 substituted '', any activity to which section 2807 of this title applies, any activity to which chapter 133 of this title applies, and advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23'' for ''but excludes any activity to which section 2673 or 2674, or chapter 133, of this title apply, or to which section 406(a) of Public Law 85–241 (42 U.S.C. 1594i) applies'' and inserted provision that ''military construction'' does not include any activity to which section 2821 or 2854 of this title applies.

Subsec. (g). Pub. L. 97–252, §1103, limited size of Special Defense Acquisition Fund to $600,000,000 in fiscal year 1983, striking out such sum as a limit in any fiscal year thereafter, and limited size of Fund to $900,000,000 in fiscal year 1984 or any fiscal year thereafter.

Subsec. (h). Pub. L. 97–252, §1105, added subsec. (h).

Subsec. (i). Pub. L. 97–295, §1(4), added subsec. (i).

1981—Subsec. (a)(8), (9). Pub. L. 97–86, §901(a), added pars. (8) and (9).

Subsec. (b). Pub. L. 97–86, §902, designated existing provisions as par. (1), substituted ''authorize the average personnel strength'' for ''authorize the personnel strength'', and added par. (2).

Subsec. (c)(3)(D)(iii)(I). Pub. L. 97–22 struck out ''and active military service'' after ''active commissioned service''.

Subsec. (c)(4). Pub. L. 97–86, §903, added par. (4).

Subsec. (e)(3), (4). Pub. L. 97–86, §302, struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

Subsec. (g). Pub. L. 97–113 added subsec. (g).

1980—Pub. L. 96–342, §1001(d)(1), substituted ''Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports'' for ''Secretary of Defense: Annual authorization of appropriations for armed forces'' in section catchline.

Subsec. (a). Pub. L. 96–342, §1001(a)(1), (b)(1), in cl. (6) substituted reference to subsec. (f) for reference to subsec. (e), and added cl. (7).

Subsec. (c)(1). Pub. L. 96–513, §102(a), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (c)(3)(D). Pub. L. 96–513, §102(b), substituted provisions relating to expanded coverage in the annual report of the Secretary of Defense for provisions under which the report had formerly covered only the estimated requirements in members on active duty during the next fiscal year, the estimated number of commissioned officers in each grade on active duty and to be promoted during the next fiscal year, and an analysis of the distribution by grade of commissioned officers on active duty at the time the report was prepared.

Subsec. (e). Pub. L. 96–342, §1001(b)(2), (3), added subsec. (e). Former subsec. (e) redesignated (f)(1).

Subsec. (f). Pub. L. 96–513, §511(4), substituted ''(42 U.S.C. 1594i)'' for ''(71 Stat. 556)'' in par. (1), and substituted ''In subsection (e)'' for ''In subsection (f)'' in par. (2).

Pub. L. 96–342, §1001(b)(2), (c), redesignated subsec. (e) as (f), substituted ''(1) In subsection (a)(6)'' for ''For purposes of subsection (a)(6) of this section'', and added par. (2).

1979—Subsec. (c)(3). Pub. L. 96–107 restructured existing provisions into subpars. (A) to (C) with minor changes in phraseology and added subpar. (D).

1976—Subsec. (c)(3). Pub. L. 94–361 required the report to Congress to identify, define, and group by mission and by region the types of military bases, installations, and facilities and to provide an explanation and justification of the relationship between the base structure and the proposed military force structure together with a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce the costs.

1975—Subsec. (a)(6). Pub. L. 94–106, §801(a)(1), added par. (6).

Subsec. (e). Pub. L. 94–106, §801(a)(2), added subsec. (e).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

EFFECTIVE DATE OF 1982 AMENDMENTS

Section 402(b) of Pub. L. 97–252 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981.''

Amendment by Pub. L. 97–214 applicable with respect to funds appropriated for fiscal years beginning after Sept. 30, 1983, see section 12(b) of Pub. L. 97–214, set out as a note under section 2801 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 901(b) of Pub. L. 97–86 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1982.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by section 102 of Pub. L. 96–513 effective Sept. 15, 1981, but the authority to prescribe regula-

tions under the amendment by Pub. L. 96–513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

Amendment by section 511(4) of Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

Section 1001(a)(2) of Pub. L. 96–342 provided that: ''The amendments made by paragraph (1) [amending this section] shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.''

APPLICABILITY OF PROVISIONS RELATING TO FUNDS NOT HERETOFORE REQUIRED TO BE AUTHORIZED

Section 801(b) of Pub. L. 94–106 provided that: ''The amendment provided by paragraph (2) of subsection (a) above [enacting subsec. (e) of this section] with respect to funds not heretofore required to be authorized shall only apply to funds authorized for appropriation for fiscal year 1977 and thereafter.''

AVAILABILITY OF APPROPRIATIONS

Pub. L. 101–165, title IX, § 9017, Nov. 21, 1989, 103 Stat. 1133, which prohibited funding to be used for planning or executing programs which utilized amounts credited to the Department of Defense pursuant to section 2777(a) of Title 22, Foreign Relations and Intercourse, was repealed and restated in subsec. (c)(2) of this section by Pub. L. 101–510, div. A, title XIV, § 1481(a), Nov. 5, 1990, 104 Stat. 1704.

The following general provisions, which had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1986, Pub. L. 99–190, § 101(b) [title VIII, §§ 8005, 8006, 8009], Dec. 19, 1985, 99 Stat. 1185, 1202, 1203, 1204:

''SEC. 8005. [Authorized use of appropriated funds for expenses in connection with administration of occupied areas; payment of rewards for information leading to discovery of missing naval property or recovery thereof; payment of deficiency judgments and interests thereon arising out of condemnation proceedings; leasing of buildings and facilities; payments under contracts for maintenance of tools and facilities for twelve months; maintenance of defense access roads; purchase of milk for enlisted personnel; payments under leases for real or personal property, including maintenance; purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle; payment of unusual cost overruns incident to ship overhaul, maintenance, and repair; payments from annual appropriations to industrial fund activities and/or under contract for changes in scope of ship overhaul, maintenance, and repair after expiration of such appropriations; and payments for depot maintenance contracts for twelve months; and was repealed and (except for section 8005(e)) restated in sections 2242(2), 2252, 2253(a)(2), 2389(b), 2410a, 2661(b), and 7313 of this title by Pub. L. 100–370, § 1(e)(1), (h)(1), (2), (*l*)(3), (n)(1), (p)(3), July 19, 1988, 102 Stat. 844, 847, 849–851. Section 8005(c) was not restated in view of section 2676(e) [now 2664(e)] of this title.]

''SEC. 8006. [Authorized use of appropriated funds for military courts, boards, and commissions; utility services for buildings erected at private cost and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; and exchange fees, and losses in accounts of disbursing officers or agents; and was repealed and restated in sections 2242(3), 2490, and 2781 of this title by Pub. L. 100–370, § 1(e)(1), (j)(1), (m)(1), (p)(3), July 19, 1988, 102 Stat. 844, 848, 849, 851.]

''SEC. 8009. [Provided for exemption from apportionment requirement; exceptions for cost of airborne alerts and cost of increased military personnel on active duty; and for reports to Congress; and was repealed and restated in section 2201 of this title by Pub. L. 100–370, § 1(d)(1), July 19, 1988, 102 Stat. 841.]''

The following general provisions, that had been repeated as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriation Act, 1984, Pub. L. 98–212, title VII, §§ 705–707, 723, 728, 735, 774, Dec. 8, 1983, 97 Stat. 1437, 1438, 1443, 1444, 1452:

''SEC. 705. [Authorized use of appropriated funds for insurance of official motor vehicles in foreign countries; advance payments for investigations in foreign countries; security guard services for protection of confidential files; and other necessary expenses; and was repealed and restated in sections 2241(b), 2242(1), (4), and 2253(a)(1) of this title by Pub. L. 100–370, § 1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

''SEC. 706. [Authorized use of appropriated funds for expenses incident to maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status was determined by Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation, and was repealed by Pub. L. 98–525, title XIV, §§ 1403(a)(1), 1404, Oct. 19, 1984, 98 Stat. 2621, effective Oct. 1, 1985. See section 956(5) of this title.]

''SEC. 707. [Authorized use of appropriated funds for acquisition of certain interests in land, and was repealed and restated in sections 2673 and 2828(h) of this title by Pub. L. 100–370, § 1(*l*)(1), (2), (p)(1), July 19, 1988, 102 Stat. 849, 851.]

''SEC. 723. [Authorized use of appropriated funds for purchase of household furnishings, and automobiles from military and civilian personnel on duty outside continental United States, for purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of Department of Defense on duty outside continental United States or in Alaska, and was repealed and restated in section 2251 of this title by Pub. L. 100–370, § 1(e)(1), (p)(1), July 19, 1988, 102 Stat. 844, 851.]

''SEC. 728. [Prohibited use of appropriated funds for payment of costs of advertising by any defense contractor, except advertising for which payment is made from profits, provided exemptions for advertising for personnel recruitment, procurement of scarce required items, and disposal of scrap or surplus materials, and was repealed by Pub. L. 100–370, § 1(p)(1), July 19, 1988, 102 Stat. 851. See section 2324(e)(1)(H) of this title.]

''SEC. 735. [Authorized use of appropriated funds for operation and maintenance of the active forces for welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions was amended by Pub. L. 98–525, title XIV, §§ 1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621, eff. Oct. 1, 1985, and was repealed and restated in sections 2241(a) and 2661(a) of this title by Pub. L. 100–370, § 1(e)(1), (*l*)(3), (p)(1), July 19, 1988, 102 Stat. 844, 849, 851.]

''SEC. 774. During the current fiscal year and subsequent fiscal years, for the purposes of the appropriation 'Foreign Currency Fluctuations, Defense' the foreign currency exchange rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on this Act.''

WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA

Pub. L. 105–85, div. A, title XII, §§ 1203, 1206, Nov. 18, 1997, 111 Stat. 1929, 1932, provided that:

''SEC. 1203. WITHDRAWAL OF UNITED STATES GROUND FORCES FROM REPUBLIC OF BOSNIA AND HERZEGOVINA.

''(a) LIMITATION.—No funds appropriated or otherwise made available for the Department of Defense for fiscal year 1998 or any subsequent fiscal year may be used for the deployment of any United States ground combat

forces in the Republic of Bosnia and Herzegovina after June 30, 1998, unless the President, not later than May 15, 1998, and after consultation with the bipartisan leadership of the two Houses of Congress, transmits to Congress a certification—

''(1) that the continued presence of United States ground combat forces, after June 30, 1998, in the Republic of Bosnia and Herzegovina is required in order to meet the national security interests of the United States; and

''(2) that after June 30, 1998, it will remain United States policy that United States ground forces will not serve as, or be used as, civil police in the Republic of Bosnia and Herzegovina.

''(b) REPORT.—The President shall submit with the certification under subsection (a) a report that includes the following:

''(1) The reasons why that presence is in the national security interest of the United States.

''(2) The number of United States military personnel to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after that date.

''(3) The expected duration of any such deployment.

''(4) The mission and objectives of the United States Armed Forces to be deployed in and around the Republic of Bosnia and Herzegovina and other areas of the former Yugoslavia after June 30, 1998.

''(5) The exit strategy of such forces.

''(6) The incremental costs associated with any such deployment.

''(7) The effect of such deployment on the morale, retention, and effectiveness of United States armed forces.

''(8) A description of the forces from other nations involved in a follow-on mission, shown on a nation-by-nation basis.

''(9) A description of the command and control arrangement established for United States forces involved in a follow-on mission.

''(10) An assessment of the expected threats to United States forces involved in a follow-on mission.

''(11) The plan for rotating units and personnel to and from the Republic of Bosnia and Herzegovina during a follow-on mission, including the level of participation by reserve component units and personnel.

''(12) The mission statement and operational goals of the United States forces involved in a follow-on mission.

''(c) REQUEST FOR SUPPLEMENTAL APPROPRIATIONS.—The President shall transmit to Congress with a certification under subsection (a) a supplemental appropriations request for the Department of Defense for such amounts as are necessary for the costs of any continued deployment beyond June 30, 1998.

''(d) CONSTRUCTION WITH PRESIDENT'S CONSTITUTIONAL AUTHORITY.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

''(e) CONSTRUCTION WITH APPROPRIATIONS PROVISION.—The provisions of this section are enacted, and shall be applied, as supplemental to (and not in lieu of) the provisions of section 8132 of the Department of Defense Appropriations Act, 1998 (Public Law 105–56) [111 Stat. 1250].

''SEC. 1206. DEFINITIONS.

''As used in this subtitle [subtitle A (§§1201–1206) of title XII of div. A of Pub. L. 105–85, enacting this note]:

''(1) DAYTON PEACE AGREEMENT.—The term 'Dayton Peace Agreement' means the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed by the parties in Dayton, Ohio, on November 21, 1995, and signed in Paris on December 14, 1995.

''(2) IMPLEMENTATION FORCE.—The term 'Implementation Force' means the NATO-led multinational military force in the Republic of Bosnia and Herzegovina (commonly referred to as 'IFOR'), authorized under the Dayton Peace Agreement.

''(3) STABILIZATION FORCE.—The term 'Stabilization Force' means the NATO-led follow-on force to the Implementation Force in the Republic of Bosnia and Herzegovina and other countries in the region (commonly referred to as 'SFOR'), authorized under United Nations Security Council Resolution 1088 (December 12, 1996).

''(4) FOLLOW-ON MISSION.—The term 'follow-on mission' means a mission involving the deployment of ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina after June 30, 1998 (other than as described in section 1203(b)).

''(5) NATO.—The term 'NATO' means the North Atlantic Treaty Organization.''

BUDGET DETERMINATION BY DIRECTOR OF OMB

Pub. L. 102–484, div. D, title XLV, §4501, Oct. 23, 1992, 106 Stat. 2769, directed that amounts made available under Pub. L. 102–484 for defense programs covered by certain portions of that Act could be obligated for such programs only if expenditures for such programs had been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.), and required the President to submit to Congress a report listing amounts appropriated for fiscal year 1993 for programs that the Director had determined would not classify against the defense category.

CLASSIFIED ANNEX

Pub. L. 107–107, div. A, title X, §1002, Dec. 28, 2001, 115 Stat. 1202, provided that:

''(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the committee of conference to accompany the conference report on the bill S. 1438 of the One Hundred Seventh Congress [Pub. L. 107–107] and transmitted to the President is hereby incorporated into this Act [see Tables for classification].

''(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

''(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

''(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government.''

Similar provisions were contained in the following prior authorization or appropriation acts:

Pub. L. 106–398, §1 [[div. A], title X, §1002], Oct. 30, 2000, 114 Stat. 1654, 1654A–245.

Pub. L. 106–65, div. A, title X, §1002, Oct. 5, 1999, 113 Stat. 732.

Pub. L. 105–261, div. A, title X, §1002, Oct. 17, 1998, 112 Stat. 2111.

Pub. L. 105–85, div. A, title X, §1002, Nov. 18, 1997, 111 Stat. 1868.

Pub. L. 104–201, div. A, title X, §1002, Sept. 23, 1998, 110 Stat. 2631.

Pub. L. 104–106, div. A, title X, §1002, Feb. 10, 1996, 110 Stat. 414.

Pub. L. 103–337, div. A, title X, §1003, Oct. 5, 1994, 108 Stat. 2834.

Pub. L. 103–335, title VIII, §8084, Sept. 30, 1994, 108 Stat. 2637.

Pub. L. 103–160, div. A, title XI, §1103, Nov. 30, 1993, 107 Stat. 1749.

Pub. L. 103–139, title VIII, §8108, Nov. 11, 1993, 107 Stat. 1464.

Pub. L. 102–484, div. A, title X, §1006, Oct. 23, 1992, 106 Stat. 2482.

Pub. L. 102–396, title IX, § 9126, Oct. 6, 1992, 106 Stat. 1931.

Pub. L. 102–190, div. A, title X, § 1005, Dec. 5, 1991, 105 Stat. 1457.

Pub. L. 102–172, title VIII, § 8124, Nov. 26, 1991, 105 Stat. 1206.

Pub. L. 101–511, title VIII, § 8111, Nov. 5, 1990, 104 Stat. 1904.

Pub. L. 101–510, div. A, title XIV, § 1409, Nov. 5, 1990, 104 Stat. 1681.

BUDGET ACT LIMITATION

Section 1304(b) of Pub. L. 99–661 provided that: ''New spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974 [2 U.S.C. 651(c)(2)]) provided by the amendment made by subsection (a) [amending this section] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.''

LIMITATION ON SOURCE OF FUNDS FOR NICARAGUAN DEMOCRATIC RESISTANCE

Section 1351 of Pub. L. 99–661, as amended by Pub. L. 104–106, div. A, title X, § 1063(a), Feb. 10, 1996, 110 Stat. 444, provided that: ''Notwithstanding title II of the Military Construction Appropriations Act, 1987 [Pub. L. 99–500, § 101(k) [title II], Oct. 18, 1986, 100 Stat. 1783–287, 1783–295, and Pub. L. 99–591, § 101(k) [title II], Oct. 30, 1986, 100 Stat. 3341–287, 3341–295], or any other provision of law, funds appropriated or otherwise made available to the Department of Defense for any fiscal year for operation and maintenance may not be used to provide assistance for the democratic resistance forces in Nicaragua. If funds appropriated or otherwise made available to the Department of Defense for any fiscal year are authorized by law to be used for such assistance, funds for such purpose may only be derived from amounts appropriated or otherwise made available to the Department for procurement (other than ammunition).''

USE OF APPROPRIATED FUNDS TO SUPPORT REVENUE GENERATING ACTIVITIES IN LARGE METROPOLITAN AREAS PROHIBITED

Pub. L. 99–500, § 101(c) [title IX, § 9102], Oct. 18, 1986, 100 Stat. 1783–82, 1783–118, and Pub. L. 99–591, § 101(c) [title IX, § 9102], Oct. 30, 1986, 100 Stat. 3341–82, 3341–118, which provided that after Sept. 30, 1987, no appropriated funds could be used to support revenue generating morale, welfare, and recreation activities in large metropolitan areas, was repealed by Pub. L. 100–202, § 101(b) [title VIII, § 8099], Dec. 22, 1987, 101 Stat. 1329–43, 1329–78.

TRANSFER OF OPERATION AND MAINTENANCE APPROPRIATIONS UNOBLIGATED BALANCES TO FOREIGN CURRENCY FLUCTUATIONS, DEFENSE, APPROPRIATION

Pub. L. 97–377, title I, § 101(c) [title VII, § 791], Dec. 21, 1982, 96 Stat. 1865, which provided that no later than end of second fiscal year following fiscal year for which appropriations for Operation and Maintenance have been made available to Department of Defense, unobligated balances of such appropriations provided for fiscal year 1982 and thereafter could be transferred into appropriation ''Foreign Currency Fluctuations, Defense'' to be merged with and available for same time period and same purposes as appropriation to which transferred, except that any transfer made pursuant to any use of this authority was limited so that amount in appropriation did not exceed $970,000,000 at time of transfer, was repealed and restated in section 2779(d) of this title by Pub. L. 104–106, div. A, title IX, § 911(b), (d)(2), (f), Feb. 10, 1996, 110 Stat. 406, 407, applicable only with respect to amounts appropriated for a fiscal year after fiscal year 1995.

WAIVER OF APPLICABILITY OF OMB CIRCULAR A–76 TO CONTRACTING OUT OF CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Section 802 of Pub. L. 96–107 provided that:

''(a) Except as provided in subsection (b), neither the implementing instructions for, nor the provisions of, Office of Management and Budget Circular A–76 (issued on August 30, 1967, and reissued on October 18, 1976, June 13, 1977, and March 29, 1979) shall control or be used for policy guidance for the obligation or expenditure of any funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law.

''(b) Funds which under section 138(a)(2) [now 114(a)(2)] of title 10, United States Code, are required to be specifically authorized by law may be obligated or expended for operation or support of installations or equipment used for research and development (including maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft and ships) in compliance with the implementing instructions for and the provisions of such Office of Management and Budget Circular.

''(c) No law enacted after the date of the enactment of this Act [Nov. 9, 1979] shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.''

MANPOWER CONVERSION POLICIES; DEVELOPMENT FOR ANNUAL MANPOWER AUTHORIZATION REQUESTS; JUSTIFICATION FOR CONVERSION TO BE CONTAINED IN ANNUAL MANPOWER REQUIREMENTS REPORT TO CONGRESS

Pub. L. 93–365, title V, § 502, Aug. 5, 1974, 88 Stat. 404, which provided that it was the sense of Congress that the Department of Defense use the least costly form of manpower consistent with military requirements and other needs of the Department of Defense, that in developing the annual manpower authorization requests to the Congress and in carrying out manpower policies, the Secretary of Defense was to consider the advantages of converting from one form of manpower to another (military, civilian, or private contract) for the performance of a specified job, and that a full justification of any conversion from one form of manpower to another be contained in the annual manpower requirements report to the Congress required by subsec. (c)(3) of this section, was repealed and restated as subsec. (c)(5) of this section by Pub. L. 97–295, §§ 1(3), 6(b).

[§ 114a. Renumbered § 221]

§ 115. Personnel strengths: requirement for annual authorization

(a) ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize personnel strength levels for each fiscal year for each of the following:

(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel unless on active duty pursuant to subsection (b), and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel unless on active duty or full-time National Guard duty pursuant to subsection (b).

(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

(b) CERTAIN RESERVES ON ACTIVE DUTY TO BE AUTHORIZED BY LAW.—(1) Congress shall annually authorize the maximum number of members of a reserve component permitted to be on active duty or full-time National Guard duty at any given time who are called or ordered to—

(A) active duty under section 12301(d) of this title for the purpose of providing operational support, as prescribed in regulation issued by the Secretary of Defense;

(B) full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of providing operational support when authorized by the Secretary of Defense;

(C) active duty under section 12301(d) of this title or full-time National Guard duty under section 502(f)(2) of title 32 for the purpose of preparing for and performing funeral honors functions for funerals of veterans under section 1491 of this title;

(D) active duty or retained on active duty under sections 12301(g) of this title while in a captive status; or

(E) active duty or retained on active duty under 12301(h) or 12322 of this title for the purpose of medical evaluation or treatment.

(2) A member of a reserve component who exceeds either of the following limits shall be included in the strength authorized under subparagraph (A) or subparagraph (B), as appropriate, of subsection (a)(1):

(A) A call or order to active duty or full-time National Guard duty that specifies a period greater than three years.

(B) The cumulative periods of active duty and full-time National Guard duty performed by the member exceed 1095 days in the previous 1460 days.

(3) In determining the period of active service under paragraph (2), the following periods of active service performed by a member shall not be included:

(A) All periods of active duty performed by a member who has not previously served in the Selected Reserve of the Ready Reserve.

(B) All periods of active duty or full-time National Guard duty for which the member is exempt from strength accounting under paragraphs (1) through (8) of subsection (i).

(4) As part of the budget justification materials submitted by the Secretary of Defense to Congress in support of the end strength authorizations required under subparagraphs (A) and (B) of subsection (a)(1) for fiscal year 2009 and each fiscal year thereafter, the Secretary shall provide the following:

(A) The number of members, specified by reserve component, authorized under subparagraphs (A) and (B) of paragraph (1) who were serving on active duty or full-time National Guard duty for operational support beyond each of the limits specified under subparagraphs (A) and (B) of paragraph (2) at the end of the fiscal year preceding the fiscal year for which the budget justification materials are submitted.

(B) The number of members, specified by reserve component, on active duty for operational support who, at the end of the fiscal year for which the budget justification materials are submitted, are projected to be serving on active duty or full-time National Guard duty for operational support beyond such limits.

(C) The number of members, specified by reserve component, on active duty or full-time National Guard duty for operational support who are included in, and counted against, the end strength authorizations requested under subparagraphs (A) and (B) of subsection (a)(1).

(D) A summary of the missions being performed by members identified under subparagraphs (A) and (B).

(c) LIMITATION ON APPROPRIATIONS FOR MILITARY PERSONNEL.—No funds may be appropriated for any fiscal year to or for—

(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law; or

(3) the use of reserve component personnel to perform active duty or full-time National Guard duty under subsection (b) unless the strength for such personnel for that reserve component for that fiscal year has been authorized by law.

(d) MILITARY TECHNICIAN (DUAL STATUS) END STRENGTHS TO BE AUTHORIZED BY LAW.—Congress shall authorize for each fiscal year the end strength for military technicians (dual status) for each reserve component of the Army and Air Force. Funds available to the Department of Defense for any fiscal year may not be used for the pay of a military technician (dual status) during that fiscal year unless the technician fills a position that is within the number of such positions authorized by law for that fiscal year for the reserve component of that technician. This subsection applies without regard to section 129 of this title. In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.

(e) END-OF-QUARTER STRENGTH LEVELS.—(1) The Secretary of Defense shall prescribe and include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for any fiscal year the Secretary's proposed end-of-quarter strengths for each of the first three quarters of the fiscal year for which the budget is submitted, in addition to the Secretary's proposed fiscal-year end-strengths for that fiscal year. Such end-of-quarter strengths shall be submitted for each category of personnel for which end strengths are required to be authorized by law under subsection (a) or (d). The Secretary shall ensure that resources are provided in the budget at a level sufficient to support the end-of-quarter and fiscal-year end-strengths as submitted.

(2)(A) After annual end-strength levels required by subsections (a) and (d) are authorized by law for a fiscal year, the Secretary of Defense shall promptly prescribe end-of-quarter strength levels for the first three quarters of that fiscal year applicable to each such end-strength level. Such end-of-quarter strength levels shall be es-

tablished for any fiscal year as levels to be achieved in meeting each of those annual end-strength levels authorized by law in accordance with subsection (a) (as such levels may be adjusted pursuant to subsection (f)) and subsection (d).

(B) At least annually, the Secretary of Defense shall establish for each of the armed forces (other than the Coast Guard) the maximum permissible variance of actual strength for an armed force at the end of any given quarter from the end-of-quarter strength established pursuant to subparagraph (A). Such variance shall be such that it promotes the maintaining of the strength necessary to achieve the end-strength levels authorized in accordance with subsection (a) (as adjusted pursuant to subsection (f)) and subsection (d).

(3) Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.

(f) AUTHORITY FOR SECRETARY OF DEFENSE VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE STRENGTHS.—Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 3 percent of that end strength;

(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength;

(3) vary the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of any of the reserve components by a number equal to not more than 3 percent of that end strength; and

(4) increase the maximum strength authorized pursuant to subsection (b)(1) for a fiscal year for certain reserves on active duty for any of the reserve components by a number equal to not more than 10 percent of that strength.

(g) AUTHORITY FOR SERVICE SECRETARY VARIANCES FOR ACTIVE-DUTY AND SELECTED RESERVE END STRENGTHS.—(1) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may—

(A) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength; and

(B) increase the end strength authorized pursuant to subsection (a)(2) for a fiscal year for the Selected Reserve of the reserve component of the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for the Selected Reserve of the reserve component of any of the armed forces under the jurisdiction of that Secretary, by a number equal to not more than 2 percent of such authorized end strength.

(2) Any increase under paragraph (1)(A) of the end strength for an armed force for a fiscal year shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (f)(1). Any increase under paragraph (1)(B) of the end strength for the Selected Reserve of a reserve component of an armed force for a fiscal year shall be counted as part of the increase for that Selected Reserve for that fiscal year authorized under subsection (f)(3).

(h) ADJUSTMENT WHEN COAST GUARD IS OPERATING AS A SERVICE IN THE NAVY.—The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

(i) CERTAIN PERSONNEL EXCLUDED FROM COUNTING FOR ACTIVE-DUTY END STRENGTHS.—In counting personnel for the purpose of the end strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

(1) Members of a reserve component ordered to active duty under section 12301(a) of this title.

(2) Members of a reserve component in an active status ordered to active duty under section 12301(b) of this title.

(3) Members of the Ready Reserve ordered to active duty under section 12302 of this title.

(4) Members of the Selected Reserve of the Ready Reserve or members of the Individual Ready Reserve mobilization category described in section 10144(b) of this title ordered to active duty under section 12304 of this title.

(5) Members of the National Guard called into Federal service under section 12406 of this title.

(6) Members of the militia called into Federal service under chapter 15 of this title.

(7) Members of the National Guard on full-time National Guard duty under section 502(f)(1) of title 32.

(8) Members of reserve components on active duty for training or full-time National Guard duty for training.

(9) Members of the Selected Reserve of the Ready Reserve on active duty to support programs described in section 1203(b) of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952(b)).

(10) Members of the National Guard on active duty or full-time National Guard duty for the purpose of carrying out drug interdiction and counter-drug activities under section 112 of title 32.

(11) Members of a reserve component on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

(12) Members of the National Guard on full-time National Guard duty for the purpose of

providing command, administrative, training, or support services for the National Guard Challenge Program authorized by section 509 of title 32.

(13) Members of the National Guard on full-time National Guard duty involuntarily and performing homeland defense activities under chapter 9 of title 32.

(Added Pub. L. 101–510, div. A, title XIV, §1483(a), Nov. 5, 1990, 104 Stat. 1710; amended Pub. L. 102–190, div. A, title III, §312(a), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104–106, div. A, title IV, §§401(c), 415, title V, §513(a)(1), title X, §1061(c), title XV, §1501(c)(3), Feb. 10, 1996, 110 Stat. 286, 288, 305, 442, 498; Pub. L. 105–85, div. A, title IV, §413(b), title V, §522(i)(1), Nov. 18, 1997, 111 Stat. 1720, 1736; Pub. L. 106–65, div. A, title IV, §415, Oct. 5, 1999, 113 Stat. 587; Pub. L. 106–398, §1 [[div. A], title IV, §422], Oct. 30, 2000, 114 Stat. 1654, 1654A–96; Pub. L. 107–107, div. A, title IV, §§421(a), 422, Dec. 28, 2001, 115 Stat. 1076, 1077; Pub. L. 107–314, div. A, title IV, §403, Dec. 2, 2002, 116 Stat. 2525; Pub. L. 108–136, div. A, title IV, §403(a), (b), Nov. 24, 2003, 117 Stat. 1450, 1451; Pub. L. 108–375, div. A, title IV, §416(a)–(d), title V, §512(b), Oct. 28, 2004, 118 Stat. 1866, 1867, 1880; Pub. L. 109–364, div. A, title X, §1071(a)(1), (g)(1)(A), Oct. 17, 2006, 120 Stat. 2398, 2402; Pub. L. 110–181, div. A, title IV, §§416(b), 417, Jan. 28, 2008, 122 Stat. 91, 92; Pub. L. 111–84, div. A, title IV, §418, Oct. 28, 2009, 123 Stat. 2268.)

PRIOR PROVISIONS

A prior section 115, added Pub. L. 93–155, title VIII, §803(a), Nov. 16, 1973, 87 Stat. 612, §138(b)–(d); amended Pub. L. 94–361, title III, §302, July 14, 1976, 90 Stat. 924; Pub. L. 96–107, title III, §303(b), Nov. 9, 1979, 93 Stat. 806; Pub. L. 96–513, title I, §102, Dec. 12, 1980, 94 Stat. 2840; Pub. L. 97–22, §2(b), July 10, 1981, 95 Stat. 124; Pub. L. 97–86, title IX, §§902, 903, Dec. 1, 1981, 95 Stat. 1113, 1114; Pub. L. 97–252, title IV, §402(a), Sept. 8, 1982, 96 Stat. 725; Pub. L. 97–295, §1(3), Oct. 12, 1982, 96 Stat. 1289; Pub. L. 99–145, title XII, §1208, Nov. 8, 1985, 99 Stat. 723; renumbered §115, Pub. L. 99–433, title I, §§101(a)(2), 110(b)(4), (5), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 99–661, div. A, title IV, §§411(c) [(d)], 413, Nov. 14, 1986, 100 Stat. 3861, 3862; Pub. L. 100–26, §7(j)(2), Apr. 21, 1987, 101 Stat. 283; Pub. L. 100–456, div. A, title VI, §641, Sept. 29, 1988, 102 Stat. 1987, related to annual authorization of personnel strengths and annual manpower requirements reports, prior to repeal and reenactment as sections 115, 115a, 115b [now 10541], 123a, and 129a of this title by Pub. L. 101–510, §1483(a), (b).

AMENDMENTS

2009—Subsec. (g). Pub. L. 111–84 amended subsec. (g) generally. Prior to amendment, subsec. (g) related to authority for service secretary variances for active-duty end strengths.

2008—Subsec. (b)(4). Pub. L. 110–181, §416(b), added par. (4).

Subsec. (f)(3). Pub. L. 110–181, §417, substituted ''3 percent'' for ''2 percent''.

2006—Subsec. (a)(1)(A). Pub. L. 109–364, §1071(g)(1)(A), made technical correction to directory language of Pub. L. 108–375, §416(a)(1). See 2004 Amendment note below.

Subsec. (i). Pub. L. 109–364, §1071(a)(1)(A), struck out heading and text of subsec. (i) enacted by Pub. L. 108–375, §512(b). Text read as follows: ''In counting full-time National Guard duty personnel for the purpose of end-strengths authorized pursuant to subsection (a)(1), persons involuntarily performing homeland defense activities under chapter 9 of title 32 shall be excluded.''

Subsec. (i)(13). Pub. L. 109–364, §1071(a)(1)(B), added par. (13).

2004—Subsec. (a)(1)(A). Pub. L. 108–375, §416(a)(1), as amended by Pub. L. 109–364, §1071(g)(1)(A), inserted ''unless on active duty pursuant to subsection (b)'' after ''funds appropriated for active-duty personnel''.

Subsec. (a)(1)(B). Pub. L. 108–375, §416(a)(2), inserted ''unless on active duty or full-time National Guard duty pursuant to subsection (b)'' after ''reserve personnel''.

Subsec. (b). Pub. L. 108–375, §416(a)(4), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108–375, §416(a)(3), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(3). Pub. L. 108–375, §416(b), added par. (3).

Subsec. (d). Pub. L. 108–375, §416(a)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 108–375, §416(a)(3), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(1). Pub. L. 108–375, §416(d)(1)(A), substituted ''subsection (a) or (d)'' for ''subsection (a) or (c)''.

Subsec. (e)(2). Pub. L. 108–375, §416(d)(1)(B), substituted ''subsections (a) and (d)'' for ''subsections (a) and (c)'' in subpar. (A) and substituted ''pursuant to subsection (f)) and subsection (d)'' for ''pursuant to subsection (e)) and subsection (c)'' in subpars. (A) and (B).

Subsec. (f). Pub. L. 108–375, §416(c)(1), struck out ''End'' after ''Reserve'' in heading.

Pub. L. 108–375, §416(a)(3), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(4). Pub. L. 108–375, §416(c)(2)–(4), added par. (4).

Subsec. (g). Pub. L. 108–375, §416(a)(3), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 108–375, §416(d)(2), substituted ''subsection (f)(1)'' for ''subsection (e)(1)''.

Subsec. (h). Pub. L. 108–375, §416(a)(3), redesignated subsec. (g) as (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 108–375, §512(b), added subsec. (i) relating to certain full-time National Guard duty personnel excluded from counting for full-time National Guard duty end strengths.

Pub. L. 108–375, §416(d)(3), amended heading and text of subsec. (i) generally, substituting provisions relating to 12 categories of personnel excluded from counting for active-duty end strengths for provisions relating to 11 categories of active-duty personnel excluded from counting for active-duty end strengths.

Pub. L. 108–375, §416(a)(3), redesignated subsec. (h) as (i).

2003—Subsecs. (a), (b). Pub. L. 108–136, §403(b)(1), (2), inserted headings.

Subsec. (c). Pub. L. 108–136, §403(a)(1), (b)(3), redesignated subsec. (g) as (c), transferred it to appear after subsec. (b), and inserted heading. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 108–136, §403(a)(3), added subsec. (d). Former subsec. (d) redesignated (h).

Subsec. (e). Pub. L. 108–136, §403(a)(1), (b)(4), redesignated subsec. (c) as (e), transferred it to appear after subsec. (d), and inserted heading. Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 108–136, §403(b)(5), inserted heading and, in par. (2), substituted ''subsection (e)(1)'' for ''subsection (c)(1)''.

Subsec. (g). Pub. L. 108–136, §403(a)(1), (b)(6), redesignated subsec. (e) as (g), transferred it to appear after subsec. (f), and inserted heading. Former subsec. (g) redesignated (c).

Subsec. (h). Pub. L. 108–136, §403(a)(2), (b)(7), redesignated subsec. (d) as (h), transferred it to appear at end of section, and inserted heading.

2002—Subsec. (c)(1). Pub. L. 107–314, §403(a), substituted ''3 percent'' for ''2 percent''.

Subsec. (f). Pub. L. 107–314, §403(b), added subsec. (f).

2001—Subsec. (c)(1). Pub. L. 107–107, §421(a), substituted ''2 percent'' for ''1 percent''.

Subsec. (d)(10), (11). Pub. L. 107–107, §422, added pars. (10) and (11).

2000—Subsec. (d)(9). Pub. L. 106–398 added par. (9).

1999—Subsec. (c)(3). Pub. L. 106–65 added par. (3).

1997—Subsec. (g). Pub. L. 105–85, § 522(i)(1), inserted ''(dual status)'' after ''military technicians'' in first sentence and after ''military technician'' in second sentence.

Pub. L. 105–85, § 413(b), inserted at end ''In each budget submitted by the President to Congress under section 1105 of title 31, the end strength requested for military technicians (dual status) for each reserve component of the Army and Air Force shall be specifically set forth.''

1996—Subsec. (a)(3). Pub. L. 104–106, § 1061(c)(1), struck out par. (3) which read as follows: ''The average military training student loads for each of the armed forces (other than the Coast Guard).''

Subsec. (b). Pub. L. 104–106, § 1061(c)(2), inserted ''or'' at end of par. (1), substituted a period for ''; or'' at end of par. (2), and struck out par. (3) which read as follows: ''training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law.''

Subsec. (c)(1). Pub. L. 104–106, § 401(c), substituted ''1 percent'' for ''0.5 percent''.

Subsec. (d)(1). Pub. L. 104–106, § 1501(c)(3)(A), substituted ''section 12302'' for ''section 673''.

Subsec. (d)(2). Pub. L. 104–106, § 1501(c)(3)(B), substituted ''section 12304'' for ''section 673b''.

Subsec. (d)(3). Pub. L. 104–106, § 1501(c)(3)(C), substituted ''section 12406'' for ''section 3500 or 8500''.

Subsec. (d)(8). Pub. L. 104–106, § 415, added par. (8).

Subsec. (f). Pub. L. 104–106, § 1061(c)(3), struck out subsec. (f) which read as follows: ''Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

''(1) Recruit and specialized training.

''(2) Flight training.

''(3) Professional training in military and civilian institutions.

''(4) Officer acquisition training.''

Subsec. (g). Pub. L. 104–106, § 513(a)(1), added subsec. (g).

1991—Subsec. (a)(4). Pub. L. 102–190, § 312(a)(1), struck out par. (4) which read as follows: ''The end strength for civilian personnel for each component of the Department of Defense.''

Subsec. (b)(2) to (4). Pub. L. 102–190, § 312(a)(2), inserted ''or'' at end of par. (2), substituted a period for ''; or'' at end of par. (3), and struck out par. (4) which read as follows: ''the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–364, div. A, title X, § 1071(g), Oct. 17, 2006, 120 Stat. 2402, provided that the amendment made by section 1071(g)(1)(A) is effective as of Oct. 28, 2004, and as if included in Pub. L. 108–375 as enacted.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title IV, § 403(d), Nov. 24, 2003, 117 Stat. 1452, provided that: ''Subsection (d) of section 115 of title 10, United States Code, as added by subsection (a)(3), shall apply with respect to the budget request for fiscal year 2005 and thereafter.''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 513(a)(2) of Pub. L. 104–106 provided that: ''The amendment made by paragraph (1) [amending this section] does not apply with respect to fiscal year 1995.''

Section 1501(c) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

REGULATIONS

Pub. L. 108–375, div. A, title IV, § 416(m), Oct. 28, 2004, 118 Stat. 1869, provided that: ''The Secretary of Defense shall prescribe by regulation the meaning of the term 'operational support' for purposes of paragraph (1) of subsection (b) of section 115 of title 10, United States Code, as added by subsection (a).''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ADDITIONAL AUTHORITY FOR INCREASES OF ARMY ACTIVE DUTY PERSONNEL END STRENGTHS FOR FISCAL YEARS 2008 AND 2009

Pub. L. 108–375, div. A, title IV, § 403, Oct. 28, 2004, 118 Stat. 1863, as amended by Pub. L. 109–163, div. A, title IV, § 403, Jan. 6, 2006, 119 Stat. 3219; Pub. L. 109–364, div. A, title IV, § 403, Oct. 17, 2006, 120 Stat. 2169, which authorized the Secretary of Defense, for each of fiscal years 2008 and 2009, to establish the active-duty end strengths for the Army and the Marine Corps at numbers greater than the numbers otherwise authorized by law up to the numbers equal to the fiscal-year 2007 baseline plus 20,000 with respect to the Army and plus 4,000 with respect to the Marine Corps, was repealed by Pub. L. 110–181, div. A, title IV, § 403(h), Jan. 28, 2008, 122 Stat. 87.

AUTHORIZATION FOR INCREASE IN ACTIVE-DUTY END STRENGTHS FOR FISCAL YEAR 1996

Pub. L. 104–106, div. A, title IV, § 432, Feb. 10, 1996, 110 Stat. 290, authorized $112,000,000 to be appropriated to the Department of Defense for fiscal year 1996 to increase the number of active-component military personnel for that fiscal year and provided that end-strength authorizations would each be deemed to be increased as necessary.

END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS)

Pub. L. 109–163, div. A, title IV, § 413, Jan. 6, 2006, 119 Stat. 3221, which authorized the minimum number of military technicians (dual status) as of the last day of a fiscal year for each of the reserve components of the Army and the Air Force, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, § 413, Oct. 28, 2004, 118 Stat. 1865.

Pub. L. 108–136, div. A, title IV, § 413, Nov. 24, 2003, 117 Stat. 1453.

Pub. L. 107–314, div. A, title IV, § 413, Dec. 2, 2002, 116 Stat. 2527.

Pub. L. 107–107, div. A, title IV, § 413, Dec. 28, 2001, 115 Stat. 1070.

Pub. L. 106–398, § 1 [[div. A], title IV, § 413], Oct. 30, 2000, 114 Stat. 1654, 1654A–93.

Pub. L. 106–65, div. A, title IV, § 413, Oct. 5, 1999, 113 Stat. 586.

Pub. L. 105–261, div. A, title IV, § 413, Oct. 17, 1998, 112 Stat. 1997.

Pub. L. 105–85, div. A, title IV, § 413(a), Nov. 18, 1997, 111 Stat. 1720.

Pub. L. 104–201, div. A, title IV, § 413(a), Sept. 23, 1996, 110 Stat. 2507.

Pub. L. 104–106, div. A, title V, § 513(b), Feb. 10, 1996, 110 Stat. 305.

COMPTROLLER GENERAL REVIEW OF PROPOSED ARMY END STRENGTH ALLOCATIONS

Pub. L. 104–106, title V, § 552, Feb. 10, 1996, 110 Stat. 319, provided that, during fiscal years 1996 through 2001,

the Comptroller General was (1) to analyze the plans of the Secretary of the Army for the allocation of assigned active component end strengths for the Army through the requirements process known as Total Army Analysis 2003 and through any subsequent similar requirements process of the Army that was conducted before 2002, (2) to consider whether the proposed active component end strengths and planned allocation of forces for that period was sufficient to implement the national military strategy, and (3) to submit to Congress an annual report by Mar. 1 of each year through 2002 on the Comptroller General's findings and conclusions, prior to repeal by Pub. L. 107–107, div. A, title V, § 595, Dec. 28, 2001, 115 Stat. 1126.

EFFECT OF RESERVE COMPONENT ON COMPUTATION OF END STRENGTH LIMITATION FOR ACTIVE FORCES FOR FISCAL YEAR 1995

Pub. L. 103–337, div. A, title XIII, § 1316(c), Oct. 5, 1994, 108 Stat. 2899, provided that a member of a reserve component who is on active duty under a call or order to active duty for 180 days or more for activities under section 168 of this title shall not be counted (under subsec. (a)(1) of this section) against the applicable end strength limitation for members of the Armed Forces on active duty for fiscal year 1995 prescribed in section 401 of Pub. L. 103–337, formerly set out below.

END STRENGTHS FOR ACTIVE FORCES

Pub. L. 109–163, div. A, title IV, § 401, Jan. 6, 2006, 119 Stat. 3218, which authorized specified strengths for Armed Forces active duty personnel as of Sept. 30, 2006, and provided that costs for that fiscal year of active duty personnel of the Army and the Marine Corps in excess of specified amounts would be paid out of funds authorized to be appropriated for that fiscal year for a contingent emergency reserve fund or as an emergency supplemental appropriation, was from the National Defense Authorization Act for Fiscal Year 2006 and was repeated in provisions of subsequent authorization acts which are not set out in the Code. Similar provisions were contained in the following prior authorization acts:

Pub. L. 108–375, div. A, title IV, § 401, Oct. 28, 2004, 118 Stat. 1862.

Pub. L. 108–136, div. A, title IV, § 401, Nov. 24, 2003, 117 Stat. 1450.

Pub. L. 107–314, div. A, title IV, § 401, Dec. 2, 2002, 116 Stat. 2524.

Pub. L. 107–107, div. A, title IV, § 401, Dec. 28, 2001, 115 Stat. 1069.

Pub. L. 106–398, § 1 [[div. A], title IV, § 401], Oct. 30, 2000, 114 Stat. 1654, 1654A–92.

Pub. L. 106–65, div. A, title IV, § 401, Oct. 5, 1999, 113 Stat. 585.

Pub. L. 105–261, div. A, title IV, § 401, Oct. 17, 1998, 112 Stat. 1995.

Pub. L. 105–85, div. A, title IV, § 401, Nov. 18, 1997, 111 Stat. 1719.

Pub. L. 104–201, div. A, title IV, § 401, Sept. 23, 1996, 110 Stat. 2503.

Pub. L. 104–106, div. A, title IV, § 401(a), Feb. 10, 1996, 110 Stat. 285.

Pub. L. 103–337, div. A, title IV, § 401, Oct. 5, 1994, 108 Stat. 2743.

Pub. L. 103–160, div. A, title IV, §§ 401, 403, Nov. 30, 1993, 107 Stat. 1639, 1640.

Pub. L. 102–484, div. A, title IV, §§ 401, 402, Oct. 23, 1992, 106 Stat. 2397.

Pub. L. 102–190, div. A, title IV, § 401, title VI, § 664, Dec. 5, 1991, 105 Stat. 1349, 1399.

Pub. L. 101–510, div. A, title IV, §§ 401, 402, Nov. 5, 1990, 104 Stat. 1543, 1544; Pub. L. 102–25, title II, §§ 201(a), 202, 205(a), Apr. 6, 1991, 105 Stat. 79, 80; Pub. L. 104–106, div. A, title XV, § 1502(c)(4)(A), Feb. 10, 1996, 110 Stat. 507.

Pub. L. 101–189, div. A, title IV, § 401, Nov. 29, 1989, 103 Stat. 1431, as amended by Pub. L. 101–510, div. A, title IV, § 401(d), Nov. 5, 1990, 104 Stat. 1544.

Pub. L. 100–456, div. A, title IV, § 401, Sept. 29, 1988, 102 Stat. 1963.

Pub. L. 100–180, div. A, title IV, § 401, Dec. 4, 1987, 101 Stat. 1081.

Pub. L. 99–661, div. A, title IV, § 401, Nov. 14, 1986, 100 Stat. 3859.

Pub. L. 99–145, title IV, § 401, Nov. 8, 1985, 99 Stat. 618.

Pub. L. 98–525, title IV, § 401, Oct. 19, 1984, 98 Stat. 2516.

Pub. L. 98–94, title IV, § 401, Sept. 24, 1983, 97 Stat. 629.

Pub. L. 97–252, title IV, § 401, Sept. 8, 1982, 96 Stat. 725.

Pub. L. 97–86, title IV, § 401, Dec. 1, 1981, 95 Stat. 1104, as amended by Pub. L. 97–252, title IX, § 903, Sept. 8, 1982, 96 Stat. 729.

Pub. L. 96–342, title III, § 301, Sept. 8, 1980, 94 Stat. 1082, as amended by Pub. L. 97–39, title III, § 301, Aug. 14, 1981, 95 Stat. 940.

Pub. L. 96–107, title III, § 301, Nov. 9, 1979, 93 Stat. 806.

Pub. L. 95–485, title III, § 301, Oct. 20, 1978, 92 Stat. 1613.

Pub. L. 95–79, title III, § 301, July 30, 1977, 91 Stat. 326.

Pub. L. 94–361, title III, § 301, July 14, 1976, 90 Stat. 924.

Pub. L. 94–106, title III, § 301, Oct. 7, 1975, 89 Stat. 532.

Pub. L. 93–365, title III, § 301, Aug. 5, 1974, 88 Stat. 401.

Pub. L. 93–155, title III, § 301, Nov. 16, 1973, 87 Stat. 607.

Pub. L. 92–436, title III, § 301, Sept. 26, 1972, 86 Stat. 735.

MINIMUM NUMBER OF NAVY HEALTH PROFESSIONS OFFICERS

Section 718(b) of Pub. L. 102–190 provided that, of the total number of officers authorized to be serving on active duty in Navy on last day of a fiscal year, 12,510 were to be available only for assignment to duties in health profession specialties, prior to repeal by Pub. L. 104–106, div. A, title V, § 564(d)(2), Feb. 10, 1996, 110 Stat. 327.

LIMITATIONS ON REDUCTIONS IN MEDICAL PERSONNEL

Section 711 of Pub. L. 101–510, as amended by Pub. L. 102–190, div. A, title VII, § 718(a), Dec. 5, 1991, 105 Stat. 1404, prohibited Secretary of Defense from reducing number of medical personnel of Department of Defense below baseline number unless Secretary certified to Congress that number of such personnel being reduced was excess to current and projected needs of military departments, and such reduction would not result in increase in cost of health care services provided under Civilian Health and Medical Program of the Uniformed Services, and, in case of military medical personnel, included in certification information on strength levels for individual category of medical personnel involved in reduction as of Sept. 30, 1989, projected requirements of Department over 5-fiscal year period following fiscal year in which certification was submitted for medical personnel in category of medical personnel involved, and strength level recommended for each component of Armed Forces for most recent fiscal year for which Secretary submitted recommendations pursuant to section 115a(g)(1) of this title for personnel in category of medical personnel involved, prior to repeal by Pub. L. 104–106, div. A, title V, § 564(d)(1), Feb. 10, 1996, 110 Stat. 327. See section 129c of this title.

OPERATION DESERT SHIELD INCREASE IN END STRENGTHS OF ACTIVE DUTY PERSONNEL; AUTHORITY; CERTIFICATION

Section 1117 of Pub. L. 101–510, authorized Secretary of Defense, after determining that operational requirements of Operation Desert Shield so require, to increase the end strengths of active duty personnel for fiscal year 1991 by an amount not greater than 0.5 percent of the total end strengths authorized by section 401 of Pub. L. 101–510, set out above, and required certification by Secretary to Committees on Armed Services of Senate and House of Representatives of necessity of such increase, prior to repeal by Pub. L. 102–25, title II, § 204, Apr. 6, 1991, 105 Stat. 80.

§ 115a. Annual defense manpower requirements report

(a) The Secretary of Defense shall submit to Congress an annual defense manpower require-

ments report. The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report shall contain the Secretary's recommendations for—

(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

(2) the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year.

(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

(A) Unit mission and capability.

(B) Strategy which the unit supports.

(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense.

(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the following:

(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

(d) The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

(A) retirements displayed by year of active commissioned service;

(B) discharges;

(C) other separations;

(D) deaths;

(E) promotions; and

(F) reserve and regular officers ordered to active duty.

(e)(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

(2) For purposes of this subsection, the term ''medical personnel'' includes—

(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

(D) enlisted members engaged in or supporting medically related activities; and

(E) such other personnel as the Secretary considers appropriate.

(f) The Secretary shall also include in each such report the following information with respect to personnel assigned to or supporting major Department of Defense headquarters activities:

(1) The military end strength and civilian full-time equivalents assigned to major Department of Defense headquarters activities for the preceding fiscal year and estimates of such numbers for the current fiscal year and subsequent fiscal years.

(2) A summary of the replacement during the preceding fiscal year of contract workyears providing support to major Department of Defense headquarters activities with military end strength or civilian full-time equivalents, including an estimate of the number of contract workyears associated with the replacement of contracts performing inherently governmental or exempt functions.

(3) The plan for the continued review of contract personnel supporting major Department of Defense headquarters activities for possible conversion to military or civilian performance in accordance with section 2463 of this title.

(4) The amount of any adjustment in the limitation on personnel made by the Secretary of Defense or the Secretary of a military department, and, for each adjustment made pursuant to section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (10 U.S.C. 143 note), the purpose of the adjustment.

[(g) Redesignated (e)]

(h) In each such report, the Secretary shall include a separate report on the Army and Air Force military technician programs. The report shall include a presentation, shown by reserve component and shown both as of the end of the preceding fiscal year and for the next fiscal year, of the following (displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians):

(1) The number of military technicians required to be employed (as specified in accordance with Department of Defense procedures), the number authorized to be employed under Department of Defense personnel procedures, and the number actually employed.

(2) Within each of the numbers under paragraph (1)—

(A) the number applicable to a reserve component management headquarter organization; and

(B) the number applicable to high-priority units and organizations (as specified in section 10216(a) of this title).

(Added Pub. L. 101–510, div. A, title XIV, § 1483(a), Nov. 5, 1990, 104 Stat. 1711; amended Pub. L. 102–190, div. A, title X, § 1061(a)(1), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 104–106, div. A, title V, § 513(e), title X, § 1061(d), Feb. 10, 1996, 110 Stat. 307, 442; Pub. L. 105–85, div. A, title V, § 522(i)(2), Nov. 18, 1997, 111 Stat. 1736; Pub. L. 105–261, div. A, title IV, § 403, Oct. 17, 1998, 112 Stat. 1996; Pub. L. 111–84, div. A, title XI, § 1109(b)(1)–(2)(B)(i), Oct. 28, 2009, 123 Stat. 2492, 2493.)

REFERENCES IN TEXT

Section 1111(b)(2) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009, referred to in subsec. (f)(4), is section 1111(b)(2) of Pub. L. 110–417, which is set out as a note under section 143 of this title.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(1)(D), (3), (c)(2) of this title, prior to repeal by Pub. L. 101–510, § 1483(a).

AMENDMENTS

2009—Pub. L. 111–84, § 1109(b)(2)(B)(i), inserted ''defense'' before ''manpower'' in section catchline.

Subsec. (a). Pub. L. 111–84, § 1109(b)(2)(A), inserted ''defense'' before ''manpower requirements report'' in introductory provisions.

Subsec. (f). Pub. L. 111–84, § 1109(b)(1), added subsec. (f).

1998—Subsec. (a). Pub. L. 105–261, in introductory provisions, struck out '', not later than February 15 of each fiscal year,'' after ''submit to Congress'' and substituted ''The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31. The report'' for ''The report shall be in writing and''.

1997—Subsec. (h). Pub. L. 105–85, § 522(i)(2)(A), inserted ''(displayed in the aggregate and separately for military technicians (dual status) and non-dual status military technicians)'' after ''of the following'' in introductory provisions.

Subsec. (h)(3). Pub. L. 105–85, § 522(i)(2)(B), struck out par. (3) which read as follows: ''Within each of the numbers under paragraph (1), the numbers of military technicians who are not themselves members of a reserve component (so-called 'single-status' technicians), with a further display of such numbers as specified in paragraph (2).''

1996—Subsec. (b)(2)(C). Pub. L. 104–106, § 1061(d)(1), struck out subpar. (C) which read as follows: ''Area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.''

Subsec. (d). Pub. L. 104–106, § 1061(d)(3), redesignated subsec. (e) as (d) and struck out pars. (4) and (5) which read as follows:

''(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

''(A) Regular officers.

''(B) Reserve officers on the active-duty list.

''(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

''(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

''(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

''(A) recruit and specialized training;

''(B) flight training;

''(C) professional training in military and civilian institutions; and

''(D) officer acquisition training.''

Pub. L. 104–106, § 1061(d)(2), struck out subsec. (d) which read as follows: ''In each such report, the Secretary shall also—

''(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

''(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

''(3) provide a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs.''

Subsec. (e). Pub. L. 104–106, § 1061(d)(5), redesignated subsec. (g) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–106, § 1061(d)(4), struck out subsec. (f) which read as follows: ''In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended.''

Subsec. (g). Pub. L. 104–106, § 1061(d)(5), redesignated subsec. (g) as (e).

Subsec. (h). Pub. L. 104–106, § 513(e), added subsec. (h).

1991—Subsec. (d)(3). Pub. L. 102–190 inserted ''provide'' before ''a comprehensive''.

ASSESSMENT OF STRUCTURE AND MIX OF ACTIVE AND RESERVE FORCES

Section 402 of Pub. L. 102–190, as amended by Pub. L. 102–484, div. A, title V, § 513(b), Oct. 23, 1992, 106 Stat. 2406, required Secretary of Defense to submit to Congress a report containing an assessment of alternatives relating to structure and mix of active and reserve forces appropriate for carrying out assigned missions in mid- to late-1990s and an evaluation and recommendations of Secretary and Chairman of Joint Chiefs of Staff as to mix or mixes of reserve and active forces considered acceptable to carry out expected future missions, and further provided for matters to be included in report and evaluation, commencement of assessment, submission of interim and final reports, and funding for assessment.

§ 115b. Annual strategic workforce plan

(a) ANNUAL PLAN REQUIRED.—(1) The Secretary of Defense shall submit to the congressional defense committees on an annual basis a strategic workforce plan to shape and improve the civilian employee workforce of the Department of Defense.

(2) The Under Secretary of Defense for Personnel and Readiness shall have overall responsibility for developing and implementing the strategic workforce plan, in consultation with the

Under Secretary of Defense for Acquisition, Technology, and Logistics.

(b) CONTENTS.—Each strategic workforce plan under subsection (a) shall include, at a minimum, the following:

(1) An assessment of—

(A) the critical skills and competencies that will be needed in the future within the civilian employee workforce by the Department of Defense to support national security requirements and effectively manage the Department during the seven-year period following the year in which the plan is submitted;

(B) the appropriate mix of military, civilian, and contractor personnel capabilities;

(C) the critical skills and competencies of the existing civilian employee workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(D) gaps in the existing or projected civilian employee workforce of the Department that should be addressed to ensure that the Department has continued access to the critical skills and competencies described in subparagraphs (A) and (C).

(2) A plan of action for developing and reshaping the civilian employee workforce of the Department to address the gaps in critical skills and competencies identified under paragraph (1)(D), including—

(A) specific recruiting and retention goals, especially in areas identified as critical skills and competencies under paragraph (1), including the program objectives of the Department to be achieved through such goals and the funding needed to achieve such goals;

(B) specific strategies for developing, training, deploying, compensating, and motivating the civilian employee workforce of the Department, including the program objectives of the Department to be achieved through such strategies and the funding needed to implement such strategies;

(C) any incentives necessary to attract or retain any civilian personnel possessing the skills and competencies identified under paragraph (1);

(D) any changes in the number of personnel authorized in any category of personnel listed in subsection (f)(1) or in the acquisition workforce that may be needed to address such gaps and effectively meet the needs of the Department;

(E) any changes in resources or in the rates or methods of pay for any category of personnel listed in subsection (f)(1) or in the acquisition workforce that may be needed to address inequities and ensure that the Department has full access to appropriately qualified personnel to address such gaps and meet the needs of the Department; and

(F) any legislative changes that may be necessary to achieve the goals referred to in subparagraph (A).

(3) An assessment, using results-oriented performance measures, of the progress of the Department in implementing the strategic workforce plan under this section during the previous year.

(4) Any additional matters the Secretary of Defense considers necessary to address.

(c) SENIOR MANAGEMENT, FUNCTIONAL, AND TECHNICAL WORKFORCE.—(1) Each strategic workforce plan under subsection (a) shall include a separate chapter to specifically address the shaping and improvement of the senior management, functional, and technical workforce (including scientists and engineers) of the Department of Defense.

(2) For purposes of paragraph (1), each plan shall include, with respect to such senior management, functional, and technical workforce—

(A) an assessment of the matters set forth in subparagraphs (A) through (D) of subsection (b)(1);

(B) a plan of action meeting the requirements set forth in subparagraphs (A) through (F) of subsection (b)(2);

(C) specific strategies for developing, training, deploying, compensating, motivating, and designing career paths and career opportunities; and

(D) specific steps that the Department has taken or plans to take to ensure that such workforce is managed in compliance with the requirements of section 129 of this title.

(d) DEFENSE ACQUISITION WORKFORCE.—(1) Each strategic workforce plan under subsection (a) shall include a separate chapter to specifically address the shaping and improvement of the defense acquisition workforce, including both military and civilian personnel.

(2) For purposes of paragraph (1), each plan shall include, with respect to the defense acquisition workforce—

(A) an assessment of the matters set forth in subparagraphs (A) through (D) of subsection (b)(1);

(B) a plan of action meeting the requirements set forth in subparagraphs (A) through (F) of subsection (b)(2);

(C) specific steps that the Department has taken or plans to take to develop appropriate career paths for civilian employees in the acquisition field and to implement the requirements of section 1722a of this title with regard to members of the armed forces in the acquisition field; and

(D) a plan for funding needed improvements in the acquisition workforce of the Department through the period of the future-years defense program, including—

(i) the funding programmed for defense acquisition workforce improvements, including a specific identification of funding provided in the Department of Defense Acquisition Workforce Fund established under section 1705 of this title, along with a description of how such funding is being implemented and whether it is being fully used; and

(ii) a description of any continuing shortfalls in funding available for the acquisition workforce.

(e) SUBMITTALS BY SECRETARIES OF THE MILITARY DEPARTMENTS AND HEADS OF THE DEFENSE AGENCIES.—The Secretary of Defense shall re-

quire the Secretary of each military department and the head of each Defense Agency to submit a report to the Secretary addressing each of the matters described in this section. The Secretary of Defense shall establish a deadline for the submittal of reports under this subsection that enables the Secretary to consider the material submitted in a timely manner and incorporate such material, as appropriate, into the strategic workforce plan required by this section.

(f) DEFINITIONS.—In this section:

(1) The term ''senior management, functional, and technical workforce of the Department of Defense'' includes the following categories of Department of Defense civilian personnel:

(A) Appointees in the Senior Executive Service under section 3131 of title 5.

(B) Persons serving in positions described in section 5376(a) of title 5.

(C) Highly qualified experts appointed pursuant to section 9903 of title 5.

(D) Scientists and engineers appointed pursuant to section 342(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2721), as amended by section 1114 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398 (114 Stat. 1654A–315)).

(E) Scientists and engineers appointed pursuant to section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).

(F) Persons serving in the Defense Intelligence Senior Executive Service under section 1606 of this title.

(G) Persons serving in Intelligence Senior Level positions under section 1607 of this title.

(2) The term ''acquisition workforce'' includes individuals designated under section 1721 as filling acquisition positions.

(Added Pub. L. 111–84, div. A, title XI, §1108(a)(1), Oct. 28, 2009, 123 Stat. 2488.)

REFERENCES IN TEXT

Section 342(b) of the National Defense Authorization Act for Fiscal Year 1995, referred to in subsec. (f)(1)(D), is section 342(b) of Pub. L. 103–337, which is set out as a note under section 2358 of this title.

Section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, referred to in subsec. (f)(1)(E), is section 1101 of Pub. L. 105–261, which is set out as a note under section 3104 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 115b was renumbered section 10541 of this title.

§116. Annual operations and maintenance report

(a)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

(b) In this section:

(1) The term ''combat arms battalions'' means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

(2) The term ''major repair work'' means, in the case of any ship to which subsection (a) is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.

(Added Pub. L. 96–342, title X, §1001(b)(3), (c)(2), Sept. 8, 1980, 94 Stat. 1118, 1119, §138(e), (f)(2); amended Pub. L. 96–513, title V, §511(4)(B), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 97–86, title III, §302, Dec. 1, 1981, 95 Stat. 1104; renumbered §116 and amended Pub. L. 99–433, title I, §§101(a)(2), 110(b)(6), (7), (9), (10), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 105–85, div. A, title X, §1073(a)(3), Nov. 18, 1997, 111 Stat. 1900.)

AMENDMENTS

1997—Subsec. (b)(2). Pub. L. 105–85 substituted ''subsection (a)'' for ''such subsection''.

1986—Pub. L. 99–433 successively redesignated subsecs. (e) and (f)(2) of section 138 of this title as subsecs. (e) and (f)(2) of section 114 of this title and then as subsecs. (a) and (b), respectively, of this section, added section catchline, and made minor conforming changes in text.

1981—Subsec. (a)(3), (4), formerly §138(e)(3), (4). Pub. L. 97–86 struck out pars. (3) and (4) which required the Secretary to include in each report a projection of the combat readiness of specified military units proposed to be maintained during the next fiscal year.

1980—Subsec. (b), formerly §138(f)(2). Pub. L. 96–513 substituted ''In subsection (e)'' for ''In subsection (f)''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513.

§117. Readiness reporting system: establishment; reporting to congressional committees

(a) REQUIRED READINESS REPORTING SYSTEM.—The Secretary of Defense shall establish a comprehensive readiness reporting system for the Department of Defense. The readiness reporting

system shall measure in an objective, accurate, and timely manner the capability of the armed forces to carry out—

(1) the National Security Strategy prescribed by the President in the most recent annual national security strategy report under section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(2) the defense planning guidance provided by the Secretary of Defense pursuant to section 113(g) of this title; and

(3) the National Military Strategy prescribed by the Chairman of the Joint Chiefs of Staff.

(b) READINESS REPORTING SYSTEM CHARACTERISTICS.—In establishing the readiness reporting system, the Secretary shall ensure—

(1) that the readiness reporting system is applied uniformly throughout the Department of Defense;

(2) that information in the readiness reporting system is continually updated, with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours of the event necessitating the change in readiness status; and

(3) that sufficient resources are provided to establish and maintain the system so as to allow reporting of changes in readiness status as required by this section.

(c) CAPABILITIES.—The readiness reporting system shall measure such factors relating to readiness as the Secretary prescribes, except that the system shall include the capability to do each of the following:

(1) Measure, on a monthly basis, the capability of units (both as elements of their respective armed force and as elements of joint forces) to conduct their assigned wartime missions.

(2) Measure, on an annual basis, the capability of training establishments to provide trained and ready forces for wartime missions.

(3) Measure, on an annual basis, the capability of defense installations and facilities and other elements of Department of Defense infrastructure, both in the United States and abroad, to provide appropriate support to forces in the conduct of their wartime missions.

(4) Measure, on a monthly basis, critical warfighting deficiencies in unit capability.

(5) Measure, on an annual basis, critical warfighting deficiencies in training establishments and defense infrastructure.

(6) Measure, on a monthly basis, the level of current risk based upon the readiness reporting system relative to the capability of forces to carry out their wartime missions.

(7) Measure, on a quarterly basis, the extent to which units of the armed forces remove serviceable parts, supplies, or equipment from one vehicle, vessel, or aircraft in order to render a different vehicle, vessel, or aircraft operational.

(d) QUARTERLY AND MONTHLY JOINT READINESS REVIEWS.—(1) The Chairman of the Joint Chiefs of Staff shall—

(A) on a quarterly basis, conduct a joint readiness review; and

(B) on a monthly basis, review any changes that have been reported in readiness since the previous joint readiness review.

(2) The Chairman shall incorporate into both the joint readiness review required under paragraph (1)(A) and the monthly review required under paragraph (1)(B) the current information derived from the readiness reporting system and shall assess the capability of the armed forces to execute their wartime missions based upon their posture at the time the review is conducted. The Chairman shall submit to the Secretary of Defense the results of each review under paragraph (1), including the deficiencies in readiness identified during that review.

(e) SUBMISSION TO CONGRESSIONAL COMMITTEES.—The Secretary shall each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A), including the current information derived from the readiness reporting system. Each such report shall be submitted in unclassified form and may, as the Secretary determines necessary, also be submitted in classified form.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. In those regulations, the Secretary shall prescribe the units that are subject to reporting in the readiness reporting system, what type of equipment is subject to such reporting, and the elements of the training establishment and of defense infrastructure that are subject to such reporting.

(Added Pub. L. 105–261, div. A, title III, § 373(a)(1), Oct. 17, 1998, 112 Stat. 1990; amended Pub. L. 106–65, div. A, title III, § 361(d)(1), title X, § 1067(1), Oct. 5, 1999, 113 Stat. 575, 774; Pub. L. 106–398, § 1 [[div. A], title III, § 371], Oct. 30, 2000, 114 Stat. 1654, 1654A–80; Pub. L. 108–136, div. A, title X, § 1031(a)(1), Nov. 24, 2003, 117 Stat. 1595.)

PRIOR PROVISIONS

A prior section 117, added Pub. L. 97–295, § 1(2)(A), Oct. 12, 1982, 96 Stat. 1287, § 133a; renumbered § 117 and amended Pub. L. 99–433, title I, §§ 101(a)(2), 110(d)(3), Oct. 1, 1986, 100 Stat. 994, 1002, required annual report on North Atlantic Treaty Organization readiness, prior to repeal by Pub. L. 101–510, div. A, title XIII, § 1301(1), Nov. 5, 1990, 104 Stat. 1668.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–136 substituted ''each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A)'' for ''each month submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report in writing containing the results of the most recent joint readiness review or monthly review conducted under subsection (d)''.

2000—Subsec. (c)(7). Pub. L. 106–398 added par. (7).

1999—Subsec. (b)(2). Pub. L. 106–65, §361(d)(1)(A), substituted ''with (A) any change in the overall readiness status of a unit that is required to be reported as part of the readiness reporting system being reported within 24 hours of the event necessitating the change in readiness status, and (B) any change in the overall readiness status of an element of the training establishment or an element of defense infrastructure that is required to be reported as part of the readiness reporting system being reported within 72 hours'' for ''with any change in the overall readiness status of a unit, an element of the training establishment, or an element of defense infrastructure, that is required to be reported as part of the readiness reporting system, being reported within 24 hours''.

Subsec. (c)(2), (3), (5). Pub. L. 106–65, §361(d)(1)(B), substituted ''an annual'' for ''a quarterly''.

Subsec. (e). Pub. L. 106–65, §1067(1), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

DEFENSE MATERIEL READINESS BOARD

Pub. L. 110–181, div. A, title VIII, subtitle G, Jan. 28, 2008, 122 Stat. 260, provided that:

''SEC. 871. ESTABLISHMENT OF DEFENSE MATERIEL READINESS BOARD.

''(a) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Defense shall establish a Defense Materiel Readiness Board (in this subtitle referred to as the 'Board') within the Office of the Secretary of Defense.

''(b) MEMBERSHIP.—The Secretary shall appoint the chairman and the members of the Board from among officers of the Armed Forces with expertise in matters relevant to the function of the Board to assess materiel readiness and evaluate plans and policies relating to materiel readiness. At a minimum, the Board shall include representatives of the Joint Chiefs of Staff, each of the Armed Forces, and each of the reserve components of the Armed Forces.

''(c) STAFF.—The Secretary of Defense shall assign staff, and request the Secretaries of the military departments to assign staff, as necessary to assist the Board in carrying out its duties.

''(d) FUNCTIONS.—The Board shall provide independent assessments of materiel readiness, materiel readiness shortfalls, and materiel readiness plans to the Secretary of Defense and the Congress. To carry out such functions, the Board shall—

''(1) monitor and assess the materiel readiness of the Armed Forces;

''(2) assist the Secretary of Defense in the identification of deficiencies in the materiel readiness of the Armed Forces caused by shortfalls in weapons systems, equipment, and supplies;

''(3) identify shortfalls in materiel readiness, including critical materiel readiness shortfalls, for purposes of the Secretary's designations under section 872 and the funding needed to address such shortfalls;

''(4) assess the adequacy of current Department of Defense plans, policies, and programs to address shortfalls in materiel readiness, including critical materiel readiness shortfalls (as designated by the Secretary under section 872), and to sustain and improve materiel readiness;

''(5) assist the Secretary of Defense in determining whether the industrial capacity of the Department of Defense and of the defense industrial base is being best utilized to support the materiel readiness needs of the Armed Forces;

''(6) review and assess Department of Defense systems for measuring the status of current materiel readiness of the Armed Forces; and

''(7) make recommendations with respect to materiel readiness funding, measurement techniques, plans, policies, and programs.

''(e) REPORTS.—The Board shall submit to the Secretary of Defense a report summarizing its findings and recommendations not less than once every six months. Within 30 days after receiving a report from the Board, the Secretary shall forward the report in its entirety, together with his comments, to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives]. The report shall be submitted in unclassified form. To the extent necessary, the report may be accompanied by a classified annex.

''SEC. 872. CRITICAL MATERIEL READINESS SHORTFALLS.

''(a) DESIGNATION OF CRITICAL MATERIEL READINESS SHORTFALLS.—

''(1) DESIGNATION.—The Secretary of Defense may designate any requirement of the Armed Forces for equipment or supplies as a critical materiel readiness shortfall if there is a shortfall in the required equipment or supplies that materially reduces readiness of the Armed Forces and that—

''(A) cannot be adequately addressed by identifying acceptable substitute capabilities or cross leveling of equipment that does not unacceptably reduce the readiness of other Armed Forces; and

''(B) that is likely to persist for more than two years based on currently projected budgets and schedules for deliveries of equipment and supplies.

''(2) CONSIDERATION OF BOARD FINDINGS AND RECOMMENDATIONS.—In making any such designation, the Secretary shall take into consideration the findings and recommendations of the Defense Materiel Readiness Board.

''(b) MEASURES TO ADDRESS CRITICAL MATERIEL READINESS SHORTFALLS.—The Secretary of Defense shall ensure that critical materiel readiness shortfalls designated pursuant to subsection (a)(1) are transmitted to the relevant officials of the Department of Defense responsible for requirements, budgets, and acquisition, and that such officials prioritize and address such shortfalls in the shortest time frame practicable.

''(c) TRANSFER AUTHORITY.—

''(1) IN GENERAL.—The amounts of authorizations that the Secretary may transfer under the authority of section 1001 of this Act [122 Stat. 299] is hereby increased by $2,000,000,000.

''(2) LIMITATIONS.—The additional transfer authority provided by this section—

''(A) may be made only from authorizations to the Department of Defense for fiscal year 2008;

''(B) may be exercised solely for the purpose of addressing critical materiel readiness shortfalls as designated by the Secretary of Defense under subsection (a); and

''(C) is subject to the same terms, conditions, and procedures as other transfer authority under section 1001 of this Act [122 Stat. 299].

''(d) STRATEGIC READINESS FUND.—

''(1) ESTABLISHMENT.—There is established on the books of the Treasury a fund to be known as the Department of Defense Strategic Readiness Fund (in this subsection referred to as the 'Fund'), which shall be administered by the Secretary of the Treasury.

''(2) PURPOSES.—The Fund shall be used to address critical materiel readiness shortfalls as designated by the Secretary of Defense under subsection (a).

''(3) ASSETS OF FUND.—There shall be deposited into the Fund any amount appropriated to the Fund, which shall constitute the assets of the Fund.

''(4) LIMITATION.—The procurement unit cost (as defined in section 2432(a) of title 10, United States Code) of any item purchased using assets of the Fund, whether such assets are in the Fund or after such assets have been transferred from the Fund using the authority provided in subsection (c), shall not exceed $30,000,000.

''(e) MULTIYEAR CONTRACT NOTIFICATION.—

''(1) NOTIFICATION.—If the Secretary of a military department makes the determination described in paragraph (2) with respect to the use of a multiyear contract, the Secretary shall notify the congressional

defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] within 30 days of the determination and provide a detailed description of the proposed multiyear contract.

''(2) DETERMINATION.—The determination referred to in paragraph (1) is a determination by the Secretary of a military department that the use of a multiyear contract to procure an item to address a critical materiel readiness shortfall—

''(A) will significantly accelerate efforts to address a critical materiel readiness shortfall;

''(B) will provide savings compared to the total anticipated costs of carrying out the contract through annual contracts; and

''(C) will serve the interest of national security.

''(f) DEFINITION.—In this section, the term 'critical materiel readiness shortfall' means a critical materiel readiness shortfall designated by the Secretary of Defense under this section.''

IMPLEMENTATION

Pub. L. 105–261, div. A, title III, § 373(b), (c), Oct. 17, 1998, 112 Stat. 1992, as amended by Pub. L. 106–65, div. A, title III, § 361(d)(2), Oct. 5, 1999, 113 Stat. 575, directed the Secretary of Defense to submit to Congress a report, not later than Mar. 1, 1999, setting forth a plan for implementation of this section, and required the Secretary to establish and implement the readiness reporting system required by this section so as to ensure that required capabilities would be attained not later than Apr. 1, 2000.

§ 118. Quadrennial defense review

(a) REVIEW REQUIRED.—The Secretary of Defense shall every four years, during a year following a year evenly divisible by four, conduct a comprehensive examination (to be known as a ''quadrennial defense review'') of the national defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies of the United States with a view toward determining and expressing the defense strategy of the United States and establishing a defense program for the next 20 years. Each such quadrennial defense review shall be conducted in consultation with the Chairman of the Joint Chiefs of Staff.

(b) CONDUCT OF REVIEW.—Each quadrennial defense review shall be conducted so as—

(1) to delineate a national defense strategy consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(2) to define sufficient force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program of the United States associated with that national defense strategy that would be required to execute successfully the full range of missions called for in that national defense strategy;

(3) to identify (A) the budget plan that would be required to provide sufficient resources to execute successfully the full range of missions called for in that national defense strategy at a low-to-moderate level of risk, and (B) any additional resources (beyond those programmed in the current future-years defense program) required to achieve such a level of risk; and

(4) to make recommendations that are not constrained to comply with the budget submitted to Congress by the President pursuant to section 1105 of title 31.

(c) ASSESSMENT OF RISK.—The assessment of risk for the purposes of subsection (b) shall be undertaken by the Secretary of Defense in consultation with the Chairman of the Joint Chiefs of Staff. That assessment shall define the nature and magnitude of the political, strategic, and military risks associated with executing the missions called for under the national defense strategy.

(d) SUBMISSION OF QDR TO CONGRESSIONAL COMMITTEES.—The Secretary shall submit a report on each quadrennial defense review to the Committees on Armed Services of the Senate and the House of Representatives. The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31. The report shall include the following:

(1) The results of the review, including a comprehensive discussion of the national defense strategy of the United States, the strategic planning guidance, and the force structure best suited to implement that strategy at a low-to-moderate level of risk.

(2) The assumed or defined national security interests of the United States that inform the national defense strategy defined in the review.

(3) The threats to the assumed or defined national security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats.

(4) The assumptions used in the review, including assumptions relating to—

(A) the status of readiness of United States forces;

(B) the cooperation of allies, mission-sharing and additional benefits to and burdens on United States forces resulting from coalition operations;

(C) warning times;

(D) levels of engagement in operations other than war and smaller-scale contingencies and withdrawal from such operations and contingencies; and

(E) the intensity, duration, and military and political end-states of conflicts and smaller-scale contingencies.

(5) The effect on the force structure and on readiness for high-intensity combat of preparations for and participation in operations other than war and smaller-scale contingencies.

(6) The manpower and sustainment policies required under the national defense strategy to support engagement in conflicts lasting longer than 120 days.

(7) The anticipated roles and missions of the reserve components in the national defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

(8) The appropriate ratio of combat forces to support forces (commonly referred to as the

''tooth-to-tail'' ratio) under the national defense strategy, including, in particular, the appropriate number and size of headquarters units and Defense Agencies for that purpose.

(9) The specific capabilities, including the general number and type of specific military platforms, needed to achieve the strategic and warfighting objectives identified in the review.

(10) The strategic and tactical air-lift, sealift, and ground transportation capabilities required to support the national defense strategy.

(11) The forward presence, pre-positioning, and other anticipatory deployments necessary under the national defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

(12) The extent to which resources must be shifted among two or more theaters under the national defense strategy in the event of conflict in such theaters.

(13) The advisability of revisions to the Unified Command Plan as a result of the national defense strategy.

(14) The effect on force structure of the use by the armed forces of technologies anticipated to be available for the ensuing 20 years.

(15) The national defense mission of the Coast Guard.

(16) The homeland defense and support to civil authority missions of the active and reserve components, including the organization and capabilities required for the active and reserve components to discharge each such mission.

(17) Any other matter the Secretary considers appropriate.

(e) CJCS REVIEW.—(1) Upon the completion of each review under subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary of Defense the Chairman's assessment of the review, including the Chairman's assessment of risk and a description of the capabilities needed to address such risk.

(2) The Chairman's assessment shall be submitted to the Secretary in time for the inclusion of the assessment in the report. The Secretary shall include the Chairman's assessment, together with the Secretary's comments, in the report in its entirety.

(f) NATIONAL DEFENSE PANEL.—

(1) ESTABLISHMENT.—Not later than February 1 of a year in which a quadrennial defense review is conducted under this section, there shall be established an independent panel to be known as the National Defense Panel (in this subsection referred to as the ''Panel''). The Panel shall have the duties set forth in this subsection.

(2) MEMBERSHIP.—The Panel shall be composed of ten members from private civilian life who are recognized experts in matters relating to the national security of the United States. Eight of the members shall be appointed as follows:

(A) Two by the chairman of the Committee on Armed Services of the House of Representatives.

(B) Two by the chairman of the Committee on Armed Services of the Senate.

(C) Two by the ranking member of the Committee on Armed Services of the House of Representatives.

(D) Two by the ranking member of the Committee on Armed Services of the Senate.

(3) CO-CHAIRS OF THE PANEL.—In addition to the members appointed under paragraph (2), the Secretary of Defense shall appoint two members from private civilian life to serve as co-chairs of the panel.

(4) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Panel. Any vacancy in the Panel shall be filled in the same manner as the original appointment.

(5) DUTIES.—The Panel shall have the following duties with respect to a quadrennial defense review:

(A) While the review is being conducted, the Panel shall review the updates from the Secretary of Defense required under paragraph (8) on the conduct of the review.

(B) The Panel shall—

(i) review the Secretary of Defense's terms of reference and any other materials providing the basis for, or substantial inputs to, the work of the Department of Defense on the quadrennial defense review;

(ii) conduct an assessment of the assumptions, strategy, findings, and risks of the report on the quadrennial defense review required in subsection (d), with particular attention paid to the risks described in that report;

(iii) conduct an independent assessment of a variety of possible force structures of the armed forces, including the force structure identified in the report on the quadrennial defense review required in subsection (d);

(iv) review the resource requirements identified pursuant to subsection (b)(3) and, to the extent practicable, make a general comparison to the resource requirements to support the forces contemplated under the force structures assessed under this subparagraph; and

(v) provide to Congress and the Secretary of Defense, through the report under paragraph (7), any recommendations it considers appropriate for their consideration.

(6) FIRST MEETING.—If the Secretary of Defense has not made the Secretary's appointments to the Panel under paragraph (3) by February 1 of a year in which a quadrennial defense review is conducted under this section, the Panel shall convene for its first meeting with the remaining members.

(7) REPORT.—Not later than 3 months after the date on which the report on a quadrennial defense review is submitted under subsection (d) to the congressional committees named in that subsection, the Panel established under paragraph (1) shall submit to those committees an assessment of the quadrennial defense review, including a description of the items addressed under paragraph (5) with respect to that quadrennial defense review.

(8) UPDATES FROM SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that pe-

riodically, but not less often than every 60 days, or at the request of the co-chairs, the Department of Defense briefs the Panel on the progress of the conduct of a quadrennial defense review under subsection (a).

(9) ADMINISTRATIVE PROVISIONS.—

(A) The Panel may request directly from the Department of Defense and any of its components such information as the Panel considers necessary to carry out its duties under this subsection. The head of the department or agency concerned shall cooperate with the Panel to ensure that information requested by the Panel under this paragraph is promptly provided to the maximum extent practical.

(B) Upon the request of the co-chairs, the Secretary of Defense shall make available to the Panel the services of any federally funded research and development center that is covered by a sponsoring agreement of the Department of Defense.

(C) The Panel shall have the authorities provided in section 3161 of title 5 and shall be subject to the conditions set forth in such section.

(D) Funds for activities of the Panel shall be provided from amounts available to the Department of Defense.

(10) TERMINATION.—The Panel for a quadrennial defense review shall terminate 45 days after the date on which the Panel submits its final report on the quadrennial defense review under paragraph (7).

(g) CONSIDERATION OF EFFECT OF CLIMATE CHANGE ON DEPARTMENT FACILITIES, CAPABILITIES, AND MISSIONS.—(1) The first national security strategy and national defense strategy prepared after January 28, 2008, shall include guidance for military planners—

(A) to assess the risks of projected climate change to current and future missions of the armed forces;

(B) to update defense plans based on these assessments, including working with allies and partners to incorporate climate mitigation strategies, capacity building, and relevant research and development; and

(C) to develop the capabilities needed to reduce future impacts.

(2) The first quadrennial defense review prepared after January 28, 2008, shall also examine the capabilities of the armed forces to respond to the consequences of climate change, in particular, preparedness for natural disasters from extreme weather events and other missions the armed forces may be asked to support inside the United States and overseas.

(3) For planning purposes to comply with the requirements of this subsection, the Secretary of Defense shall use—

(A) the mid-range projections of the fourth assessment report of the Intergovernmental Panel on Climate Change;

(B) subsequent mid-range consensus climate projections if more recent information is available when the next national security strategy, national defense strategy, or quadrennial defense review, as the case may be, is conducted; and

(C) findings of appropriate and available estimations or studies of the anticipated strategic, social, political, and economic effects of global climate change and the implications of such effects on the national security of the United States.

(4) In this subsection, the term ''national security strategy'' means the annual national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a).

(h) RELATIONSHIP TO BUDGET.—Nothing in this section shall be construed to affect section 1105(a) of title 31.

(i) INTERAGENCY OVERSEAS BASING REPORT.—(1) Not later than 90 days after submitting a report on a quadrennial defense review under subsection (d), the Secretary of Defense shall submit to the congressional defense committees a report detailing how the results of the assessment conducted as part of such review will impact—

(A) the status of overseas base closure and realignment actions undertaken as part of a global defense posture realignment strategy; and

(B) the status of development and execution of comprehensive master plans for overseas military main operating bases, forward operating sites, and cooperative security locations of the global defense posture of the United States.

(2) A report under paragraph (1) shall include any recommendations for additional closures or realignments of military installations outside of the United States and any comments resulting from an interagency review of these plans that includes the Department of State and other relevant Federal departments and agencies.

(Added Pub. L. 106–65, div. A, title IX, § 901(a)(1), Oct. 5, 1999, 113 Stat. 715; amended Pub. L. 107–107, div. A, title IX, § 921(a), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107–314, div. A, title IX, §§ 922, 923, Dec. 2, 2002, 116 Stat. 2623; Pub. L. 109–364, div. A, title X, § 1031(c)–(f), Oct. 17, 2006, 120 Stat. 2385, 2386; Pub. L. 110–181, div. A, title IX, §§ 941(b), 951(a), Jan. 28, 2008, 122 Stat. 287, 290; Pub. L. 111–84, div. A, title X, §§ 1002, 1073(a)(2), div. B, title XXVIII, § 2822(b), Oct. 28, 2009, 123 Stat. 2439, 2472, 2666; Pub. L. 111–383, div. A, title X, § 1071, Jan. 7, 2011, 124 Stat. 4364.)

PRIOR PROVISIONS

A prior section 118, added Pub. L. 97–295, § 1(2)(A), Oct. 12, 1982, 96 Stat. 1288, § 133b; renumbered § 118, Pub. L. 99–433, title I, § 101(a)(2), Oct. 1, 1986, 100 Stat. 994, required reports to Congress on sales or transfers of defense articles, prior to repeal by Pub. L. 101–510, div. A, title XIII, § 1301(2), Nov. 5, 1990, 104 Stat. 1668.

AMENDMENTS

2011—Subsec. (f). Pub. L. 111–383 amended subsec. (f) generally. Prior to amendment, text read as follows:

''(1) Not later than six months before the date on which the report on a Quadrennial Defense Review is to be submitted under subsection (d), the Secretary of Defense shall establish a panel to conduct an assessment of the quadrennial defense review.

''(2) Not later than three months after the date on which the report on a quadrennial defense review is submitted under subsection (d) to the congressional

committees named in that subsection, the panel appointed under paragraph (1) shall submit to those committees an assessment of the review, including the recommendations of the review, the stated and implied assumptions incorporated in the review, and the vulnerabilities of the strategy and force structure underlying the review. The assessment of the panel shall include analyses of the trends, asymmetries, and concepts of operations that characterize the military balance with potential adversaries, focusing on the strategic approaches of possible opposing forces.''

2009—Subsec. (g)(1), (2). Pub. L. 111–84, § 1073(a)(2), substituted ''January 28, 2008,'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008''.

Subsec. (h). Pub. L. 111–84, § 1002, added subsec. (h).

Subsec. (i). Pub. L. 111–84, § 2822(b), added subsec. (i).

2008—Subsec. (e)(2), (3). Pub. L. 110–181, § 941(b), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: ''The Chairman shall include as part of that assessment the Chairman's assessment of the assignment of functions (or roles and missions) to the armed forces, together with any recommendations for changes in assignment that the Chairman considers necessary to achieve maximum efficiency of the armed forces. In preparing the assessment under this paragraph, the Chairman shall consider (among other matters) the following:

''(A) Unnecessary duplication of effort among the armed forces.

''(B) Changes in technology that can be applied effectively to warfare.''

Subsec. (g). Pub. L. 110–181, § 951(a), added subsec. (g).

2006—Subsec. (b)(4). Pub. L. 109–364, § 1031(c), added par. (4).

Subsec. (d)(1). Pub. L. 109–364, § 1031(d)(1), inserted '', the strategic planning guidance,'' after ''United States''.

Subsec. (d)(9) to (15). Pub. L. 109–364, § 1031(d)(2), (3), added par. (9) and redesignated former pars. (9) to (14) as (10) to (15), respectively. Former par. (15) redesignated (17).

Subsec. (d)(16). Pub. L. 109–364, § 1031(d)(4), added par. (16).

Subsec. (d)(17). Pub. L. 109–364, § 1031(d)(2), redesignated par. (15) as (17).

Subsec. (e)(1). Pub. L. 109–364, § 1031(e), inserted ''and a description of the capabilities needed to address such risk'' before period at end.

Subsec. (f). Pub. L. 109–364, § 1031(f), added subsec. (f).

2002—Subsec. (d). Pub. L. 107–314, § 922, substituted ''in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31'' for ''not later than September 30 of the year in which the review is conducted'' in second sentence of introductory provisions.

Subsec. (d)(14), (15). Pub. L. 107–314, § 923, added par. (14) and redesignated former par. (14) as (15).

2001—Subsec. (e). Pub. L. 107–107 designated the first sentence of existing provisions as par. (1), the second and third sentences of existing provisions as par. (3), and added par. (2).

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

IMPLEMENTATION

Pub. L. 110–181, div. A, title IX, § 951(b), Jan. 28, 2008, 122 Stat. 291, provided that: ''The Secretary of Defense shall ensure that subsection (g) of section 118 of title 10, United States Code, as added by subsection (a), is implemented in a manner that does not have a negative impact on the national security of the United States.''

FINDINGS AND SENSE OF CONGRESS

Pub. L. 109–364, div. A, title X, § 1031(a), (b), Oct. 17, 2006, 120 Stat. 2385, provided that:

''(a) FINDINGS.—Congress finds that the comprehensive examination of the defense program and policies of the United States that is undertaken by the Security [Secretary of] Defense every four years pursuant to section 118 of title 10, United States Code, known as the Quadrennial Defense Review, is—

''(1) vital in laying out the strategic military planning and threat objectives of the Department of Defense; and

''(2) critical to identifying the correct mix of military planning assumptions, defense capabilities, and strategic focuses for the Armed Forces.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that the Quadrennial Defense Review is intended to provide more than an overview of global threats and the general strategic orientation of the Department of Defense.''

ASSESSMENT WITH RESPECT TO 2001 QDR

Pub. L. 107–107, div. A, title IX, § 921(c), Dec. 28, 2001, 115 Stat. 1198, directed the Chairman of the Joint Chiefs of Staff to submit to Congress, not later than one year after Dec. 28, 2001, an assessment of functions (or roles and missions) of the Armed Forces in accordance with par. (2) of subsec. (e) of this section based on the findings in the 2001 Quadrennial Defense Review issued by the Secretary of Defense on Sept. 30, 2001.

REVISED NUCLEAR POSTURE REVIEW

Pub. L. 106–398, § 1 [[div. A], title X, § 1041], Oct. 30, 2000, 114 Stat. 1654, 1654A–262, as amended by Pub. L. 107–107, div. A, title X, § 1033, Dec. 28, 2001, 115 Stat. 1216, directed the Secretary of Defense to conduct a comprehensive review of the nuclear posture of the United States for the next 5 to 10 years, and to submit to Congress a report on the results of such review concurrently with the Quadrennial Defense Review report due in Dec. 2001.

SPECIFIED MATTER FOR FIRST QDR

Pub. L. 106–65, div. A, title IX, § 901(c), Oct. 5, 1999, 113 Stat. 717, directed the Secretary of Defense to include, in the first quadrennial defense review conducted under this section, precision guided munitions, stealth, night vision, digitization, and communications within the technologies considered for the purposes of subsec. (d)(13) of this section.

§ 118a. Quadrennial quality of life review

(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the ''quadrennial quality of life review''). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as—

(1) to assess quality of life priorities and issues consistent with the most recent National

Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

(c) CONSIDERATIONS.—The Secretary shall consider addressing the following matters as part of the quadrennial quality of life review:

(1) Infrastructure.

(2) Military construction.

(3) Physical conditions at military installations and other Department of Defense facilities.

(4) Budget plans.

(5) Adequacy of medical care for members of the armed forces and their dependents.

(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

(7) Housing-related utility costs.

(8) Educational opportunities and costs.

(9) Length of deployments.

(10) Rates of pay and pay differentials between the pay of members and the pay of civilians.

(11) Retention and recruiting efforts.

(12) Workplace safety.

(13) Support services for spouses and children.

(14) Other elements of Department of Defense programs and Government policies and programs that affect the quality of life of members.

(d) SUBMISSION TO CONGRESSIONAL COMMITTEES.—(1) The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include the following:

(A) The assumptions used in the review.

(B) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

(2) The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.

(Added Pub. L. 107–314, div. A, title V, § 581(a)(1), Dec. 2, 2002, 116 Stat. 2559.)

FIRST QUADRENNIAL QUALITY OF LIFE REVIEW

Pub. L. 107–314, div. A, title V, § 581(b), Dec. 2, 2002, 116 Stat. 2561, directed that the first quadrennial quality of life review under this section would be conducted during 2003, and that the report on such review was to be submitted not later than the date on which the President submitted the budget for fiscal year 2005 to Congress.

§ 118b. Quadrennial roles and missions review

(a) REVIEW REQUIRED.—The Secretary of Defense shall every four years conduct a comprehensive assessment (to be known as the ''quadrennial roles and missions review'') of the roles and missions of the armed forces and the core competencies and capabilities of the Department of Defense to perform and support such roles and missions.

(b) INDEPENDENT MILITARY ASSESSMENT OF ROLES AND MISSIONS.—(1) In each year in which the Secretary of Defense is required to conduct a comprehensive assessment pursuant to subsection (a), the Chairman of the Joint Chiefs of Staff shall prepare and submit to the Secretary the Chairman's assessment of the roles and missions of the armed forces and the assignment of functions to the armed forces, together with any recommendations for changes in assignment that the Chairman considers necessary to achieve maximum efficiency and effectiveness of the armed forces.

(2) The Chairman's assessment shall be conducted so as to—

(A) organize the significant missions of the armed forces into core mission areas that cover broad areas of military activity;

(B) ensure that core mission areas are defined and functions are assigned so as to avoid unnecessary duplication of effort among the armed forces; and

(C) provide the Chairman's recommendations with regard to issues to be addressed by the Secretary of Defense under subsection (c).

(c) IDENTIFICATION OF CORE MISSION AREAS AND CORE COMPETENCIES AND CAPABILITIES.—Upon receipt of the Chairman's assessment, and after giving appropriate consideration to the Chairman's recommendations, the Secretary of Defense shall identify—

(1) the core mission areas of the armed forces;

(2) the core competencies and capabilities that are associated with the performance or support of a core mission area identified pursuant to paragraph (1);

(3) the elements of the Department of Defense (including any other office, agency, activity, or command described in section 111(b) of this title) that are responsible for providing the core competencies and capabilities required to effectively perform the core missions identified pursuant to paragraph (1);

(4) any gaps in the ability of the elements (or other office, agency activity, or command) of the Department of Defense to provide core competencies and capabilities required to effectively perform the core missions identified pursuant to paragraph (1);

(5) any unnecessary duplication of core competencies and capabilities between defense components; and

(6) a plan for addressing any gaps or unnecessary duplication identified pursuant to paragraph (4) or paragraph (5).

(d) REPORT.—The Secretary shall submit a report on the quadrennial roles and missions review to the Committees on Armed Services of the Senate and the House of Representatives. The report shall be submitted in the year follow-

ing the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.

(Added Pub. L. 110–181, div. A, title IX, §941(a), Jan. 28, 2008, 122 Stat. 286.)

TIMING OF QUADRENNIAL ROLES AND MISSIONS REVIEW

Pub. L. 110–181, div. A, title IX, §941(c), Jan. 28, 2008, 122 Stat. 287, provided that:

''(1) FIRST REVIEW.—The first quadrennial roles and missions review under section 118b of title 10, United States Code, as added by subsection (a), shall be conducted during 2008.

''(2) SUBSEQUENT REVIEWS.—Subsequent reviews shall be conducted every four years, beginning in 2011.''

§119. Special access programs: congressional oversight

(a)(1) Not later than March 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.

(2) Each such report shall set forth—

(A) the total amount requested for special access programs of the Department of Defense in the President's budget for the next fiscal year submitted under section 1105 of title 31; and

(B) for each program in that budget that is a special access program—

(i) a brief description of the program;

(ii) a brief discussion of the major milestones established for the program;

(iii) the actual cost of the program for each fiscal year during which the program has been conducted before the fiscal year during which that budget is submitted; and

(iv) the estimated total cost of the program and the estimated cost of the program for (I) the current fiscal year, (II) the fiscal year for which the budget is submitted, and (III) each of the four succeeding fiscal years during which the program is expected to be conducted.

(3) In the case of a report under paragraph (1) submitted in a year during which the President's budget for the next fiscal year, because of multiyear budgeting for the Department of Defense, does not include a full budget request for the Department of Defense, the report required by paragraph (1) shall set forth—

(A) the total amount already appropriated for the next fiscal year for special access programs of the Department of Defense and any additional amount requested in that budget for such programs for such fiscal year; and

(B) for each program of the Department of Defense that is a special access program, the information specified in paragraph (2)(B).

(b)(1) Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides—

(A) notice of the designation of the program as a special access program; and

(B) justification for such designation.

(2) A report under paragraph (1) with respect to a program shall include—

(A) the current estimate of the total program cost for the program; and

(B) an identification of existing programs or technologies that are similar to the technology, or that have a mission similar to the mission, of the program that is the subject of the notice.

(3) In this subsection, the term ''new special access program'' means a special access program that has not previously been covered in a notice and justification under this subsection.

(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.

(d) Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination. Any such notification shall contain the reasons for the modification or termination and, in the case of a modification, the provisions of the policy as modified.

(e)(1) The Secretary of Defense may waive any requirement under subsection (a), (b), or (c) that certain information be included in a report under that subsection if the Secretary determines that inclusion of that information in the report would adversely affect the national security. Any such waiver shall be made on a case-by-case basis.

(2) If the Secretary exercises the authority provided under paragraph (1), the Secretary shall provide the information described in that subsection with respect to the special access program concerned, and the justification for the waiver, jointly to the chairman and ranking minority member of each of the defense committees.

(f) A special access program may not be initiated until—

(1) the defense committees are notified of the program; and

(2) a period of 30 days elapses after such notification is received.

(g) In this section, the term ''defense committees'' means—

(1) the Committee on Armed Services and the Committee on Appropriations, and the Defense Subcommittee of the Committee on Appropriations, of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations, and the Subcommittee on Defense of the Committee on Appropriations, of the House of Representatives.

(Added Pub. L. 100–180, div. A, title XI, § 1132(a)(1), Dec. 4, 1987, 101 Stat. 1151; amended Pub. L. 101–510, div. A, title XIV, §§ 1461, 1482(a), Nov. 5, 1990, 104 Stat. 1698, 1709; Pub. L. 104–106, div. A, title X, § 1055, title XV, § 1502(a)(4), Feb. 10, 1996, 110 Stat. 442, 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 107–107, div. A, title X, § 1048(a)(2), Dec. 28, 2001, 115 Stat. 1222.)

AMENDMENTS

2001—Subsec. (g)(2). Pub. L. 107–107 substituted ''Subcommittee on Defense'' for ''National Security Subcommittee''.

1999—Subsec. (g)(2). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (a)(1). Pub. L. 104–106, § 1055, substituted ''March 1'' for ''February 1''.

Subsec. (g). Pub. L. 104–106, § 1502(a)(4), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) the Committees on Armed Services and Appropriations of the Senate and House of Representatives; and

''(2) the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.''

1990—Subsec. (c). Pub. L. 101–510, § 1461(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Whenever a change is made in the status of a program of the Department of Defense as a special access program, the Secretary of Defense shall submit to the defense committees a report describing the change. Any such report shall be submitted not later than 30 days after the date on which the change takes effect.''

Subsec. (f). Pub. L. 101–510, § 1482(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101–510, § 1461(b), inserted ''and Appropriations'' after ''Armed Services'' in par. (1).

Subsec. (g). Pub. L. 101–510, § 1482(a)(1), redesignated subsec. (f) as (g).

EFFECTIVE DATE OF 1990 AMENDMENT

Section 1482(d) of Pub. L. 101–510 provided that: ''The amendments made by this section [enacting section 2214 of this title and amending this section and section 1584 of this title] shall take effect on October 1, 1991.''

INITIAL REPORTS ON SPECIAL ACCESS PROGRAMS

Pub. L. 100–180, div. A, title XI, § 1132(b), (c), Dec. 4, 1987, 101 Stat. 1152, required that the first report under subsec. (a) of this section set forth the amount that had been requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense and the amount appropriated for each such year for such programs, and required that the first report under subsec. (b) of this section cover existing special access programs.

CHAPTER 3—GENERAL POWERS AND FUNCTIONS

Sec.
121. Regulations.
122. Official registers.
122a. Public availability of Department of Defense reports required by law.
123. Authority to suspend officer personnel laws during war or national emergency.
123a. Suspension of end-strength and other strength limitations in time of war or national emergency.
123b. Forces stationed abroad: limitation on number.
124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency.
125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition.
126. Transfer of funds and employees.
127. Emergency and extraordinary expenses.
127a. Operations for which funds are not provided in advance: funding mechanisms.
127b. Assistance in combating terrorism: rewards.
127c. Purchase of weapons overseas: force protection.
127d. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services.
128. Physical protection of special nuclear material: limitation on dissemination of unclassified information.
129. Prohibition of certain civilian personnel management constraints.
129a. General personnel policy.
129b. Authority to procure personal services.
129c. Medical personnel: limitations on reductions.
130. Authority to withhold from public disclosure certain technical data.
[130a. Repealed.]
130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information.
130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations.
130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel.

AMENDMENTS

2011—Pub. L. 111–383, div. A, title X, § 1061(a)(2), Jan. 7, 2011, 124 Stat. 4362, added item 122a.

2008—Pub. L. 110–417, [div. A], title IV, § 416(c)(2), Oct. 14, 2008, 122 Stat. 4430, substituted ''Suspension of end-strength and other strength limitations in time of war or national emergency'' for ''Suspension of end-strength limitations in time of war or national emergency'' in item 123a.

Pub. L. 110–181, div. A, title X, § 1063(a)(1)(B), Jan. 28, 2008, 122 Stat. 321, which directed amendment of chapter 3 of title 10 ''by revising the table of sections at the beginning of such chapter to reflect the redesignation and transfer made by paragraph (1)'', was executed to reflect the probable intent of Congress by amending the analysis to this chapter to reflect the redesignation and transfer made by section 1063(a)(1)(A) of Pub. L. 110–181, which redesignated the section 127c relating to allied forces participating in combined operations as 127d, and transferred it so as to appear immediately after section 127c relating to purchase of weapons overseas.

Pub. L. 110–181, div. A, title IX, § 901(a)(2), Jan. 28, 2008, 122 Stat. 272, struck out item 130a ''Major Department of Defense headquarters activities personnel: limitation''.

2006—Pub. L. 109–364, div. A, title XII, § 1201(b), title XIV, § 1405(b), Oct. 17, 2006, 120 Stat. 2412, 2436, added items 127c, relating to allied forces participating in combined operations, and 130d.

Pub. L. 109–163, div. A, title XII, § 1231(b), Jan. 6, 2006, 119 Stat. 3468, added item 127c relating to purchase of weapons overseas.

2003—Pub. L. 108–136, div. A, title VIII, § 841(b)(2), Nov. 24, 2003, 117 Stat. 1552, substituted ''Authority to pro-

cure personal services'' for ''Experts and consultants: authority to procure services of'' in item 129b.

2002—Pub. L. 107–314, div. A, title X, § 1065(b), Dec. 2, 2002, 116 Stat. 2656, added item 127b.

2000—Pub. L. 106–398, § 1 [[div. A], title X, § 1073(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, added item 130c.

1999—Pub. L. 106–65, div. A, title IX, § 921(a)(2), title X, § 1044(b), Oct. 5, 1999, 113 Stat. 723, 762, substituted ''Major Department of Defense headquarters activities personnel: limitation'' for ''Management headquarters and headquarters support activities personnel: limitation'' in item 130a and added item 130b.

1997—Pub. L. 105–85, div. A, title IX, § 911(a)(2), Nov. 18, 1997, 111 Stat. 1858, added item 130a.

1996—Pub. L. 104–106, div. A, title XV, § 1504(a)(8), Feb. 10, 1996, 110 Stat. 513, made technical correction to directory language of Pub. L. 103–337, § 1312(a)(2). See 1994 Amendment note below.

Pub. L. 104–106, div. A, title V, § 564(a)(2), title X, § 1003(a)(2), Feb. 10, 1996, 110 Stat. 326, 417, substituted ''Operations for which funds are not provided in advance: funding mechanisms'' for ''Expenses for contingency operations'' in item 127a and added item 129c.

1994—Pub. L. 103–337, div. A, title XVI, § 1671(b)(2), Oct. 5, 1994, 108 Stat. 3013, added item 123 and struck out former item 123 ''Suspension of certain provisions of law relating to reserve commissioned officers''.

Pub. L. 103–337, div. A, title XIII, § 1312(a)(2), Oct. 5, 1994, 108 Stat. 2894, as amended by Pub. L. 104–106, div. A, title XV, § 1504(a)(8), Feb. 10, 1996, 110 Stat. 513, added item 123b.

1993—Pub. L. 103–160, div. A, title XI, § 1108(a)(2), Nov. 30, 1993, 107 Stat. 1752, added item 127a.

1990—Pub. L. 101–510, div. A, title XIV, §§ 1481(b)(2), 1483(c)(2), Nov. 5, 1990, 104 Stat. 1705, 1715, added items 123a, 129a, and 129b.

1989—Pub. L. 101–189, div. A, title XII, § 1202(a)(2), Nov. 29, 1989, 103 Stat. 1563, added item 124.

1987—Pub. L. 100–180, div. A, title XI, § 1123(b), Dec. 4, 1987, 101 Stat. 1150, added item 128.

Pub. L. 100–26, § 9(b)(1), Apr. 21, 1987, 101 Stat. 287, struck out item 128 ''Funds transfers for foreign cryptologic support''.

1986—Pub. L. 99–433, title I, § 110(c)(2), (e)(1), title II, § 211(c)(2), Oct. 1, 1986, 100 Stat. 1002, 1003, 1017, inserted ''and Functions'' after ''General Powers'' in chapter heading, struck out item 124 ''Combatant commands: establishment; composition; functions; administration and support'', and added items 127 to 130.

1962—Pub. L. 87–651, title II, § 201(b), Sept. 7, 1962, 76 Stat. 517, added items 124 to 126.

1958—Pub. L. 85–861, § 1(2)(B), Sept. 2, 1958, 72 Stat. 1437, added items 122 and 123.

§ 121. Regulations

The President may prescribe regulations to carry out his functions, powers, and duties under this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 6.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
121	[No source].	[No source].

The revised section is inserted to make express the President's general authority to issue regulations, which has been expressly reflected in many laws and left to inference in the remainder.

§ 122. Official registers

The Secretary of a military department may have published, annually or at such other times as he may designate, official registers containing the names of, and other pertinent information about, such regular and reserve officers of the armed forces under his jurisdiction as he considers appropriate. The register may also contain any other list that the Secretary considers appropriate.

(Added Pub. L. 85–861, § 1(2)(A), Sept. 2, 1958, 72 Stat. 1437.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
122	10 App.:20b. 34 App.:609.	July 24, 1956, ch. 677, § 1, 70 Stat. 623.

§ 122a. Public availability of Department of Defense reports required by law

(a) IN GENERAL.—The Secretary of Defense shall ensure that each report described in subsection (b) is made available to the public, upon request submitted on or after the date on which such report is submitted to Congress, through the Office of the Assistant Secretary of Defense for Public Affairs.

(b) COVERED REPORTS.—(1) Except as provided in paragraph (2), a report described in this subsection is any report that is required by law to be submitted to Congress by the Secretary of Defense, or by any element of the Department of Defense.

(2) A report otherwise described in paragraph (1) is not a report described in this subsection if the report contains—

(A) classified information;

(B) proprietary information;

(C) information that is exempt from disclosure under section 552 of title 5 (commonly referred to as the ''Freedom of Information Act''); or

(D) any other type of information that the Secretary of Defense determines should not be made available to the public in the interest of national security.

(Added Pub. L. 111–383, div. A, title X, § 1061(a)(1), Jan. 7, 2011, 124 Stat. 4362.)

EFFECTIVE DATE

Pub. L. 111–383, div. A, title X, § 1061(b), Jan. 7, 2011, 124 Stat. 4362, provided that: ''Section 122a of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act [Jan. 7, 2011], and shall apply with respect to reports that are required by law to be submitted to Congress on or after that date.''

§ 123. Authority to suspend officer personnel laws during war or national emergency

(a) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserve. So long as such war or national emergency continues, any such suspension may be extended by the President.

(b) Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on

the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

(c) If a provision of law pertaining to the promotion of reserve officers is suspended under this section and if the Secretary of Defense submits to Congress proposed legislation to adjust the grades and dates of rank of reserve commissioned officers other than commissioned warrant officers, such proposed legislation shall, so far as practicable, be the same as that recommended for adjusting the grades and dates of rank of officers of the regular component of the armed force concerned.

(d) Upon the termination of a suspension made under the authority of subsection (a) of a provision of law otherwise requiring the separation or retirement of officers on active duty because of age, length of service or length of service in grade, or failure of selection for promotion, the Secretary concerned shall extend by up to 90 days the otherwise required separation or retirement date of any officer covered by the suspended provision whose separation or retirement date, but for the suspension, would have been before the date of the termination of the suspension or within 90 days after the date of such termination.

(Added Pub. L. 85–861, §1(2)(A), Sept. 2, 1958, 72 Stat. 1437; amended Pub. L. 86–559, §1(1), June 30, 1960, 74 Stat. 264; Pub. L. 89–718, §1, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 90–130, §1(1), Nov. 8, 1967, 81 Stat. 374; Pub. L. 96–513, title V, §§501(3), 511(1), Dec. 12, 1980, 94 Stat. 2907, 2920; Pub. L. 97–22, §10(b)(1), July 10, 1981, 95 Stat. 137; Pub. L. 103–337, div. A, title XVI, §1622(a), Oct. 5, 1994, 108 Stat. 2961; Pub. L. 104–106, div. A, title XV, §1501(c)(4), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107–107, div. A, title V, §508(b), Dec. 28, 2001, 115 Stat. 1090.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
123	50:1199 (less applicability to National Guard).	Sept. 3, 1954, ch. 1257, §209 (less applicability to National Guard), 68 Stat. 1152.

In subsection (b), the words ''the same as'' are substituted for the word ''comparable'', since any necessary differences in the recommended legislation between Reserves and Regulars are fully taken account of in the words ''So far as practicable''.

REFERENCES IN TEXT

The National Emergencies Act, referred to in subsec. (b), is Pub. L. 94–412, Sept. 14, 1976, 90 Stat. 1255, as amended. Title II of the Act is classified generally to subchapter II (§1621 et seq.) of chapter 34 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 50 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 644 of this title prior to repeal by Pub. L. 103–337, §1622(b).

AMENDMENTS

2001—Subsec. (d). Pub. L. 107–107 added subsec. (d).

1996—Subsec. (a). Pub. L. 104–106 struck out ''281, 592, 1002, 1005, 1006, 1007, 1374, 3217, 3218, 3219, 3220, 3352(a) (last sentence),'' after ''armed force:'', ''5414, 5457, 5458, 5506,'' after ''3855,'', and ''8217, 8218, 8219,'' after ''6410,'' and substituted ''8855, 10214, 12003, 12004, 12005, 12007, 12202, 12213(a) (second sentence), 12642, 12645, 12646, 12647, 12771, 12772, and 12773'' for ''and 8855''.

1994—Pub. L. 103–337 substituted ''Authority to suspend officer personnel laws during war or national emergency'' for ''Suspension of certain provisions of law relating to reserve commissioned officers'' as section catchline and amended text generally, substituting subsecs. (a) to (c) for former subsecs. (a) and (b).

1981—Subsec. (a). Pub. L. 97–22 struck out references to sections 3494 and 8494.

1980—Subsec. (a). Pub. L. 96–513 struck out references to sections 3571, 3847, 5867, 8370, 8571, and 8847.

1967—Subsec. (a). Pub. L. 90–130 struck out reference to section 3391.

1966—Subsec. (a). Pub. L. 89–718 struck out reference to section 5907.

1960—Subsec. (a). Pub. L. 86–559 inserted references to sections 281, 3855, and 8855 and struck out references to sections 3841, 3842, 3849, 8841, 8842, and 8849.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1501(c) of Pub. L. 104–106 provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as originally enacted.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Oct. 1, 1996, see section 1691(b)(1) of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 10(b) of Pub. L. 97–22 provided that the amendment made by that section is effective Sept. 15, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 501(3) of Pub. L. 96–513, striking out references to sections 3571, 5867, and 8571, effective Sept. 15, 1981, and amendment by section 511(1) of Pub. L. 96–513, striking out references to sections 3847, 8370, and 8847, effective Dec. 12, 1980, see section 701 of Pub. L. 96–513, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 1(11) of Ex. Ord. No. 11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as

amended, set out as a note under section 12302 of this title.

§123a. Suspension of end-strength and other strength limitations in time of war or national emergency

(a) DURING WAR OR NATIONAL EMERGENCY.—(1) If at the end of any fiscal year there is in effect a war or national emergency, the President may waive any statutory end strength with respect to that fiscal year. Any such waiver may be issued only for a statutory end strength that is prescribed by law before the waiver is issued.

(2) When a designation of a major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) is in effect, the President may waive any statutory limit that would otherwise apply during the period of the designation on the number of members of a reserve component who are authorized to be on active duty under subparagraph (A) or (B) of section 115(b)(1) of this title, if the President determines the waiver is necessary to provide assistance in responding to the major disaster or emergency.

(b) TERMINATION OF WAIVER.—(1) Upon the termination of a war or national emergency with respect to which the President has exercised the authority provided by subsection (a)(1), the President may defer the effectiveness of any statutory end strength with respect to the fiscal year during which the termination occurs. Any such deferral may not extend beyond the last day of the sixth month beginning after the date of such termination.

(2) A waiver granted under subsection (a)(2) shall terminate not later than 90 days after the date on which the designation of the major disaster or emergency that was the basis for the waiver expires.

(c) STATUTORY END STRENGTH.—In this section, the term ''statutory end strength'' means any end-strength limitation with respect to a fiscal year that is prescribed by law for any military or civilian component of the armed forces or of the Department of Defense.

(Added Pub. L. 101–510, div. A, title XIV, §1483(b)(1), Nov. 5, 1990, 104 Stat. 1715; amended Pub. L. 107–107, div. A, title IV, §421(b), Dec. 28, 2001, 115 Stat. 1076; Pub. L. 110–417, [div. A], title IV, §416(a)–(c)(1), Oct. 14, 2008, 122 Stat. 4430.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(4) of this title, prior to repeal by Pub. L. 101–510, §1483(a).

AMENDMENTS

2008—Pub. L. 110–417 in section catchline substituted ''Suspension of end-strength and other strength limitations in time of war or national emergency'' for ''Suspension of end-strength limitations in time of war or national emergency'', in subsec. (a) designated existing provisions as par. (1) and added par. (2), and in subsec. (b) substituted ''Termination of Waiver'' for ''Upon Termination of War or National Emergency'' in heading, designated existing provisions as par. (1), substituted ''subsection (a)(1)'' for ''subsection (a)'', and added par. (2).

2001—Pub. L. 107–107 amended text generally. Prior to amendment, text read as follows: ''If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.''

DELEGATION OF AUTHORITY

Authority of President under this section as invoked by sections 2 and 3 of Ex. Ord. No. 13223, Sept. 14, 2001, 66 F.R. 48201, as amended, delegated to Secretary of Defense by section 4 of Ex. Ord. No. 13223, and authority of President under this section as invoked by section 2 of Ex. Ord. No. 13223 delegated to Secretary of Homeland Security by section 5 of Ex. Ord. No. 13223, as amended, set out as a note under section 12302 of this title.

§123b. Forces stationed abroad: limitation on number

(a) END-STRENGTH LIMITATION.—No funds appropriated to the Department of Defense may be used to support a strength level of members of the armed forces assigned to permanent duty ashore in nations outside the United States at the end of any fiscal year at a level in excess of 203,000.

(b) EXCEPTION FOR WARTIME.—Subsection (a) does not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(c) PRESIDENTIAL WAIVER.—The President may waive the operation of subsection (a) if the President declares an emergency. The President shall immediately notify Congress of any such waiver.

(Added Pub. L. 103–337, div. A, title XIII, §1312(a)(1), Oct. 5, 1994, 108 Stat. 2894.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 102–484, div. A, title XIII, §1302, Oct. 23, 1992, 106 Stat. 2545, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 103–337, §1312(c).

EFFECTIVE DATE

Section 1312(b) of Pub. L. 103–337 provided that: ''Section 123b of title 10, United States Code, as added by subsection (a), does not apply with respect to a fiscal year before fiscal year 1996.''

§124. Detection and monitoring of aerial and maritime transit of illegal drugs: Department of Defense to be lead agency

(a) LEAD AGENCY.—(1) The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(2) The responsibility conferred by paragraph (1) shall be carried out in support of the counterdrug activities of Federal, State, local, and foreign law enforcement agencies.

(b) PERFORMANCE OF DETECTION AND MONITORING FUNCTION.—(1) To carry out subsection (a), Department of Defense personnel may operate equipment of the Department to intercept a vessel or an aircraft detected outside the land area of the United States for the purposes of—

(A) identifying and communicating with that vessel or aircraft; and

(B) directing that vessel or aircraft to go to a location designated by appropriate civilian officials.

(2) In cases in which a vessel or an aircraft is detected outside the land area of the United States, Department of Defense personnel may begin or continue pursuit of that vessel or aircraft over the land area of the United States.

(c) UNITED STATES DEFINED.—In this section, the term ''United States'' means the land area of the several States and any territory, commonwealth, or possession of the United States.

(Added Pub. L. 101–189, div. A, title XII, § 1202(a)(1), Nov. 29, 1989, 103 Stat. 1563; amended Pub. L. 102–190, div. A, title X, § 1088(b), Dec. 5, 1991, 105 Stat. 1485.)

PRIOR PROVISIONS

A prior section 124, added Pub. L. 87–651, title II, § 201(a), Sept. 7, 1962, 76 Stat. 514; amended Pub. L. 98–525, title XIII, § 1301(a), Oct. 19, 1984, 98 Stat. 2611; Pub. L. 99–145, title XIII, § 1303(a)(1), Nov. 8, 1985, 99 Stat. 738, related to establishment, composition, and functions of combatant commands, prior to repeal by Pub. L. 99–433, § 211(c)(1). See section 161 et seq. of this title. Similar provisions were contained in Pub. L. 100–456, div. A, title XI, § 1102, Sept. 29, 1988, 102 Stat. 2042, which was set out as a note under section 113 of this title, prior to repeal by Pub. L. 101–189, § 1202(b).

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–190 designated existing provisions as par. (1) and added par. (2).

CONDITION ON DEVELOPMENT OF FORWARD OPERATING LOCATIONS FOR UNITED STATES SOUTHERN COMMAND COUNTER-DRUG DETECTION AND MONITORING FLIGHTS

Pub. L. 106–65, div. A, title X, § 1024, Oct. 5, 1999, 113 Stat. 748, provided that:

''(a) CONDITION.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended for the purpose of improving the physical infrastructure at any proposed forward operating location outside the United States from which the United States Southern Command may conduct counter-drug detection and monitoring flights until a formal agreement regarding the extent and use of, and host nation support for, the forward operating location is executed by both the host nation and the United States.

''(b) EXCEPTION.—The limitation in subsection (a) does not apply to an unspecified minor military construction project authorized by section 2805 of title 10, United States Code.''

COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN

Pub. L. 102–484, div. A, title X, § 1043, Oct. 23, 1992, 106 Stat. 2492, provided that:

''(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

''(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

''(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

''(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

''(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

''(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

''(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

''(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

''(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

''(d) REPORT.—Not later than six months after the date of the enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

''(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act [see Tables for classification] may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

''(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

''(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

''(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

''(f) DEFINITION.—For purposes of this section, the term 'counter-drug detection and monitoring systems' means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

''(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

''(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.''

INTEGRATION OF COMMUNICATIONS NETWORK

Section 1204(a) of Pub. L. 101–189 provided that:

''(1) The Secretary of Defense shall integrate into an effective communications network the command, control, communications, and technical intelligence assets of the United States that are dedicated (in whole or in part) to the interdiction of illegal drugs into the United States.

''(2) The Secretary shall carry out this subsection in consultation with the Director of National Drug Control Policy.''

RESEARCH AND DEVELOPMENT

Section 1205 of Pub. L. 101–189 provided that: ''The Secretary of Defense shall ensure that adequate research and development activities of the Department of Defense, including research and development activities of the Defense Advanced Research Projects Agency, are devoted to technologies designed to improve—

''(1) the ability of the Department to carry out the detection and monitoring function of the Department under section 124 of title 10, United States Code, as added by section 1202; and

''(2) the ability to detect illicit drugs and other dangerous and illegal substances that are concealed in containers.''

TRAINING EXERCISES IN DRUG-INTERDICTION AREAS

Section 1206 of Pub. L. 101–189 provided that:

''(a) EXERCISES REQUIRED.—The Secretary of Defense shall direct that the armed forces, to the maximum extent practicable, shall conduct military training exercises (including training exercises conducted by the reserve components) in drug-interdiction areas.

''(b) REPORT.—(1) Not later than February 1 of 1991 and 1992, the Secretary shall submit to Congress a report on the implementation of subsection (a) during the preceding fiscal year.

''(2) The report shall include—

''(A) a description of the exercises conducted in drug-interdiction areas and the effectiveness of those exercises in the national counter-drug effort; and

''(B) a description of those additional actions that could be taken (and an assessment of the results of those actions) if additional funds were made available to the Department of Defense for additional military training exercises in drug-interdiction areas for the purpose of enhancing interdiction and deterrence of drug smuggling.

''(c) DRUG-INTERDICTION AREAS DEFINED.—For purposes of this section, the term 'drug-interdiction areas' includes land and sea areas in which, as determined by the Secretary, the smuggling of drugs into the United States occurs or is believed by the Secretary to have occurred.''

§125. Functions, powers, and duties: transfer, reassignment, consolidation, or abolition

(a) Subject to section 2 of the National Security Act of 1947 (50 U.S.C. 401), the Secretary of Defense shall take appropriate action (including the transfer, reassignment, consolidation, or abolition of any function, power, or duty) to provide more effective, efficient, and economical administration and operation, and to eliminate duplication, in the Department of Defense. However, except as provided by subsections (b) and (c), a function, power, or duty vested in the Department of Defense, or an officer, official, or agency thereof, by law may not be substantially transferred, reassigned, consolidated, or abolished.

(b) Notwithstanding subsection (a), if the President determines it to be necessary because of hostilities or an imminent threat of hostilities, any function, power, or duty vested by law in the Department of Defense, or an officer, official, or agency thereof, including one assigned to the Army, Navy, Air Force, or Marine Corps by section 3062(b), 5062, 5063, or 8062(c) of this title, may be transferred, reassigned, or consolidated. The transfer, reassignment, or consolidation remains in effect until the President determines that hostilities have terminated or that there is no longer an imminent threat of hostilities, as the case may be.

(c) Notwithstanding subsection (a), the Secretary of Defense may assign or reassign the development and operational use of new weapons or weapons systems to one or more of the military departments or one or more of the armed forces.

(Added Pub. L. 87–651, title II, §201(a), Sept. 7, 1962, 76 Stat. 515; amended Pub. L. 89–501, title IV, §401, July 13, 1966, 80 Stat. 278; Pub. L. 98–525, title XIV, §1405(1), Oct. 19, 1984, 98 Stat. 2621; Pub. L. 99–433, title I, §103, title III, §301(b)(1), title V, §514(c)(1), Oct. 1, 1986, 100 Stat. 996, 1022, 1055; Pub. L. 101–510, div. A, title XIII, §1301(3), Nov. 5, 1990, 104 Stat. 1668.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
125(a)	5:171a(c)(1), (2). 5:171n(a) (as applicable to 5:171a(c)(1)).	July 26, 1947, ch. 343, §202(c)(1), (2), (4), (5), (6); added Aug. 10, 1949, ch. 412, §5(3d, 4th, 6th, 7th, and 8th pars.); restated Aug. 6, 1958, Pub. L. 85–599, §3(a), (1st, 2d, 5th, 6th, and 7th pars.), 72 Stat. 514, 515.
125(b)	5:171a(c)(5). 5:171n(a) (as applicable to 5:171a(c)(5)).	
125(c)	5:171a(c)(4).	
125(d)	5:171a(c)(6). 5:171n(a) (as applicable to 5:171a(c)(6)).	July 26, 1947, ch. 343, §308(a) (as applicable to §202(c)(1), (5), (6)), 61 Stat. 509.

In subsection (a), the following substitutions are made: ''Except as provided by subsections (b) and (c)'' for ''except as otherwise provided in this subsection''; ''vested . . . by law'' for ''established by law to be performed by''; ''recommending'' for ''stating''; ''proposes'' for ''contemplates''; and ''the period'' for ''the thirty-day period or the forty-day period''. The words ''on the first day after'' are inserted for clarity. The words ''if carried out'' are omitted as surplusage.

In subsection (b), the words ''Notwithstanding subsection (a)'' are substituted for the words ''Notwithstanding other provisions of this subsection''; and ''Unless the President determines otherwise'' for ''subject to the determination of the President''.

In subsection (c), the following substitutions are made: ''Notwithstanding subsection (a)'' for ''Notwithstanding the provisions of paragraph (1) hereof''; and ''armed forces'' for ''services''.

In subsection (d), the following substitutions are made: ''In subsection (a) (1)'' for ''within the meaning of paragraph (1) hereof''; and ''considers'' for ''deems''. The words ''advantageous to the Government in terms of'' are omitted as surplusage.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–510 struck out at end ''However, notwithstanding any other provision of this title or any other law, the Secretary of Defense shall not direct or approve a plan to initiate or effect a substantial reduction or elimination of a major weapons system until the Secretary of Defense has reported all the pertinent details of the proposed action to the Congress of the United States while the Congress is in session.''

1986—Subsec. (a). Pub. L. 99–433, §103(1), struck out provision under which the Secretary of Defense could substantially transfer, reassign, consolidate, or abolish functions, powers, or duties vested in the Department

of Defense by law if the Secretary reported the details of the proposed transfer, reassignment, consolidation, or abolition to Congress and if Congress did not affirmatively reject the proposal.

Subsec. (b). Pub. L. 99–433, §§ 103(2), 514(c)(1), inserted ''vested by law in the Department of Defense, or an officer, official, or agency thereof'' and substituted ''5062, 5063'' for ''5012, 5013''.

Subsec. (d). Pub. L. 99–433, § 301(b)(1), struck out subsec. (d) which read as follows: ''In subsection (a)(1), 'major combatant function, power, or duty' does not include a supply or service activity common to more than one military department. The Secretary of Defense shall, whenever he determines it will be more effective, economical, or efficient, provide for the performance of such an activity by one agency or such other organizations as he considers appropriate.''

1984—Subsec. (a). Pub. L. 98–525 substituted ''section 2 of the National Security Act of 1947 (50 U.S.C. 401)'' for ''section 401 of title 50''.

1966—Subsec. (c). Pub. L. 89–501 required the Secretary of Defense to report to the Congress all the pertinent details regarding any substantial reduction or elimination of a major weapons system before action could be initiated or effected by the Department of Defense.

RESOLUTIONS RELATING TO TRANSFERS, REASSIGNMENTS, CONSOLIDATIONS, OR ABOLITIONS OF COMBATANT FUNCTIONS

Section 303 of Pub. L. 87–651 provided that:

''(a) For the purposes of this section, any resolution reported to the Senate or the House of Representatives pursuant to the provisions of section 125 of title 10, United States Code, shall be treated for the purpose of consideration by either House, in the same manner as a resolution with respect to a reorganization plan reported by a committee within the meaning of the Reorganization Act of 1949 as in effect on July 1, 1958 (5 U.S.C. 133z and the following) [63 Stat. 203; 71 Stat. 611], and shall be governed by the provisions applicable to the consideration of any such resolution by either House of the Congress as provided by sections 205 and 206 of that Act [63 Stat. 207].

''(b) The provisions of this section are enacted by the Congress—

''(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and supersede other rules only to the extent that they are inconsistent therewith; and

''(2) with full recognition of the constitutional right of either House to change the rules (as far as relating to the procedure in that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.''

§ 126. Transfer of funds and employees

(a) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred or assigned to another department or agency of that department, balances of appropriations that the Secretary of Defense determines are available and needed to finance or discharge that function, power, duty, or activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty or activity, as the case may be, is transferred, and used for any purpose for which those appropriations were originally available. Balances of appropriations so transferred shall—

(1) be credited to any applicable appropriation account of the receiving department or agency; or

(2) be credited to a new account that may be established on the books of the Department of the Treasury;

and be merged with the funds already credited to that account and accounted for as one fund. Balances of appropriations credited to an account under clause (1) are subject only to such limitations as are specifically applicable to that account. Balances of appropriations credited to an account under clause (2) are subject only to such limitations as are applicable to the appropriations from which they are transferred.

(b) When a function, power, or duty or an activity of a department or agency of the Department of Defense is transferred to another department or agency of that department, those civilian employees of the department or agency from which the transfer is made that the Secretary of Defense determines are needed to perform that function, power, or duty, or for that activity, as the case may be, may, with the approval of the President, be transferred to the department or agency to which that function, power, duty, or activity, as the case may be, is transferred. The authorized strength in civilian employees of a department or agency from which employees are transferred under this section is reduced by the number of employees so transferred. The authorized strength in civilian employees of a department or agency to which employees are transferred under this section is increased by the number of employees so transferred.

(Added Pub. L. 87–651, title II, § 201(a), Sept. 7, 1962, 76 Stat. 516; amended Pub. L. 96–513, title V, § 511(2), Dec. 12, 1980, 94 Stat. 2920.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
126(a)	5:172f(a). 5:171n(a) (as applicable to 5:172f(a)).	July 26, 1947, ch. 343, § 407; added Aug. 10, 1949, ch. 412, § 11 (21st and 22d pars.), 63 Stat. 589.
126(b)	5:172f (less (a)).	July 26, 1947, ch. 343, § 308(a) (as applicable to § 407), 61 Stat. 509.

In subsection (a), the words ''under authority of law'' are omitted as surplusage. The following substitutions are made: ''needed'' for ''necessary''; ''used'' for ''be available for use by''; and ''those appropriations'' for ''said funds''.

In subsection (b), 5 U.S.C. 172f(b) is restated to reflect more clearly its purpose to authorize ''transfers of personnel'' (Senate Report No. 366, 81st Congress, p. 23).

AMENDMENTS

1980—Subsec. (b) Pub. L. 96–513 substituted ''President'' for ''Director of the Bureau of the Budget''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

DELEGATION OF FUNCTIONS

Authority of President under subsec. (a) of this section to approve transfers of balances of appropriations provided for therein delegated to Director of Office of Management and Budget, see section 9(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 127. Emergency and extraordinary expenses

(a) Subject to the limitations of subsection (c), and within the limitation of appropriations

made for the purpose, the Secretary of Defense, the Inspector General of the Department of Defense, and the Secretary of a military department within his department, may provide for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary concerned or the Inspector General for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary concerned or the Inspector General may certify the amount of any such expenditure authorized by him that he considers advisable not to specify, and his certificate is sufficient voucher for the expenditure of that amount.

(b) The authority conferred by this section may be delegated by the Secretary of Defense to any person in the Department of Defense, by the Inspector General to any person in the Office of the Inspector General, or by the Secretary of a military department to any person within his department, with or without the authority to make successive redelegations.

(c)(1) Funds may not be obligated or expended in an amount in excess of $500,000 under the authority of subsection (a) or (b) until the Secretary of Defense has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives of the intent to obligate or expend the funds, and—

(A) in the case of an obligation or expenditure in excess of $1,000,000, 15 days have elapsed since the date of the notification; or

(B) in the case of an obligation or expenditure in excess of $500,000, but not in excess of $1,000,000, 5 days have elapsed since the date of the notification.

(2) Subparagraph (A) or (B) of paragraph (1) shall not apply to an obligation or expenditure of funds otherwise covered by such subparagraph if the Secretary of Defense determines that the national security objectives of the United States will be compromised by the application of the subparagraph to the obligation or expenditure. If the Secretary makes a determination with respect to an obligation or expenditure under the preceding sentence, the Secretary shall immediately notify the committees referred to in paragraph (1) that such obligation or expenditure is necessary and provide any relevant information (in classified form, if necessary) jointly to the chairman and ranking minority member (or their designees) of such committees.

(3) A notification under paragraph (1) and information referred to in paragraph (2) shall include the amount to be obligated or expended, as the case may be, and the purpose of the obligation or expenditure.

(d) ANNUAL REPORT.—Not later than December 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b).

(Added Pub. L. 94–106, title VIII, § 804(a), Oct. 7, 1975, 89 Stat. 538, § 140; amended Pub. L. 98–94, title XII, § 1268(2), Sept. 24, 1983, 97 Stat. 705; renumbered § 127 and amended Pub. L. 99–433, title I, §§ 101(a)(3), 110(d)(4), Oct. 1, 1986, 100 Stat. 994, 1002; Pub. L. 103–160, div. A, title III, § 361, Nov. 30, 1993, 107 Stat. 1627; Pub. L. 103–337, div. A, title III, § 378, Oct. 5, 1994, 108 Stat. 2737; Pub. L. 104–106, div. A, title IX, § 915, title XV, § 1502(a)(5), Feb. 10, 1996, 110 Stat. 413, 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, § 1031(a)(2), Nov. 24, 2003, 117 Stat. 1596.)

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "In any case in which funds are expended under the authority of subsections (a) and (b), the Secretary of Defense shall submit a report of such expenditures on a quarterly basis to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives."

1999—Subsecs. (c)(1), (d). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

1996—Subsec. (c). Pub. L. 104–106, § 915(2), added subsec. (c). Former subsec. (c) redesignated (d).

Pub. L. 104–106, § 1502(a)(5), substituted "Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of" for "Committees on Armed Services and Appropriations of the Senate and".

Subsec. (d). Pub. L. 104–106, § 915(1), redesignated subsec. (c), as amended by Pub. L. 104–106, §§ 1502(a)(5), 1506, as (d).

1994—Subsec. (c). Pub. L. 103–337 struck out par. (1) designation before "In any case" and struck out par. (2) which read as follows: "The amount of funds expended by the Inspector General of the Department of Defense under subsections (a) and (b) during a fiscal year may not exceed $400,000."

1993—Subsec. (a). Pub. L. 103–160, § 361(1), inserted ", the Inspector General of the Department of Defense," after "the Secretary of Defense" and "or the Inspector General" after "the Secretary concerned" and after "The Secretary concerned".

Subsec. (b). Pub. L. 103–160, § 361(2), inserted ", by the Inspector General to any person in the Office of the Inspector General," after "the Department of Defense".

Subsec. (c). Pub. L. 103–160, § 361(3), designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99–433 renumbered section 140 of this title as this section and substituted "Emergency" for "Emergencies" in section catchline.

1983—Subsec. (a). Pub. L. 98–94 struck out "of this section" after "subsection (c)".

Subsec. (c). Pub. L. 98–94 struck out "of this section" after "subsections (a) and (b)".

CONSTRUCTION AUTHORITY OF SECRETARY OF DEFENSE UNDER DECLARATION OF WAR OR NATIONAL EMERGENCY

Pub. L. 97–99, title IX, § 903, Dec. 23, 1981, 95 Stat. 1382, which authorized the Secretary of Defense, in the event of a declaration of war or the declaration of a national emergency by the President, to undertake military construction without regard to any other provisions of law, was repealed and restated as section 2808 of this title by Pub. L. 97–214, §§ 2(a), 7(18), July 12, 1982, 96 Stat. 157, 174, effective Oct. 1, 1982.

§ 127a. Operations for which funds are not provided in advance: funding mechanisms

(a) IN GENERAL.—(1) The Secretary of Defense shall use the procedures prescribed by this section with respect to any operation specified in paragraph (2) that involves—

(A) the deployment (other than for a training exercise) of elements of the armed forces for a purpose other than a purpose for which funds have been specifically provided in advance; or

(B) the provision of humanitarian assistance, disaster relief, or support for law enforcement (including immigration control) for which funds have not been specifically provided in advance.

(2) This section applies to—

(A) any operation the incremental cost of which is expected to exceed $50,000,000; and

(B) any other operation the expected incremental cost of which, when added to the expected incremental costs of other operations that are currently ongoing, is expected to result in a cumulative incremental cost of ongoing operations of the Department of Defense in excess of $100,000,000.

Any operation the incremental cost of which is expected not to exceed $10,000,000 shall be disregarded for the purposes of subparagraph (B).

(3) Whenever an operation to which this section applies is commenced or subsequently becomes covered by this section, the Secretary of Defense shall designate and identify that operation for the purposes of this section and shall promptly notify Congress of that designation (and of the identification of the operation).

(4) This section does not provide authority for the President or the Secretary of Defense to carry out any operation, but establishes mechanisms for the Department of Defense by which funds are provided for operations that the armed forces are required to carry out under some other authority.

(b) WAIVER OF REQUIREMENT TO REIMBURSE SUPPORT UNITS.—(1) The Secretary of Defense shall direct that, when a unit of the armed forces participating in an operation described in subsection (a) receives services from an element of the Department of Defense that operates through the Defense Business Operations Fund (or a successor fund), such unit of the armed forces may not be required to reimburse that element for the incremental costs incurred by that element in providing such services, notwithstanding any other provision of law or any Government accounting practice.

(2) The amounts which but for paragraph (1) would be required to be reimbursed to an element of the Department of Defense (or a fund) shall be recorded as an expense attributable to the operation and shall be accounted for separately.

(c) TRANSFER AUTHORITY.—(1) Whenever there is an operation of the Department of Defense described in subsection (a), the Secretary of Defense may transfer amounts described in paragraph (3) to accounts from which incremental expenses for that operation were incurred in order to reimburse those accounts for those incremental expenses. Amounts so transferred shall be merged with and be available for the same purposes as the accounts to which transferred.

(2) The total amount that the Secretary of Defense may transfer under the authority of this section in any fiscal year is $200,000,000.

(3) Transfers under this subsection may only be made from amounts appropriated to the Department of Defense for any fiscal year that remain available for obligation, other than amounts within any operation and maintenance appropriation that are available for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(4) The authority provided by this subsection is in addition to any other authority provided by law authorizing the transfer of amounts available to the Department of Defense. However, the Secretary may not use any such authority under another provision of law for a purpose described in paragraph (1) if there is authority available under this subsection for that purpose.

(5) The authority provided by this subsection to transfer amounts may not be used to provide authority for an activity that has been denied authorization by Congress.

(6) A transfer made from one account to another under the authority of this subsection shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

[(d) Repealed. Pub. L. 108–136, div. A, title X, § 1031(a)(3), Nov. 24, 2003, 117 Stat. 1596.]

(e) LIMITATIONS.—(1) The Secretary may not restore balances in the Defense Business Operations Fund through increases in rates charged by that fund in order to compensate for costs incurred and not reimbursed due to subsection (b).

(2) The Secretary may not restore balances in the Defense Business Operations Fund or any other fund or account through the use of unobligated amounts in an operation and maintenance appropriation that are available within that appropriation for (A) an account (known as a budget activity 1 account) that is specified as being for operating forces, or (B) an account (known as a budget activity 2 account) that is specified as being for mobilization.

(f) SUBMISSION OF REQUESTS FOR SUPPLEMENTAL APPROPRIATIONS.—It is the sense of Congress that whenever there is an operation described in subsection (a), the President should, not later than 90 days after the date on which notification is provided pursuant to subsection (a)(3), submit to Congress a request for the enactment of supplemental appropriations for the then-current fiscal year in order to provide funds to replenish the Defense Business Operations Fund or any other fund or account of the Department of Defense from which funds for the incremental expenses of that operation were derived under this section and should, as necessary, submit subsequent requests for the enactment of such appropriations.

(g) INCREMENTAL COSTS.—For purposes of this section, incremental costs of the Department of Defense with respect to an operation are the costs of the Department that are directly attributable to the operation (and would not have been incurred but for the operation). Incremental costs do not include the cost of property or services acquired by the Department that are paid for by a source outside the Department or out of funds contributed by such a source.

(h) RELATIONSHIP TO WAR POWERS RESOLUTION.—This section may not be construed as altering or superseding the War Powers Resolution. This section does not provide authority to conduct any military operation.

(i) GAO COMPLIANCE REVIEWS.—The Comptroller General of the United States shall from time to time, and when requested by a committee of Congress, conduct a review of the defense funding structure under this section to determine whether the Department of Defense is complying with the requirements and limitations of this section.

(Added Pub. L. 103–160, div. A, title XI, § 1108(a)(1), Nov. 30, 1993, 107 Stat. 1751; amended Pub. L. 104–106, div. A, title X, § 1003(a)(1), Feb. 10, 1996, 110 Stat. 415; Pub. L. 108–136, div. A, title X, § 1031(a)(3), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 111–383, div. A, title X, § 1075(b)(2), Jan. 7, 2011, 124 Stat. 4369.)

REFERENCES IN TEXT

The War Powers Resolution, referred to in subsec. (h), is Pub. L. 93–148, Nov. 7, 1973, 87 Stat. 555, which is classified generally to chapter 33 (§ 1541 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1541 of Title 50 and Tables.

AMENDMENTS

2011—Subsecs. (a)(1)(A), (b)(1). Pub. L. 111–383 substituted ''armed forces'' for ''Armed Forces'' wherever appearing.

2003—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which required Secretary of Defense, within 45 days after identifying an operation pursuant to subsec. (a)(2), to submit a report to Congress relating to the funding, objectives, duration, cost, and exit criteria of the operation.

1996—Pub. L. 104–106 substituted ''Operations for which funds are not provided in advance: funding mechanisms'' for ''Expenses for contingency operations'' as section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (h) relating to funding procedures for operations designated by the Secretary of Defense as National Contingency Operations.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1003(b) of Pub. L. 104–106 provided that: ''The amendment to section 127a of title 10, United States Code, made by subsection (a) shall take effect on the date of the enactment of this Act [Feb. 10, 1996] and shall apply to any operation of the Department of Defense that is in effect on or after that date, whether such operation is begun before, on, or after such date of enactment. In the case of an operation begun before such date, any reference in such section to the commencement of such operation shall be treated as referring to the effective date under the preceding sentence.''

§ 127b. Assistance in combating terrorism: rewards

(a) AUTHORITY.—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel, or government personnel of allied forces participating in a combined operation with the armed forces, with information or nonlethal assistance that is beneficial to—

(1) an operation or activity of the armed forces, or of allied forces participating in a combined operation with the armed forces, conducted outside the United States against international terrorism; or

(2) force protection of the armed forces, or of allied forces participating in a combined operation with the armed forces.

(b) LIMITATION.—The amount or value of a reward provided under this section may not exceed $5,000,000.

(c) DELEGATION OF AUTHORITY.—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of $1,000,000.

(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in an amount or with a value not in excess of $10,000, except that such a delegation may be made to the commander's deputy commander, or to the commander of a command directly subordinate to that commander, without regard to such limitation. Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).

(3)(A) Subject to subparagraphs (B) and (C), an official who has authority delegated under paragraph (1) or (2) may use that authority, acting through government personnel of allied forces, to offer and make rewards.

(B) The Secretary of Defense shall prescribe policies and procedures for making rewards in the manner described in subparagraph (A), which shall include guidance for the accountability of funds used for making rewards in that manner. The policies and procedures shall not take effect until 30 days after the date on which the Secretary submits the policies and procedures to the congressional defense committees. Rewards may not be made in the manner described in subparagraph (A) except under policies and procedures that have taken effect.

(C) Rewards may not be made in the manner described in subparagraph (A) after September 30, 2011.

(D) Not later than April 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of this paragraph. The report shall identify each reward made in the manner described in subparagraph (A) and, for each such reward—

(i) identify the type, amount, and recipient of the reward;

(ii) explain the reason for making the reward; and

(iii) assess the success of the reward in advancing the effort to combat terrorism.

(d) COORDINATION.—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this

section and otherwise for administering the authority under this section. Such policies and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of $2,000,000.

(e) PERSONS NOT ELIGIBLE.—The following persons are not eligible to receive a reward under this section:

(1) A citizen of the United States.

(2) An officer or employee of the United States.

(3) An employee of a contractor of the United States.

(f) ANNUAL REPORT.—(1) Not later than December 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

(2) Each report for a fiscal year under this subsection shall include the following:

(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

(C) With respect to each reward provided during that fiscal year—

(i) the amount or value of the reward and whether the reward was provided as a monetary payment or in some other form;

(ii) the recipient of the reward; and

(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

(D) Information on the implementation of paragraph (3) of subsection (c).

(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.

(Added Pub. L. 107–314, div. A, title X, § 1065(a), Dec. 2, 2002, 116 Stat. 2655; amended Pub. L. 109–163, div. A, title X, § 1056(c)(2), Jan. 6, 2006, 119 Stat. 3439; Pub. L. 109–364, div. A, title XIV, § 1401, Oct. 17, 2006, 120 Stat. 2433; Pub. L. 110–181, div. A, title X, § 1033, Jan. 28, 2008, 122 Stat. 307; Pub. L. 111–84, div. A, title X, § 1071, Oct. 28, 2009, 123 Stat. 2470; Pub. L. 111–383, div. A, title X, § 1031, Jan. 7, 2011, 124 Stat. 4351.)

AMENDMENTS

2011—Subsec. (c)(3)(C). Pub. L. 111–383 substituted ''2011'' for ''2010''.

2009—Subsec. (c)(3)(C). Pub. L. 111–84 substituted ''2010'' for ''2009''.

2008—Subsec. (a). Pub. L. 110–181, § 1033(b)(1)(A), in introductory provisions, inserted '', or government personnel of allied forces participating in a combined operation with the armed forces,'' after ''United States Government personnel''.

Subsec. (a)(1). Pub. L. 110–181, § 1033(b)(1)(B), inserted '', or of allied forces participating in a combined operation with the armed forces,'' after ''armed forces''.

Subsec. (a)(2). Pub. L. 110–181, § 1033(b)(1)(C), inserted '', or of allied forces participating in a combined operation with the armed forces'' after ''armed forces''.

Subsec. (b). Pub. L. 110–181, § 1033(a)(1), substituted ''$5,000,000'' for ''$200,000''.

Subsec. (c)(1)(B). Pub. L. 110–181, § 1033(a)(2), substituted ''$1,000,000'' for ''$50,000''.

Subsec. (c)(3). Pub. L. 110–181, § 1033(b)(2), added par. (3).

Subsec. (d)(2). Pub. L. 110–181, § 1033(a)(3), substituted ''$2,000,000'' for ''$100,000''.

Subsec. (f)(2)(D). Pub. L. 110–181, § 1033(c), added subpar. (D).

2006—Subsec. (c)(2). Pub. L. 109–364 substituted ''$10,000'' for ''$2,500'', inserted '', or to the commander of a command directly subordinate to that commander,'' after ''deputy commander'', and inserted at end ''Such a delegation may be made to the commander of a command directly subordinate to the commander of a combatant command only with the approval of the Secretary of Defense, the Deputy Secretary of Defense, or an Under Secretary of Defense to whom authority has been delegated under subparagraph (1)(A).''

Subsec. (d)(1). Pub. L. 109–163 substituted ''Such policies'' for ''Such polices''.

§ 127c. Purchase of weapons overseas: force protection

(a) AUTHORITY.—When elements of the armed forces are engaged in ongoing military operations in a country, the Secretary of Defense may, for the purpose of protecting United States forces in that country, purchase weapons from any foreign person, foreign government, international organization, or other entity located in that country.

(b) LIMITATION.—The total amount expended during any fiscal year for purchases under this section may not exceed $15,000,000.

(c) SEMIANNUAL CONGRESSIONAL REPORT.—In any case in which the authority provided in subsection (a) is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period. Each such report shall be submitted not later than 30 days after the end of the six-month period during which the authority is used. Each such report shall include the following:

(1) The number and type of weapons purchased under subsection (a) during that six-month period covered by the report, together with the amount spent for those weapons and the Secretary's estimate of the fair market value of those weapons.

(2) A description of the dispositions (if any) during that six-month period of weapons purchased under subsection (a).

(Added Pub. L. 109–163, div. A, title XII, § 1231(a), Jan. 6, 2006, 119 Stat. 3467.)

CODIFICATION

Another section 127c was renumbered section 127d of this title.

§127d. Allied forces participating in combined operations: authority to provide logistic support, supplies, and services

(a) AUTHORITY.—(1) Subject to subsections (b) and (c), the Secretary of Defense may provide logistic support, supplies, and services to allied forces participating in a combined operation with the armed forces of the United States.

(2) In addition to any logistic support, supplies, and services provided under paragraph (1), the Secretary may provide logistic support, supplies, and services to allied forces solely for the purpose of enhancing the interoperability of the logistical support systems of military forces participating in combined operations with the United States in order to facilitate such operations. Such logistic support, supplies, and services may also be provided under this paragraph to a nonmilitary logistics, security, or similar agency of an allied government if such provision would directly benefit the armed forces of the United States.

(3) Provision of support, supplies, and services pursuant to paragraph (1) or (2) may be made only with the concurrence of the Secretary of State.

(b) LIMITATIONS.—(1) The authority provided by subsection (a)(1) may be used only in accordance with the Arms Export Control Act and other export control laws of the United States.

(2) The authority provided by subsection (a)(1) may be used only for a combined operation—

(A) that is carried out during active hostilities or as part of a contingency operation or a noncombat operation (including an operation in support of the provision of humanitarian or foreign disaster assistance, a country stabilization operation, or a peacekeeping operation under chapter VI or VII of the Charter of the United Nations); and

(B) in a case in which the Secretary of Defense determines that the allied forces to be provided logistic support, supplies, and services—

(i) are essential to the success of the combined operation; and

(ii) would not be able to participate in the combined operation but for the provision of such logistic support, supplies, and services by the Secretary.

(c) LIMITATIONS ON VALUE.—(1) The value of logistic support, supplies, and services provided under subsection (a)(1) in any fiscal year may not exceed $100,000,000.

(2) The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not exceed $5,000,000.

(d) ANNUAL REPORT.—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report on the use of the authority provided by subsection (a) during the preceding fiscal year.

(2) Each report under paragraph (1) shall be prepared in coordination with the Secretary of State.

(3) Each report under paragraph (1) shall include, for the fiscal year covered by the report, the following:

(A) Each nation provided logistic support, supplies, and services through the use of the authority provided by subsection (a).

(B) For each such nation, a description of the type and value of logistic support, supplies, and services so provided.

(e) DEFINITION.—In this section, the term ''logistic support, supplies, and services'' has the meaning given that term in section 2350(1) of this title.

(Added Pub. L. 109–364, div. A, title XII, §1201(a), Oct. 17, 2006, 120 Stat. 2410, §127c; renumbered §127d, Pub. L. 110–181, div. A, title X, §1063(a)(1)(A), Jan. 28, 2008, 122 Stat. 321; Pub. L. 111–383, div. A, title X, §1075(b)(3), title XII, §1202, Jan. 7, 2011, 124 Stat. 4369, 4385.)

REFERENCES IN TEXT

The Arms Export Control Act, referred to in subsec. (b)(1), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383, §1202(a), designated existing provisions as par. (1), inserted ''of the United States'' after ''armed forces'', struck out ''Provision of such support, supplies, and services to the forces of an allied nation may be made only with the concurrence of the Secretary of State.'' at end, and added pars. (2) and (3).

Subsec. (b). Pub. L. 111–383, §1202(b)(1), substituted ''subsection (a)(1)'' for ''subsection (a)'' in par. (1) and in introductory provisions of par. (2).

Subsec. (c)(1). Pub. L. 111–383, §1202(b)(2)(A), substituted ''The'' for ''Except as provided in paragraph (2), the'' and ''subsection (a)(1)'' for ''this section''.

Subsec. (c)(2). Pub. L. 111–383, §1202(b)(2)(B), substituted ''The value of the logistic support, supplies, and services provided under subsection (a)(2) in any fiscal year may not'' for ''In addition to any logistic support, supplies, and services provided under subsection (a) that are covered by paragraph (1), the value of logistic support, supplies, and services provided under this section solely for the purposes of enhancing the interoperability of the logistical support systems of military forces participating in combined operation of the United States in order to facilitate such operations may not, in any fiscal year,''.

Subsec. (d)(1). Pub. L. 111–383, §1075(b)(3), substituted ''Committee on Foreign Affairs'' for ''Committee on International Relations''.

2008—Pub. L. 110–181 renumbered section 127c of this title, relating to allied forces participating in combined operations, as this section.

§128. Physical protection of special nuclear material: limitation on dissemination of unclassified information

(a)(1) In addition to any other authority or requirement regarding protection from dissemination of information, and subject to section 552(b)(3) of title 5, the Secretary of Defense, with respect to special nuclear materials, shall prescribe such regulations, after notice and oppor-

tunity for public comment thereon, or issue such orders as may be necessary to prohibit the unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment for the physical protection of special nuclear material.

(2) The Secretary may prescribe regulations or issue orders under paragraph (1) to prohibit the dissemination of any information described in such paragraph only if and to the extent that the Secretary determines that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

(A) illegal production of nuclear weapons, or

(B) theft, diversion, or sabotage of special nuclear materials, equipment, or facilities.

(3) In making a determination under paragraph (2), the Secretary may consider what the likelihood of an illegal production, theft, diversion, or sabotage referred to in such paragraph would be if the information proposed to be prohibited from dissemination under this section were at no time available for dissemination.

(4) The Secretary shall exercise his authority under this subsection to prohibit the dissemination of any information described in paragraph (1)—

(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security; and

(B) upon a determination that the unauthorized dissemination of such information could reasonably be expected to result in a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of—

(i) illegal production of nuclear weapons, or

(ii) theft, diversion, or sabotage of nuclear materials, equipment, or facilities.

(b) Nothing in this section shall be construed to authorize the Secretary to withhold, or to authorize the withholding of, information from the appropriate committees of the Congress.

(c) Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5.

(Added Pub. L. 100–180, div. A, title XI, § 1123(a), Dec. 4, 1987, 101 Stat. 1149; amended Pub. L. 101–510, div. A, title XIII, § 1311(1), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 108–136, div. A, title X, § 1031(a)(4), Nov. 24, 2003, 117 Stat. 1596.)

PRIOR PROVISIONS

A prior section 128 was renumbered section 421 of this title.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108–136 struck out subsec. (d) which required the Secretary to prepare an annual report detailing the Secretary's application during the year of each regulation or order prescribed or issued under this section.

1990—Subsec. (d). Pub. L. 101–510 substituted ''on an annual basis'' for ''on a quarterly basis''.

§ 129. Prohibition of certain civilian personnel management constraints

(a) The civilian personnel of the Department of Defense shall be managed each fiscal year solely on the basis of and consistent with (1) the workload required to carry out the functions and activities of the department and (2) the funds made available to the department for such fiscal year. The management of such personnel in any fiscal year shall not be subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after February 10, 1996, and that refers specifically to this subsection.

(b) The number of, and the amount of funds available to be paid to, indirectly funded Government employees of the Department of Defense may not be—

(1) subject to any constraint or limitation on the number of such personnel who may be employed on the last day of a fiscal year;

(2) managed on the basis of any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees; or

(3) controlled under any policy of the Secretary of a military department for control of civilian manpower resources.

(c) In this section, the term ''indirectly funded Government employees'' means civilian employees of the Department of Defense—

(1) who are employed by industrial-type activities, the Major Range and Test Facility Base, or commercial-type activities described in section 2208 of this title; and

(2) whose salaries and benefits are funded from sources other than appropriated funds.

(d) With respect to each budget activity within an appropriation for a fiscal year for operations and maintenance, the Secretary of Defense shall ensure that there are employed during that fiscal year employees in the number and with the combination of skills and qualifications that are necessary to carry out the functions within that budget activity for which funds are provided for that fiscal year.

(e) Subsections (a), (b), and (c) apply to the Major Range and Test Facility Base (MRTFB) at the installation level. With respect to the MRTFB structure, the term ''funds made available'' includes both direct appropriated funds and funds provided by MRTFB customers.

(f)(1) Not later than February 1 of each year, the Secretary of each military department and the head of each Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the management of the civilian workforce under the jurisdiction of that official.

(2) Each report of an official under paragraph (1) shall contain the following:

(A) The official's certification (i) that the civilian workforce under the jurisdiction of the official is not subject to any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees, and (ii) that, during the 12 months preceding the date on which the report is due, such workforce has not been subject to any such constraint or limitation.

(B) A description of how the civilian workforce is managed.

(C) A detailed description of the analytical tools used to determine civilian workforce requirements during the 12-month period referred to in subparagraph (A).

(Added Pub. L. 97–86, title IX, § 904(a), Dec. 1, 1981, 95 Stat. 1114, § 140b; renumbered § 129, Pub. L. 99–433, title I, § 101(a)(3), Oct. 1, 1986, 100 Stat. 994; amended Pub. L. 99–661, div. A, title V, § 533, Nov. 14, 1986, 100 Stat. 3873; Pub. L. 102–190, div. A, title III, § 312(b), Dec. 5, 1991, 105 Stat. 1335; Pub. L. 104–106, div. A, title X, § 1031, Feb. 10, 1996, 110 Stat. 428; Pub. L. 104–201, div. A, title X, § 1074(a)(1), title XVI, § 1603, Sept. 23, 1996, 110 Stat. 2658, 2735; Pub. L. 105–85, div. A, title XI, § 1101, Nov. 18, 1997, 111 Stat. 1922; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

AMENDMENTS

1999—Subsec. (f)(1). Pub. L. 106–65 substituted "and the Committee on Armed Services" for "and the Committee on National Security".

1997—Subsec. (f). Pub. L. 105–85 added subsec. (f).

1996—Subsec. (a). Pub. L. 104–201, § 1074(a)(1), substituted "February 10, 1996," for "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996".

Pub. L. 104–106, § 1031(1), substituted "constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees. The Secretary of Defense and the Secretaries of the military departments may not be required to make a reduction in the number of full-time equivalent positions in the Department of Defense unless such reduction is necessary due to a reduction in funds available to the Department or is required under a law that is enacted after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1996 and that refers specifically to this subsection." for "man-year constraint or limitation."

Subsec. (b)(2). Pub. L. 104–106, § 1031(2), substituted "any constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees" for "any end-strength".

Subsec. (c)(1). Pub. L. 104–201, § 1603(1), inserted ", the Major Range and Test Facility Base," after "industrial-type activities".

Subsec. (d). Pub. L. 104–106, § 1031(3), added subsec. (d).

Subsec. (e). Pub. L. 104–201, § 1603(2), added subsec. (e).

1991—Subsec. (a). Pub. L. 102–190 substituted "department and (2)" for "department, (2)" and struck out ", and (3) the authorized end strength for the civilian personnel of the department for such fiscal year" at end of first sentence.

1986—Pub. L. 99–661 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

Pub. L. 99–433 renumbered section 140b of this title as this section.

§ 129a. General personnel policy

The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

(1) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

(2) include in each manpower requirements report submitted under section 115a of this title a complete justification for converting from one form of personnel to another.

(Added Pub. L. 101–510, div. A, title XIV, § 1483(b)(2), Nov. 5, 1990, 104 Stat. 1715.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 115(b)(5) of this title, prior to repeal by Pub. L. 101–510, § 1483(a).

CONVERSION OF MILITARY POSITIONS TO CIVILIAN POSITIONS

Pub. L. 104–106, div. A, title X, § 1032, Feb. 10, 1996, 110 Stat. 429, as amended by Pub. L. 104–201, div. A, title XVI, § 1601, Sept. 23, 1996, 110 Stat. 2734, directed Secretary of Defense, by Sept. 30, 1996, to convert at least 3,000 military positions to civilian positions and, not later than Mar. 31, 1996, submit to Congress a plan for the implementation of conversion.

PROHIBITION ON USE OF FUNDS TO ASSIGN SUPERVISOR'S TITLE OR GRADE BASED UPON NUMBER OF PEOPLE SUPERVISED

Pub. L. 104–61, title VIII, § 8031, Dec. 1, 1995, 109 Stat. 658, provided that: "None of the funds appropriated during the current fiscal year and hereafter, may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 103–335, title VIII, § 8036, Sept. 30, 1994, 108 Stat. 2626.

Pub. L. 103–139, title VIII, § 8040, Nov. 11, 1993, 107 Stat. 1449.

Pub. L. 102–396, title IX, § 9053, Oct. 6, 1992, 106 Stat. 1914.

Pub. L. 102–172, title VIII, § 8055, Nov. 26, 1991, 105 Stat. 1184.

Pub. L. 101–511, title VIII, § 8063, Nov. 5, 1990, 104 Stat. 1888.

Pub. L. 101–165, title IX, § 9085, Nov. 21, 1989, 103 Stat. 1147.

Pub. L. 100–463, title VIII, § 8079, Oct. 1, 1988, 102 Stat. 2270–30.

Pub. L. 100–202, § 101(b) [title VIII, § 8105], Dec. 22, 1987, 101 Stat. 1329–43, 1329–81.

§ 129b. Authority to procure personal services

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense and the Secretaries of the military departments may—

(1) procure the services of experts or consultants (or of organizations of experts or consultants) in accordance with section 3109 of title 5; and

(2) pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law.

(b) CONDITIONS.—The services of experts or consultants (or organizations thereof) may be

procured under subsection (a) only if the Secretary of Defense or the Secretary of the military department concerned, as the case may be, determines that—

(1) the procurement of such services is advantageous to the United States; and

(2) such services cannot adequately be provided by the Department of Defense.

(c) REGULATIONS.—Procurement of the services of experts and consultants (or organizations thereof) under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.

(d) ADDITIONAL AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—(1) In addition to the authority provided under subsection (a), the Secretary of Defense may enter into personal services contracts if the personal services—

(A) are to be provided by individuals outside the United States, regardless of their nationality, and are determined by the Secretary to be necessary and appropriate for supporting the activities and programs of the Department of Defense outside the United States;

(B) directly support the mission of a defense intelligence component or counter-intelligence organization of the Department of Defense; or

(C) directly support the mission of the special operations command of the Department of Defense.

(2) The contracting officer for a personal services contract under this subsection shall be responsible for ensuring that—

(A) the services to be procured are urgent or unique; and

(B) it would not be practicable for the Department to obtain such services by other means.

(3) The requirements of section 3109 of title 5 shall not apply to a contract entered into under this subsection.

(Added Pub. L. 101–510, div. A, title XIV, § 1481(b)(1), Nov. 5, 1990, 104 Stat. 1704; amended Pub. L. 102–190, div. A, title X, § 1061(a)(2), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 108–136, div. A, title VIII, § 841(a), (b)(1), Nov. 24, 2003, 117 Stat. 1552.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–165, title IX, § 9002, Nov. 21, 1989, 103 Stat. 1129, which was set out as a note under section 2241 of this title, prior to repeal by Pub. L. 101–510, § 1481(b)(3).

AMENDMENTS

2003—Pub. L. 108–136, § 841(b)(1), substituted ''Authority to procure personal services'' for ''Experts and consultants: authority to procure services of'' in section catchline.

Subsec. (d). Pub. L. 108–136, § 841(a), added subsec. (d).

1991—Pub. L. 102–190 inserted ''of'' after ''services'' in section catchline.

§ 129c. Medical personnel: limitations on reductions

(a) LIMITATION ON REDUCTION.—For any fiscal year, the Secretary of Defense may not make a reduction in the number of medical personnel of the Department of Defense described in subsection (b) unless the Secretary makes a certification for that fiscal year described in subsection (c).

(b) COVERED REDUCTIONS.—Subsection (a) applies to a reduction in the number of medical personnel of the Department of Defense as of the end of a fiscal year to a number that is less than—

(1) 95 percent of the number of such personnel at the end of the immediately preceding fiscal year; or

(2) 90 percent of the number of such personnel at the end of the third fiscal year preceding the fiscal year.

(c) CERTIFICATION.—A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that—

(1) the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense; and

(2) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.

(d) POLICY FOR IMPLEMENTING REDUCTIONS.—Whenever the Secretary of Defense directs that there be a reduction in the total number of military medical personnel of the Department of Defense, the Secretary shall require that the reduction be carried out so as to ensure that the reduction is not exclusively or disproportionately borne by any one of the armed forces and is not exclusively or disproportionately borne by either the active or the reserve components.

(e) DEFINITION.—In this section, the term ''medical personnel'' means—

(1) the members of the armed forces covered by the term ''medical personnel'' as defined in section 115a(e)(2) of this title; and

(2) the civilian personnel of the Department of Defense assigned to military medical facilities.

(Added Pub. L. 104–106, div. A, title V, § 564(a)(1), Feb. 10, 1996, 110 Stat. 325; amended Pub. L. 105–85, div. A, title X, § 1073(a)(4), Nov. 18, 1997, 111 Stat. 1900.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title VII, § 711, Nov. 5, 1990, 104 Stat. 1582, as amended, which was set out as a note under section 115 of this title, prior to repeal by Pub. L. 104–106, § 564(d)(1).

AMENDMENTS

1997—Subsec. (e)(1). Pub. L. 105–85 substituted ''section 115a(e)(2)'' for ''section 115a(g)(2)''.

PROHIBITION ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 110–181, div. A, title VII, § 721(a)–(d), Jan. 28, 2008, 122 Stat. 198, 199, as amended by Pub. L. 111–84, div. A, title VII, § 701, Oct. 28, 2009, 123 Stat. 2372, provided that:

''(a) PROHIBITION.—The Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position on or after October 1, 2007.

''(b) RESTORATION OF CERTAIN POSITIONS TO MILITARY POSITIONS.—In the case of any military medical or dental position that is converted to a civilian medical or dental position during the period beginning on October 1, 2004, and ending on September 30, 2008, if the position is not filled by a civilian by September 30, 2008, the Secretary of the military department concerned shall restore the position to a military medical or dental position that can be filled only by a member of the Armed Forces who is a health professional.

''(c) REPORT.—

''(1) REQUIREMENT.—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 report on conversions made during fiscal year 2007 not later than 180 days after the enactment of this Act [Jan. 28, 2008].

''(2) MATTERS COVERED.—The report shall include the following:

''(A) The number of military medical or dental positions, by grade or band and specialty, converted to civilian medical or dental positions.

''(B) The results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether there were civilian medical and dental care providers available in such area adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area.

''(C) An analysis, by affected area, showing the extent to which access to health care and cost of health care was affected in both the direct care and purchased care systems, including an assessment of the effect of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of the conversions.

''(D) The extent to which military medical and dental positions converted to civilian medical or dental positions affected recruiting and retention of uniformed medical and dental personnel.

''(E) A comparison of the full costs for the military medical and dental positions converted with the full costs for civilian medical and dental positions, including expenses such as recruiting, salary, benefits, training, and any other costs the Department identifies.

''(F) An assessment showing that the military medical or dental positions converted were in excess of the military medical and dental positions needed to meet medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

''(d) DEFINITIONS.—In this section:

''(1) The term 'military medical or dental position' means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

''(2) The term 'civilian medical or dental position' means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

''(3) The term 'uniformed services' has the meaning given that term in section 1072(1) of title 10, United States Code.

''(4) The term 'conversion', with respect to a military medical or dental position, means a change of the position to a civilian medical or dental position, effective as of the date of the manning authorization document of the military department making the change (through a change in designation from military to civilian in the document, the elimination of the listing of the position as a military position in the document, or through any other means indicating the change in the document or otherwise).''

REQUIREMENT TO CERTIFY AND REPORT ON CONVERSION OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL AND DENTAL POSITIONS

Pub. L. 109–364, div. A, title VII, § 742, Oct. 17, 2006, 120 Stat. 2306, which prohibited the Secretary of a military department from converting any military medical or dental position to a civilian medical or dental position in a fiscal year until the Secretary submitted to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives with respect to that fiscal year a certification that the conversions within that department would not increase cost or decrease quality of care or access to care, was repealed by Pub. L. 110–181, div. A, title VII, § 721(e), Jan. 28, 2008, 122 Stat. 199.

PROHIBITION ON CONVERSIONS OF MILITARY MEDICAL AND DENTAL POSITIONS TO CIVILIAN MEDICAL POSITIONS UNTIL SUBMISSION OF CERTIFICATION

Pub. L. 109–163, div. A, title VII, § 744, Jan. 6, 2006, 119 Stat. 3360, provided that:

''(a) PROHIBITION ON CONVERSIONS.—

''(1) SUBMISSION OF CERTIFICATION.—A Secretary of a military department may not convert any military medical or dental position to a civilian medical or dental position until the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a certification that the conversions within that department will not increase cost or decrease quality of care or access to care. Such a certification may not be submitted before June 1, 2006.

''(2) REPORT WITH CERTIFICATION.—A Secretary submitting such a certification shall include with the certification a written report that includes—

''(A) the methodology used by the Secretary in making the determinations necessary for the certification, including the extent to which the Secretary took into consideration the findings of the Comptroller General in the report under subsection (b)(3);

''(B) the results of a market survey in each affected area of the availability of civilian medical and dental care providers in such area in order to determine whether the civilian medical and dental care providers available in such area are adequate to fill the civilian positions created by the conversion of military medical and dental positions to civilian positions in such area; and

''(C) any action taken by the Secretary in response to recommendations in the Comptroller General report under subsection (b)(3).

''(b) REQUIREMENT FOR STUDY.—

''(1) IN GENERAL.—The Comptroller General shall conduct a study on the effect of conversions of military medical and dental positions to civilian medical or dental positions on the defense health program.

''(2) MATTERS COVERED.—The study shall include the following:

''(A) The number of military medical and dental positions, by grade and specialty, planned for conversion to civilian medical or dental positions.

''(B) The number of military medical and dental positions, by grade and specialty, converted to civilian medical or dental positions since October 1, 2004.

''(C) The ability of the military health care system to fill the civilian medical and dental positions required, by specialty.

''(D) The degree to which access to health care is affected in both the direct and purchased care system, including an assessment of the effects of any increased shifts in patient load from the direct care to the purchased care system, or any delays in receipt of care in either the direct or purchased care system because of lack of direct care providers.

''(E) The degree to which changes in military manpower requirements affect recruiting and retention of uniformed medical and dental personnel.

''(F) The degree to which conversion of the military positions meets the joint medical and dental readiness requirements of the uniformed services, as determined jointly by all the uniformed services.

''(G) The effect of the conversions of military medical positions to civilian medical and dental positions on the defense health program, including costs associated with the conversions, with a comparison of the estimated costs versus the actual costs incurred by the number of conversions since October 1, 2004.

''(H) The effectiveness of the conversions in enhancing medical and dental readiness, health care efficiency, productivity, quality, and customer satisfaction.

''(3) REPORT ON STUDY.—Not later than May 1, 2006, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under this section.

''(c) DEFINITIONS.—In this section:

''(1) The term 'military medical or dental position' means a position for the performance of health care functions within the Armed Forces held by a member of the Armed Forces.

''(2) The term 'civilian medical or dental position' means a position for the performance of health care functions within the Department of Defense held by an employee of the Department or of a contractor of the Department.

''(3) The term 'affected area' means an area in which military medical or dental positions were converted to civilian medical or dental positions before October 1, 2004, or in which such conversions are scheduled to occur in the future.

''(4) The term 'uniformed services' has the meaning given that term in section 1072(1) of title 10, United States Code.''

SPECIAL TRANSITION RULE FOR FISCAL YEAR 1996

Pub. L. 104–106, div. A, title V, § 564(b), Feb. 10, 1996, 110 Stat. 326, provided that, for purposes of applying subsec. (b)(1) of this section during fiscal year 1996, the number against which the percentage limitation of 95 percent was to be computed would be the number of medical personnel of the Department of Defense as of the end of fiscal year 1994, rather than the number as of the end of fiscal year 1995.

§ 130. Authority to withhold from public disclosure certain technical data

(a) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any technical data with military or space application in the possession of, or under the control of, the Department of Defense, if such data may not be exported lawfully outside the United States without an approval, authorization, or license under the Export Administration Act of 1979 (50 U.S.C. App. 2401–2420) or the Arms Export Control Act (22 U.S.C. 2751 et seq.). However, technical data may not be withheld under this section if regulations promulgated under either such Act authorize the export of such data pursuant to a general, unrestricted license or exemption in such regulations.

(b) Regulations under this section shall be published in the Federal Register for a period of no less than 30 days for public comment before promulgation. Such regulations shall address, where appropriate, releases of technical data to allies of the United States and to qualified United States contractors, including United States contractors that are small business concerns, for use in performing United States Government contracts.

(c) In this section, the term ''technical data with military or space application'' means any blueprints, drawings, plans, instructions, computer software and documentation, or other technical information that can be used, or be adapted for use, to design, engineer, produce, manufacture, operate, repair, overhaul, or reproduce any military or space equipment or technology concerning such equipment.

(Added Pub. L. 98–94, title XII, § 1217(a), Sept. 24, 1983, 97 Stat. 690, § 140c; amended Pub. L. 99–145, title XIII, § 1303(a)(3), Nov. 8, 1985, 99 Stat. 738; renumbered § 130 and amended Pub. L. 99–433, title I, §§ 101(a)(3), 110(d)(6), Oct. 1, 1986, 100 Stat. 994, 1003; Pub. L. 100–26, § 7(k)(3), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101–510, div. A, title XIV, § 1484(b)(1), Nov. 5, 1990, 104 Stat. 1715.)

REFERENCES IN TEXT

The Export Administration Act of 1979, referred to in subsec. (a), is Pub. L. 96–72, Sept. 29, 1979, 93 Stat. 503, as amended, which is classified principally to section 2401 et seq. of the Appendix to Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of the Appendix to Title 50 and Tables.

The Arms Export Control Act, referred to in subsec. (a), is Pub. L. 90–629, Oct. 22, 1968, 82 Stat. 1320, as amended, which is classified principally to chapter 39 (§ 2751 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2751 of Title 22 and Tables.

AMENDMENTS

1990—Subsecs. (b), (c). Pub. L. 101–510 substituted ''Regulations under this section'' for ''(1) Within 90 days after September 24, 1983, the Secretary of Defense shall propose regulations to implement this section. Such regulations'' in subsec. (b) and redesignated former subsec. (b)(2) as subsec. (c).

1987—Subsec. (b)(2). Pub. L. 100–26 inserted ''the term'' after ''In this section,''.

1986—Pub. L. 99–433 renumbered section 140c of this title as this section and substituted ''Authority'' for ''Secretary of Defense: authority'' in section catchline.

1985—Subsec. (b)(1). Pub. L. 99–145 substituted ''September 24, 1983'' for ''enactment of this section''.

[§ 130a. Repealed. Pub. L. 110–181, div. A, title IX, § 901(a)(1), Jan. 28, 2008, 122 Stat. 272]

Section, added Pub. L. 105–85, div. A, title IX, § 911(a)(1), Nov. 18, 1997, 111 Stat. 1857; amended Pub. L. 106–65, div. A, title IX, § 921(a)(1), Oct. 5, 1999, 113 Stat. 722; Pub. L. 106–398, § 1 [[div. A], title IX, § 941], Oct. 30, 2000, 114 Stat. 1654, 1654A–241; Pub. L. 108–375, div. A, title X, § 1084(d)(2), Oct. 28, 2004, 118 Stat. 2061, related to major Department of Defense headquarters activities personnel.

§ 130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information

(a) EXEMPTION FROM DISCLOSURE.—The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Homeland Security may, notwithstanding section 552 of title 5, authorize to be withheld from disclosure to the public personally identifying information regarding—

(1) any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit; and

(2) any employee of the Department of Defense or of the Coast Guard whose duty station is with any such unit.

(b) EXCEPTIONS.—(1) The authority in subsection (a) is subject to such exceptions as the President may direct.

(2) Subsection (a) does not authorize any official to withhold, or to authorize the withholding of, information from Congress.

(c) DEFINITIONS.—In this section:

(1) The term ''personally identifying information'', with respect to any person, means the person's name, rank, duty address, and official title and information regarding the person's pay.

(2) The term ''unit'' means a military organization of the armed forces designated as a unit by competent authority.

(3) The term ''overseas unit'' means a unit that is located outside the United States and its territories.

(4) The term ''sensitive unit'' means a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including—

(A) a unit involved in collecting, handling, disposing, or storing of classified information and materials;

(B) a unit engaged in training—

(i) special operations units;

(ii) security group commands weapons stations; or

(iii) communications stations; and

(C) any other unit that is designated as a sensitive unit by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Homeland Security.

(5) The term ''routinely deployable unit'' means a unit that normally deploys from its permanent home station on a periodic or rotating basis to meet peacetime operational requirements that, or to participate in scheduled training exercises that, routinely require deployments outside the United States and its territories. Such term includes a unit that is alerted for deployment outside the United States and its territories during an actual execution of a contingency plan or in support of a crisis operation.

(Added Pub. L. 106–65, div. A, title X, § 1044(a), Oct. 5, 1999, 113 Stat. 761; amended Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsecs. (a), (c)(4)(C). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

§ 130c. Nondisclosure of information: certain sensitive information of foreign governments and international organizations

(a) EXEMPTION FROM DISCLOSURE.—The national security official concerned (as defined in subsection (h)) may withhold from public disclosure otherwise required by law sensitive information of foreign governments in accordance with this section.

(b) INFORMATION ELIGIBLE FOR EXEMPTION.—For the purposes of this section, information is sensitive information of a foreign government only if the national security official concerned makes each of the following determinations with respect to the information:

(1) That the information was provided by, otherwise made available by, or produced in cooperation with, a foreign government or international organization.

(2) That the foreign government or international organization is withholding the information from public disclosure (relying for that determination on the written representation of the foreign government or international organization to that effect).

(3) That any of the following conditions are met:

(A) The foreign government or international organization requests, in writing, that the information be withheld.

(B) The information was provided or made available to the United States Government on the condition that it not be released to the public.

(C) The information is an item of information, or is in a category of information, that the national security official concerned has specified in regulations prescribed under subsection (g) as being information the release of which would have an adverse effect on the ability of the United States Government to obtain the same or similar information in the future.

(c) INFORMATION OF OTHER AGENCIES.—If the national security official concerned provides to the head of another agency sensitive information of a foreign government, as determined by that national security official under subsection (b), and informs the head of the other agency of that determination, then the head of the other agency shall withhold the information from any public disclosure unless that national security official specifically authorizes the disclosure.

(d) LIMITATIONS.—(1) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government before October 30, 2000, and more than 25 years before the request is received by an agency, the information may be withheld only as set forth in paragraph (3).

(2)(A) If a request for disclosure covers any sensitive information of a foreign government (as described in subsection (b)) that came into the possession or under the control of the United States Government on or after the date referred to in paragraph (1), the authority to withhold the information under this section is subject to the provisions of subparagraphs (B) and (C).

(B) Information referred to in subparagraph (A) may not be withheld under this section after—

(i) the date that is specified by a foreign government or international organization in a request or expression of a condition described in paragraph (1) or (2) of subsection (b) that is made by the foreign government or international organization concerning the information; or

(ii) if there are more than one such foreign governments or international organizations, the latest date so specified by any of them.

(C) If no date is applicable under subparagraph (B) to a request referred to in subparagraph (A) and the information referred to in that subparagraph came into possession or under the control of the United States more than 10 years before the date on which the request is received by an agency, the information may be withheld under this section only as set forth in paragraph (3).

(3) Information referred to in paragraph (1) or (2)(C) may be withheld under this section in the case of a request for disclosure only if, upon the notification of each foreign government and international organization concerned in accordance with the regulations prescribed under subsection (g)(2), any such government or organization requests in writing that the information not be disclosed for an additional period stated in the request of that government or organization. After the national security official concerned considers the request of the foreign government or international organization, the official shall designate a later date as the date after which the information is not to be withheld under this section. The later date may be extended in accordance with a later request of any such foreign government or international organization under this paragraph.

(e) INFORMATION PROTECTED UNDER OTHER AUTHORITY.—This section does not apply to information or matters that are specifically required in the interest of national defense or foreign policy to be protected against unauthorized disclosure under criteria established by an Executive order and are classified, properly, at the confidential, secret, or top secret level pursuant to such Executive order.

(f) DISCLOSURES NOT AFFECTED.—Nothing in this section shall be construed to authorize any official to withhold, or to authorize the withholding of, information from the following:

(1) Congress.

(2) The Comptroller General, unless the information relates to activities that the President designates as foreign intelligence or counterintelligence activities.

(g) REGULATIONS.—(1) The national security officials referred to in subsection (h)(1) shall each prescribe regulations to carry out this section. The regulations shall include criteria for making the determinations required under subsection (b). The regulations may provide for controls on access to and use of, and special markings and specific safeguards for, a category or categories of information subject to this section.

(2) The regulations shall include procedures for notifying and consulting with each foreign government or international organization concerned about requests for disclosure of information to which this section applies.

(h) DEFINITIONS.—In this section:

(1) The term ''national security official concerned'' means the following:

(A) The Secretary of Defense, with respect to information of concern to the Department of Defense, as determined by the Secretary.

(B) The Secretary of Homeland Security, with respect to information of concern to the Coast Guard, as determined by the Secretary, but only while the Coast Guard is not operating as a service in the Navy.

(C) The Secretary of Energy, with respect to information concerning the national security programs of the Department of Energy, as determined by the Secretary.

(2) The term ''agency'' has the meaning given that term in section 552(f) of title 5.

(3) The term ''international organization'' means the following:

(A) A public international organization designated pursuant to section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) as being entitled to enjoy the privileges, exemptions, and immunities provided in such Act.

(B) A public international organization created pursuant to a treaty or other international agreement as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs.

(C) An official mission, except a United States mission, to a public international organization referred to in subparagraph (A) or (B).

(Added Pub. L. 106–398, § 1 [[div. A], title X, § 1073(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–277; amended Pub. L. 107–107, div. A, title X, § 1048(a)(3), (c)(1), Dec. 28, 2001, 115 Stat. 1222, 1226; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

REFERENCES IN TEXT

The International Organizations Immunities Act, referred to in subsec. (h)(3)(A), is title I of act Dec. 29, 1945, ch. 652, 59 Stat. 669, as amended, which is classified principally to subchapter XVIII (§ 288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables.

AMENDMENTS

2002—Subsec. (h)(1)(B). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2001—Subsec. (b)(3)(C). Pub. L. 107–107, § 1048(a)(3), substituted ''subsection (g)'' for ''subsection (f)''.

Subsec. (d)(1). Pub. L. 107–107, § 1048(c)(1), substituted ''October 30, 2000,'' for ''the date of the enactment of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

§130d. Treatment under Freedom of Information Act of certain confidential information shared with State and local personnel

Confidential business information and other sensitive but unclassified homeland security information in the possession of the Department of Defense that is shared, pursuant to section 892 of the Homeland Security Act of 2002 (6 U.S.C. 482), with State and local personnel (as defined in such section) shall not be subject to disclosure under section 552 of title 5 by virtue of the sharing of such information with such personnel.

(Added Pub. L. 109–364, div. A, title XIV, §1405(a), Oct. 17, 2006, 120 Stat. 2436.)

CHAPTER 4—OFFICE OF THE SECRETARY OF DEFENSE

Sec.
131. Office of the Secretary of Defense.
132. Deputy Secretary of Defense.
132a. Deputy Chief Management Officer.
133. Under Secretary of Defense for Acquisition, Technology, and Logistics.
[133a. Repealed.]
133b.[1] Deputy Under Secretary of Defense for Logistics and Materiel Readiness.
134. Under Secretary of Defense for Policy.
[134a, 134b. Repealed.]
135. Under Secretary of Defense (Comptroller).
136. Under Secretary of Defense for Personnel and Readiness.
[136a. Repealed.]
137. Under Secretary of Defense for Intelligence.
137a. Principal Deputy Under Secretaries of Defense.
138. Assistant Secretaries of Defense.
138a. Assistant Secretary of Defense for Logistics and Materiel Readiness.
138b. Assistant Secretary of Defense for Research and Engineering.
138c. Assistant Secretary of Defense for Operational Energy Plans and Programs.
138d. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.
139. Director of Operational Test and Evaluation.
139a. Director of Cost Assessment and Program Evaluation.
139b. Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance.
139c. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy.
[139d, 139e. Renumbered.]
140. General Counsel.
[140a to 140c. Renumbered.]
141. Inspector General.
[142. Renumbered.]
143. Office of the Secretary of Defense personnel: limitation.
144. Director of Small Business Programs.

AMENDMENTS

2011—Pub. L. 111–383, div. A, title IX, §901(k)(2)(A), Jan. 7, 2011, 124 Stat. 4325, added items 132a, 137a, 138b to 138d, and 139a to 139c, and struck out former items 133a ''Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics'', 134a ''Principal Deputy Under Secretary of Defense for Policy'', 136a ''Principal Deputy Under Secretary of Defense for Personnel and Readiness'', 137a ''Deputy Under Secretaries of Defense'', 139a ''Director of Defense Research and Engineering'', 139b ''Director of Operational Energy Plans and Programs'', 139c ''Director of Cost Assessment and Program Evaluation'', 139d ''Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance'', and 142 ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs''.

2009—Pub. L. 111–84, div. A, title IX, §§905(a)(2), 906(c)(3), Oct. 28, 2009, 123 Stat. 2425, 2427, added items 133a, 134a, 136a, 137a, and 138a and struck out former items 133a ''Deputy Under Secretary of Defense for Acquisition and Technology'', 134a ''Deputy Under Secretary of Defense for Policy'', 134b ''Deputy Under Secretary of Defense for Technology Security Policy'', and 136a ''Deputy Under Secretary of Defense for Personnel and Readiness''.

Pub. L. 111–23, title I, §§101(a)(2), 102(a)(2), May 22, 2009, 123 Stat. 1706, 1713, added items 139c and 139d.

2008—Pub. L. 110–417, [div. A], title IX, §902(b), Oct. 14, 2008, 122 Stat. 4566, added item 139b.

2006—Pub. L. 109–163, div. A, title IX, §904(b)(2), Jan. 6, 2006, 119 Stat. 3400, added item 144.

2002—Pub. L. 107–314, div. A, title IX, §901(b)(2), Dec. 2, 2002, 116 Stat. 2619, added items 137 and 139a and struck out former item 137 ''Director of Defense Research and Engineering''.

2001—Pub. L. 107–107, div. A, title IX, §901(a)(2), Dec. 28, 2001, 115 Stat. 1194, added item 136a.

1999—Pub. L. 106–65, div. A, title IX, §911(d)(3), Oct. 5, 1999, 113 Stat. 719, added items 133 and 133b and struck out former item 133 ''Under Secretary of Defense for Acquisition and Technology''.

1998—Pub. L. 105–261, div. A, title XV, §1521(b)(2), Oct. 17, 1998, 112 Stat. 2179, added item 134b.

1997—Pub. L. 105–85, div. A, title IX, §911(d)(2), Nov. 18, 1997, 111 Stat. 1859, added item 143.

1996—Pub. L. 104–106, div. A, title IX, §904(a)(2), Feb. 10, 1996, 110 Stat. 403, substituted ''Nuclear and Chemical and Biological Defense Programs'' for ''Atomic Energy'' in item 142.

Pub. L. 104–106, div. A, title IX, §903(a), (e)(3), Feb. 10, 1996, 110 Stat. 401, 402, which directed amendment of analysis, eff. Jan. 31, 1997, by striking out items 133a, 134a, 137, and 142, was repealed by Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

1994—Pub. L. 103–337, div. A, title IX, §903(a)(3), Oct. 5, 1994, 108 Stat. 2823, substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller'' in item 135.

1993—Pub. L. 103–160, div. A, title IX, §906(b), Nov. 30, 1993, 107 Stat. 1729, amended table of sections generally, inserting ''and Technology'' after ''Acquisition'' in items 133 and 133a, adding item 136, and redesignating former items 135, 136, 137, 138, 139, 140, and 141 as 137, 138, 135, 139, 140, 141, and 142, respectively.

1991—Pub. L. 102–190, div. A, title IX, §901(a)(2), Dec. 5, 1991, 105 Stat. 1450, added item 134a.

1987—Pub. L. 100–180, div. A, title XII, §1245(a)(2), Dec. 4, 1987, 101 Stat. 1165, added item 141.

Pub. L. 100–26, §9(b)(2), Apr. 21, 1987, 101 Stat. 287, struck out item 140a ''Counterintelligence official reception and representation expenses'' and item 140b ''Authority to use proceeds from counterintelligence operations of the military departments''.

1986—Pub. L. 99–500, §101(c) [title X, §902(a)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–131, and Pub. L. 99–591, §101(c) [title X, §902(a)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–131; Pub. L. 99–661, div. A, title IX, formerly title IV, §902(a)(2), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273, amended analysis identically adding item 133a.

Pub. L. 99–569, title IV, §§401(d), 403(b), Oct. 27, 1986, 100 Stat. 3196, 3197, added items 140a and 140b.

Pub. L. 99–433, title I, §§101(a)(6), 110(e)(2), Oct. 1, 1986, 100 Stat. 995, 1003, substituted ''Office of the Secretary of Defense'' for ''Department of Defense'' in chapter heading, and amended analysis generally, substituting items 131 to 140 for former items 131 ''Executive department'', 132 ''Seal'', 133 ''Secretary of Defense: appoint-

[1] Section 133b renumbered 138a by Pub. L. 111–84 without corresponding amendment of chapter analysis.

ment; powers and duties; delegation by'', 133a ''Secretary of Defense: annual report on North Atlantic Treaty Organization readiness'', 133b ''Sale or transfer of defense articles: reports to Congress'', 134 ''Deputy Secretary of Defense: appointment; powers and duties; precedence'', 134a ''Under Secretary of Defense for Acquisition: appointment'', 135 ''Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence'', 136 ''Assistant Secretaries of Defense: appointment; powers and duties; precedence'', 136a ''Director of Operational Test and Evaluation: appointment, powers and duties'', 137 ''General Counsel: appointment; powers and duties'', 138 ''Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports'', 139 ''Secretary of Defense: weapons development and procurement schedules for armed forces; reports; supplemental reports'', 139a ''Oversight of cost growth in major programs: Selected Acquisition Reports'', 139b ''Oversight of cost growth in major programs: unit cost reports'', 139c ''Major defense acquisition programs: independent cost estimates'', 140 ''Emergencies and extraordinary expenses'', 140a ''Secretary of Defense: funds transfers for foreign cryptologic support'', 140b ''Prohibition of certain civilian personnel management constraints'', and 140c ''Secretary of Defense: authority to withhold from public disclosure certain technical data''.

Pub. L. 99–348, title V, § 501(e)(2), July 1, 1986, 100 Stat. 708, added item 134a and substituted ''Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments'' for ''Under Secretaries of Defense: appointment'' in item 135.

1983—Pub. L. 98–94, title XII, §§ 1203(a)(2), 1211(a)(2), 1217(b), Sept. 24, 1983, 97 Stat. 683, 686, 690, added items 136a, 139c, and 140c.

1982—Pub. L. 97–295, § 1(2)(B), Oct. 12, 1982, 96 Stat. 1288, added items 133a and 133b.

Pub. L. 97–252, title XI, § 1107(a)(2), Sept. 8, 1982, 96 Stat. 745, added items 139a and 139b.

1981—Pub. L. 97–86, title IX, § 904(b), Dec. 1, 1981, 95 Stat. 1114, added item 140b.

1980—Pub. L. 96–450, title IV, § 401(b), Oct. 14, 1980, 94 Stat. 1977, added item 140a.

Pub. L. 96–342, title X, § 1001(d)(2), Sept. 8, 1980, 94 Stat. 1119, substituted ''Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports'' for ''Secretary of Defense: Annual authorization of appropriations for armed forces'' in item 138.

1977—Pub. L. 95–140, §§ 1(b), 2(b), Oct. 21, 1977, 91 Stat. 1172, 1173, substituted ''Deputy Secretary'' for ''Deputy Secretaries'' in item 134 and ''Under Secretaries of Defense'' for ''Director of Defense Research and Engineering'' in item 135.

1975—Pub. L. 94–106, title VIII, § 804(a), Oct. 7, 1975, 89 Stat. 538, added item 140.

1973—Pub. L. 93–155, title VIII, § 803(a), Nov. 16, 1973, 87 Stat. 612, added items 138 and 139.

1972—Pub. L. 92–596, § 4(3), Oct. 27, 1972, 86 Stat. 1318, substituted ''Deputy Secretaries'' for ''Deputy Secretary'' in item 134.

§ 131. Office of the Secretary of Defense

(a) There is in the Department of Defense an Office of the Secretary of Defense. The function of the Office is to assist the Secretary of Defense in carrying out the Secretary's duties and responsibilities and to carry out such other duties as may be prescribed by law.

(b) The Office of the Secretary of Defense is composed of the following:

(1) The Deputy Secretary of Defense.

(2) The Under Secretaries of Defense, as follows:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Under Secretary of Defense for Policy.

(C) The Under Secretary of Defense (Comptroller).

(D) The Under Secretary of Defense for Personnel and Readiness.

(E) The Under Secretary of Defense for Intelligence.

(3) The Deputy Chief Management Officer of the Department of Defense.

(4) Other officers who are appointed by the President, by and with the advice and consent of the Senate, and who report directly to the Secretary and Deputy Secretary without intervening authority, as follows:

(A) The Director of Cost Assessment and Program Evaluation.

(B) The Director of Operational Test and Evaluation.

(C) The General Counsel of the Department of Defense.

(D) The Inspector General of the Department of Defense.

(5) The Principal Deputy Under Secretaries of Defense.

(6) The Assistant Secretaries of Defense.

(7) Other officials provided for by law, as follows:

(A) The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation appointed pursuant to section 139b(a) of this title.

(B) The Deputy Assistant Secretary of Defense for Systems Engineering appointed pursuant to section 139b(b) of this title.

(C) The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy appointed pursuant to section 139c of this title.

(D) The Director of Small Business Programs appointed pursuant to section 144 of this title.

(E) The official designated under section 1501(a) of this title to have responsibility for Department of Defense matters relating to missing persons as set forth in section 1501 of this title.

(F) The Director of Family Policy under section 1781 of this title.

(G) The Director of the Office of Corrosion Policy and Oversight assigned pursuant to section 2228(a) of this title.

(H) The official designated under section 2438(a) of this title to have responsibility for conducting and overseeing performance assessments and root cause analyses for major defense acquisition programs.

(8) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.

(c) Officers of the armed forces may be assigned or detailed to permanent duty in the Office of the Secretary of Defense. However, the Secretary may not establish a military staff in the Office of the Secretary of Defense.

(d) The Secretary of each military department, and the civilian employees and members of the armed forces under the jurisdiction of the Secretary, shall cooperate fully with personnel

of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

(Added Pub. L. 99–433, title I, §104, Oct. 1, 1986, 100 Stat. 996; amended Pub. L. 103–160, div. A, title IX, §906(a), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 103–337, div. A, title IX, §903(b)(1), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104–106, div. A, title IX, §903(e)(1), 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; Pub. L. 107–314, div. A, title IX, §901(b)(1), Dec. 2, 2002, 116 Stat. 2619; Pub. L. 110–181, div. A, title IX, §904(a)(4), Jan. 28, 2008, 122 Stat. 274; Pub. L. 110–417, [div. A], title X, §1061(b)(7), Oct. 14, 2008, 122 Stat. 4613; Pub. L. 111–383, div. A, title IX, §901(b)(2), (m)(1), Jan. 7, 2011, 124 Stat. 4317, 4326.)

PRIOR PROVISIONS

A prior section 131 was renumbered section 111 of this title.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383, §901(m)(1), substituted ''the Secretary's'' for ''his''.

Subsec. (b). Pub. L. 111–383, §901(b)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to the composition of the Office of the Secretary of Defense.

2008—Subsec. (b)(3) to (9). Pub. L. 110–181, as amended by Pub. L. 110–417, added par. (3) and redesignated former pars. (3) to (8) as (4) to (9), respectively.

2002—Subsec. (b)(2) to (11). Pub. L. 107–314 added par. (2), redesignated pars. (6) to (11) as (3) to (8), respectively, and struck out former pars. (2) to (5) which read as follows:

''(2) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

''(3) The Under Secretary of Defense for Policy.

''(4) The Under Secretary of Defense (Comptroller).

''(5) The Under Secretary of Defense for Personnel and Readiness.''

1999—Subsec. (b)(2). Pub. L. 106–65 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1996—Subsec. (b)(6) to (11). Pub. L. 104–106, §903(a), (e)(1), which directed amendment of subsec. (b), eff. Jan. 31, 1997, by striking out pars. (6) and (8) and redesignating pars. (7), (9), (10), and (11) as (6), (7), (8), and (9), respectively, was repealed by Pub. L. 104–201.

1994—Subsec. (b)(4). Pub. L. 103–337 substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller''.

1993—Subsec. (b). Pub. L. 103–160 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Office of the Secretary of Defense is composed of the following:

''(1) The Deputy Secretary of Defense.

''(2) The Under Secretary of Defense for Acquisition.

''(3) The Under Secretary of Defense for Policy.

''(4) The Director of Defense Research and Engineering.

''(5) The Assistant Secretaries of Defense.

''(6) The Comptroller of the Department of Defense.

''(7) The Director of Operational Test and Evaluation.

''(8) The General Counsel of the Department of Defense.

''(9) The Inspector General of the Department of Defense.

''(10) Such other offices and officials as may be established by law or the Secretary of Defense may establish or designate in the Office.''

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111–383, div. A, title IX, §901(p), Jan. 7, 2011, 124 Stat. 4327, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), this section [see Tables for classification] and the amendments made by this section shall take effect on January 1, 2011.

''(2) CERTAIN MATTERS.—Subsection (i) [enacting and amending provisions set out as notes under section 137a of this title] and the amendments made by that subsection, and subsection (*o*) [enacting provisions set out as a note under this section], shall take effect on the date of the enactment of this Act [Jan. 7, 2011].''

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–417 effective Jan. 28, 2008, and as if included in Pub. L. 110–181 as enacted, see section 1061(b) of Pub. L. 110–417, set out as a note under section 6382 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 903(a) of Pub. L. 104–106, which provided that the amendments made by section 903 of Pub. L. 104–106 (amending this section and sections 138, 176, 1056, 1216, 1587, and 10201 of this title, repealing sections 133a, 134a, 137, and 142 of this title, and amending provisions set out as a note under section 167 of this title) were to take effect on Jan. 31, 1997, was repealed by Pub. L. 104–201, div. A, title IX, §901, Sept. 23, 1996, 110 Stat. 2617.

REDESIGNATION OF CERTAIN POSITIONS IN OFFICE OF SECRETARY OF DEFENSE

Pub. L. 111–383, div. A, title IX, §901(a), Jan. 7, 2011, 124 Stat. 4317, provided that:

''(1) REDESIGNATION.—Positions in the Office of the Secretary of Defense are hereby redesignated as follows:

''(A) The Director of Defense Research and Engineering is redesignated as the Assistant Secretary of Defense for Research and Engineering.

''(B) The Director of Operational Energy Plans and Programs is redesignated as the Assistant Secretary of Defense for Operational Energy Plans and Programs.

''(C) The Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs is redesignated as the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.

''(2) REFERENCES.—Any reference in any law, rule, regulation, paper, or other record of the United States to an office of the Department of Defense redesignated by paragraph (1) shall be deemed to be a reference to such office as so redesignated.''

INAPPLICABILITY OF APPOINTMENT REQUIREMENT TO CERTAIN INDIVIDUALS SERVING ON EFFECTIVE DATE

Pub. L. 111–383, div. A, title IX, §901(*o*), Jan. 7, 2011, 124 Stat. 4327, provided that:

''(1) IN GENERAL.—Notwithstanding this section [see Tables for classification] and the amendments made by this section, the individual serving as specified in paragraph (2) on December 31, 2010, may continue to serve in the applicable position specified in that paragraph after that date without the requirement for appointment by the President, by and with the advice and consent of the Senate.

''(2) COVERED INDIVIDUALS AND POSITIONS.—The individuals and positions specified in this paragraph are the following:

''(A) In the case of the individual serving as Director of Defense Research and Engineering, the position of Assistant Secretary of Defense for Research and Engineering.

''(B) In the case of the individual serving as Director of Operational Energy Plans and Programs, the position of Assistant Secretary of Defense for Operational Energy Plans and Programs.

''(C) In the case of the individual serving as Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs.''

DEFENSE ACQUISITION WORKFORCE

Pub. L. 105–85, div. A, title IX, § 912(a)–(e), Nov. 18, 1997, 111 Stat. 1860, 1861, required Secretary of Defense to accomplish reductions in defense acquisition personnel positions, to report on specific acquisition positions previously eliminated, to submit an implementation plan to streamline and improve acquisition organizations, to review acquisition organizations and functions, and to require certain duties of Task Force on Defense Reform.

REDUCTION OF PERSONNEL ASSIGNED TO OFFICE OF THE SECRETARY OF DEFENSE

Section 903 of Pub. L. 104–201, which provided for phased reduction of number of personnel assigned to or employed in functions in Office of the Secretary of Defense, was repealed and restated in section 143 of this title by Pub. L. 105–85, div. A, title IX, § 911(d)(1), (3), Nov. 18, 1997, 111 Stat. 1859, 1860.

ORGANIZATION OF OFFICE OF THE SECRETARY OF DEFENSE

Pub. L. 104–106, div. A, title IX, § 901, Feb. 10, 1996, 110 Stat. 399, as amended by Pub. L. 104–201, div. A, title IX, § 903(g), Sept. 23, 1996, 110 Stat. 2618, directed the Secretary of Defense to conduct a review of the organizations and functions of the Office of the Secretary of Defense and the personnel needed to carry out those functions, and to submit to the congressional defense committees a report containing findings, conclusions, and a plan for implementing recommendations not later than Mar. 1, 1996.

Pub. L. 99–433, title I, § 109, Oct. 1, 1986, 100 Stat. 999, directed the Secretary of Defense, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to conduct studies of the functions and organization of the Office of the Secretary of Defense, required the Secretaries of the military departments and the Chairman of the Joint Chiefs of Staff to submit reports on their studies to the Secretary of Defense, and directed the Secretary of Defense to submit a report on the Secretary's study to Congress not later than one year after Oct. 1, 1986.

§ 132. Deputy Secretary of Defense

(a) There is a Deputy Secretary of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Deputy Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b) The Deputy Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary is disabled or there is no Secretary of Defense.

(c) The Deputy Secretary serves as the Chief Management Officer of the Department of Defense.

(d) The Deputy Secretary takes precedence in the Department of Defense immediately after the Secretary.

(e) Until September 30, 2020, the Deputy Secretary of Defense shall lead the Guam Oversight Council and shall be the Department of Defense's principal representative for coordinating the interagency efforts in matters relating to Guam, including the following executive orders:

(1) Executive Order No. 13299 of May 12, 2003 (68 Fed. Reg. 25477; 48 U.S.C. note prec. 1451; relating to the Interagency Group on Insular Affairs).

(2) Executive Order No. 12788 of January 15, 1992, as amended (57 Fed. Reg. 2213; relating to the Defense Economic Adjustment Program).

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 518, § 134; amended Pub. L. 92–596, § 4(1), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, § 1(a), Oct. 21, 1977, 91 Stat. 1172; renumbered § 132 and amended Pub. L. 99–433, title I, §§ 101(a)(7), 110(d)(7), Oct. 1, 1986, 100 Stat. 995, 1003; Pub. L. 110–181, div. A, title IX, §§ 903(b), 904(a)(1), Jan. 28, 2008, 122 Stat. 273; Pub. L. 111–84, div. B, title XXVIII, § 2831(a), Oct. 28, 2009, 123 Stat. 2669; Pub. L. 111–383, div. A, title IX, § 901(c)(2), (m)(2), title X, § 1075(b)(4), div. B, title XXVIII, § 2821, Jan. 7, 2011, 124 Stat. 4321, 4326, 4369, 4465.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
134(a)	5:171c(a) (1st sentence).	July 26, 1947, ch. 343, § 203(a); added Aug. 10, 1949, ch. 412, § 6(a) (1st par.), 63 Stat. 581.
134(b)	5:171c(a) (less 1st sentence and last 15 words of 2d sentence).	
134(c)	5:171c(a) (last 15 words of 2d sentence).	

In subsection (a), the last sentence is substituted for 5 U.S.C. 171c(a) (proviso).

REFERENCES IN TEXT

Executive Order No. 13299, referred to in subsec. (e)(1), was superseded by Ex. Ord. No. 13537, Apr. 14, 2010, 75 F.R. 20237, set out as a note preceding section 1451 of Title 48, Territories and Insular Possessions.

Executive Order No. 12788, referred to in subsec. (e)(2), is set out as a note under section 2391 of this title.

PRIOR PROVISIONS

A prior section 132 was renumbered section 112 of this title.

AMENDMENTS

2011—Subsec. (c). Pub. L. 111–383, § 901(c)(2), struck out at end ''The Deputy Secretary shall be assisted in this capacity by a Deputy Chief Management Officer, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.''

Subsec. (d). Pub. L. 111–383, § 1075(b)(4)(A), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), could not be executed because of the prior amendment by Pub. L. 111–383, § 901(m)(2). See below.

Pub. L. 111–383, § 901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

Subsec. (e). Pub. L. 111–383, § 2821, which directed substitution of ''September 30, 2020'' for ''September 30, 2015'' in subsec. (d), as added by section 2831(a) of Pub. L. 111–84, was executed in subsec. (e) to reflect the probable intent of Congress and the redesignation of subsec. (d) as (e) by Pub. L. 111–383, § 901(m)(2). See below.

Pub. L. 111–383, § 1075(b)(4), which directed redesignation of subsec. (d), as added by section 2831(a) of Pub. L. 111–84, as (e), and substitution of ''Guam Oversight Council'' for ''Guam Executive Council'', was executed by making the substitution in subsec. (e) because of the prior redesignation of subsec. (d) as (e) by Pub. L. 111–383, § 901(m)(2). See below.

Pub. L. 111–383, § 901(m)(2), redesignated subsec. (d) relating to duties of the Deputy Secretary of Defense relating to Guam, as (e).

2009—Subsec. (d). Pub. L. 111–84 added subsec. (d) relating to the Deputy Secretary of Defense leading the Guam Executive Council.

2008—Subsec. (a). Pub. L. 110–181, § 903(b), substituted ''seven'' for ''ten''.

Subsecs. (c), (d). Pub. L. 110–181, § 904(a)(1), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Pub. L. 99–433 renumbered section 134 of this title as this section and struck out '': appointment; powers and duties; precedence'' at end of section catchline.

1977—Pub. L. 95–140, § 1(a)(4), substituted ''Deputy Secretary'' for ''Deputy Secretaries'' in section catchline.

Subsec. (a). Pub. L. 95–140, § 1(a)(1), substituted ''There is a Deputy Secretary'' for ''There are two Deputy Secretaries'' and struck out ''a'' before ''Deputy Secretary''.

Subsec. (b). Pub. L. 95–140, § 1(a)(2), substituted ''Deputy Secretary'' for ''Deputy Secretaries'' and ''Deputy Secretary'' for ''Deputy Secretaries, in the order of precedence, designated by the President''.

Subsec. (c). Pub. L. 95–140, § 1(a)(3), substituted ''The Deputy Secretary takes'' for ''The Deputy Secretaries take''.

1972—Pub. L. 92–596 substituted ''Deputy Secretaries'' for ''Deputy Secretary'' in section catchline.

Subsec. (a). Pub. L. 92–596 substituted ''There are two Deputy Secretaries of Defense'' for ''There is a Deputy Secretary of Defense''.

Subsec. (b). Pub. L. 92–596 provided for the exercise of powers and duties consequent to the creation of a second Deputy Secretary.

Subsec. (c). Pub. L. 92–596 substituted ''The Deputy Secretaries take'' for ''The Deputy Secretary takes''.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(c)(2), (m)(2) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

ORDER OF SUCCESSION

For order of succession during any period when the Secretary has died, resigned, or is otherwise unable to perform the functions and duties of the office of Secretary, see Ex. Ord. No. 13533, Mar. 1, 2010, 75 F.R. 10163, set out as a note under section 3345 of Title 5, Government Organization and Employees.

ASSIGNMENT OF DUTIES

Pub. L. 110–181, div. A, title IX, § 904(a)(2), Jan. 28, 2008, 122 Stat. 273, provided that:

''(A) The Secretary of Defense shall assign duties and authorities relating to the management of the business operations of the Department of Defense.

''(B) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the Department of Defense.

''(C) The Secretary shall assign such duties and authorities to the Deputy Chief Management Officer as are necessary for that official to assist the Chief Management Officer to effectively and efficiently organize the business operations of the Department of Defense.

''(D) The Deputy Chief Management Officer shall perform the duties and have the authorities assigned by the Secretary under subparagraph (C) and perform such duties and have such authorities as are delegated by the Chief Management Officer.''

ASSIGNMENT OF MANAGEMENT DUTIES AND DESIGNATION OF THE CHIEF MANAGEMENT OFFICERS OF THE MILITARY DEPARTMENTS

Pub. L. 110–181, div. A, title IX, § 904(b), Jan. 28, 2008, 122 Stat. 274, provided that:

''(1) The Secretary of a military department shall assign duties and authorities relating to the management of the business operations of such military department.

''(2) The Secretary of a military department, in assigning duties and authorities under paragraph (1) shall designate the Under Secretary of such military department to have the primary management responsibility for business operations, to be known in the performance of such duties as the Chief Management Officer.

''(3) The Secretary shall assign such duties and authorities to the Chief Management Officer as are necessary for that official to effectively and efficiently organize the business operations of the military department concerned.

''(4) The Chief Management Officer of each military department shall promptly provide such information relating to the business operations of such department to the Chief Management Officer and Deputy Chief Management Officer of the Department of Defense as is necessary to assist those officials in the performance of their duties.''

§ 132a. Deputy Chief Management Officer

(a) APPOINTMENT.—There is a Deputy Chief Management Officer of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Deputy Chief Management Officer assists the Deputy Secretary of Defense in the Deputy Secretary's capacity as Chief Management Officer of the Department of Defense under section 132(c) of this title.

(c) PRECEDENCE.—The Deputy Chief Management Officer takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the Under Secretaries of Defense.

(Added Pub. L. 111–383, div. A, title IX, § 901(c)(1), Jan. 7, 2011, 124 Stat. 4320.)

EFFECTIVE DATE

Section effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

§ 133. Under Secretary of Defense for Acquisition, Technology, and Logistics

(a) There is an Under Secretary of Defense for Acquisition, Technology, and Logistics, appointed from civilian life by the President, by and with the advice and consent of the Senate. The Under Secretary shall be appointed from among persons who have an extensive management background.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall perform such duties and exercise such powers relating to acquisition as the Secretary of Defense may prescribe, including—

(1) supervising Department of Defense acquisition;

(2) establishing policies for acquisition (including procurement of goods and services, research and development, developmental testing, and contract administration) for all elements of the Department of Defense;

(3) establishing policies for logistics, maintenance, and sustainment support for all elements of the Department of Defense;

(4) establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States; and

(5) the authority to direct the Secretaries of the military departments and the heads of all other elements of the Department of Defense with regard to matters for which the Under Secretary has responsibility.

(c) The Under Secretary—

(1) is the senior procurement executive for the Department of Defense for the purposes of section 1702(c) of title 41;

(2) is the Defense Acquisition Executive for purposes of regulations and procedures of the Department providing for a Defense Acquisition Executive; and

(3) to the extent directed by the Secretary, exercises overall supervision of all personnel (civilian and military) in the Office of the Secretary of Defense with regard to matters for which the Under Secretary has responsibility, unless otherwise provided by law.

(d)(1) The Under Secretary shall prescribe policies to ensure that audit and oversight of contractor activities are coordinated and carried out in a manner to prevent duplication by different elements of the Department. Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.

(2) In carrying out this subsection, the Under Secretary shall consult with the Inspector General of the Department of Defense.

(3) Nothing in this subsection shall affect the authority of the Inspector General of the Department of Defense to establish audit policy for the Department of Defense under the Inspector General Act of 1978 and otherwise to carry out the functions of the Inspector General under that Act.

(e)(1) With regard to all matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics takes precedence in the Department of Defense after the Secretary of Defense and the Deputy Secretary of Defense.

(2) With regard to all matters other than matters for which he has responsibility by law or by direction of the Secretary of Defense, the Under Secretary takes precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

(Added Pub. L. 99–348, title V, § 501(a), July 1, 1986, 100 Stat. 707, § 134a; renumbered § 133 and amended Pub. L. 99–433, title I, §§ 101(a)(7), 110(c)(1), (d)(8), Oct. 1, 1986, 100 Stat. 995, 1002, 1003; Pub. L. 99–500, § 101(c) [title X, § 901], Oct. 18, 1986, 100 Stat. 1783–82, 1783–130, and Pub. L. 99–591, § 101(c) [title X, § 901], Oct. 30, 1986, 100 Stat. 3341–82, 3341–130; Pub. L. 99–661, div. A, title IX, formerly title IV, § 901, Nov. 14, 1986, 100 Stat. 3910, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–456, div. A, title VIII, § 809(d), Sept. 29, 1988, 102 Stat. 2013; Pub. L. 103–160, div. A, title IX, § 904(b), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 106–65, div. A, title IX, § 911(a)(2), (d)(2), Oct. 5, 1999, 113 Stat. 717, 719; Pub. L. 107–107, div. A, title VIII, § 801(a), Dec. 28, 2001, 115 Stat. 1174; Pub. L. 109–364, div. A, title X, § 1071(a)(2), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, § 907, Jan. 28, 2008, 122 Stat. 277; Pub. L. 111–350, § 5(b)(1), Jan. 4, 2011, 124 Stat. 3842.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (d)(3), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 133 was renumbered section 113 of this title.

AMENDMENTS

2011—Subsec. (c)(1). Pub. L. 111–350 substituted ''section 1702(c) of title 41'' for ''section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))''.

2008—Subsec. (a). Pub. L. 110–181 struck out ''in the private sector'' after ''extensive management background''.

2006—Subsec. (c)(1). Pub. L. 109–364 substituted ''section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c))'' for ''section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3))''.

2001—Subsec. (b)(2). Pub. L. 107–107 inserted ''of goods and services'' after ''procurement''.

1999—Pub. L. 106–65, § 911(d)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology'' in section catchline.

Subsec. (a). Pub. L. 106–65, § 911(a)(2)(A), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (b). Pub. L. 106–65, § 911(a)(2)(A), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology'' in introductory provisions.

Subsec. (b)(2). Pub. L. 106–65, § 911(a)(2)(B)(i), struck out ''logistics,'' after ''research and development,''.

Subsec. (b)(3) to (5). Pub. L. 106–65, § 911(a)(2)(B)(ii), (iii), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively.

Subsec. (e)(1). Pub. L. 106–65, § 911(a)(2)(A), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1993—Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition'' in section catchline and in subsecs. (a), (b), and (e)(1).

1988—Subsec. (d)(1). Pub. L. 100–456 inserted provision that policies provide for coordination of annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.

1986—Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 generally amended section identically. Prior to amendment, section read as follows:

''(a) There is an Under Secretary of Defense for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law.''

Pub. L. 99–433 renumbered section 134a of this title as this section, struck out '': appointment'' at end of section catchline, and inserted ''of Defense'' after ''Under Secretary'' in subsec. (a).

CHANGE OF NAME

Pub. L. 106–65, div. A, title IX, § 911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: ''The position of Under Sec-

retary of Defense for Acquisition and Technology in the Department of Defense is hereby redesignated as the Under Secretary of Defense for Acquisition, Technology, and Logistics. Any reference in any law, regulation, document, or other record of the United States to the Under Secretary of Defense for Acquisition and Technology shall be treated as referring to the Under Secretary of Defense for Acquisition, Technology, and Logistics.''

Pub. L. 103–160, div. A, title IX, §904(a), (f), Nov. 30, 1993, 107 Stat. 1728, 1729, provided that the office of Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Under Secretary of Defense for Acquisition and Technology, the office of Deputy Under Secretary of Defense for Acquisition in the Department of Defense was redesignated as Deputy Under Secretary of Defense for Acquisition and Technology, and any reference to the Under Secretary of Defense for Acquisition or the Deputy Under Secretary of Defense for Acquisition in any provision of law other than this title, or in any rule, regulation, or other paper of the United States was to be treated as referring to the Under Secretary of Defense for Acquisition and Technology or the Deputy Under Secretary of Defense for Acquisition and Technology, respectively.

OVERSIGHT BY OFFICE OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS OF EXERCISE OF ACQUISITION AUTHORITY BY COMBATANT COMMANDERS AND HEADS OF DEFENSE AGENCIES

Pub. L. 109–364, div. A, title IX, §905, Oct. 17, 2006, 120 Stat. 2353, as amended by Pub. L. 110–181, div. A, title IX, §905, Jan. 28, 2008, 122 Stat. 275, provided that:

''(a) DESIGNATION OF OFFICIAL FOR OVERSIGHT.—The Secretary of Defense shall designate a senior acquisition official within the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics to oversee the exercise of acquisition authority by—

''(1) any commander of a combatant command who is authorized by section 166b, 167, or 167a of title 10, United States Code, to exercise acquisition authority; and

''(2) any head of a Defense Agency who is designated by the Secretary of Defense to exercise acquisition authority.

''(b) GUIDANCE.—

''(1) IN GENERAL.—The senior acquisition official designated under subsection (a) shall develop guidance to ensure that the use of acquisition authority by commanders of combatant commands and the heads of Defense Agencies—

''(A) is in compliance with department-wide acquisition policy; and

''(B) is coordinated with acquisition programs of the military departments.

''(2) URGENT REQUIREMENTS.—Guidance developed under paragraph (1) shall take into account the need to fulfill the urgent requirements of the commanders of combatant commands and the heads of Defense Agencies and to ensure that those requirements are addressed expeditiously.

''(c) CONSULTATION.—The senior acquisition official designated under subsection (a) shall on a regular basis consult on matters related to requirements and acquisition with the commanders of combatant commands and the heads of Defense Agencies referred to in that subsection.

''(d) DEADLINE FOR DESIGNATION.—The Secretary of Defense shall make the designation required by subsection (a) not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].''

IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

Section 1006 of Pub. L. 100–456, as amended by Pub. L. 103–160, div. A, title IX, §904(f), Nov. 30, 1993, 107 Stat. 1729; Pub. L. 106–65, div. A, title IX, §911(a)(1), Oct. 5, 1999, 113 Stat. 717, provided that: ''The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.''

[§133a. Repealed. Pub. L. 111–383, div. A, title IX, §901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 99–500, §101(c) [title X, §902(a)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–131, and Pub. L. 99–591, §101(c) [title X, §902(a)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–131; Pub. L. 99–661, div. A, title IX, formerly title IV, §902(a)(1), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, §3(5), Apr. 21, 1987, 101 Stat. 273; amended Pub. L. 103–160, div. A, title IX, §904(c), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. A, title X, §1070(a)(2), Oct. 5, 1994, 108 Stat. 2855; Pub. L. 104–106, div. A, title IX, §903(c)(1), 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(c), Oct. 5, 1999, 113 Stat. 718; Pub. L. 107–107, div. A, title X, §1048(b)(1), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 111–84, div. A, title IX, §906(c)(1)(A), (2)(A), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

PRIOR PROVISIONS

A prior section 133a was renumbered section 117 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

[§133b. Renumbered §138a]

PRIOR PROVISIONS

A prior section 133b was renumbered section 118 of this title.

§134. Under Secretary of Defense for Policy

(a) There is an Under Secretary of Defense for Policy, appointed from civilian life by the President, by and with the advice and consent of the Senate. A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

(b)(1) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) The Under Secretary shall assist the Secretary of Defense—

(A) in preparing written policy guidance for the preparation and review of contingency plans; and

(B) in reviewing such plans.

(3) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary shall have responsibility for supervising and directing activities of the Department of Defense relating to export controls.

(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.

(c) The Under Secretary takes precedence in the Department of Defense after the Secretary

of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Secretaries of the military departments.

(Added Pub. L. 99–433, title I, § 105(1), Oct. 1, 1986, 100 Stat. 997; amended Pub. L. 99–500, § 101(c) [title X, § 903(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, and Pub. L. 99–591, § 101(c) [title X, § 903(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132; Pub. L. 99–661, div. A, title IX, formerly title IV, § 903(a), Nov. 14, 1986, 100 Stat. 3911, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–160, div. A, title IX, § 904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 105–261, div. A, title XV, § 1521(a), Oct. 17, 1998, 112 Stat. 2178; Pub. L. 106–65, div. A, title IX, § 911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107–314, div. A, title IX, § 902(b), Dec. 2, 2002, 116 Stat. 2620; Pub. L. 110–181, div. A, title IX, § 903(c), Jan. 28, 2008, 122 Stat. 273.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

Provisions of this section were contained in section 135 of this title prior to amendment by Pub. L. 99–433.

A prior section 134 was renumbered section 132 of this title.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181 substituted ''seven'' for ''10''.

2002—Subsec. (b)(4). Pub. L. 107–314 added par. (4).

1999—Subsec. (c). Pub. L. 106–65 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1998—Subsec. (b)(3). Pub. L. 105–261 added par. (3).

1993—Subsec. (c). Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1986—Subsec. (c). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (c) identically, inserting ''the Under Secretary of Defense for Acquisition,''.

IMPLEMENTATION OF AMENDMENTS BY PUB. L. 105–261

Pub. L. 105–261, div. A, title XV, § 1521(c), (d), Oct. 17, 1998, 112 Stat. 2179, provided that:

''(c) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall complete the actions necessary to implement the amendment made by subsection (a) [amending this section] and to establish the office of Deputy Under Secretary of Defense for Technology Security Policy in accordance with [former] section 134b of title 10, United States Code, as added by subsection (b), not later than 60 days after the date of the enactment of this Act [Oct. 17, 1998].

''(d) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives] a report on the plans of the Secretary for implementing the amendments made by subsections (a) and (b) [enacting former section 134b of this title and amending this section]. The report shall include the following:

''(1) A description of any organizational changes that are to be made within the Department of Defense to implement those amendments.

''(2) A description of the role of the Chairman of the Joint Chiefs of Staff in the export control activities of the Department of Defense after those subsections are implemented, together with a discussion of how that role compares to the Chairman's role in those activities before the implementation of those subsections.''

[§ 134a. Repealed. Pub. L. 111–383, div. A, title IX, § 901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 102–190, div. A, title IX, § 901(a)(1), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 104–106, div. A, title IX, § 903(c)(2), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 111–84, div. A, title IX, § 906(c)(1)(B), (2)(B), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Policy.

PRIOR PROVISIONS

A prior section 134a was renumbered section 133 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

[§ 134b. Repealed. Pub. L. 111–84, div. A, title IX, § 905(a)(1), Oct. 28, 2009, 123 Stat. 2425]

Section, added Pub. L. 105–261, div. A, title XV, § 1521(b)(1), Oct. 17, 1998, 112 Stat. 2178, related to the Deputy Under Secretary of Defense for Technology Security Policy.

§ 135. Under Secretary of Defense (Comptroller)

(a) There is an Under Secretary of Defense (Comptroller), appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The Under Secretary of Defense (Comptroller) is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31. The Under Secretary of Defense (Comptroller) shall perform such additional duties and exercise such powers as the Secretary of Defense may prescribe.

(c) The Under Secretary of Defense (Comptroller) shall advise and assist the Secretary of Defense—

(1) in performing such budgetary and fiscal functions and duties, and in exercising such budgetary and fiscal powers, as are needed to carry out the powers of the Secretary;

(2) in supervising and directing the preparation of budget estimates of the Department of Defense;

(3) in establishing and supervising the execution of principles, policies, and procedures to be followed in connection with organizational and administrative matters relating to—

(A) the preparation and execution of budgets;

(B) fiscal, cost, operating, and capital property accounting; and

(C) progress and statistical reporting;

(4) in establishing and supervising the execution of policies and procedures relating to the expenditure and collection of funds administered by the Department of Defense; and

(5) in establishing uniform terminologies, classifications, and procedures concerning matters covered by paragraphs (1) through (4).

(d) The Under Secretary of Defense (Comptroller) takes precedence in the Department of Defense after the Under Secretary of Defense for Policy.

(e) The Under Secretary of Defense (Comptroller) shall ensure that each of the congressional defense committees is informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the Under Secretary of Defense (Comptroller).

(Added Pub. L. 99–433, title I, § 107, Oct. 1, 1986, 100 Stat. 998, § 137; renumbered § 135 and amended Pub. L. 103–160, div. A, title IX, §§ 901(a)(2), 902(a)(1), (b), Nov. 30, 1993, 107 Stat. 1726, 1727; Pub. L. 103–337, div. A, title IX, § 903(a)(1), (2), Oct. 5, 1994, 108 Stat. 2823; Pub. L. 104–106, div. A, title XV, § 1502(a)(6), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, § 1043(b)(1), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 111–383, div. A, title IX, § 901(m)(3), Jan. 7, 2011, 124 Stat. 4326.)

PRIOR PROVISIONS

A prior section 135 was renumbered section 138b of this title.

AMENDMENTS

2011—Subsec. (c)(5). Pub. L. 111–383 substituted ''paragraphs'' for ''clauses''.

2003—Subsec. (e). Pub. L. 108–136 struck out ''(1)'' before ''The Under Secretary'', substituted ''each of the congressional defense committees'' for ''each congressional committee specified in paragraph (2)'', and struck out par. (2) which read as follows: ''The committees referred to in paragraph (1) are—

''(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''

1999—Subsec. (e)(2)(B). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (e). Pub. L. 104–106 designated existing provisions as par. (1), substituted ''each congressional committee specified in paragraph (2) is'' for ''the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are each'', and added par. (2).

1994—Pub. L. 103–337, § 903(a)(2), substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller'' as section catchline.

Subsec. (a). Pub. L. 103–337, § 903(a)(1)(A), substituted ''an Under Secretary of Defense (Comptroller)'' for ''a Comptroller of the Department of Defense''.

Subsecs. (b) to (e). Pub. L. 103–337, § 903(a)(1)(B), substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller'' wherever appearing.

1993—Pub. L. 103–160, § 901(a)(2), renumbered section 137 of this title as this section.

Subsec. (b). Pub. L. 103–160, § 902(a)(1), inserted ''The Comptroller is the agency Chief Financial Officer of the Department of Defense for the purposes of chapter 9 of title 31.'' after ''(b)'' and ''additional'' after ''shall perform such''.

Subsec. (d). Pub. L. 103–160, § 901(a)(2), added subsec. (d).

Subsec. (e). Pub. L. 103–160, § 902(b), added subsec. (e).

CHANGE OF NAME

Section 903(d) of Pub. L. 103–337 provided that: ''Any reference to the Comptroller of the Department of Defense in any provision of law other than title 10, United States Code, or in any rule, regulation, or other paper of the United States shall be treated as referring to the Under Secretary of Defense (Comptroller).''

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

§ 136. Under Secretary of Defense for Personnel and Readiness

(a) There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Personnel and Readiness shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the areas of military readiness, total force management, military and civilian personnel requirements, military and civilian personnel training, military and civilian family matters, exchange, commissary, and nonappropriated fund activities, personnel requirements for weapons support, National Guard and reserve components, and health affairs.

(c) The Under Secretary of Defense for Personnel and Readiness takes precedence in the Department of Defense after the Under Secretary of Defense (Comptroller).

(d) The Under Secretary of Defense for Personnel and Readiness is responsible, subject to the authority, direction, and control of the Secretary of Defense, for the monitoring of the operations tempo and personnel tempo of the armed forces. The Under Secretary shall establish, to the extent practicable, uniform standards within the Department of Defense for terminology and policies relating to deployment of units and personnel away from their assigned duty stations (including the length of time units or personnel may be away for such a deployment) and shall establish uniform reporting systems for tracking deployments.

(Added Pub. L. 103–160, div. A, title IX, § 903(a), Nov. 30, 1993, 107 Stat. 1727; amended Pub. L. 104–106, div. A, title XV, § 1503(a)(2), Feb. 10, 1996, 110 Stat. 510; Pub. L. 106–65, div. A, title IX, § 923(a), title X, § 1066(a)(1), Oct. 5, 1999, 113 Stat. 724, 770.)

PRIOR PROVISIONS

A prior section 136 was renumbered section 138 of this title.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–65, § 1066(a)(1), inserted ''advice and'' after ''by and with the''.

Subsec. (d). Pub. L. 106–65, § 923(a), added subsec. (d).

1996—Subsec. (c). Pub. L. 104–106 substituted ''Under Secretary of Defense (Comptroller)'' for ''Comptroller''.

[§ 136a. Repealed. Pub. L. 111–383, div. A, title IX, § 901(b)(1), Jan. 7, 2011, 124 Stat. 4317]

Section, added Pub. L. 107–107, div. A, title IX, § 901(a)(1), Dec. 28, 2001, 115 Stat. 1193; amended Pub. L. 111–84, div. A, title IX, § 906(c)(1)(C), (2)(C), Oct. 28, 2009, 123 Stat. 2427, established the position of Principal Deputy Under Secretary of Defense for Personnel and Readiness.

PRIOR PROVISIONS

A prior section 136a was renumbered section 139 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as an Effective Date of 2011 Amendment note under section 131 of this title.

§ 137. Under Secretary of Defense for Intelligence

(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

(c) The Under Secretary of Defense for Intelligence takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.

(Added Pub. L. 107–314, div. A, title IX, § 901(a)(2), Dec. 2, 2002, 116 Stat. 2619.)

PRIOR PROVISIONS

A prior section 137 was renumbered section 138b of this title.

Another prior section 137 was renumbered section 135 of this title.

Another prior section 137 was renumbered section 140 of this title.

RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947

Pub. L. 107–314, div. A, title IX, § 901(d), Dec. 2, 2002, 116 Stat. 2620, provided that: ''Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 401 et seq.).''

[Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108–458, set out as a note under section 401 of Title 50, War and National Defense.]

§ 137a. Principal Deputy Under Secretaries of Defense

(a)(1) There are five Principal Deputy Under Secretaries of Defense.

(2) The Principal Deputy Under Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Each Principal Deputy Under Secretary of Defense shall be the first assistant to an Under Secretary of Defense and shall assist such Under Secretary in the performance of the duties of the position of such Under Secretary and shall act for, and exercise the powers of, such Under Secretary when such Under Secretary is absent or disabled.

(c)(1) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Policy.

(3) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Personnel and Readiness.

(4) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense (Comptroller).

(5) One of the Principal Deputy Under Secretaries is the Principal Deputy Under Secretary of Defense for Intelligence, who shall be appointed from among persons who have extensive expertise in intelligence matters.

(d) The Principal Deputy Under Secretaries of Defense take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, and the Deputy Chief Management Officer of the Department of Defense. The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 111–84, div. A, title IX, § 906(a)(1), Oct. 28, 2009, 123 Stat. 2425; amended Pub. L. 111–383, div. A, title IX, § 901(b)(3), (k)(1)(A), Jan. 7, 2011, 124 Stat. 4318, 4325.)

AMENDMENTS

2011—Pub. L. 111–383, § 901(k)(1)(A), substituted ''Principal Deputy Under Secretaries of Defense'' for ''Deputy Under Secretaries of Defense'' in section catchline.

Subsec. (a)(1). Pub. L. 111–383, § 901(b)(3)(A), substituted ''Principal Deputy Under'' for ''Deputy Under''.

Subsec. (a)(2). Pub. L. 111–383, § 901(b)(3)(B), struck out subpar. (A) and subpar. (B) designation and substituted ''The Principal Deputy Under Secretaries of Defense'' for ''The Deputy Under Secretaries of Defense referred to in paragraphs (4) and (5) of subsection (c)''. Prior to amendment, subpar. (A) read as follows: ''The Deputy Under Secretaries of Defense referred to in paragraphs (1) through (3) of subsection (c) shall be appointed as provided in the applicable paragraph.''

Subsec. (b). Pub. L. 111–383, § 901(b)(3)(A), substituted ''Principal Deputy Under'' for ''Deputy Under''.

Subsec. (c)(1). Pub. L. 111–383, § 901(b)(3)(C)(i), (ii), substituted ''One of the Principal Deputy'' for ''One of the Deputy'' and struck out ''appointed pursuant to section 133a of this title'' after ''Logistics''.

Subsec. (c)(2). Pub. L. 111–383, § 901(b)(3)(C)(i), (ii), substituted ''One of the Principal Deputy'' for ''One of the Deputy'' and struck out ''appointed pursuant to section 134a of this title'' after ''Policy''.

Subsec. (c)(3). Pub. L. 111–383, § 901(b)(3)(C)(i), (ii), substituted ''One of the Principal Deputy'' for ''One of the Deputy'' and struck out ''appointed pursuant to section 136a of this title'' after ''Readiness''.

Subsec. (c)(4). Pub. L. 111–383, § 901(b)(3)(C)(i), (iii), substituted ''One of the Principal Deputy Under Secretaries is'' for ''One of the Deputy Under Secretaries shall be''.

Subsec. (c)(5). Pub. L. 111–383, § 901(b)(3)(C)(i), (iii), (iv), substituted ''One of the Principal Deputy Under Secretaries is'' for ''One of the Deputy Under Secretaries shall be'' and inserted before period at end '', who shall be appointed from among persons who have extensive expertise in intelligence matters''.

Subsec. (d). Pub. L. 111–383, § 901(b)(3)(A), (D), substituted ''Principal Deputy Under'' for ''Deputy Under'' and inserted at end ''The Principal Deputy Under Secretaries shall take precedence among themselves in the order prescribed by the Secretary of Defense.''

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

SAVINGS PROVISIONS

Pub. L. 111–84, div. A, title IX, § 906(e), Oct. 28, 2009, 123 Stat. 2428, provided that:

''(1) IN GENERAL.—Notwithstanding the amendments made by this section [enacting this section and amending sections 133a, 134a, 136a, 138, and 138a of this title and sections 5314 and 5315 of Title 5, Government Organization and Employees], the individual serving in a position specified in paragraph (2) on the day before the date of the enactment of this Act [Oct. 28, 2009] may continue to serve in such position without the requirement for appointment by the President, by and with the advice and consent of the Senate, for a period of up to four years after the date of the enactment of this Act.

''(2) COVERED POSITIONS.—The positions specified in this paragraph are the following:

''(A) The Principal Deputy Under Secretary of Defense (Comptroller).

''(B) The Principal Deputy Under Secretary of Defense for Intelligence.''

TEMPORARY AUTHORITY FOR ADDITIONAL DUSDS

Pub. L. 111–383, div. A, title IX, § 901(i)(2), Jan. 7, 2011, 124 Stat. 4323, provided that: ''During the period beginning on the date of the enactment of this Act [Jan. 7, 2011] and ending on January 1, 2015, the Secretary of Defense may, in the Secretary's discretion, appoint not more than five Deputy Under Secretaries of Defense in addition to the five Principal Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as amended by subsection (b)(3)).''

DELAYED LIMITATION ON NUMBER OF DEPUTY UNDER SECRETARIES OF DEFENSE

Pub. L. 111–84, div. A, title IX, § 906(a)(2), Oct. 28, 2009, 123 Stat. 2426, as amended by Pub. L. 111–383, div. A, title IX, § 901(i)(1), Jan. 7, 2011, 124 Stat. 4323, provided that: ''Effective as of January 1, 2015, the five Deputy Under Secretaries of Defense authorized by section 137a of title 10, United States Code (as added by paragraph (1)), shall be the only Deputy Under Secretaries of Defense.''

§ 138. Assistant Secretaries of Defense

(a)(1) There are 16 Assistant Secretaries of Defense.

(2) The Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b)(1) The Assistant Secretaries shall perform such duties and exercise such powers as the Secretary of Defense may prescribe.

(2) One of the Assistant Secretaries is the Assistant Secretary of Defense for Reserve Affairs. He shall have as his principal duty the overall supervision of reserve component affairs of the Department of Defense.

(3) One of the Assistant Secretaries is the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.

(4) One of the Assistant Secretaries is the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. He shall have as his principal duty the overall supervision (including oversight of policy and resources) of special operations activities (as defined in section 167(j) of this title) and low intensity conflict activities of the Department of Defense. The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.

(5) One of the Assistant Secretaries is the Assistant Secretary of Defense for Legislative Affairs. He shall have as his principal duty the overall supervision of legislative affairs of the Department of Defense.

(6) One of the Assistant Secretaries is the Assistant Secretary of Defense for Acquisition. The Assistant Secretary of Defense for Acquisition is the principal adviser to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on matters relating to acquisition.

(7) One of the Assistant Secretaries is the Assistant Secretary of Defense for Logistics and Materiel Readiness. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Logistics and Materiel Readiness shall have the duties specified in section 138a of this title.

(8) One of the Assistant Secretaries is the Assistant Secretary of Defense for Research and Engineering. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Research and Engineering shall have the duties specified in section 138b of this title.

(9) One of the Assistant Secretaries is the Assistant Secretary of Defense for Operational Energy Plans and Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Operational Energy Plans and Programs shall have the duties specified in section 138c of this title.

(10) One of the Assistant Secretaries is the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs. In addition to any duties and powers prescribed under paragraph (1), the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall have the duties specified in section 138d of this title.

(c) Except as otherwise specifically provided by law, an Assistant Secretary may not issue an order to a military department unless—

(1) the Secretary of Defense has specifically delegated that authority to the Assistant Secretary in writing; and

(2) the order is issued through the Secretary of the military department concerned.

(d) The Assistant Secretaries take precedence in the Department of Defense after the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, the Under Secretaries of Defense, the Deputy Chief Management Officer of the Department of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense. The Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 518, § 136; amended Pub. L. 90–168, § 2(1), (2), Dec. 1, 1967, 81 Stat. 521; Pub. L. 91–121, title IV, § 404(a), Nov. 19, 1969, 83 Stat. 207; Pub. L. 92–215, § 1, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92–596, § 4(2), Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, § 3(a), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 96–107, title VIII, § 820(a), Nov. 9, 1979, 93 Stat. 819; Pub. L. 98–94, title XII, § 1212(a), Sept. 24, 1983, 97 Stat. 686; Pub. L. 99–433, title I, §§ 106, 110(d)(9), Oct. 1, 1986, 100 Stat. 997, 1003; Pub. L. 99–500, § 101(c) [title IX, § 9115(a)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–122, and Pub. L. 99–591, § 101(c) [title IX, § 9115(a)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–122; Pub. L. 99–661, div. A, title XIII, § 1311(a), Nov. 14, 1986, 100 Stat. 3983; Pub. L. 100–180, div. A, title XII, § 1211(a)(1), Dec. 4, 1987, 101 Stat. 1154; Pub. L. 100–453, title VII, § 702, Sept. 29, 1988, 102 Stat. 1912; Pub. L. 100–456, div. A, title VII, § 701, Sept. 29, 1988, 102 Stat. 1992; renumbered § 138 and amended Pub. L. 103–160, div. A, title IX, §§ 901(a)(1), (c), 903(c)(1), 905, Nov. 30, 1993, 107 Stat. 1726, 1727, 1729; Pub. L. 103–337, div. A, title IX, §§ 901(a), 903(b)(2), Oct. 5, 1994, 108 Stat. 2822, 2823; Pub. L. 104–106, div. A, title IX, §§ 902(a), 903(b), (e)(2), Feb. 10, 1996, 110 Stat. 401, 402; Pub. L. 104–201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 105–261, div. A, title IX, §§ 901(a), 902, Oct. 17, 1998, 112 Stat. 2091; Pub. L. 106–398, § 1 [[div. A], title IX, § 901], Oct. 30, 2000, 114 Stat. 1654, 1654A–223; Pub. L. 107–107, div. A, title IX, § 901(c)(1), Dec. 28, 2001, 115 Stat. 1194; Pub. L. 107–314, div. A, title IX, § 902(a), (c), (d), Dec. 2, 2002, 116 Stat. 2620, 2621; Pub. L. 109–364, div. A, title IX, § 901(a), Oct. 17, 2006, 120 Stat. 2350; Pub. L. 111–84, div. A, title IX, § 906(b)(2), Oct. 28, 2009, 123 Stat. 2426; Pub. L. 111–383, div. A, title IX, § 901(b)(4), Jan. 7, 2011, 124 Stat. 4319.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
136(a)	5:171c(c) (1st sentence).	July 26, 1947, ch. 343, § 202(c)(7) (less 1st 2 sentences); added Aug. 6, 1958, Pub. L. 85–599, § 3(a) (8th par., less 1st 2 sentences), 72 Stat. 516.
136(b)	5:171c(c) (1st 18 words of 2d sentence). 5:171c–2 (less 1st sentence). 5:171n(a) (as applicable to 5:172). 5:172.	July 26, 1947, ch. 343, § 203(c); added Aug. 10, 1949, ch. 412, § 6(a), (2d par.), 63 Stat. 581; redesignated Aug. 6, 1958, Pub. L. 85–599, §§ 9(a) (1st par., as applicable to § 203(c)), 10(a), 72 Stat. 520, 521. July 26, 1947, ch. 343, § 302 (less 1st sentence); restated Aug. 10, 1949, ch. 412, § 10(b) (less 1st sentence) restated Aug. 10, 1956, ch. 1041, § 21 (less 1st sentence), 70A Stat. 629. July 26, 1947, ch. 343, § 308(a) (as applicable to § 401), 61 Stat. 509. July 26, 1947, ch. 343, § 401; added Aug. 10, 1949, ch. 412, § 11 (1st 2 pars.), 63 Stat. 585.
136(c)	5:171a(c)(7) (3rd sentence).	
136(d)	5:171a(c)(7) (less 1st 3 sentences).	
136(e)	5:171c(c) (less 1st sentence and less 1st 18 words of 2d sentence).	

In subsection (b)(1), 5 U.S.C. 172(b) (last 13 words of 1st sentence) is omitted as surplusage, since they are only a general description of the powers of the Secretary of Defense under this title. 5 U.S.C. 171c–2 (less 1st sentence) is omitted as covered by 5 U.S.C. 171c(c) (1st 18 words of 2d sentence).

In subsection (d), the following substitutions are made: ''In carrying out subsection (c) and sections 3010, 3012(b) (last two sentences), 5011 (first two sentences), 5031(a) (last two sentences), 8010, and 8012(b) last two sentences of this title,'' for ''In implementation of this paragraph''; and ''members of the armed forces under the jurisdiction of his department'' for ''the military personnel in such department''. The words ''in a continuous effort'' are omitted as surplusage.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 138 was renumbered section 139 of this title.

Another prior section 138 was renumbered by Pub. L. 99–433 as follows:

Section 138(a) was renumbered section 114(a) of this title.

Section 138(b) was renumbered successively as section 114(b) and section 115(a) of this title.

Section 138(c) was renumbered successively as section 114(c) and section 115(b) of this title.

Section 138(d) was renumbered successively as section 114(d) and section 115(c) of this title.

Section 138(e) was renumbered successively as section 114(e) and section 116(a) of this title.

Section 138(f)(1) was renumbered successively as section 114(f)(1) and section 114(b) of this title.

Section 138(f)(2) was renumbered successively as section 114(f)(2) and section 116(b) of this title.

Section 138(g) was renumbered successively as section 114(g) and section 114(c) of this title.

Section 138(h) was renumbered successively as section 114(h) and section 113(i) of this title.

Section 138(i) was renumbered successively as section 114(i) and section 114(d) of this title.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111–383, § 901(b)(4)(A)(i), substituted ''16'' for ''12''.

Subsec. (a)(2). Pub. L. 111–383, § 901(b)(4)(A)(ii), struck out subpar. (A) and subpar. (B) designation and substituted ''The'' for ''The other''. Prior to amendment, subpar. (A) read as follows: ''The Assistant Secretary of Defense referred to in subsection (b)(7) shall be appointed as provided in that subsection.''

Subsec. (b)(2) to (6). Pub. L. 111–383, § 901(b)(4)(B)(i), substituted ''Secretaries is'' for ''Secretaries shall be''.

Subsec. (b)(7). Pub. L. 111–383, § 901(b)(4)(B)(ii), struck out ''appointed pursuant to section 138a of this title'' before period at end of first sentence.

Subsec. (b)(8) to (10). Pub. L. 111–383, § 901(b)(4)(B)(iii), added pars. (8) to (10).

Subsec. (d). Pub. L. 111–383, § 901(b)(4)(C), substituted ''the Deputy Chief Management Officer of the Department of Defense, the officials serving in positions specified in section 131(b)(4) of this title, and the Principal Deputy Under Secretaries of Defense'' for ''and the Director of Defense Research and Engineering''.

2009—Subsec. (a). Pub. L. 111–84, § 906(b)(2)(A), added subsec. (a) and struck out former subsec. (a), which read as follows: ''There are ten Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.''

Subsec. (b)(6), (7). Pub. L. 111–84, § 906(b)(2)(B), added pars. (6) and (7).

2006—Subsec. (a). Pub. L. 109–364 substituted ''ten'' for ''nine''.

2002—Subsec. (a). Pub. L. 107–314, § 902(d), which directed the repeal of Pub. L. 107–107, § 901(c), was executed by substituting ''nine'' for ''eight'' to reflect the probable intent of Congress. See 2001 Amendment note below.

Subsec. (b)(3). Pub. L. 107–314, § 902(a), added par. (3).

Subsec. (b)(6). Pub. L. 107–314, § 902(c), struck out par. (6) which read as follows:

''(6)(A) One of the Assistant Secretaries, as designated by the Secretary of Defense from among those

Assistant Secretaries with responsibilities that include responsibilities related to combating terrorism, shall have, among that Assistant Secretary's duties, the duty to provide overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism, including antiterrorism activities, counterterrorism activities, terrorism consequences management activities, and terrorism-related intelligence support activities.

''(B) The Assistant Secretary designated under subparagraph (A) shall be the principal civilian adviser to the Secretary of Defense on combating terrorism and (after the Secretary and Deputy Secretary) shall be the principal official within the senior management of the Department of Defense responsible for combating terrorism.

''(C) If the Secretary of Defense designates under subparagraph (A) an Assistant Secretary other than the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, then the responsibilities of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict related to combating terrorism shall be exercised subject to subparagraph (B).''

2001—Subsec. (a). Pub. L. 107–107, which substituted ''eight Assistant Secretaries of Defense'' for ''nine Assistant Secretaries of Defense'', was repealed by Pub. L. 107–314, §902(d). See 2002 Amendment note above.

2000—Subsec. (b)(6). Pub. L. 106–398 added par. (6).

1998—Subsec. (a). Pub. L. 105–261, §901(a), substituted ''nine'' for ''ten''.

Subsec. (b)(3). Pub. L. 105–261, §902, struck out par. (3) which read as follows:

''(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

''(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

''(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.''

1996—Subsec. (a). Pub. L. 104–106, §902(a), substituted ''ten'' for ''eleven''.

Subsec. (b). Pub. L. 104–106, §903(a), (b), which directed the general amendment of subsec. (b), eff. Jan. 31, 1997, designating par. (1) as entire subsec. and striking out pars. (2) to (5), was repealed by Pub. L. 104–201.

Subsec. (d). Pub. L. 104–106, §903(a), (e)(2), which directed amendment of subsec. (d), eff. Jan. 31, 1997, by substituting ''and the Under Secretaries of Defense'' for ''the Under Secretaries of Defense, and the Director of Defense Research and Engineering'', was repealed by Pub. L. 104–201.

1994—Subsec. (a). Pub. L. 103–337, §901(a), substituted ''eleven'' for ''ten''.

Subsec. (d). Pub. L. 103–337, §903(b)(2), struck out ''and Comptroller'' after ''Under Secretaries of Defense''.

1993—Pub. L. 103–160, §901(a)(1), renumbered section 136 of this title as this section.

Subsec. (a). Pub. L. 103–160, §903(c)(1), substituted ''ten'' for ''eleven''.

Subsec. (b)(5). Pub. L. 103–160, §905, added par. (5).

Subsec. (d). Pub. L. 103–160, §901(c), inserted ''and Comptroller'' after ''Under Secretaries of Defense''.

1988—Subsec. (b)(3). Pub. L. 100–453 and Pub. L. 100–456 generally amended par. (3) identically. Prior to amendment, par. (3) read as follows: ''One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.''

1987—Subsec. (b)(4). Pub. L. 100–180 inserted at end ''The Assistant Secretary is the principal civilian adviser to the Secretary of Defense on special operations and low intensity conflict matters and (after the Secretary and Deputy Secretary) is the principal special operations and low intensity conflict official within the senior management of the Department of Defense.''

1986—Pub. L. 99–433, §110(d)(9), struck out '': appointment; powers and duties; precedence'' at end of section catchline.

Subsec. (b)(2), (3). Pub. L. 99–433, §106(a)(1), (2), redesignated pars. (4) and (5) as pars. (2) and (3), respectively, and struck out former par. (2) relating to the Assistant Secretary of Defense for Health Affairs and former par. (3) relating to the Assistant Secretary of Defense for Manpower and Logistics.

Subsec. (b)(4). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661, amended subsec. (b) identically, adding par. (4).

Pub. L. 99–433, §106(a)(2), redesignated par. (4) as (2).

Subsec. (b)(5). Pub. L. 99–433, §106(a)(2), redesignated par. (5) as (3).

Subsec. (b)(6). Pub. L. 99–433, §106(a)(3), struck out par. (6) relating to Comptroller of Department of Defense. See section 135 of this title.

Subsec. (c)(1). Pub. L. 99–433, §106(c)(1)(A), substituted ''the Assistant Secretary'' for ''him''.

Subsec. (c)(2). Pub. L. 99–433, §106(c)(1)(B), struck out '', or his designee'' after ''concerned''.

Subsecs. (d), (e). Pub. L. 99–433, §106(b), (c)(2), (3), redesignated subsec. (e) as (d), substituted ''the Under Secretaries of Defense, and the Director of Defense Research and Engineering'' for ''and the Under Secretaries of Defense'', inserted sentence directing that the Assistant Secretaries take precedence among themselves in the order prescribed by the Secretary of Defense, and struck out former subsec. (d) which directed the Secretary of each military department, his civilian assistants, and members of the armed forces under the jurisdiction of his department to cooperate fully with personnel of the Office of the Secretary of Defense to achieve efficient administration of the Department of Defense and to carry out effectively the authority, direction, and control of the Secretary of Defense.

1983—Subsec. (a). Pub. L. 98–94, §1212(a)(1), substituted ''eleven'' for ''seven''.

Subsec. (b)(1). Pub. L. 98–94, §1212(a)(2)(A), designated existing first sentence as par. (1).

Subsec. (b)(2). Pub. L. 98–94, §1212(a)(2)(B), designated existing second and third sentences as par. (2).

Subsec. (b)(3). Pub. L. 98–94, §1212(a)(2)(C), (D), designated existing fourth and fifth sentences as par. (3) and substituted ''Logistics'' for ''Reserve Affairs'' and ''logistics'' for ''reserve component''.

Subsec. (b)(4), (5). Pub. L. 98–94, §1212(a)(2)(E), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 98–94, §1212(a)(2)(F), designated existing sixth sentence as par. (6), substituted ''One of the Assistant Secretaries'' for ''In addition, one of the Assistant Secretaries'', redesignated pars. (1) to (5) as subpars. (A) to (E), respectively, redesignated former subpars. (A) to (D) as cls. (1) to (4), respectively, and in subpar. (E) substituted ''clauses (A) through (D)'' for ''clauses (1)–(4)''.

Subsec. (f). Pub. L. 98–94, §1212(a)(3), struck out subsec. (f) which provided for appointment of a Deputy Assistant Secretary of Defense for Reserve Affairs within the Office of the Assistant Secretary of Defense for Manpower and Reserve Affairs. See subsec. (b)(4) of this section.

1979—Subsec. (a). Pub. L. 96–107 substituted ''seven'' for ''nine''.

1977—Subsec. (e). Pub. L. 95–140 inserted ''of Defense'' after ''Secretary'' and substituted ''Secretary of De-

fense'' for ''Secretaries of Defense'' and '', and the Under Secretaries of Defense'' for '', and the Director of Defense Research and Engineering''.

1972—Subsec. (e). Pub. L. 92–596 substituted ''Deputy Secretaries'' for ''Deputy Secretary''.

1971—Subsec. (a). Pub. L. 92–215 substituted ''nine'' for ''eight''.

1969—Subsec. (a). Pub. L. 91–121, § 404(a)(1), substituted ''eight'' for ''seven''.

Subsec. (b). Pub. L. 91–121, § 404(a)(2), provided for an Assistant Secretary of Defense for Health Affairs having as his principal duty the overall supervision of health affairs of Department of Defense.

1967—Subsec. (b). Pub. L. 90–168, § 2(1), inserted provisions for an Assistant Secretary of Defense for Manpower and Reserve Affairs with principal duty of overall supervision of manpower and reserve component affairs of Department of Defense.

Subsec. (f). Pub. L. 90–168, § 2(2), added subsec. (f).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 1212(e) of Pub. L. 98–94 provided that: ''The amendments made by this section [amending this section, sections 175, 3013, and 5034 of this title, and section 5315 of Title 5, Government Organization and Employees] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1967 AMENDMENT

Section 7 of Pub. L. 90–168 provided that: ''The provisions of this Act [see Short Title of 1967 Amendment note below] shall become effective on the first day of the first calendar month following the date of enactment [Dec. 1, 1967].''

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90–168 provided: ''That this Act [amending this section, sections 175, 262, 264, 268, 269, 270, 511 [now 12103], 3014, 5034, 8014, and 8850 of this title, section 502 of Title 32, National Guard, and section 404 of Title 37, Pay and Allowances of the Uniformed Services, enacting sections 3021 [now 10302], 3038, 8021 [now 10305], and 8038 of this title, enacting provisions set out as notes under this section and section 8212 of this title, and amending provisions set out as a note under section 113 of this title] may be cited as the 'Reserve Forces Bill of Rights and Vitalization Act'.''

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

Section 1311 of Pub. L. 100–180 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. Assistant Secretary of Defense for Logistics and Materiel Readiness

(a) The Assistant Secretary of Defense for Logistics and Materiel Readiness shall be appointed from among persons with an extensive background in the sustainment of major weapon systems and combat support equipment.

(b) The Assistant Secretary is the principal adviser to the Secretary and the Under Secretary of Defense for Acquisition, Technology, and Logistics on logistics and materiel readiness in the Department of Defense and is the principal logistics official within the senior management of the Department of Defense.

(c) The Assistant Secretary shall perform such duties relating to logistics and materiel readiness as the Under Secretary of Defense for Acquisition, Technology, and Logistics may assign, including—

(1) prescribing, by authority of the Secretary of Defense, policies and procedures for

the conduct of logistics, maintenance, materiel readiness, and sustainment support in the Department of Defense;

(2) advising and assisting the Secretary of Defense, the Deputy Secretary of Defense, and the Under Secretary of Defense for Acquisition, Technology, and Logistics providing guidance to and consulting with the Secretaries of the military departments, with respect to logistics, maintenance, materiel readiness, and sustainment support in the Department of Defense; and

(3) monitoring and reviewing all logistics, maintenance, materiel readiness, and sustainment support programs in the Department of Defense.

(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.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383 substituted ''The'' for ''There is a'' and struck out '', appointed from civilian life by the President, by and with the advice and consent of the Senate. The Assistant Secretary'' after ''Readiness''.

2009—Pub. L. 111–84 renumbered section 133b of this title as this section and substituted ''Assistant Secretary'' for ''Deputy Under Secretary'' wherever appearing in section catchline and text.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

§ 138b. Assistant Secretary of Defense for Research and Engineering

(a) Except as otherwise prescribed by the Secretary of Defense, the Assistant Secretary of Defense for Research and Engineering shall perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

(b)(1) The Assistant Secretary of Defense for Research and Engineering, in consultation with the Director of Developmental Test and Evaluation, shall periodically review and assess the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense and report on the findings of such reviews and assessments to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) The Assistant Secretary shall submit to the Secretary of Defense and to the congressional defense committees by March 1 of each year a report on the technological maturity and integration risk of critical technologies of the major defense acquisition programs of the Department of Defense.

(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.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
135(a)	5:171c(b)(1) (1st 30 words of 1st sentence).	July 26, 1947, ch. 343, § 203(b)(1) (less last sentence); added Aug. 6, 1958, Pub. L. 85–599, § 9(a) (2d par., less last sentence), 72 Stat. 520.
135(b)	5:171c(b)(1) (2d sentence).	
135(c)	5:171c(b)(1) (1st sentence, less 1st 30 words).	

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2011—Pub. L. 111–383, § 901(k)(1)(B), substituted ''Assistant Secretary of Defense for Research and Engineering'' for ''Director of Defense Research and Engineering'' in section catchline.

Pub. L. 111–383, § 901(b)(6), renumbered section 139a of this title as this section.

Subsec. (a). Pub. L. 111–383, § 901(b)(6)(A) to (C), redesignated subsec. (b) as (a), substituted ''Assistant Secretary of Defense for Research and Engineering'' for ''Director of Defense Research and Engineering'', and struck out former subsec. (a) which read as follows: ''There is a Director of Defense Research and Engineering, appointed from civilian life by the President, by and with the advice and consent of the Senate.''

Subsec. (b). Pub. L. 111–383, § 901(b)(6)(B), (D), redesignated subsec. (c) as (b) and substituted ''Assistant Secretary of Defense for Research and Engineering,'' for ''Director of Defense Research and Engineering,'' in par. (1) and ''Assistant Secretary'' for ''Director'' in par. (2). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 111–383, § 901(b)(6)(B), redesignated subsec. (c) as (b).

2009—Subsec. (c). Pub. L. 111–23 added subsec. (c).

2002—Pub. L. 107–314 renumbered section 137 of this title as this section.

1999—Subsec. (b). Pub. L. 106–65 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1996—Pub. L. 104–106, § 903(a), (c)(3), which directed repeal of this section eff. Jan. 31, 1997, was repealed by Pub. L. 104–201.

1993—Pub. L. 103–160, § 901(a)(1), renumbered section 135 of this title as this section.

Subsec. (b). Pub. L. 103–160, § 904(d)(1), substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1986—Pub. L. 99–433, § 105(1), amended section catchline generally, substituting ''Director of Defense Research and Engineering'' for ''Under Secretary of De-

fense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence''.

Pub. L. 99–348, § 501(e)(1), substituted ''Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments'' for ''Under Secretaries of Defense: appointment'' in section catchline.

Subsec. (a). Pub. L. 99–433, § 105(1), substituted a new subsec. (a) for former provisions establishing the positions of Under Secretary of Defense for Policy and Director of Defense for Research and Engineering to be appointed from civilian life by the President with the advice and consent of the Senate and prohibiting the appointment as Under Secretary of Defense for Policy of a person within ten years after relief from active duty as a commissioned officer of a regular component of an armed force. See section 134 of this title.

Pub. L. 99–348, § 501(b)(1), substituted ''is an Under Secretary of Defense for Policy and a Director of Defense Research and Engineering'' for ''are two Under Secretaries of Defense, one of whom shall be the Under Secretary of Defense for Policy and one of whom shall be the Under Secretary of Defense for Research and Engineering'' and ''They shall'' for ''The Under Secretaries of Defense shall''.

Subsec. (b). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended section identically adding subsec. (b) and striking out former subsec. (b) which read as follows: ''The Director of Defense Research and Engineering shall perform such duties relating to research and engineering as the Secretary of Defense may prescribe, including—

''(1) being the principal adviser to the Secretary on scientific and technical matters;

''(2) supervising all research and engineering activities in the Department of Defense; and

''(3) directing, controlling, assigning, and reassigning research and engineering activities that the Secretary considers need centralized management.''

Pub. L. 99–433, § 105(2), struck out provisions that the Under Secretary of Defense for Policy would perform duties and exercise powers as the Secretary of Defense might prescribe.

Pub. L. 99–348, § 501(b)(2), substituted ''Director of Defense Research and Engineering'' for ''Under Secretary of Defense for Research and Engineering''.

Subsec. (c). Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended section identically striking out subsec. (c) which read as follows: ''The Director of Defense Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.''

Pub. L. 99–433, § 105(2), struck out provisions that the Under Secretary of Defense for Policy would take precedence in the Department of Defense after Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the military departments.

Pub. L. 99–348, § 501(b)(2), substituted ''Director of Defense Research and Engineering'' for ''Under Secretary of Defense for Research and Engineering''.

1977—Pub. L. 95–140, § 2(a)(4), substituted ''Under Secretaries of Defense'' for ''Director of Defense Research and Engineering'' in section catchline.

Subsec. (a). Pub. L. 95–140, § 2(a)(1), substituted provisions relating to the appointment of the Under Secretary of Defense for Policy and the Under Secretary of Defense for Research and Engineering for provisions relating to the appointment of the Director of Defense Research and Engineering and inserted provisions relating to the prohibition of the appointment of a person as Under Secretary of Defense for policy within ten years after relief from active duty as a commissioned officer of an armed force.

Subsec. (b). Pub. L. 95–140, § 2(a)(2), substituted ''The Under Secretary of Defense for Policy shall perform such duties and exercise such powers as the Secretary of Defense may prescribe. The Under Secretary of Defense for Research and Engineering shall perform'' for ''The Director performs''.

Subsec. (c). Pub. L. 95–140, § 2(a)(3), substituted ''Under Secretary of Defense for Policy'' for ''Director'' and ''Deputy Secretary'' for ''Deputy Secretaries'' and inserted provision that the Under Secretary of Defense for Research and Engineering takes precedence in the Department of Defense immediately after the Under Secretary of Defense for Policy.

1972—Subsec. (c). Pub. L. 92–596 substituted ''Deputy Secretaries'' for ''Deputy Secretary''.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

FIRST ANNUAL REPORT

Pub. L. 111–23, title I, § 104(a)(2), May 22, 2009, 123 Stat. 1717, provided that: ''The first annual report under subsection (c)(2) of section 139a [now 138b(b)(2)] of title 10, United States Code (as added by paragraph (1)), shall be submitted to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] not later than March 1, 2010, and shall address the results of reviews and assessments conducted by the Director of Defense Research and Engineering [now Assistant Secretary of Defense for Research and Engineering] pursuant to subsection (c)(1) of such section [now (b)(1)] (as so added) during the preceding calendar year.''

TECHNOLOGICAL MATURITY STANDARDS

Pub. L. 111–23, title I, § 104(c), May 22, 2009, 123 Stat. 1717, provided that: ''Not later than 180 days after the date of the enactment of this Act [May 22, 2009], the Director of Defense Research and Engineering [now Assistant Secretary of Defense for Research and Engineering], in consultation with the Director of Developmental Test and Evaluation, shall develop knowledge-based standards against which to measure the technological maturity and integration risk of critical technologies at key stages in the acquisition process for purposes of conducting the reviews and assessments of major defense acquisition programs required by subsection (c) of section 139a [now 138b(b)] of title 10, United States Code (as so added [by section 104(a)(1) of Pub. L. 111–23]).''

[For definition of ''major defense acquisition programs'' as used in section 104(c) of Pub. L. 111–23, set out above, see section 2(2) of Pub. L. 111–23, set out as a note under section 2430 of this title.]

REDESIGNATION OF POSITION OF UNDER SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING; EFFECT ON INDIVIDUAL HOLDING POSITION

Pub. L. 99–348, title V, § 501(b)(3), July 1, 1986, 100 Stat. 708, provided that the redesignation by Pub. L. 99–348, § 501(b)(1) (amending this section), of the position of Under Secretary of Defense for Research and Engineering as Director of Defense Research and Engineering was not to affect the appointment to such position of the individual holding such position on July 1, 1986.

§ 138c. Assistant Secretary of Defense for Operational Energy Plans and Programs

(a) APPOINTMENT.—The Assistant Secretary of Defense for Operational Energy Plans and Programs shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of Assistant Secretary.

(b) DUTIES.—The Assistant Secretary shall—

(1) provide leadership and facilitate communication regarding, and conduct oversight to manage and be accountable for, operational energy plans and programs within the Department of Defense and the Army, Navy, Air Force, and Marine Corps;

(2) establish the operational energy strategy;

(3) coordinate and oversee planning and program activities of the Department of Defense and the Army, Navy, Air Force, and the Marine Corps related to—

(A) implementation of the operational energy strategy;

(B) the consideration of operational energy demands in defense planning, requirements, and acquisition processes; and

(C) research and development investments related to operational energy demand and supply technologies; and

(4) monitor and review all operational energy initiatives in the Department of Defense.

(c) PRINCIPAL ADVISOR FOR OPERATIONAL ENERGY PLANS AND PROGRAMS.—(1) The Assistant Secretary is the principal adviser to the Secretary of Defense and the Deputy Secretary of Defense regarding operational energy plans and programs and the principal policy official within the senior management of the Department of Defense regarding operational energy plans and programs.

(2) The Assistant Secretary may communicate views on matters related to operational energy plans and programs and the operational energy strategy required by subsection (d) 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.

(d) OPERATIONAL ENERGY STRATEGY.—(1) The Assistant Secretary shall be responsible for the establishment and maintenance of a department-wide transformational strategy for operational energy. The strategy shall establish near-term, mid-term, and long-term goals, performance metrics to measure progress in meeting the goals, and a plan for implementation of the strategy within the military departments, the Office of the Secretary of Defense, and Defense Agencies.

(2) The Secretary of each military department shall designate a senior official within each armed force under the jurisdiction of the Secretary who shall be responsible for operational energy plans and programs for that armed force. The officials so designated shall be responsible for coordinating with the Assistant Secretary and implementing initiatives pursuant to the strategy with regard to that official's armed force.

(3) By authority of the Secretary of Defense, the Assistant Secretary shall prescribe policies and procedures for the implementation of the strategy. The Assistant Secretary shall provide guidance to, and consult with, the Secretary of Defense, the Deputy Secretary of Defense, the Secretaries of the military departments, and the officials designated under paragraph (2) with respect to specific operational energy plans and programs to be carried out pursuant to the strategy.

(4) Updates to the strategy required by paragraph (1) shall be submitted to the congressional defense committees as soon as practicable after the modifications to the strategy are made.

(e) BUDGETARY AND FINANCIAL MATTERS.—(1) The Assistant Secretary shall review and make recommendations to the Secretary of Defense regarding all budgetary and financial matters relating to the operational energy strategy.

(2) The Secretary of Defense shall require that the Secretary of each military department and the head of each Defense Agency with responsibility for executing activities associated with the strategy transmit their proposed budget for those activities for a fiscal year to the Assistant Secretary for review before submission of the proposed budget to the Under Secretary of Defense (Comptroller).

(3) The Assistant Secretary shall review a proposed budget transmitted under paragraph (2) for a fiscal year and, not later than January 31 of the preceding fiscal year, shall submit to the Secretary of Defense a report containing the comments of the Assistant Secretary with respect to the proposed budget, together with the certification of the Assistant Secretary regarding whether the proposed budget is adequate for implementation of the strategy.

(4) Not later than 10 days after the date on which the budget for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress a report on the proposed budgets for that fiscal year that the Assistant Secretary has not certified under paragraph (3). The report shall include the following:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(5) The report required by paragraph (4) shall also include a separate statement of estimated expenditures and requested appropriations for that fiscal year for the activities of the Assistant Secretary in carrying out the duties of the Assistant Secretary.

(f) ACCESS TO INITIATIVE RESULTS AND RECORDS.—(1) The Secretary of a military department shall submit to the Assistant Secretary the results of all studies and initiatives conducted by the military department in connection with the operational energy strategy.

(2) The Assistant Secretary shall have access to all records and data in the Department of Defense (including the records and data of each military department) necessary in order to permit the Assistant Secretary to carry out the duties of the Assistant Secretary.

(g) STAFF.—The Assistant Secretary shall have a dedicated professional staff of military and civilian personnel in a number sufficient to enable the Assistant Secretary to carry out the duties and responsibilities of the Assistant Secretary.

(h) DEFINITIONS.—In this section:

(1) OPERATIONAL ENERGY.—The term ''operational energy'' means the energy required for training, moving, and sustaining military forces and weapons platforms for military operations. The term includes energy used by tactical power systems and generators and weapons platforms.

(2) OPERATIONAL ENERGY STRATEGY.—The terms ''operational energy strategy'' and

''strategy'' mean the operational energy strategy developed under subsection (d).

(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.)

AMENDMENTS

2011—Pub. L. 111–383, § 901(k)(1)(C), substituted ''Assistant Secretary of Defense for Operational Energy Plans and Programs'' for ''Director of Operational Energy Plans and Programs'' in section catchline.

Pub. L. 111–383, § 901(b)(7)(B), substituted ''Assistant Secretary'' for ''Director'' wherever appearing in text.

Pub. L. 111–383, § 901(b)(7), renumbered section 139b of this title as this section.

Subsec. (a). Pub. L. 111–383, § 901(b)(7)(A), substituted ''The Assistant Secretary of Defense for Operational Energy Plans and Programs'' for ''There is a Director of Operational Energy Plans and Programs in the Department of Defense (in this section referred to as the 'Director'), appointed by the President, by and with the advice and consent of the Senate. The Director''.

Subsec. (d)(2). Pub. L. 111–383, § 901(b)(7)(C), substituted ''The Secretary of each military department'' for ''Not later than 90 days after the date on which the Assistant Secretary is first appointed, the Secretary of each of the military departments'' and ''Secretary who shall'' for ''Secretary who will'' and inserted ''so designated'' after ''The officials''.

Subsec. (d)(4). Pub. L. 111–383, § 901(b)(7)(D), substituted ''Updates to the strategy required by paragraph (1)'' for ''The initial strategy shall be submitted to the congressional defense committees not later than 180 days after the date on which the Assistant Secretary is first appointed. Subsequent updates to the strategy''.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

§ 138d. Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs

(a) The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall—

(1) advise the Secretary of Defense on nuclear energy, nuclear weapons, and chemical and biological defense;

(2) serve as the Staff Director of the Nuclear Weapons Council established by section 179 of this title; and

(3) perform such additional duties as the Secretary may prescribe.

(b) The Assistant Secretary may communicate views on issues within the responsibility of the Assistant Secretary 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.

(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.)

AMENDMENTS

2011—Pub. L. 111–383, § 901(k)(1)(D), substituted ''Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs'' for ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs'' in section catchline.

Pub. L. 111–383, § 901(b)(8), renumbered section 142 of this title as this section.

Subsec. (a). Pub. L. 111–383, § 901(b)(8)(A), (B), redesignated subsec. (b) as (a), substituted ''The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs'' for ''The Assistant to the Secretary'' in introductory provisions, and struck out former subsec. (a) which read as follows: ''There is an Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, appointed by the President, by and with the advice and consent of the Senate.''

Subsec. (b). Pub. L. 111–383, § 901(b)(8)(C), added subsec. (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 111–383, § 901(b)(8)(C), struck out subsec. (c), which read as follows: ''The Assistant to the Secretary shall be considered an Assistant Secretary of Defense for purposes of section 138(d) of this title.''

2008—Subsec. (c). Pub. L. 110–417 added subsec. (c).

1996—Pub. L. 104–106, § 904(a)(1)(A), substituted ''Nuclear and Chemical and Biological Defense Programs'' for ''Atomic Energy'' in section catchline.

Pub. L. 104–106, § 903(a), (c)(4), which directed repeal of this section eff. Jan. 31, 1997, was repealed by Pub. L. 104–201.

Subsec. (a). Pub. L. 104–106, § 904(a)(1)(B), substituted ''Nuclear and Chemical and Biological Defense Programs'' for ''Atomic Energy''.

Subsec. (b). Pub. L. 104–106, § 904(a)(1)(C), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Assistant to the Secretary shall advise the Secretary of Defense and the Nuclear Weapons Council on nuclear energy and nuclear weapons matters.''

1993—Pub. L. 103–160 renumbered section 141 of this title as this section.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

EXCEPTION TO SENATE CONFIRMATION REQUIREMENT

Pub. L. 100–180, div. A, title XII, § 1245(b), Dec. 4, 1987, 101 Stat. 1165, provided that the person serving as Chairman of the Military Liaison Committee, Department of Defense, on Oct. 16, 1986, could be appointed as the Assistant to the Secretary of Defense for Atomic Energy without the advice and consent of the Senate.

§ 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 2430 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 and the Under Secretary of Defense for Acquisition, Technology, and Logistics 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 and the Under Secretary of Defense for Acquisition, Technology, and Logistics 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 2366 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, Technology, and Logistics 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 preparation for and the conduct of the test part of any operational test and evaluation conducted in the Department of Defense.

(3) The Director shall have access to all records and data in the Department of Defense (including the records and data of each military department) that the Director considers necessary to review in order to carry out his duties under this section.

(f)(1) The Director of the Missile Defense Agency shall make available to the Director of Operational Test and Evaluation the results of all tests and evaluations conducted by the Missile Defense Agency and of all studies conducted by the Missile Defense Agency in connection with tests and evaluations in the Missile Defense Agency.

(2) The Director of Operational Test and Evaluation may require that such observers as the Director designates be present during the preparation for and the conducting of any test and evaluation conducted by the Missile Defense Agency.

(3) The Director of Operational Test and Evaluation shall have access to all records and data in the Department of Defense (including the records and data of the Missile Defense Agency) that the Director considers necessary to review in order to carry out his duties under this subsection.

(g) The Director shall ensure that safety concerns developed during the operational test and evaluation of a weapon system under a major defense acquisition program are communicated in a timely manner to the program manager for that program for consideration in the acquisition decisionmaking process.

(h)(1) The Director shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year.

(2) Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Congress not later than 10 days after the transmission of the budget for the next fiscal year under section 1105 of title 31.

(3) If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.

(4) The report shall include such comments and recommendations as the Director considers appropriate, including comments and recommendations on resources and facilities available for operational test and evaluation and levels of funding made available for operational test and evaluation activities. The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal

year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.

(5) The Secretary may comment on any report of the Director to Congress under this subsection.

(i) The Director shall comply with requests from Congress (or any committee of either House of Congress) for information relating to operational test and evaluation in the Department of Defense.

(j) The President shall include in the Budget transmitted to Congress pursuant to section 1105 of title 31 for each fiscal year a separate statement of estimated expenditures and proposed appropriations for that fiscal year for the activities of the Director of Operational Test and Evaluation in carrying out the duties and responsibilities of the Director under this section.

(k) The Director shall have sufficient professional staff of military and civilian personnel to enable the Director to carry out the duties and responsibilities of the Director prescribed by law.

(Added Pub. L. 98–94, title XII, § 1211(a)(1), Sept. 24, 1983, 97 Stat. 684, § 136a; amended Pub. L. 99–348, title V, § 501(c), July 1, 1986, 100 Stat. 708; renumbered § 138 and amended Pub. L. 99–433, title I, §§ 101(a)(7), 110(d)(10), (g)(1), Oct. 1, 1986, 100 Stat. 995, 1003, 1004; Pub. L. 99–500, § 101(c) [title X, §§ 903(c), 910(c)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–132, 1783–145, and Pub. L. 99–591, § 101(c) [title X, §§ 903(c), 910(c)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–132, 3341–145; Pub. L. 99–661, div. A, title IX, formerly title IV, §§ 903(c), 910(c), Nov. 14, 1986, 100 Stat. 3912, 3924, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 100–26, § 7(a)(1), (c)(2), Apr. 21, 1987, 101 Stat. 275, 280; Pub. L. 100–180, div. A, title VIII, § 801, Dec. 4, 1987, 101 Stat. 1123; Pub. L. 101–189, div. A, title VIII, § 802(b), title XVI, § 1622(e)(1), Nov. 29, 1989, 103 Stat. 1486, 1605; Pub. L. 101–510, div. A, title XIV, § 1484(k)(1), Nov. 5, 1990, 104 Stat. 1719; renumbered § 139 and amended Pub. L. 103–160, div. A, title IX, §§ 901(a)(1), 904(d)(1), 907, Nov. 30, 1993, 107 Stat. 1726, 1728, 1730; Pub. L. 103–355, title III, §§ 3011–3013, Oct. 13, 1994, 108 Stat. 3331, 3332; Pub. L. 106–65, div. A, title IX, § 911(d)(1), Oct. 5, 1999, 113 Stat. 719; Pub. L. 107–107, div. A, title II, § 263, title X, § 1048(b)(2), Dec. 28, 2001, 115 Stat. 1044, 1225; Pub. L. 107–314, div. A, title II, § 235, Dec. 2, 2002, 116 Stat. 2491; Pub. L. 109–364, div. A, title II, § 231(f), Oct. 17, 2006, 120 Stat. 2133; Pub. L. 110–181, div. A, title II, § 221, Jan. 28, 2008, 122 Stat. 37; Pub. L. 110–417, [div. A], title II, § 251(c), Oct. 14, 2008, 122 Stat. 4400.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

PRIOR PROVISIONS

A prior section 139 was renumbered section 140 of this title.

Another prior section 139 was renumbered section 2431 of this title.

AMENDMENTS

2008—Subsec. (b)(3) to (7). Pub. L. 110–417 redesignated pars. (4) to (7) as (3) to (6), respectively, and struck out former par. (3) which required the Director to provide guidance to and consult with the officials described in par. (2) of subsec. (b) with respect to operational test and evaluation or survivability testing (or both) within the Department of Defense of force protection equipment.

Subsecs. (f) to (k). Pub. L. 110–181 added subsec. (f) and redesignated former subsecs. (f) to (j) as (g) to (k), respectively.

2006—Subsec. (b)(3) to (7). Pub. L. 109–364 added par. (3) and redesignated former pars. (3) to (6) as (4) to (7), respectively.

2002—Subsec. (g). Pub. L. 107–314, § 235(b), designated first sentence as par. (1), second sentence as par. (2), third sentence as par. (3), fourth and fifth sentences as par. (4), and sixth sentence as par. (5).

Pub. L. 107–314, § 235(a), inserted after fourth sentence ''The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns.''

2001—Subsec. (c). Pub. L. 107–107, § 1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Subsec. (f). Pub. L. 107–107, § 263(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 107–107, § 1048(b)(2), substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

Pub. L. 107–107, § 263(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsecs. (h) to (j). Pub. L. 107–107, § 263(1), redesignated subsecs. (g) to (i) as (h) to (j), respectively.

1999—Subsec. (b). Pub. L. 106–65 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology'' in introductory provisions and in par. (2).

1994—Subsec. (b)(6). Pub. L. 103–355, § 3012(a), added par. (6).

Subsec. (c). Pub. L. 103–355, § 3011, inserted ''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.'' after ''(c)''.

Subsec. (f). Pub. L. 103–355, §§ 3012(b), 3013, in first sentence inserted ''(including live fire testing activities)'' after ''operational test and evaluation activities'' and after second sentence inserted ''If the Director submits the report to Congress in a classified form, the Director shall concurrently submit an unclassified version of the report to Congress.''

1993—Pub. L. 103–160, § 901(a)(1), renumbered section 138 of this title as this section.

Subsec. (b). Pub. L. 103–160, § 904(d)(1), substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition'' in introductory provisions and in par. (2).

Subsec. (c). Pub. L. 103–160, § 907, struck out ''The Director reports directly, without intervening review or approval, to the Secretary of Defense personally.'' after ''(c)'' and substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Director of Defense Research and Engineering'' and ''responsible for acquisition'' for ''responsible for research and development''.

Subsec. (f). Pub. L. 103–160, § 904(d)(1), substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1990—Subsec. (a)(2)(A). Pub. L. 101–510, § 1484(k)(1)(A), substituted ''(A) The term 'operational test and evaluation'' for ''(A) 'Operational test and evaluation''.

Subsec. (a)(2)(B). Pub. L. 101–510, § 1484(k)(1)(B), substituted ''(B) The term 'major defense acquisition program'' for ''(B) 'Major defense acquisition program''.

1989—Subsec. (a)(2)(A). Pub. L. 101–189, §1622(e)(1)(A), which directed amendment of subpar. (A) by substituting ''(A) The term 'operational'' for ''(A) 'Operational'', could not be executed because a closing quotation mark did not follow ''Operational''.

Subsec. (a)(2)(B). Pub. L. 101–189, §1622(e)(1)(B), which directed amendment of subpar. (B) by substituting ''(B) The term 'major'' for ''(B) 'Major'', could not be executed because a closing quotation mark did not follow ''Major''.

Subsec. (b)(4). Pub. L. 101–189, §802(b)(1)(A), inserted ''and'' after ''defense agency;''.

Subsec. (b)(5), (6). Pub. L. 101–189, §802(b)(1)(B), (C), redesignated par. (6) as (5) and struck out former par. (5) which read as follows: ''analyze the results of the operational test and evaluation conducted for each major defense acquisition program and, at the conclusion of such operational test and evaluation, report to the Secretary of Defense, to the Under Secretary of Defense for Acquisition, and to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives as provided in subsection (c) on—

''(A) whether the test and evaluation performed was adequate; and

''(B) whether the test and evaluation results confirm that the items or components actually tested are effective and suitable for combat; and''.

Subsec. (c). Pub. L. 101–189, §802(b)(2), (3), redesignated subsec. (d)(1) as (c) and struck out former subsec. (c) which read as follows: ''Each report of the Director required under subsection (b)(5) shall be submitted to the committees specified in that subsection in precisely the same form and with precisely the same content as the report originally was submitted to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report.''

Subsec. (d). Pub. L. 101–189, §802(b)(4), redesignated former par. (2) of subsec. (d) as entire subsec. Former par. (1) of subsec. (d) redesignated subsec. (c).

Subsec. (f). Pub. L. 101–189, §802(b)(5)–(7), redesignated subsec. (g)(1) as (f), substituted ''this subsection'' for ''this paragraph'', and struck out former subsec. (f) which read as follows:

''(1) Operational testing of a major defense acquisition program may not be conducted until the Director has approved in writing the adequacy of the plans (including the adequacy of projected levels of funding) for operational test and evaluation to be conducted in connection with that program.

''(2) A final decision within the Department of Defense to proceed with a major defense acquisition program beyond low-rate initial production may not be made until the Director has submitted to the Secretary of Defense the report with respect to that program required by subsection (b)(5) and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives have received that report.''

Subsec. (g). Pub. L. 101–189, §802(b)(6), (8), redesignated former par. (2) of subsec. (g) as entire subsec. (g), and redesignated former par. (1) of subsec. (g) as subsec. (f).

1987—Subsec. (a)(2)(B). Pub. L. 100–26, §7(c)(2), substituted ''section 2430'' for ''section 2432(a)(1)''.

Subsec. (c). Pub. L. 100–26, §7(a)(1), substituted ''to the Secretary of Defense and the Under Secretary of Defense for Acquisition and shall be accompanied by such comments as the Secretary may wish to make on the report.'' for ''to the Secretary, to the Under Secretary of Defense for Acquisition, and shall be accompanied by such comments as the Secretary of Defense may wish to make on such report.''

Subsec. (d). Pub. L. 100–180 designated existing provisions as par. (1) and added par. (2).

1986—Pub. L. 99–433, §§101(a)(7), 110(d)(10), renumbered section 136a of this title as this section, and struck out '': appointment; powers and duties'' at end of section catchline.

Subsec. (a)(2)(B). Pub. L. 99–433, §110(g)(1), substituted ''section 2432(a)(1)'' for ''section 139a(a)(1)''.

Subsec. (b). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(1)–(3)] and Pub. L. 99–661, §903(c)(1)–(3), amended subsec. (b) identically, in provisions preceding par. (1) and in par. (2), inserting ''and the Under Secretary of Defense for Acquisition'' and, in par. (5), inserting '', to the Under Secretary of Defense for Acquisition,''.

Subsec. (c). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(4)], and Pub. L. 99–661, §903(c)(4), amended subsec. (c) identically by directing the insertion of '', to the Under Secretary of Defense for Acquisition,'' after ''Secretary of Defense'' the first place it appears which was executed by making the insertion after ''the Secretary'' the first place it appears as the probable intent of Congress.

Subsec. (d). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(5)], and Pub. L. 99–661, §903(c)(5), amended subsec. (d) identically inserting ''personally'' after ''Secretary of Defense''.

Pub. L. 99–348 substituted ''Director of Defense Research and Engineering'' for ''Under Secretary of Defense for Research and Engineering''.

Subsec. (g)(1). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§§903(c)(6), 910(c)], and Pub. L. 99–661, §§903(c)(6), 910(c), amended par. (1) identically, inserting '', the Under Secretary of Defense for Acquisition,'' and substituting ''10 days after transmission of the budget for the next fiscal year under section 1105 of title 31'' for ''January 15 immediately following the end of the fiscal year for which the report is prepared''.

Subsec. (i). Pub. L. 99–500 and Pub. L. 99–591, §101(c) [§903(c)(7)], and Pub. L. 99–661, §903(c)(7), amended section identically adding subsec. (i).

EFFECTIVE DATE

Section 1211(c) of Pub. L. 98–94 provided that: ''The amendments made by this section [enacting this section and amending section 5315 of Title 5, Government Organization and Employees] shall take effect on November 1, 1983.''

REVIEW AND REVISION OF POLICIES AND PRACTICES ON TEST AND EVALUATION; INCLUSION IN STRATEGIC PLAN; REPORT

Pub. L. 109–364, div. A, title II, §231(b)–(e), Oct. 17, 2006, 120 Stat. 2132, 2133, provided that:

''(b) REVIEW AND REVISION OF POLICIES AND PRACTICES.—

''(1) REVIEW.—During fiscal year 2007, the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Director of Operational Test and Evaluation shall review Department of Defense policies and practices on test and evaluation in order to—

''(A) reaffirm the test and evaluation principles that should guide traditional acquisition programs; and

''(B) determine how best to apply appropriate test and evaluation principles to emerging acquisition approaches.

''(2) REVISED GUIDANCE.—If the Under Secretary determines as a result of the review under paragraph (1) that a revision of the policies and practices referred to in that paragraph is necessary, the Under Secretary and the Director shall jointly issue new or revised guidance for the Department of Defense on test and evaluation to address that determination.

''(c) ISSUES TO BE ADDRESSED.—In carrying out subsection (b), the Under Secretary shall address policies and practices on test and evaluation in order to—

''(1) ensure the performance of test and evaluation activities with regard to—

''(A) items that are acquired pursuant to the authority for rapid acquisition and deployment of items in section 806 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 [Pub. L. 107–314] (10 U.S.C. 2302 note);

''(B) programs that are conducted pursuant to the authority for spiral development in section 803 of

the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2603; 10 U.S.C. 2430 note), or other authority for the conduct of incremental acquisition programs;

''(C) systems that are acquired pursuant to other emerging acquisition approaches, as approved by the Under Secretary; and

''(D) equipment that is not subject to the operational test and evaluation requirements in sections 2366 and 2399 of title 10, United States Code, but that may require limited operational test and evaluation for the purpose of ensuring the safety and survivability of such equipment and personnel using such equipment; and

''(2) ensure the appropriate use, if any, of operational test and evaluation resources to assess technology readiness levels for the purpose of section 2366a of title 10, United States Code, and other applicable technology readiness requirements.

''(d) INCLUSION OF TESTING NEEDS IN STRATEGIC PLAN.—The Director, Test Resource Management Center, shall ensure that the strategic plan for Department of Defense test and evaluation resources developed pursuant to section 196 of title 10, United States Code—

''(1) reflects any testing needs of the Department of Defense that are identified as a result of activities under subsection (b); and

''(2) includes an assessment of the test and evaluation facilities, resources, and budgets that will be required to meet such needs.

''(e) REPORT TO CONGRESS.—Not later than nine months after the date of the enactment of this Act [Oct. 17, 2006], the Under Secretary and the Director of Operational Test and Evaluation shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the review conducted under paragraph (1) of subsection (b), including any new or revised guidance issued pursuant to paragraph (2) of that subsection.''

§ 139a. Director of Cost Assessment and Program Evaluation

(a) APPOINTMENT.—There is a Director of Cost Assessment and Program Evaluation in the Department of Defense, appointed by the President, by and with the advice and consent of the Senate.

(b) INDEPENDENT ADVICE TO SECRETARY OF DEFENSE.—(1) The Director of Cost Assessment and Program Evaluation is the principal advisor to the Secretary of Defense and other senior officials of the Department of Defense, and shall provide independent analysis and advice to such officials, on the following matters:

(A) Matters assigned to the Director pursuant to this section and section 2334 of this title.

(B) Matters assigned to the Director by the Secretary pursuant to section 113 of this title.

(2) 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.

(c) DEPUTY DIRECTORS.—There are two Deputy Directors within the Office of the Director of Cost Assessment and Program Evaluation, as follows:

(1) The Deputy Director for Cost Assessment.

(2) The Deputy Director for Program Evaluation.

(d) RESPONSIBILITIES.—The Director of Cost Assessment and Program Evaluation shall serve as the principal official within the senior management of the Department of Defense for the following:

(1) Cost estimation and cost analysis for acquisition programs of the Department of Defense, and carrying out the duties assigned pursuant to section 2334 of this title.

(2) Analysis and advice on matters relating to the planning and programming phases of the Planning, Programming, Budgeting and Execution system, and the preparation of materials and guidance for such system, as directed by the Secretary of Defense, working in coordination with the Under Secretary of Defense (Comptroller).

(3) Analysis and advice for resource discussions relating to requirements under consideration in the Joint Requirements Oversight Council pursuant to section 181 of this title.

(4) Formulation of study guidance for analyses of alternatives for major defense acquisition programs and performance of such analyses, as directed by the Secretary of Defense.

(5) Review, analysis, and evaluation of programs for executing approved strategies and policies, ensuring that information on programs is presented accurately and completely, and assessing the effect of spending by the Department of Defense on the United States economy.

(6) Assessments of special access and compartmented intelligence programs, in coordination with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Intelligence and in accordance with applicable policies.

(7) Assessments of alternative plans, programs, and policies with respect to the acquisition programs of the Department of Defense.

(8) Leading the development of improved analytical skills and competencies within the cost assessment and program evaluation workforce of the Department of Defense and improved tools, data, and methods to promote performance, economy, and efficiency in analyzing national security planning and the allocation of defense resources.

(Added Pub. L. 111–23, title I, § 101(a)(1), May 22, 2009, 123 Stat. 1705, § 139c; renumbered § 139a and amended Pub. L. 111–383, div. A, title IX, § 901(f), title X, § 1075(b)(5), Jan. 7, 2011, 124 Stat. 4322, 4369.)

PRIOR PROVISIONS

A prior section 139a was renumbered section 138b of this title.

Another prior section 139a was renumbered section 2432 of this title.

AMENDMENTS

2011—Pub. L. 111–383, § 901(f), renumbered section 139c of this title as this section.

Subsec. (d)(4). Pub. L. 111–383, § 1075(b)(5), which directed amendment of section 139c of this title by inserting a period at the end of subsec. (d)(4), was executed to this section, to reflect the probable intent of Congress and the renumbering of section 139c of this title as this section by Pub. L. 111–383, § 901(f). See above.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(f) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

TRANSFER OF PERSONNEL AND FUNCTIONS

Pub. L. 111–23, title I, § 101(c), May 22, 2009, 123 Stat. 1709, provided that:

''(1) TRANSFER OF FUNCTIONS.—The functions of the Office of Program Analysis and Evaluation of the Department of Defense, including the functions of the Cost Analysis Improvement Group, are hereby transferred to the Office of the Director of Cost Assessment and Program Evaluation.

''(2) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR INDEPENDENT COST ASSESSMENT.—The personnel of the Cost Analysis Improvement Group are hereby transferred to the Deputy Director for Cost Assessment in the Office of the Director of Cost Assessment and Program Evaluation.

''(3) TRANSFER OF PERSONNEL TO DEPUTY DIRECTOR FOR PROGRAM ANALYSIS AND EVALUATION.—The personnel (other than the personnel transferred under paragraph (2)) of the Office of Program Analysis and Evaluation are hereby transferred to the Deputy Director for Program Evaluation in the Office of the Director of Cost Assessment and Program Evaluation.''

§ 139b. Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance

(a) DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—

(1) APPOINTMENT.—There is a Deputy Assistant Secretary of Defense for Developmental Test and Evaluation, who shall be appointed by the Secretary of Defense from among individuals with an expertise in test and evaluation.

(2) PRINCIPAL ADVISOR FOR DEVELOPMENTAL TEST AND EVALUATION.—The Deputy Assistant Secretary shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on developmental test and evaluation in the Department of Defense.

(3) SUPERVISION.—The Deputy Assistant Secretary shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

(4) COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation shall closely coordinate with the Deputy Assistant Secretary of Defense for Systems Engineering to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.

(5) DUTIES.—The Deputy Assistant Secretary shall—

(A) develop policies and guidance for—

(i) the conduct of developmental test and evaluation in the Department of Defense (including integration and developmental testing of software);

(ii) in coordination with the Director of Operational Test and Evaluation, the integration of developmental test and evaluation with operational test and evaluation;

(iii) the conduct of developmental test and evaluation conducted jointly by more than one military department or Defense Agency;

(B) review and approve the developmental test and evaluation plan within the test and evaluation master plan for each major defense acquisition program of the Department of Defense;

(C) monitor and review the developmental test and evaluation activities of the major defense acquisition programs;

(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for developmental test and evaluation;

(E) periodically review the organizations and capabilities of the military departments with respect to developmental test and evaluation and identify needed changes or improvements to such organizations and capabilities, and provide input regarding needed changes or improvements for the test and evaluation strategic plan developed in accordance with section 196(d) of this title; and

(F) perform such other activities relating to the developmental test and evaluation activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

(6) ACCESS TO RECORDS.—The Secretary of Defense shall ensure that the Deputy Assistant Secretary has access to all records and data of the Department of Defense (including the records and data of each military department and including classified and proprietary information, as appropriate) that the Deputy Assistant Secretary considers necessary in order to carry out the Deputy Assistant Secretary's duties under this subsection.

(7) CONCURRENT SERVICE AS DIRECTOR OF DEPARTMENT OF DEFENSE TEST RESOURCES MANAGEMENT CENTER.—The individual serving as the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation may also serve concurrently as the Director of the Department of Defense Test Resource Management Center under section 196 of this title.

(b) DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING.—

(1) APPOINTMENT.—There is a Deputy Assistant Secretary of Defense for Systems Engineering, who shall be appointed by the Secretary of Defense from among individuals with an expertise in systems engineering and development planning.

(2) PRINCIPAL ADVISOR FOR SYSTEMS ENGINEERING AND DEVELOPMENT PLANNING.—The Deputy Assistant Secretary shall be the principal advisor to the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology, and Logistics on systems engineering and development planning in the Department of Defense.

(3) SUPERVISION.—The Deputy Assistant Secretary shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

(4) COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION.—The Deputy Assistant Secretary of Defense for Systems Engineering shall closely coordinate with the Deputy As-

sistant Secretary of Defense for Developmental Test and Evaluation to ensure that the developmental test and evaluation activities of the Department of Defense are fully integrated into and consistent with the systems engineering and development planning processes of the Department.

(5) DUTIES.—The Deputy Assistant Secretary shall—

(A) develop policies and guidance for—

(i) the use of systems engineering principles and best practices, generally;

(ii) the use of systems engineering approaches to enhance reliability, availability, and maintainability on major defense acquisition programs;

(iii) the development of systems engineering master plans for major defense acquisition programs including systems engineering considerations in support of lifecycle management and sustainability; and

(iv) the inclusion of provisions relating to systems engineering and reliability growth in requests for proposals;

(B) review and approve the systems engineering master plan for each major defense acquisition program;

(C) monitor and review the systems engineering and development planning activities of the major defense acquisition programs;

(D) provide advocacy, oversight, and guidance to elements of the acquisition workforce responsible for systems engineering, development planning, and lifecycle management and sustainability functions;

(E) provide input on the inclusion of systems engineering requirements in the process for consideration of joint military requirements by the Joint Requirements Oversight Council pursuant to section 181 of this title, including specific input relating to each capabilities development document;

(F) periodically review the organizations and capabilities of the military departments with respect to systems engineering, development planning, and lifecycle management and sustainability, and identify needed changes or improvements to such organizations and capabilities; and

(G) perform such other activities relating to the systems engineering and development planning activities of the Department of Defense as the Under Secretary of Defense for Acquisition, Technology, and Logistics may prescribe.

(6) ACCESS TO RECORDS.—The Deputy Assistant Secretary shall have access to any records or data of the Department of Defense (including the records and data of each military department and including classified and proprietary information as appropriate) that the Deputy Assistant Secretary considers necessary to review in order to carry out the Deputy Assistant Secretary's duties under this subsection.

(c) JOINT ANNUAL REPORT.—Not later than March 31 each year, beginning in 2010, the Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and the Deputy Assistant Secretary of Defense for Systems Engineering shall jointly submit to the congressional defense committees a report on the activities undertaken pursuant to subsections (a) and (b) during the preceding year. Each report shall include a section on activities relating to the major defense acquisition programs which shall set forth, at a minimum, the following:

(1) A discussion of the extent to which the major defense acquisition programs are fulfilling the objectives of their systems engineering master plans and developmental test and evaluation plans.

(2) A discussion of the waivers of and deviations from requirements in test and evaluation master plans, systems engineering master plans, and other testing requirements that occurred during the preceding year with respect to such programs, any concerns raised by such waivers or deviations, and the actions that have been taken or are planned to be taken to address such concerns.

(3) An assessment of the organization and capabilities of the Department of Defense for systems engineering, development planning, and developmental test and evaluation with respect to such programs.

(4) Any comments on such report that the Secretary of Defense considers appropriate.

(d) JOINT GUIDANCE.—The Deputy Assistant Secretary of Defense for Developmental Test and Evaluation and the Deputy Assistant Secretary of Defense for Systems Engineering shall jointly, in coordination with the official designated by the Secretary of Defense under section 103 of the Weapon Systems Acquisition Reform Act of 2009, issue guidance on the following:

(1) The development and tracking of detailed measurable performance criteria as part of the systems engineering master plans and the developmental test and evaluation plans within the test and evaluation master plans of major defense acquisition programs.

(2) The use of developmental test and evaluation to measure the achievement of specific performance objectives within a systems engineering master plan.

(3) A system for storing and tracking information relating to the achievement of the performance criteria and objectives specified pursuant to this subsection.

(e) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term ''major defense acquisition program'' has the meaning given that term in section 2430 of this title.

(Added Pub. L. 111–23, title I, § 102(a)(1), May 22, 2009, 123 Stat. 1710, § 139d; renumbered § 139b and amended Pub. L. 111–383, div. A, title IX, § 901(e), (f), (k)(1)(E), title X, § 1075(b)(6), Jan. 7, 2011, 124 Stat. 4321, 4322, 4325, 4369.)

REFERENCES IN TEXT

Section 103 of the Weapon Systems Acquisition Reform Act of 2009, referred to in subsec. (d), is section 103 of Pub. L. 111–23, which was redesignated as section 2438 of this title.

PRIOR PROVISIONS

A prior section 139b was renumbered section 138c of this title.

Another prior section 139b was renumbered section 2433 of this title.

AMENDMENTS

2011—Pub. L. 111–383, § 901(k)(1)(E), substituted ''Deputy Assistant Secretary of Defense for Developmental Test and Evaluation; Deputy Assistant Secretary of Defense for Systems Engineering: joint guidance'' for ''Director of Developmental Test and Evaluation; Director of Systems Engineering: joint guidance'' in section catchline.

Pub. L. 111–383, § 901(f), renumbered section 139d of this title as this section.

Pub. L. 111–383, § 901(e)(1), (2), substituted ''Deputy Assistant Secretary of Defense for Developmental Test and Evaluation'' for ''Director of Developmental Test and Evaluation'' and ''Deputy Assistant Secretary of Defense for Systems Engineering'' for ''Director of Systems Engineering'' wherever appearing in text.

Subsec. (a). Pub. L. 111–383, § 901(e)(3)(A), substituted ''Deputy Assistant Secretary of Defense for Developmental Test and Evaluation'' for ''Director of Developmental Test and Evaluation'' in heading.

Subsec. (a)(2), (3). Pub. L. 111–383, § 901(e)(3)(B), substituted ''Deputy Assistant Secretary'' for ''Director''.

Subsec. (a)(4). Pub. L. 111–383, § 901(e)(3)(C), substituted ''COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SYSTEMS ENGINEERING'' for ''COORDINATION WITH DIRECTOR OF SYSTEMS ENGINEERING'' in heading.

Subsec. (a)(5). Pub. L. 111–383, § 901(e)(3)(D), substituted ''Deputy Assistant Secretary'' for ''Director'' in introductory provisions.

Subsec. (a)(6). Pub. L. 111–383, § 1075(b)(6), which directed amendment of section 139d of this title by substituting ''proprietary'' for ''propriety'' in subsec. (a)(6), was executed to this section, to reflect the probable intent of Congress and the renumbering of section 139d of this title as this section by Pub. L. 111–383, § 901(f). See above.

Pub. L. 111–383, § 901(e)(3)(B), (E), substituted ''Deputy Assistant Secretary'' for ''Director'' in two places and substituted ''Deputy Assistant Secretary's'' for ''Director's''.

Subsec. (b). Pub. L. 111–383, § 901(e)(4)(A), substituted ''Deputy Assistant Secretary of Defense for Systems Engineering'' for ''Director of Systems Engineering'' in heading.

Subsec. (b)(2), (3). Pub. L. 111–383, § 901(e)(4)(B), substituted ''Deputy Assistant Secretary'' for ''Director''.

Subsec. (b)(4). Pub. L. 111–383, § 901(e)(4)(C), substituted ''COORDINATION WITH DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR DEVELOPMENTAL TEST AND EVALUATION'' for ''COORDINATION WITH DIRECTOR OF DEVELOPMENTAL TEST AND EVALUATION'' in heading.

Subsec. (b)(5). Pub. L. 111–383, § 901(e)(4)(B), substituted ''Deputy Assistant Secretary'' for ''Director'' in introductory provisions.

Subsec. (b)(6). Pub. L. 111–383, § 901(e)(4)(B), (D), substituted ''Deputy Assistant Secretary'' for ''Director'' in two places and substituted ''Deputy Assistant Secretary's'' for ''Director's''.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

§ 139c. Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy

(a) APPOINTMENT.—There is a Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy, who shall be appointed by the Under Secretary of Defense for Acquisition, Technology, and Logistics and shall report to the Under Secretary.

(b) RESPONSIBILITIES.—The Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy shall be the principal advisor to the Under Secretary of Defense for Acquisition, Technology, and Logistics in the performance of the Under Secretary's duties relating to the following:

(1) Providing input on industrial base matters to strategy reviews, including quadrennial defense reviews conducted pursuant to section 118 of this title.

(2) Establishing policies of the Department of Defense for maintenance of the defense industrial base of the United States.

(3) Providing recommendations to the Under Secretary on budget matters pertaining to the industrial base.

(4) Providing recommendations to the Under Secretary on supply chain management and supply chain vulnerability.

(5) Providing input on industrial base matters to defense acquisition policy guidance.

(6) Establishing the national security objectives concerning the national technology and industrial base required under section 2501 of this title.

(7) Executing the national defense program for analysis of the national technology and industrial base required under section 2503 of this title.

(8) Performing the national technology and industrial base periodic defense capability assessments required under section 2505 of this title.

(9) Establishing the technology and industrial base policy guidance required under section 2506 of this title.

(10) Executing the authorities of the Manufacturing Technology Program under section 2521 of this title.

(11) Carrying out the activities of the Department of Defense relating to the Defense Production Act Committee established under section 722 of the Defense Production Act of 1950 (50 U.S.C. App. 2171).

(12) Consistent with section 2(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2062(b)), executing other applicable authorities provided under the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), including authorities under titles I and II of such Act.

(13) Establishing policies related to international technology security and export control issues.

(14) Establishing policies related to industrial independent research and development programs under section 2372 of this title.

(15) Such other duties as are assigned by the Under Secretary.

(c) RULE OF CONSTRUCTION.—Nothing in subsection (b)(9) may be construed to limit the authority or modify the policies of the Committee on Foreign Investment in the United States established under section 721(k) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(k)).

(Added § 139e and renumbered § 139c, Pub. L. 111–383, div. A, title VII, § 896(a), title IX, § 901(f), Jan. 7, 2011, 124 Stat. 4314, 4322.)

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b)(12), is act Sept. 8, 1950, ch. 932, 64 Stat. 798,

which is classified generally to section 2061 et seq. of Title 50, Appendix, War and National Defense. Title I of the Act is classified generally to section 2071 et seq. of Title 50, Appendix. Title II of the Act was classified to section 2081 of Title 50, Appendix, prior to repeal by Pub. L. 111–67, § 2(a)(2), Sept. 30, 2009, 123 Stat. 2007. For complete classification of this Act to the Code, see section 2061 of Title 50, Appendix, and Tables.

PRIOR PROVISIONS

A prior section 139c was renumbered section 139a of this title.

Another prior section 139c was renumbered section 2434 of this title.

AMENDMENTS

2011—Pub. L. 111–383, § 901(f), renumbered section 139e of this title as this section.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by section 901(f) of Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

[§§ 139d, 139e. Renumbered §§ 139b, 139c]

§ 140. General Counsel

(a) There is a General Counsel of the Department of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) The General Counsel is the chief legal officer of the Department of Defense. He shall perform such functions as the Secretary of Defense may prescribe.

(Added Pub. L. 87–651, title II, § 202, Sept. 7, 1962, 76 Stat. 519, § 137; amended Pub. L. 88–426, title III, § 305(9), Aug. 14, 1964, 78 Stat. 423; renumbered § 139 and amended Pub. L. 99–433, title I, §§ 101(a)(7), 110(d)(11), Oct. 1, 1986, 100 Stat. 995, 1003; renumbered § 140, Pub. L. 103–160, div. A, title IX, § 901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
137(a)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (1st 25 words of 1st sentence), 67 Stat. 639].	1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4, 67 Stat. 639.
137(b)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (1st sentence, less 1st 25 words), 67 Stat. 639].	
137(c)	[Uncodified: 1953 Reorg. Plan No. 6, eff. June 30, 1953, § 4 (2d sentence), 67 Stat. 639].	

In subsection (b), the words ''from time to time'' are omitted as surplusage.

PRIOR PROVISIONS

A prior section 140 was renumbered section 141 of this title.

Another prior section 140 was renumbered section 127 of this title.

AMENDMENTS

1993—Pub. L. 103–160 renumbered section 139 of this title as this section.

1986—Pub. L. 99–433, §§ 101(a)(7), 110(d)(11), renumbered section 137 of this title as this section, and struck out '': powers and duties'' at end of section catchline.

1964—Subsec. (c). Pub. L. 88–426 repealed subsec. (c) which related to compensation of General Counsel. See section 5315 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88–426, see section 501 of Pub. L. 88–426.

[§ 140a. Renumbered § 422]

PRIOR PROVISIONS

A prior section 140a was renumbered section 421 of this title.

[§ 140b. Renumbered § 423]

PRIOR PROVISIONS

A prior section 140b was renumbered section 129 of this title.

[§ 140c. Renumbered § 130]

§ 141. Inspector General

(a) There is an Inspector General of the Department of Defense, who is appointed as provided in section 3 of the Inspector General Act of 1978 (Public Law 95–452; 5 U.S.C. App. 3).

(b) The Inspector General performs the duties, has the responsibilities, and exercises the powers specified in the Inspector General Act of 1978.

(Added Pub. L. 99–433, title I, § 108, Oct. 1, 1986, 100 Stat. 998, § 140; renumbered § 141, Pub. L. 103–160, div. A, title IX, § 901(a)(1), Nov. 30, 1993, 107 Stat. 1726.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in text, is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 141 was renumbered section 138d of this title.

Another prior section 141 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

AMENDMENTS

1993—Pub. L. 103–160 renumbered section 140 of this title as this section.

[§ 142. Renumbered § 138d]

PRIOR PROVISIONS

A prior section 142 of this title was contained in chapter 5 of this title, prior to amendment by Pub. L. 99–433. See note preceding section 151 of this title.

§ 143. Office of the Secretary of Defense personnel: limitation

(a) PERMANENT LIMITATION ON OSD PERSONNEL.—The number of OSD personnel may not exceed 3,767.

(b) OSD PERSONNEL DEFINED.—For purposes of this section, the term ''OSD personnel'' means military and civilian personnel of the Department of Defense who are assigned to, or employed in, functions in the Office of the Secretary of Defense (including Direct Support Activities of that Office and the Washington Headquarters Services of the Department of Defense).

(c) LIMITATION ON REASSIGNMENT OF FUNCTIONS.—In carrying out reductions in the num-

ber of personnel assigned to, or employed in, the Office of the Secretary of Defense in order to comply with this section, the Secretary of Defense may not reassign functions solely in order to evade the requirements contained in this section.

(Added Pub. L. 105–85, div. A, title IX, §911(d)(1), Nov. 18, 1997, 111 Stat. 1859; amended Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723.)

CODIFICATION

Section, as added by Pub. L. 105–85, consists of text of Pub. L. 104–201, div. A, title IX, §903(a)–(f), Sept. 23, 1996, 110 Stat. 2617. Section 903 of Pub. L. 104–201, which was formerly set out as a note under section 131 of this title, was repealed by Pub. L. 105–85, div. A, title IX, §911(d)(3), Nov. 18, 1997, 111 Stat. 1860.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–65, §921(c)(1), substituted ''The number'' for ''Effective October 1, 1999, the number'' and ''3,767'' for ''75 percent of the baseline number''.

Subsec. (b). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (d) as (b) and struck out heading and text of former subsec. (b). Text read as follows: ''The number of OSD personnel—

''(1) as of October 1, 1997, may not exceed 85 percent of the baseline number; and

''(2) as of October 1, 1998, may not exceed 80 percent of the baseline number.''

Subsec. (c). Pub. L. 106–65, §921(c)(2), (3), redesignated subsec. (e) as (c) and struck out heading and text of former subsec. (c). Text read as follows: ''For purposes of this section, the term 'baseline number' means the number of OSD personnel as of October 1, 1994.''

Subsecs. (d), (e). Pub. L. 106–65, §921(c)(3), redesignated subsecs. (d) and (e) as (b) and (c), respectively.

Subsec. (f). Pub. L. 106–65, §921(c)(2), struck out heading and text of subsec. (f). Text read as follows: ''If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (b) with respect to any fiscal year would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. If the Secretary of Defense determines, and certifies to Congress, that the limitation in subsection (a) during fiscal year 1999 would adversely affect United States national security, the Secretary may waive the limitation under that subsection with respect to that fiscal year. The authority under this subsection may be used only once, with respect to a single fiscal year.''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title IX, §921(c), Oct. 5, 1999, 113 Stat. 723, provided that the amendment made by section 921(c) is effective Oct. 1, 1999.

EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Pub. L. 110–417, [div. A], title XI, §1111, Oct. 14, 2008, 122 Stat. 4619, as amended by Pub. L. 111–84, div. A, title XI, §1109(a), Oct. 28, 2009, 123 Stat. 2492; Pub. L. 111–383, div. A, title X, §1075(e)(17), Jan. 7, 2011, 124 Stat. 4375, provided that:

''(a) EXCEPTION TO LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the baseline personnel limitations in sections 143, 194, 3014, 5014, and 8014 of title 10, United States Code (as adjusted pursuant to subsection (b)), shall not apply to—

''(1) acquisition personnel hired pursuant to the expedited hiring authority provided in section 1705(h) of title 10, United States Code, as amended by section 833 of this Act, or otherwise hired with funds in the Department of Defense Acquisition Workforce Development Fund established in accordance with section 1705(a) of such title; or

''(2) personnel hired pursuant to a shortage category designation by the Secretary of Defense or the Director of the Office of Personnel Management.

''(b) AUTHORITY TO ADJUST LIMITATIONS ON PERSONNEL.—For fiscal year 2009 and fiscal years thereafter, the Secretary of Defense or a Secretary of a military department may adjust the baseline personnel limitations in sections 143, 194, 3014, 5014 and 8014 of title 10, United States Code, to—

''(1) fill a gap in the civilian workforce of the Department of Defense identified by the Secretary of Defense in a strategic human capital plan submitted to Congress in accordance with the requirements of section 115b of such title; or

''(2) accommodate increases in workload or modify the type of personnel required to accomplish work, for any of the following purposes:

''(A) Performance of inherently governmental functions.

''(B) Performance of work pursuant to section 2463 of title 10, United States Code.

''(C) Ability to maintain sufficient organic expertise and technical capability.

''(D) Performance of work that, while the position may not exercise an inherently governmental function, nevertheless should be performed only by officers or employees of the Federal Government or members of the Armed Forces because of the critical nature of the work.''

§144. Director of Small Business Programs

(a) DIRECTOR.—There is a Director of Small Business Programs in the Department of Defense. The Director is appointed by the Secretary of Defense.

(b) OFFICE OF SMALL BUSINESS PROGRAMS.—The Office of Small Business Programs of the Department of Defense is the office that is established within the Office of the Secretary of Defense under section 15(k) of the Small Business Act (15 U.S.C. 644(k)). The Director of Small Business Programs is the head of such office.

(c) DUTIES AND POWERS.—(1) The Director of Small Business Programs shall, subject to paragraph (2), perform such duties regarding small business programs of the Department of Defense, and shall exercise such powers regarding those programs, as the Secretary of Defense may prescribe.

(2) Section 15(k) of the Small Business Act (15 U.S.C. 644(k)), except for the designations of the Director and the Office, applies to the Director of Small Business Programs.

(Added Pub. L. 109–163, div. A, title IX, §904(b)(1), Jan. 6, 2006, 119 Stat. 3400.)

CHANGE OF NAME

Pub. L. 109–163, div. A, title IX, §904(a), Jan. 6, 2006, 119 Stat. 3399, provided that:

''(1) POSITIONS REDESIGNATED.—The following positions within the Department of Defense are redesignated as follows:

''(A) The Director of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Director of Small Business Programs of the Department of Defense.

''(B) The Director of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Director of Small Business Programs of the Department of the Army.

''(C) The Director of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Director of Small Business Programs of the Department of the Navy.

''(D) The Director of Small and Disadvantaged Business Utilization of the Department of the Air

Force is redesignated as the Director of Small Business Programs of the Department of the Air Force.

''(2) OFFICES REDESIGNATED.—The following offices within the Department of Defense are redesignated as follows:

''(A) The Office of Small and Disadvantaged Business Utilization of the Department of Defense is redesignated as the Office of Small Business Programs of the Department of Defense.

''(B) The Office of Small and Disadvantaged Business Utilization of the Department of the Army is redesignated as the Office of Small Business Programs of the Department of the Army.

''(C) The Office of Small and Disadvantaged Business Utilization of the Department of the Navy is redesignated as the Office of Small Business Programs of the Department of the Navy.

''(D) The Office of Small and Disadvantaged Business Utilization of the Department of the Air Force is redesignated as the Office of Small Business Programs of the Department of the Air Force.

''(3) REFERENCES.—Any reference in any law, regulation, document, paper, or other record of the United States to a position or office redesignated by paragraph (1) or (2) shall be deemed to be a reference to the position or office as so redesignated.''

CHAPTER 5—JOINT CHIEFS OF STAFF

Sec.
151. Joint Chiefs of Staff: composition; functions.
152. Chairman: appointment; grade and rank.
153. Chairman: functions.
154. Vice Chairman.
155. Joint Staff.
156. Legal Counsel to the Chairman of the Joint Chiefs of Staff.

PRIOR PROVISIONS

A prior chapter 5 related to Joint Chiefs of Staff, prior to the general revision of this chapter by Pub. L. 99–433, title II, § 201, Oct. 1, 1986, 100 Stat. 1004, consisted of sections 141 to 143 as follows:

Section 141, acts Aug. 10, 1956, ch. 1041, 70A Stat. 6; Aug. 6, 1958, Pub. L. 85–599, § 7, 72 Stat. 519; Sept. 7, 1962, Pub. L. 87–651, title II, § 204, 76 Stat. 519; Oct. 20, 1978, Pub. L. 95–485, title VIII, § 807, 92 Stat. 1622, provided for composition and functions of Joint Chiefs. See section 151 of this title.

Section 142, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Sept. 7, 1962, Pub. L. 87–649, § 14c(1), 76 Stat. 501; Oct. 19, 1984, Pub. L. 98–525, title XIII, § 1301(b), 98 Stat. 2611, provided for appointment and duties of Chairman of Joint Chiefs. See sections 152 and 153 of this title.

Section 143, acts Aug. 10, 1956, ch. 1041, 70A Stat. 7; Aug. 6, 1958, Pub. L. 85–599, § 5(a), 72 Stat. 517; Oct. 19, 1984, Pub. L. 98–525, title XIII, § 1301(c), 98 Stat. 2611, provided for a Joint Staff. See section 155 of this title.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title X, § 1061(a)(2), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 156.

Pub. L. 110–181, div. A, title V, § 543(e)(2), Jan. 28, 2008, 122 Stat. 115, added item 156.

1987—Pub. L. 100–180, div. A, title XIII, § 1314(b)(1)(B), Dec. 4, 1987, 101 Stat. 1175, substituted ''grade and rank'' for ''rank'' in item 152.

1986—Pub. L. 99–433, title II, § 201, Oct. 1, 1986, 100 Stat. 1005, amended chapter 5 heading and analysis generally, substituting items 151–155 for items 141–143.

§ 151. Joint Chiefs of Staff: composition; functions

(a) COMPOSITION.—There are in the Department of Defense the Joint Chiefs of Staff, headed by the Chairman of the Joint Chiefs of Staff. The Joint Chiefs of Staff consist of the following:

(1) The Chairman.
(2) The Vice Chairman.
(3) The Chief of Staff of the Army.
(4) The Chief of Naval Operations.
(5) The Chief of Staff of the Air Force.
(6) The Commandant of the Marine Corps.

(b) FUNCTION AS MILITARY ADVISERS.—(1) The Chairman of the Joint Chiefs of Staff is the principal military adviser to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense.

(2) The other members of the Joint Chiefs of Staff are military advisers to the President, the National Security Council, the Homeland Security Council, and the Secretary of Defense as specified in subsections (d) and (e).

(c) CONSULTATION BY CHAIRMAN.—(1) In carrying out his functions, duties, and responsibilities, the Chairman shall, as he considers appropriate, consult with and seek the advice of—

(A) the other members of the Joint Chiefs of Staff; and

(B) the commanders of the unified and specified combatant commands.

(2) Subject to subsection (d), in presenting advice with respect to any matter to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, the Chairman shall, as he considers appropriate, inform the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be, of the range of military advice and opinion with respect to that matter.

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chiefs of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, the Homeland Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, the Homeland Security Council, or the Secretary requests such advice.

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the

Department of Defense as he considers appropriate.

(g) MEETINGS OF JCS.—(1) The Chairman shall convene regular meetings of the Joint Chiefs of Staff.

(2) Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman shall—

(A) preside over the Joint Chiefs of Staff;

(B) provide agenda for the meetings of the Joint Chiefs of Staff (including, as the Chairman considers appropriate, any subject for the agenda recommended by any other member of the Joint Chiefs of Staff);

(C) assist the Joint Chiefs of Staff in carrying on their business as promptly as practicable; and

(D) determine when issues under consideration by the Joint Chiefs of Staff shall be decided.

(Added Pub. L. 99–433, title II, § 201, Oct. 1, 1986, 100 Stat. 1005; amended Pub. L. 102–484, div. A, title IX, § 911(a), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 109–163, div. A, title IX, § 908(a), Jan. 6, 2006, 119 Stat. 3403.)

AMENDMENTS

2006—Subsecs. (b), (c)(2), (d), (e). Pub. L. 109–163 inserted ''the Homeland Security Council,'' after ''the National Security Council,'' wherever appearing.

1992—Subsec. (a)(2) to (6). Pub. L. 102–484 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

§ 152. Chairman: appointment; grade and rank

(a) APPOINTMENT; TERM OF OFFICE.—(1) There is a Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3), an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

(2) In the event of the death, retirement, resignation, or reassignment of the officer serving as Chairman before the end of the term for which the officer was appointed, an officer appointed to fill the vacancy shall serve as Chairman only for the remainder of the original term, but may be reappointed as provided in paragraph (1).

(3) An officer may not serve as Chairman or Vice Chairman of the Joint Chiefs of Staff if the combined period of service of such officer in such positions exceeds six years. However, the President may extend to eight years the combined period of service an officer may serve in such positions if he determines such action is in the national interest. The limitations of this paragraph do not apply in time of war.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as—

(A) the Vice Chairman of the Joint Chiefs of Staff;

(B) the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or

(C) the commander of a unified or specified combatant command.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) GRADE AND RANK.—The Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces. However, he may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99–433, title II, § 201, Oct. 1, 1986, 100 Stat. 1006; amended Pub. L. 100–180, div. A, title XIII, § 1314(b)(1)(A), Dec. 4, 1987, 101 Stat. 1175.)

AMENDMENTS

1987—Pub. L. 100–180 substituted ''grade and rank'' for ''rank'' in section catchline.

§ 153. Chairman: functions

(a) PLANNING; ADVICE; POLICY FORMULATION.—Subject to the authority, direction, and control of the President and the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall be responsible for the following:

(1) STRATEGIC DIRECTION.—Assisting the President and the Secretary of Defense in providing for the strategic direction of the armed forces.

(2) STRATEGIC PLANNING.—(A) Preparing strategic plans, including plans which conform with resource levels projected by the Secretary of Defense to be available for the period of time for which the plans are to be effective.

(B) Preparing joint logistic and mobility plans to support those strategic plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

(C) Performing net assessments to determine the capabilities of the armed forces of the United States and its allies as compared with those of their potential adversaries.

(3) CONTINGENCY PLANNING; PREPAREDNESS.—(A) Providing for the preparation and review of contingency plans which conform to policy guidance from the President and the Secretary of Defense.

(B) Preparing joint logistic and mobility plans to support those contingency plans and recommending the assignment of logistic and mobility responsibilities to the armed forces in accordance with those logistic and mobility plans.

(C) Advising the Secretary on critical deficiencies and strengths in force capabilities (including manpower, logistic, and mobility support) identified during the preparation and review of contingency plans and assessing the effect of such deficiencies and strengths on meeting national security objectives and policy and on strategic plans.

(D) Establishing and maintaining, after consultation with the commanders of the unified and specified combatant commands, a uniform

system of evaluating the preparedness of each such command to carry out missions assigned to the command.

(4) ADVICE ON REQUIREMENTS, PROGRAMS, AND BUDGET.—(A) Advising the Secretary, under section 163(b)(2) of this title, on the priorities of the requirements identified by the commanders of the unified and specified combatant commands.

(B) Advising the Secretary on the extent to which the program recommendations and budget proposals of the military departments and other components of the Department of Defense for a fiscal year conform with the priorities established in strategic plans and with the priorities established for the requirements of the unified and specified combatant commands.

(C) Submitting to the Secretary alternative program recommendations and budget proposals, within projected resource levels and guidance provided by the Secretary, in order to achieve greater conformance with the priorities referred to in clause (B).

(D) Recommending to the Secretary, in accordance with section 166 of this title, a budget proposal for activities of each unified and specified combatant command.

(E) Advising the Secretary on the extent to which the major programs and policies of the armed forces in the area of manpower conform with strategic plans.

(F) Assessing military requirements for defense acquisition programs.

(5) DOCTRINE, TRAINING, AND EDUCATION.—(A) Developing doctrine for the joint employment of the armed forces.

(B) Formulating policies for the joint training of the armed forces.

(C) Formulating policies for coordinating the military education and training of members of the armed forces.

(6) OTHER MATTERS.—(A) Providing for representation of the United States on the Military Staff Committee of the United Nations in accordance with the Charter of the United Nations.

(B) Performing such other duties as may be prescribed by law or by the President or the Secretary of Defense.

(b) RISKS UNDER NATIONAL MILITARY STRATEGY.—(1) Not later than January 1 of each odd-numbered year, the Chairman shall submit to the Secretary of Defense a report providing the Chairman's assessment of the nature and magnitude of the strategic and military risks associated with executing the missions called for under the current National Military Strategy.

(2) The Secretary shall forward the report received under paragraph (1) in any year, with the Secretary's comments thereon (if any), to Congress with the Secretary's next transmission to Congress of the annual Department of Defense budget justification materials in support of the Department of Defense component of the budget of the President submitted under section 1105 of title 31 for the next fiscal year. If the Chairman's assessment in such report in any year is that risk associated with executing the missions called for under the National Military Strategy is significant, the Secretary shall include with the report as submitted to Congress the Secretary's plan for mitigating that risk.

(c) ANNUAL REPORT ON COMBATANT COMMAND REQUIREMENTS.—(1) At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31, the Chairman shall submit to the congressional defense committees a report on the requirements of the combatant commands established under section 161 of this title.

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

(A) A consolidation of the integrated priority lists of requirements of the combatant commands.

(B) The Chairman's views on the consolidated lists.

(C) A description of the extent to which the most recent future-years defense program (under section 221 of this title) addresses the requirements on the consolidated lists.

(D) A description of the funding proposed in the President's budget for the next fiscal year, and for the subsequent fiscal years covered by the most recent future-years defense program, to address each deficiency in readiness identified during the joint readiness review conducted under section 117 of this title for the first quarter of the current fiscal year.

(d) BIENNIAL REVIEW OF NATIONAL MILITARY STRATEGY.—(1) Not later then February 15 of each even-numbered year, the Chairman shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report containing the results of a comprehensive examination of the national military strategy. Each such examination shall be conducted by the Chairman in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands.

(2) Each report on the examination of the national military strategy under paragraph (1) shall include the following:

(A) Delineation of a national military strategy consistent with—

(i) the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

(ii) the most recent annual report of the Secretary of Defense submitted to the President and Congress pursuant to section 113 of this title; and

(iii) the most recent Quadrennial Defense Review conducted by the Secretary of Defense pursuant to section 118 of this title.

(B) A description of the strategic environment and the opportunities and challenges that affect United States national interests and United States national security.

(C) A description of the regional threats to United States national interests and United States national security.

(D) A description of the international threats posed by terrorism, weapons of mass destruction, and asymmetric challenges to United States national security.

(E) Identification of United States national military objectives and the relationship of

those objectives to the strategic environment, regional, and international threats.

(F) Identification of the strategy, underlying concepts, and component elements that contribute to the achievement of United States national military objectives.

(G) Assessment of the capabilities and adequacy of United States forces (including both active and reserve components) to successfully execute the national military strategy.

(H) Assessment of the capabilities, adequacy, and interoperability of regional allies of the United States and or other friendly nations to support United States forces in combat operations and other operations for extended periods of time.

(3)(A) As part of the assessment under this subsection, the Chairman, in conjunction with the other members of the Joint Chiefs of Staff and the commanders of the unified and specified commands, shall undertake an assessment of the nature and magnitude of the strategic and military risks associated with successfully executing the missions called for under the current National Military Strategy.

(B) In preparing the assessment of risk, the Chairman should make assumptions pertaining to the readiness of United States forces (in both the active and reserve components), the length of conflict and the level of intensity of combat operations, and the levels of support from allies and other friendly nations.

(4) Before submitting a report under this subsection to the Committees on Armed Services of the Senate and House of Representatives, the Chairman shall provide the report to the Secretary of Defense. The Secretary's assessment and comments thereon (if any) shall be included with the report. If the Chairman's assessment in such report in any year is that the risk associated with executing the missions called for under the National Military Strategy is significant, the Secretary shall include with the report as submitted to those committees the Secretary's plan for mitigating the risk.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1007; amended Pub. L. 106–65, div. A, title X, §1033, Oct. 5, 1999, 113 Stat. 751; Pub. L. 106–398, §1 [[div. A], title IX, §905], Oct. 30, 2000, 114 Stat. 1654, 1654A–226; Pub. L. 107–107, div. A, title IX, §921(b), Dec. 28, 2001, 115 Stat. 1198; Pub. L. 107–314, div. A, title X, §1062(a)(1), Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108–136, div. A, title IX, §903, title X, §1043(b)(2), Nov. 24, 2003, 117 Stat. 1558, 1610.)

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–136, §903(b), substituted ''of each odd-numbered year'' for ''each year''.

Subsec. (c). Pub. L. 108–136, §1043(b)(2), in par. (1), substituted ''congressional defense committees'' for ''committees of Congress named in paragraph (2)'', designated the second sentence of par. (1) as par. (2), in par. (2), substituted ''Each report under paragraph (1)'' for ''The report'', and struck out former par. (2) which read as follows: ''The committees of Congress referred to in paragraph (1) are the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.''

Subsec. (d). Pub. L. 108–136, §903(a), added subsec. (d).

2002—Pub. L. 107–314 inserted subsec. (a) heading and redesignated subsecs. (c) and (d) as (b) and (c), respectively.

2001—Subsec. (a). Pub. L. 107–107, §921(b)(1), struck out ''(a) PLANNING; ADVICE; POLICY FORMULATION.—'' before ''Subject to the authority''.

Subsec. (b). Pub. L. 107–107, §921(b)(2), struck out heading and text of subsec. (b) which read as follows:

''(b) REPORT ON ASSIGNMENT OF ROLES AND MISSIONS.—(1) Not less than once every three years, or upon the request of the President or the Secretary of Defense, the Chairman shall submit to the Secretary of Defense a report containing such recommendations for changes in the assignment of functions (or roles and missions) to the armed forces as the Chairman considers necessary to achieve maximum effectiveness of the armed forces. In preparing each such report, the Chairman shall consider (among other matters) the following:

''(A) Changes in the nature of the threats faced by the United States.

''(B) Unnecessary duplication of effort among the armed forces.

''(C) Changes in technology that can be applied effectively to warfare.

''(2) The Chairman shall include in each such report recommendations for such changes in policies, directives, regulations, and legislation as may be necessary to achieve the changes in the assignment of functions recommended by the Chairman.''

2000—Subsec. (d)(1). Pub. L. 106–398, §1 [[div. A], title IX, §905(b)], substituted ''At or about the time that the budget is submitted to Congress for a fiscal year under section 1105(a) of title 31,'' for ''Not later than August 15 of each year,'' in introductory provisions.

Subsec. (d)(1)(C), (D). Pub. L. 106–398, §1 [[div. A], title IX, §905(a)], added subpars. (C) and (D).

1999—Subsecs. (c), (d). Pub. L. 106–65 added subsecs. (c) and (d).

COMMON MEASUREMENT OF OPERATIONS TEMPO AND PERSONNEL TEMPO

Pub. L. 105–85, div. A, title III, §326, Nov. 18, 1997, 111 Stat. 1679, provided that:

''(a) MEANS FOR MEASUREMENT.—The Chairman of the Joint Chiefs of Staff shall, to the maximum extent practicable, develop (1) a common means of measuring the operations tempo (OPTEMPO) of each of the Armed Forces, and (2) a common means of measuring the personnel tempo (PERSTEMPO) of each of the Armed Forces. The Chairman shall consult with the other members of the Joint Chiefs of Staff in developing those common means of measurement.

''(b) PERSTEMPO MEASUREMENT.—The measurement of personnel tempo developed by the Chairman shall include a means of identifying the rate of deployment for individual members of the Armed Forces in addition to the rate of deployment for units.''

ANNUAL ASSESSMENT OF FORCE READINESS

Pub. L. 103–160, div. A, title III, §376, Nov. 30, 1993, 107 Stat. 1637, provided for an annual assessment of readiness and capability of the Armed Forces by the Chairman of the Joint Chiefs of Staff to be submitted to Congress not later than March 1 of each of 1994, 1995, and 1996 and for interim assessments between annual submissions in the event of a significant change in readiness or capability of the Armed Forces.

REPORT OF CHAIRMAN OF JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF ARMED FORCES

Pub. L. 102–484, div. A, title IX, §901, Oct. 23, 1992, 106 Stat. 2469, provided for the Secretary of Defense to transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that was submitted by the Chairman of the Joint Chiefs of Staff under subsec. (b) of this section after Jan. 1, 1992, and directed the Chairman to include in the report comments and recommendations.

TRANSITION PROVISIONS

Pub. L. 99–433, title II, §204(a), (b), Oct. 1, 1986, 100 Stat. 1011, provided dates for establishment of the uni-

form system of evaluating the preparedness of each unified and specified combatant command and for submission of the first report.

§ 154. Vice Chairman

(a) APPOINTMENT.—(1) There is a Vice Chairman of the Joint Chiefs of Staff, appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces.

(2) The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman.

(3) The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

(b) REQUIREMENT FOR APPOINTMENT.—(1) The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.

(c) DUTIES.—The Vice Chairman performs the duties prescribed for him as a member of the Joint Chiefs of Staff and such other duties as may be prescribed by the Chairman with the approval of the Secretary of Defense.

(d) FUNCTION AS ACTING CHAIRMAN.—When there is a vacancy in the office of Chairman or in the absence or disability of the Chairman, the Vice Chairman acts as Chairman and performs the duties of the Chairman until a successor is appointed or the absence or disability ceases.

(e) SUCCESSION AFTER CHAIRMAN AND VICE CHAIRMAN.—When there is a vacancy in the offices of both Chairman and Vice Chairman or in the absence or disability of both the Chairman and the Vice Chairman, or when there is a vacancy in one such office and in the absence or disability of the officer holding the other, the President shall designate a member of the Joint Chiefs of Staff to act as and perform the duties of the Chairman until a successor to the Chairman or Vice Chairman is appointed or the absence or disability of the Chairman or Vice Chairman ceases.

(f) GRADE AND RANK.—The Vice Chairman, while so serving, holds the grade of general or, in the case of an officer of the Navy, admiral and outranks all other officers of the armed forces except the Chairman. The Vice Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.

(Added Pub. L. 99–433, title II, § 201, Oct. 1, 1986, 100 Stat. 1008; amended Pub. L. 100–456, div. A, title V, § 519(a)(1), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 102–484, div. A, title IX, § 911(b)(1), Oct. 23, 1992, 106 Stat. 2473.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–484, § 911(b)(1)(A), substituted ''the duties prescribed for him as a member of the Joint Chiefs of Staff and such other'' for ''such''.

Subsecs. (f), (g). Pub. L. 102–484, § 911(b)(1)(B), (C), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''PARTICIPATION IN JCS MEETINGS.—The Vice Chairman may participate in all meetings of the Joint Chiefs of Staff, but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman.''

1988—Subsec. (b)(1)(B). Pub. L. 100–456 substituted ''completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)'' for ''served in at least one joint duty assignment (as defined under section 668(b) of this title)''.

EXTENSION OF TERM OF OFFICE OF VICE CHAIRMAN OF JOINT CHIEFS OF STAFF

Pub. L. 100–526, title I, § 107, Oct. 24, 1988, 102 Stat. 2625, authorized President to extend until June 1, 1989, term of office of officer serving as Vice Chairman of Joint Chiefs of Staff for term which began on Feb. 6, 1987.

WAIVER OF QUALIFICATIONS FOR APPOINTMENT AS VICE CHAIRMAN OF JOINT CHIEFS OF STAFF

Section 204(c) of Pub. L. 99–433 authorized President, until Oct. 1, 1990, to waive certain requirements otherwise applicable for appointment of an officer as Vice Chairman of Joint Chiefs of Staff.

§ 155. Joint Staff

(a) APPOINTMENT OF OFFICERS TO JOINT STAFF.—(1) There is a Joint Staff under the Chairman of the Joint Chiefs of Staff. The Joint Staff assists the Chairman and, subject to the authority, direction, and control of the Chairman, the other members of the Joint Chiefs of Staff in carrying out their responsibilities.

(2) Officers of the armed forces (other than the Coast Guard) assigned to serve on the Joint Staff shall be selected by the Chairman in approximately equal numbers from—

(A) the Army;

(B) the Navy and the Marine Corps; and

(C) the Air Force.

(3) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by the Secretary of the military department having jurisdiction over that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

(b) DIRECTOR.—The Chairman of the Joint Chiefs of Staff, after consultation with the other members of the Joint Chiefs of Staff and with the approval of the Secretary of Defense, may select an officer to serve as Director of the Joint Staff.

(c) MANAGEMENT OF JOINT STAFF.—The Chairman of the Joint Chiefs of Staff manages the Joint Staff and the Director of the Joint Staff. The Joint Staff shall perform such duties as the Chairman prescribes and shall perform such duties under such procedures as the Chairman prescribes.

(d) OPERATION OF JOINT STAFF.—The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that

the Joint Staff supports the Chairman of the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide—

(1) for the unified strategic direction of the combatant forces;

(2) for their operation under unified command; and

(3) for their integration into an efficient team of land, naval, and air forces.

(e) PROHIBITION OF FUNCTION AS ARMED FORCES GENERAL STAFF.—The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority. The Joint Staff may be organized and may operate along conventional staff lines.

(f) TOUR OF DUTY OF JOINT STAFF OFFICERS.—(1) An officer who is assigned or detailed to permanent duty on the Joint Staff may not serve for a tour of duty of more than four years. However, such a tour of duty may be extended with the approval of the Secretary of Defense.

(2) In accordance with procedures established by the Secretary of Defense, the Chairman of the Joint Chiefs of Staff may suspend from duty and recommend the reassignment of any officer assigned to the Joint Staff. Upon receipt of such a recommendation, the Secretary concerned shall promptly reassign the officer.

(3) An officer completing a tour of duty with the Joint Staff may not be assigned or detailed to permanent duty on the Joint Staff within two years after relief from that duty except with the approval of the Secretary.

(4) Paragraphs (1) and (3) do not apply—

(A) in time of war; or

(B) during a national emergency declared by the President or Congress.

(g) COMPOSITION OF JOINT STAFF.—(1) The Joint Staff is composed of all members of the armed forces and civilian employees assigned or detailed to permanent duty in the executive part of the Department of Defense to perform the functions and duties prescribed under subsections (a) and (c).

(2) The Joint Staff does not include members of the armed forces or civilian employees assigned or detailed to permanent duty in a military department.

(Added Pub. L. 99–433, title II, §201, Oct. 1, 1986, 100 Stat. 1009; amended Pub. L. 100–180, div. A, title XIII, §1314(b)(2), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–510, div. A, title IX, §902, Nov. 5, 1990, 104 Stat. 1620; Pub. L. 102–484, div. A, title IX, §911(b)(2), Oct. 23, 1992, 106 Stat. 2473; Pub. L. 103–35, title II, §202(a)(8), May 31, 1993, 107 Stat. 101.)

AMENDMENTS

1993—Subsec. (a)(1). Pub. L. 103–35 made technical amendment to directory language of Pub. L. 102–484. See 1992 Amendment note below.

1992—Subsec. (a)(1). Pub. L. 102–484, as amended by Pub. L. 103–35, struck out ''and the Vice Chairman'' before ''in carrying out''.

1990—Subsecs. (g), (h). Pub. L. 101–510 redesignated subsec. (h) as (g) and struck out former subsec. (g) which read as follows: ''LIMITATION ON SIZE OF JOINT STAFF.—(1) Effective on October 1, 1988, the total number of members of the armed forces and civilian personnel assigned or detailed to permanent duty on the Joint Staff may not exceed 1,627.

''(2) Paragraph (1) does not apply—

''(A) in time of war; or

''(B) during a national emergency declared by the President or Congress.''

1987—Subsec. (f)(4)(B). Pub. L. 100–180, §1314(b)(2)(A), inserted ''or Congress'' after ''by the President''.

Subsec. (g)(2)(B). Pub. L. 100–180, §1314(b)(2)(B), inserted ''the President or'' after ''declared by''.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 202(b) of Pub. L. 103–35 provided that: ''The amendments made by this section [amending this section, sections 1079, 1086a, 1174a, 1463, 2323, 2347, 2391, and 2410d of this title, and sections 5013 and 5113 of former Title 36, Patriotic Societies and Observances, and amending provisions set out as notes under sections 664, 2350a, 2431, 2501, 2505, 10105, and 12681 of this title and section 5611 of Title 15, Commerce and Trade] shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484).''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

INCREASED FLEXIBILITY IN USE OF FUNDS FOR JOINT STAFF EXERCISES

Pub. L. 109–364, div. A, title X, §1052, Oct. 17, 2006, 120 Stat. 2396, provided that:

''(a) IN GENERAL.—Amounts available to the Chairman of the Joint Chiefs of Staff for joint staff exercises may be available for any expenses as follows:

''(1) Expenses of the Armed Forces in connection with such exercises, including expense relating to self-deploying watercraft under the jurisdiction of a military department.

''(2) Expenses relating to the costs of port support activities in connection with such exercises, including transportation and port handling.

''(3) Expenses relating to the breakout and operation of prepositioned watercraft and lighterage for joint logistics and over the shore exercises in connection with such exercises.

''(b) SUPPLEMENT NOT SUPPLANT.—Any amounts made available by the Chairman of the Joint Chiefs of Staff under subsection (a) for expenses covered by that subsection are in addition to any other amounts available under law for such expenses.''

ASSISTANTS TO CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD MATTERS AND FOR RESERVE MATTERS

Pub. L. 105–85, div. A, title IX, §901, Nov. 18, 1997, 111 Stat. 1853, as amended by Pub. L. 109–163, div. A, title V, §515(h), Jan. 6, 2006, 119 Stat. 3237, provided that:

''(a) ESTABLISHMENT OF POSITIONS.—The Secretary of Defense shall establish the following positions within the Joint Staff:

''(1) Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters.

''(2) Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters.

''(b) SELECTION.—(1) The Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters shall be selected by the Chairman from officers of the Army National Guard of the United States or the Air Guard of the United States who—

''(A) are recommended for such selection by their respective Governors or, in the case of the District of

Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized commissioned service in the National Guard; and

''(C) are in a grade above the grade of colonel.

''(2) The Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters shall be selected by the Chairman from officers of the Army Reserve, the Navy Reserve, the Marine Corps Reserve, or the Air Force Reserve who—

''(A) are recommended for such selection by the Secretary of the military department concerned;

''(B) have had at least 10 years of commissioned service in their reserve component; and

''(C) are in a grade above the grade of colonel or, in the case of the Navy Reserve, captain.

''(c) TERM OF OFFICE.—Each Assistant to the Chairman under subsection (a) serves at the pleasure of the Chairman for a term of two years and may be continued in that assignment in the same manner for one additional term. However, in time of war there is no limit on the number of terms.

''(d) GRADE.—Each Assistant to the Chairman, while so serving, holds the grade of major general or, in the case of the Navy Reserve, rear admiral. Each such officer shall be considered to be serving in a position external to that officer's Armed Force for purposes of [former] section 721 of title 10, United States Code, as added by section 501(a).

''(e) DUTIES.—The Assistant to the Chairman for National Guard Matters is an adviser to the Chairman on matters relating to the National Guard and performs the duties prescribed for that position by the Chairman. The Assistant to the Chairman for Reserve Matters is an adviser to the Chairman on matters relating to the reserves and performs the duties prescribed for that position by the Chairman.

''(f) OTHER RESERVE COMPONENT REPRESENTATION ON JOINT STAFF.—(1) The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs, shall develop appropriate policy guidance to ensure that, to the maximum extent practicable, the level of reserve component officer representation within the Joint Staff is commensurate with the significant role of the reserve components within the Total Force.

''(2) Not later than March 1, 1998, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report describing the steps taken and being taken to implement this subsection.

''(g) EFFECTIVE DATE.—The positions specified in subsection (a) shall be established by the Secretary of Defense not later than 60 days after the date of the enactment of this Act [Nov. 18, 1997].''

§ 156. Legal Counsel to the Chairman of the Joint Chiefs of Staff

(a) IN GENERAL.—There is a Legal Counsel to the Chairman of the Joint Chiefs of Staff.

(b) SELECTION FOR APPOINTMENT.—Under regulations prescribed by the Secretary of Defense, the officer selected for appointment to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be recommended by a board of officers convened by the Secretary of Defense that, insofar as practicable, is subject to the procedures applicable to selection boards convened under chapter 36 of this title.

(c) GRADE.—An officer appointed to serve as Legal Counsel to the Chairman of the Joint Chiefs of Staff shall be appointed in the regular grade of brigadier general or rear admiral (lower half).

(d) DUTIES.—(1) The Legal Counsel of the Chairman of the Joint Chiefs of Staff shall perform such legal duties in support of the responsibilities of the Chairman of the Joint Chiefs of Staff as the Chairman may prescribe.

(2) No officer or employee of the Department of Defense may interfere with the ability of the Legal Counsel to give independent legal advice to the Chairman of the Joint Chiefs of Staff and to the Joint Chiefs of Staff.

(Added Pub. L. 110–181, div. A, title V, § 543(e)(1), Jan. 28, 2008, 122 Stat. 115; amended Pub. L. 110–417, [div. A], title V, § 591, Oct. 14, 2008, 122 Stat. 4474; Pub. L. 111–84, div. A, title V, § 501(a), Oct. 28, 2009, 123 Stat. 2272.)

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–84 substituted ''be appointed in the regular'' for '', while so serving, hold the''.

2008—Subsec. (d). Pub. L. 110–417 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title V, § 501(b), Oct. 28, 2009, 123 Stat. 2272, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 2009], and shall apply with respect to individuals appointed as Legal Counsel to the Chairman of the Joint Chiefs of Staff on or after that date.''

CHAPTER 6—COMBATANT COMMANDS

Sec.
161. Combatant commands: establishment.
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PRIOR PROVISIONS

Prior to enactment of this chapter by Pub. L. 99–433, provisions relating to combat commands were contained in section 124 of this title.

AMENDMENTS

2003—Pub. L. 108–136, div. A, title VIII, § 848(a)(2), Nov. 24, 2003, 117 Stat. 1555, added item 167a.

2001—Pub. L. 107–107, div. A, title XV, § 1512(b), Dec. 28, 2001, 115 Stat. 1273, added item 166b.

1994—Pub. L. 103–337, div. A, title XIII, § 1316(a)(2), Oct. 5, 1994, 108 Stat. 2899, added item 168.

1991—Pub. L. 102–190, div. A, title IX, § 902(b), Dec. 5, 1991, 105 Stat. 1451, added item 166a.

1986—Pub. L. 99–500, § 101(c) [title IX, § 9115(b)(2)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–124, and Pub. L. 99–591, § 101(c) [title IX, § 9115(b)(2)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–124; Pub. L. 99–661, div. A, title XIII, § 1311(b)(2), Nov. 14, 1986, 100 Stat. 3985, amended analysis identically adding item 167.

Pub. L. 99–433, title II, § 211(a), Oct. 1, 1986, 100 Stat. 1012, added chapter 6 heading and analysis.

§ 161. Combatant commands: establishment

(a) UNIFIED AND SPECIFIED COMBATANT COMMANDS.—With the advice and assistance of the

Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall—

(1) establish unified combatant commands and specified combatant commands to perform military missions; and

(2) prescribe the force structure of those commands.

(b) PERIODIC REVIEW.—(1) The Chairman periodically (and not less often than every two years) shall—

(A) review the missions, responsibilities (including geographic boundaries), and force structure of each combatant command; and

(B) recommend to the President, through the Secretary of Defense, any changes to such missions, responsibilities, and force structures as may be necessary.

(2) Except during time of hostilities or imminent threat of hostilities, the President shall notify Congress not more than 60 days after—

(A) establishing a new combatant command; or

(B) significantly revising the missions, responsibilities, or force structure of an existing combatant command.

(c) DEFINITIONS.—In this chapter:

(1) The term ''unified combatant command'' means a military command which has broad, continuing missions and which is composed of forces from two or more military departments.

(2) The term ''specified combatant command'' means a military command which has broad, continuing missions and which is normally composed of forces from a single military department.

(3) The term ''combatant command'' means a unified combatant command or a specified combatant command.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012.)

MATTERS TO BE CONSIDERED IN NEXT ASSESSMENT OF CURRENT MISSIONS, RESPONSIBILITIES, AND FORCE STRUCTURE OF UNIFIED COMBATANT COMMANDS

Pub. L. 104–201, div. A, title IX, §905, Sept. 23, 1996, 110 Stat. 2619, required the Chairman of the Joint Chiefs of Staff to consider, as part of the next periodic review after Sept. 23, 1996, pursuant to subsec. (b) of this section: (1) whether there was an adequate distribution of responsibilities among the regional unified combatant commands; (2) whether fewer or differently configured commands would permit the United States to better execute warfighting plans; (3) whether any assets or activities were redundant; (4) whether warfighting requirements were adequate to justify current commands; (5) whether exclusion of certain nations from the Areas of Responsibility presented difficulties with respect to national security objectives in those areas; and (6) whether the boundary between the United States Central and European Commands could create command conflicts in the context of a major regional conflict in the Middle East.

INITIAL REVIEW OF COMBATANT COMMANDS

Section 212 of Pub. L. 99–433 set out 10 areas to be covered in first review of missions, responsibilities, and force structure of unified combatant commands under subsec. (b) of this section, and directed that first report to President be made not later than Oct. 1, 1987.

§162. Combatant commands: assigned forces; chain of command

(a) ASSIGNMENT OF FORCES.—(1) Except as provided in paragraph (2), the Secretaries of the military departments shall assign all forces under their jurisdiction to unified and specified combatant commands or to the United States element of the North American Aerospace Defense Command to perform missions assigned to those commands. Such assignments shall be made as directed by the Secretary of Defense, including direction as to the command to which forces are to be assigned. The Secretary of Defense shall ensure that such assignments are consistent with the force structure prescribed by the President for each combatant command.

(2) Except as otherwise directed by the Secretary of Defense, forces to be assigned by the Secretaries of the military departments to the combatant commands or to the United States element of the North American Aerospace Defense Command under paragraph (1) do not include forces assigned to carry out functions of the Secretary of a military department listed in sections 3013(b), 5013(b), and 8013(b) of this title or forces assigned to multinational peacekeeping organizations.

(3) A force assigned to a combatant command or to the United States element of the North American Aerospace Defense Command under this section may be transferred from the command to which it is assigned only—

(A) by authority of the Secretary of Defense; and

(B) under procedures prescribed by the Secretary and approved by the President.

(4) Except as otherwise directed by the Secretary of Defense, all forces operating within the geographic area assigned to a unified combatant command shall be assigned to, and under the command of, the commander of that command. The preceding sentence applies to forces assigned to a specified combatant command only as prescribed by the Secretary of Defense.

(b) CHAIN OF COMMAND.—Unless otherwise directed by the President, the chain of command to a unified or specified combatant command runs—

(1) from the President to the Secretary of Defense; and

(2) from the Secretary of Defense to the commander of the combatant command.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1012; amended Pub. L. 100–180, div. A, title XIII, §1313, Dec. 4, 1987, 101 Stat. 1175; Pub. L. 100–456, div. A, title VII, §711, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 104–201, div. A, title X, §1073(a), Sept. 23, 1996, 110 Stat. 2657.)

AMENDMENTS

1996—Subsec. (a)(1) to (3). Pub. L. 104–201 substituted ''North American Aerospace Defense Command'' for ''North American Air Defense Command''.

1988—Subsec. (a)(1) to (3). Pub. L. 100–456 inserted ''or to the United States element of the North American Air Defense Command''.

1987—Subsec. (a)(2). Pub. L. 100–180 inserted before period at end ''or forces assigned to multinational peacekeeping organizations''.

IMPLEMENTATION OF ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 214(a) of Pub. L. 99–433 provided that section 162(a) of this title shall be implemented not later than 90 days after Oct. 1, 1986.

§ 163. Role of Chairman of Joint Chiefs of Staff

(a) COMMUNICATIONS THROUGH CHAIRMAN OF JCS; ASSIGNMENT OF DUTIES.—Subject to the limitations in section 152(c) of this title, the President may—

(1) direct that communications between the President or the Secretary of Defense and the commanders of the unified and specified combatant commands be transmitted through the Chairman of the Joint Chiefs of Staff; and

(2) assign duties to the Chairman to assist the President and the Secretary of Defense in performing their command function.

(b) OVERSIGHT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Secretary of Defense may assign to the Chairman of the Joint Chiefs of Staff responsibility for overseeing the activities of the combatant commands. Such assignment by the Secretary to the Chairman does not confer any command authority on the Chairman and does not alter the responsibility of the commanders of the combatant commands prescribed in section 164(b)(2) of this title.

(2) Subject to the authority, direction, and control of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff serves as the spokesman for the commanders of the combatant commands, especially on the operational requirements of their commands. In performing such function, the Chairman shall—

(A) confer with and obtain information from the commanders of the combatant commands with respect to the requirements of their commands;

(B) evaluate and integrate such information;

(C) advise and make recommendations to the Secretary of Defense with respect to the requirements of the combatant commands, individually and collectively; and

(D) communicate, as appropriate, the requirements of the combatant commands to other elements of the Department of Defense.

(Added Pub. L. 99–433, title II, § 211(a), Oct. 1, 1986, 100 Stat. 1013.)

§ 164. Commanders of combatant commands: assignment; powers and duties

(a) ASSIGNMENT AS COMBATANT COMMANDER.—(1) The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer—

(A) has the joint specialty under section 661 of this title; and

(B) has completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general or flag officer.

(2) The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.

(b) RESPONSIBILITIES OF COMBATANT COMMANDERS.—(1) The commander of a combatant command is responsible to the President and to the Secretary of Defense for the performance of missions assigned to that command by the President or by the Secretary with the approval of the President.

(2) Subject to the direction of the President, the commander of a combatant command—

(A) performs his duties under the authority, direction, and control of the Secretary of Defense; and

(B) is directly responsible to the Secretary for the preparedness of the command to carry out missions assigned to the command.

(c) COMMAND AUTHORITY OF COMBATANT COMMANDERS.—(1) Unless otherwise directed by the President or the Secretary of Defense, the authority, direction, and control of the commander of a combatant command with respect to the commands and forces assigned to that command include the command functions of—

(A) giving authoritative direction to subordinate commands and forces necessary to carry out missions assigned to the command, including authoritative direction over all aspects of military operations, joint training, and logistics;

(B) prescribing the chain of command to the commands and forces within the command;

(C) organizing commands and forces within that command as he considers necessary to carry out missions assigned to the command;

(D) employing forces within that command as he considers necessary to carry out missions assigned to the command;

(E) assigning command functions to subordinate commanders;

(F) coordinating and approving those aspects of administration and support (including control of resources and equipment, internal organization, and training) and discipline necessary to carry out missions assigned to the command; and

(G) exercising the authority with respect to selecting subordinate commanders, selecting combatant command staff, suspending subordinates, and convening courts-martial, as provided in subsections (e), (f), and (g) of this section and section 822(a) of this title, respectively.

(2)(A) The Secretary of Defense shall ensure that a commander of a combatant command has sufficient authority, direction, and control over the commands and forces assigned to the command to exercise effective command over those commands and forces. In carrying out this subparagraph, the Secretary shall consult with the Chairman of the Joint Chiefs of Staff.

(B) The Secretary shall periodically review and, after consultation with the Secretaries of the military departments, the Chairman of the Joint Chiefs of Staff, and the commander of the combatant command, assign authority to the commander of the combatant command for those aspects of administration and support that the Secretary considers necessary to carry out missions assigned to the command.

(3) If a commander of a combatant command at any time considers his authority, direction, or control with respect to any of the commands or forces assigned to the command to be insufficient to command effectively, the commander shall promptly inform the Secretary of Defense.

(d) AUTHORITY OVER SUBORDINATE COMMANDERS.—Unless otherwise directed by the President or the Secretary of Defense—

(1) commanders of commands and forces assigned to a combatant command are under the

authority, direction, and control of, and are responsible to, the commander of the combatant command on all matters for which the commander of the combatant command has been assigned authority under subsection (c);

(2) the commander of a command or force referred to in clause (1) shall communicate with other elements of the Department of Defense on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command;

(3) other elements of the Department of Defense shall communicate with the commander of a command or force referred to in clause (1) on any matter for which the commander of the combatant command has been assigned authority under subsection (c) in accordance with procedures, if any, established by the commander of the combatant command; and

(4) if directed by the commander of the combatant command, the commander of a command or force referred to in clause (1) shall advise the commander of the combatant command of all communications to and from other elements of the Department of Defense on any matter for which the commander of the combatant command has not been assigned authority under subsection (c).

(e) SELECTION OF SUBORDINATE COMMANDERS.—(1) An officer may be assigned to a position as the commander of a command directly subordinate to the commander of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of the combatant command; and

(B) in accordance with procedures established by the Secretary of Defense.

(2) The Secretary of Defense may waive the requirement under paragraph (1) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer if the Secretary of Defense determines that such action is in the national interest.

(3) The commander of a combatant command shall—

(A) evaluate the duty performance of each commander of a command directly subordinate to the commander of such combatant command; and

(B) submit the evaluation to the Secretary of the military department concerned and the Chairman of the Joint Chiefs of Staff.

(4) At least one deputy commander of the combatant command the geographic area of responsibility of which includes the United States shall be a qualified officer of the National Guard who is eligible for promotion to the grade of O–9, unless a National Guard officer is serving as commander of that combatant command.

(f) COMBATANT COMMAND STAFF.—(1) Each unified and specified combatant command shall have a staff to assist the commander of the command in carrying out his responsibilities. Positions of responsibility on the combatant command staff shall be filled by officers from each of the armed forces having significant forces assigned to the command.

(2) An officer may be assigned to a position on the staff of a combatant command or, in the case of such a position that is designated under section 601 of this title as a position of importance and responsibility, may be recommended to the President for assignment to that position, only—

(A) with the concurrence of the commander of such command; and

(B) in accordance with procedures established by the Secretary of Defense.

(3) The Secretary of Defense may waive the requirement under paragraph (2) for the concurrence of the commander of a combatant command with regard to the assignment (or recommendation for assignment) of a particular officer to serve on the staff of the combatant command if the Secretary of Defense determines that such action is in the national interest.

(g) AUTHORITY TO SUSPEND SUBORDINATES.—In accordance with procedures established by the Secretary of Defense, the commander of a combatant command may suspend from duty and recommend the reassignment of any officer assigned to such combatant command.

(Added Pub. L. 99–433, title II, §211(a), Oct. 1, 1986, 100 Stat. 1013; amended Pub. L. 100–456, div. A, title V, §519(a)(2), Sept. 29, 1988, 102 Stat. 1972; Pub. L. 110–181, div. A, title XVIII, §1824(b), Jan. 28, 2008, 122 Stat. 501.)

AMENDMENTS

2008—Subsec. (e)(4). Pub. L. 110–181 added par. (4).

1988—Subsec. (a)(1)(B). Pub. L. 100–456 substituted ''completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)'' for ''served in at least one joint duty assignment (as defined under section 668(b) of this title)''.

EFFECTIVE DATE

Section 214(c) of Pub. L. 99–433 provided that: ''Subsections (e), (f), and (g) of section 164 of title 10, United States Code (as added by section 211 of this Act), shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Oct. 1, 1986], or on such earlier date as may be prescribed by the Secretary of Defense.''

SENSE OF CONGRESS

Pub. L. 110–181, div. A, title XVIII, §1824(a), Jan. 28, 2008, 122 Stat. 501, provided that: ''It is the sense of Congress that, whenever officers of the Armed Forces are considered for promotion to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active duty list, officers in the reserve components of the Armed Forces who are eligible for promotion to such grade should be considered for promotion to such grade.''

WAIVER OF QUALIFICATIONS FOR ASSIGNMENT AS COMBATANT COMMANDER

Section 214(b) of Pub. L. 99–433 authorized President, until Oct. 1, 1990, to waive, on a case-by-case basis, certain requirements provided for in subsec. (a) of this section relating to assignment of commanders of combatant commands.

§165. Combatant commands: administration and support

(a) IN GENERAL.—The Secretary of Defense, with the advice and assistance of the Chairman

of the Joint Chiefs of Staff, shall provide for the administration and support of forces assigned to each combatant command.

(b) RESPONSIBILITY OF SECRETARIES OF MILITARY DEPARTMENTS.—Subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title, the Secretary of a military department is responsible for the administration and support of forces assigned by him to a combatant command.

(c) ASSIGNMENT OF RESPONSIBILITY TO OTHER COMPONENTS OF DOD.—After consultation with the Secretaries of the military departments, the Secretary of Defense may assign the responsibility (or any part of the responsibility) for the administration and support of forces assigned to the combatant commands to other components of the Department of Defense (including Defense Agencies and combatant commands). A component assigned such a responsibility shall discharge that responsibility subject to the authority, direction, and control of the Secretary of Defense and subject to the authority of commanders of the combatant commands under section 164(c) of this title.

(Added Pub. L. 99–433, title II, § 211(a), Oct. 1, 1986, 100 Stat. 1016.)

§ 166. Combatant commands: budget proposals

(a) COMBATANT COMMAND BUDGETS.—The Secretary of Defense shall include in the annual budget of the Department of Defense submitted to Congress a separate budget proposal for such activities of each of the unified and specified combatant commands as may be determined under subsection (b).

(b) CONTENT OF PROPOSALS.—A budget proposal under subsection (a) for funding of activities of a combatant command shall include funding proposals for such activities of the combatant command as the Secretary (after consultation with the Chairman of the Joint Chiefs of Staff) determines to be appropriate for inclusion. Activities of a combatant command for which funding may be requested in such a proposal include the following:

(1) Joint exercises.
(2) Force training.
(3) Contingencies.
(4) Selected operations.

(c) SOF TRAINING WITH FOREIGN FORCES.—A funding proposal for force training under subsection (b)(2) may include amounts for training expense payments authorized in section 2011 of this title.

(Added Pub. L. 99–433, title II, § 211(a), Oct. 1, 1986, 100 Stat. 1016; amended Pub. L. 102–190, div. A, title X, § 1052(b), Dec. 5, 1991, 105 Stat. 1471.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–190 added subsec. (c).

EFFECTIVE DATE

Section 214(d) of Pub. L. 99–433 provided that: ''Section 166 of title 10, United States Code (as added by section 211 of this Act), shall take effect with budget proposals for fiscal year 1989.''

§ 166a. Combatant commands: funding through the Chairman of Joint Chiefs of Staff

(a) COMBATANT COMMANDER INITIATIVE FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the ''Combatant Commander Initiative Fund'', the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for any of the activities named in subsection (b).

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

(1) Force training.
(2) Contingencies.
(3) Selected operations.
(4) Command and control.
(5) Joint exercises (including activities of participating foreign countries).
(6) Humanitarian and civic assistance, in coordination with the relevant chief of mission to the extent practicable, to include urgent and unanticipated humanitarian relief and reconstruction assistance.
(7) Military education and training to military and related civilian personnel of foreign countries (including transportation, translation, and administrative expenses).
(8) Personnel expenses of defense personnel for bilateral or regional cooperation programs.
(9) Force protection.
(10) Joint warfighting capabilities.

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combatant Commander Initiative Fund, should give priority consideration to—

(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds;
(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States; and
(3) the provision of funds to be used for urgent and unanticipated humanitarian relief and reconstruction assistance, particularly in a foreign country where the armed forces are engaged in a contingency operation.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff during any fiscal year out of the Combatant Commander Initiative Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATIONS.—(1) Of funds made available under this section for any fiscal year—

(A) not more than $20,000,000 may be used to purchase items with a unit cost in excess of the investment unit cost threshold in effect under section 2245a of this title;

(B) not more than $10,000,000 may be used to pay for any expenses of foreign countries participating in joint exercises as authorized by subsection (b)(5); and

(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).

(2) Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(f) INCLUSION OF NORAD.—For purposes of this section, the Commander, United States Element, North American Aerospace Defense Command shall be considered to be a commander of a combatant command.

(Added Pub. L. 102–190, div. A, title IX, §902(a), Dec. 5, 1991, 105 Stat. 1450; amended Pub. L. 102–396, title IX, §9128, Oct. 6, 1992, 106 Stat. 1935; Pub. L. 102–484, div. A, title IX, §934, Oct. 23, 1992, 106 Stat. 2477; Pub. L. 103–35, title II, §201(a), May 31, 1993, 107 Stat. 97; Pub. L. 105–85, div. A, title IX, §902, Nov. 18, 1997, 111 Stat. 1854; Pub. L. 108–136, div. A, title IX, §902(a)(2), (b), (c), Nov. 24, 2003, 117 Stat. 1558; Pub. L. 109–364, div. A, title IX, §902, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111–84, div. A, title IX, §904, Oct. 28, 2009, 123 Stat. 2424.)

AMENDMENTS

2009—Subsec. (b)(6). Pub. L. 111–84, §904(b), inserted ''in coordination with the relevant chief of mission to the extent practicable,'' after ''assistance,''.

Subsec. (e)(1)(A). Pub. L. 111–84, §904(a), substituted ''$20,000,000'' for ''$10,000,000'' and ''the investment unit cost threshold in effect under section 2245a of this title'' for ''$15,000''.

2006—Subsec. (b)(6). Pub. L. 109–364, §902(a), substituted ''civic assistance, to include urgent and unanticipated humanitarian relief and reconstruction assistance'' for ''civil assistance''.

Subsec. (c)(3). Pub. L. 109–364, §902(b), added par. (3).

2003—Subsec. (a). Pub. L. 108–136, §902(a)(2), substituted ''COMBATANT COMMANDER INITIATIVE FUND'' for ''CINC INITIATIVE FUND'' in heading and ''Combatant Commander Initiative Fund'' for ''CINC Initiative Fund'' in first sentence.

Subsec. (b)(10). Pub. L. 108–136, §902(b), added par. (10).

Subsecs. (c), (d). Pub. L. 108–136, §902(a)(2)(B), substituted ''Combatant Commander Initiative Fund'' for ''CINC Initiative Fund''.

Subsec. (e)(1)(A). Pub. L. 108–136, §902(c)(1), substituted ''$10,000,000'' for ''$7,000,000''.

Subsec. (e)(1)(B). Pub. L. 108–136, §902(c)(2), substituted ''$10,000,000'' for ''$1,000,000''.

Subsec. (e)(1)(C). Pub. L. 108–136, §902(c)(3), substituted ''$5,000,000'' for ''$2,000,000''.

1997—Subsec. (b)(9). Pub. L. 105–85 added par. (9).

1993—Subsec. (a). Pub. L. 103–35, §201(a)(1), substituted ''the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose'' for ''the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.''

Subsec. (b)(7). Pub. L. 103–35, §201(a)(2), struck out second of two identical parenthetical phrases at end of par. (7) which read as follows: ''(including transportation, translation, and administrative expenses)''.

1992—Subsec. (a). Pub. L. 102–484, §934(a), which directed substitution of ''funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose.'' for ''funds, upon request,'' and all that follows through the period, could not be executed because the words did not appear subsequent to the amendment by Pub. L. 102–396, §9128(a). See below.

Pub. L. 102–396, §9128(a), substituted ''funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.'' for ''funds, upon request, to the commanders of the combatant commands.''

Subsec. (b)(7). Pub. L. 102–396, §9128(b), and Pub. L. 102–484, §934(b), both inserted before period at end ''(including transportation, translation, and administrative expenses)''.

Subsec. (c). Pub. L. 102–484, §934(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund, should give priority consideration to requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds (c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

''(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

''(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States..[sic]''

Pub. L. 102–396, §9128(c), inserted before period at end ''(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

''(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

''(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.''

Subsec. (e)(1)(C). Pub. L. 102–484, §934(d), amended subpar. (C) generally. Prior to amendment, subsec. (C) read as follows: ''not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).''

Pub. L. 102–396, §9128(d), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''not more than $500,000 may be used to provide military education and training to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).''

REDESIGNATION OF CINC INITIATIVE FUND

Pub. L. 108–136, div. A, title IX, §902(a)(1), (3), Nov. 24, 2003, 117 Stat. 1558, provided that:

''(1) The CINC Initiative Fund administered under section 166a of title 10, United States Code, is redesignated as the 'Combatant Commander Initiative Fund'.

''(3) Any reference to the CINC Initiative Fund in any other provision of law or in any regulation, document, record, or other paper of the United States shall be considered to be a reference to the Combatant Commander Initiative Fund.''

§ 166b. Combatant commands: funding for combating terrorism readiness initiatives

(a) COMBATING TERRORISM READINESS INITIATIVES FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the ''Combating Terrorism Readiness Initiatives Fund'', the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for initiating any activity named in subsection (b) and for maintaining and sustaining the activity for the fiscal year in which initiated and one additional fiscal year.

(b) AUTHORIZED ACTIVITIES.—Activities for which funds may be provided under subsection (a) are the following:

(1) Procurement and maintenance of physical security equipment.

(2) Improvement of physical security sites.

(3) Under extraordinary circumstances—

(A) physical security management planning;

(B) procurement and support of security forces and security technicians;

(C) security reviews and investigations and vulnerability assessments; and

(D) any other activity relating to physical security.

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the Combating Terrorism Readiness Initiatives Fund, should give priority consideration to emergency or emergent unforeseen high-priority requirements for combating terrorism.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided by the Chairman of the Joint Chiefs of Staff for a fiscal year out of the Combating Terrorism Readiness Initiatives Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

(e) LIMITATION.—Funds may not be provided under this section for any activity that has been denied authorization by Congress.

(Added Pub. L. 107–107, div. A, title XV, § 1512(a), Dec. 28, 2001, 115 Stat. 1272.)

§ 167. Unified combatant command for special operations forces

(a) ESTABLISHMENT.—With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for special operations forces (hereinafter in this section referred to as the ''special operations command''). The principal function of the command is to prepare special operations forces to carry out assigned missions.

(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve special operations forces of the armed forces stationed in the United States shall be assigned to the special operations command.

(c) GRADE OF COMMANDER.—The commander of the special operations command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

(d) COMMAND OF ACTIVITY OR MISSION.—(1) Unless otherwise directed by the President or the Secretary of Defense, a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted.

(2) The commander of the special operations command shall exercise command of a selected special operations mission if directed to do so by the President or the Secretary of Defense.

(e) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities.

(2) The commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):

(A) Developing strategy, doctrine, and tactics.

(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

(C) Exercising authority, direction, and control over the expenditure of funds—

(i) for forces assigned to the special operations command; and

(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.

(D) Training assigned forces.

(E) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(F) Validating requirements.

(G) Establishing priorities for requirements.

(H) Ensuring the interoperability of equipment and forces.

(I) Formulating and submitting requirements for intelligence support.

(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

(3) The commander of the special operations command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the special operations command; and

(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

(i) Development and acquisition of special operations-peculiar equipment.

(ii) Acquisition of special operations-peculiar material, supplies, and services.

(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

(C)(i) The staff of the commander shall include a command acquisition executive, who shall be responsible for the overall supervision of acquisition matters for the special operations command. The command acquisition executive shall have the authority to—

(I) negotiate memoranda of agreement with the military departments to carry out the acquisition of equipment, material, supplies, and services described in subparagraph (A) on behalf of the command;

(II) supervise the acquisition of equipment, material, supplies, and services described in subparagraph (A), regardless of whether such acquisition is carried out by the command, or by a military department pursuant to a delegation of authority by the command;

(III) represent the command in discussions with the military departments regarding acquisition programs for which the command is a customer; and

(IV) work with the military departments to ensure that the command is appropriately represented in any joint working group or integrated product team regarding acquisition programs for which the command is a customer.

(ii) The command acquisition executive of the special operations command shall be included on the distribution list for acquisition directives and instructions of the Department of Defense.

(D) The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.

(f) BUDGET.—In addition to the activities of a combatant command for which funding may be requested under section 166(b) of this title, the budget proposal of the special operations command shall include requests for funding for—

(1) development and acquisition of special operations-peculiar equipment; and

(2) acquisition of other material, supplies, or services that are peculiar to special operations activities.

(g) INTELLIGENCE AND SPECIAL ACTIVITIES.—This section does not constitute authority to conduct any activity which, if carried out as an intelligence activity by the Department of Defense, would require a notice to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives under title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the special operations command. Such regulations shall include authorization for the commander of such command to provide for operational security of special operations forces and activities.

(i) IDENTIFICATION OF SPECIAL OPERATIONS FORCES.—(1) Subject to paragraph (2), for the purposes of this section special operations forces are those forces of the armed forces that—

(A) are identified as core forces or as augmenting forces in the Joint Chiefs of Staff Joint Strategic Capabilities Plan, Annex E, dated December 17, 1985;

(B) are described in the Terms of Reference and Conceptual Operations Plan for the Joint Special Operations Command, as in effect on April 1, 1986; or

(C) are designated as special operations forces by the Secretary of Defense.

(2) The Secretary of Defense, after consulting with the Chairman of the Joint Chiefs of Staff and the commander of the special operations command, may direct that any force included within the description in paragraph (1)(A) or (1)(B) shall not be considered as a special operations force for the purposes of this section.

(j) SPECIAL OPERATIONS ACTIVITIES.—For purposes of this section, special operations activities include each of the following insofar as it relates to special operations:

(1) Direct action.
(2) Strategic reconnaissance.
(3) Unconventional warfare.
(4) Foreign internal defense.
(5) Civil affairs.
(6) Psychological operations.
(7) Counterterrorism.
(8) Humanitarian assistance.
(9) Theater search and rescue.
(10) Such other activities as may be specified by the President or the Secretary of Defense.

(k) BUDGET SUPPORT FOR RESERVE ELEMENTS.—(1) Before the budget proposal for the special operations command for any fiscal year is submitted to the Secretary of Defense, the commander of the command shall consult with the Secretaries of the military departments concerning funding for reserve component special operations units. If the Secretary of a military department does not concur in the recommended level of funding with respect to any such unit that is under the jurisdiction of the Secretary, the commander shall include with the budget proposal submitted to the Secretary of Defense the views of the Secretary of the military department concerning such funding.

(2) Before the budget proposal for a military department for any fiscal year is submitted to the Secretary of Defense, the Secretary of that military department shall consult with the commander of the special operations command concerning funding for special operations forces in the military personnel budget for a reserve component in that military department. If the commander of that command does not concur in the recommended level of funding with respect to reserve component special operations units, the Secretary shall include with the budget proposal submitted to the Secretary of Defense the views of the commander of that command.

(Added Pub. L. 99–500, § 101(c) [title IX, § 9115(b)(1)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–122, and Pub. L. 99–591, § 101(c) [title IX, § 9115(b)(1)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–122; Pub. L. 99–661, div. A, title XIII, § 1311(b)(1), Nov. 14, 1986, 100 Stat. 3983; amended Pub. L. 100–180, div. A, title XII, § 1211(d), Dec. 4, 1987, 101 Stat. 1156; Pub. L. 100–456, div. A, title VII, § 712, Sept. 29, 1988, 102 Stat. 1997; Pub. L. 102–88, title VI, § 602(c)(3), Aug. 14, 1991, 105 Stat. 444; Pub. L. 103–337, div. A, title IX, § 925, Oct. 5, 1994, 108 Stat. 2832; Pub. L. 110–181, div. A, title VIII, § 810, Jan. 28, 2008, 122 Stat. 217.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (g), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50 and Tables.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Pub. L. 99–661 and Pub. L. 99–500 added identical sections.

AMENDMENTS

2008—Subsec. (e)(4)(C), (D). Pub. L. 110–181 added subpar. (C) and redesignated former subpar. (C) as (D).

1994—Subsec. (k). Pub. L. 103–337 added subsec. (k).

1991—Subsec. (g). Pub. L. 102–88 substituted ''would require a notice'' for ''would require—

''(1) a finding under section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422); or

''(2) a notice'' and ''title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.)'' for ''section 501(a)(1) of the National Security Act of 1947 (50 U.S.C. 413)''.

1988—Subsec. (e). Pub. L. 100–456 revised and restated subsec. (e). Prior to amendment, subsec. (e) read as follows:

''(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the special operations command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to special operations activities, including the following functions:

''(A) Developing strategy, doctrine, and tactics.

''(B) Training assigned forces.

''(C) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

''(D) Validating requirements.

''(E) Establishing priorities for requirements.

''(F) Ensuring combat readiness.

''(G) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

''(H) Ensuring the interoperability of equipment and forces.

''(I) Formulating and submitting requirements for intelligence support.

''(J) Monitoring the promotions, assignments, retention, training, and professional military education of special operations forces officers.

''(2) The commander of such command shall be responsible for monitoring the preparedness of special operations forces assigned to other unified combatant commands to carry out assigned missions.

''(3) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out his functions under paragraph (1)(G), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title. The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the special operations command and such other inspector general functions as may be assigned.''

1987—Subsec. (e)(3). Pub. L. 100–180 added par. (3).

EFFECTIVE DATE

Section 101(c) [§ 9115(i)] of Pub. L. 99–500 and Pub. L. 99–591, and section 1311(i) of Pub. L. 99–661, provided that: ''Section 167 of title 10, United States Code (as added by subsection (b)), shall be implemented not later than 180 days after the date of the enactment of this Act [Oct. 18, 1986].''

QUARTERLY REPORTS ON USE OF COMBAT MISSION REQUIREMENTS FUNDS

Pub. L. 111–383, div. A, title I, § 123, Jan. 7, 2011, 124 Stat. 4158, provided that:

''(a) QUARTERLY REPORTS REQUIRED.—

''(1) IN GENERAL.—Not later than 30 days after the end of each fiscal quarter, the commander of the United States Special Operations Command shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the use of Combat Mission Requirements funds during the preceding fiscal quarter.

''(2) COMBAT MISSION REQUIREMENTS FUNDS.—For purposes of this section, Combat Mission Requirements funds are amounts available to the Department of Defense for Defense-wide procurement in the Combat Mission Requirements subaccount of the Defense-wide Procurement account.

''(b) ELEMENTS.—Each report under subsection (a) shall include, for the fiscal quarter covered by such report, the following:

''(1) The balance of the Combat Mission Requirements subaccount at the beginning of such quarter.

''(2) The balance of the Combat Mission Requirements subaccount at the end of such quarter.

''(3) Any transfer of funds into or out of the Combat Mission Requirements subaccount during such quarter, including the source of any funds transferred into the subaccount, and the objective of any transfer of funds out of the subaccount.

''(4) A description of any requirement—

''(A) approved for procurement using Combat Mission Requirements funds during such quarter; or

''(B) procured using such funds during such quarter.

''(5) With respect to each description of a requirement under paragraph (4), the amount of Combat Mission Requirements funds committed to the procurement or approved procurement of such requirement.

''(c) FORM.—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.''

RESOURCES FOR CINCSOF

Section 1211(b) of Pub. L. 100–180, as amended by Pub. L. 104–106, div. A, title IX, § 903(f)(5), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617, provided that: ''The Secretary of Defense shall provide sufficient resources for the com-

mander of the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code, to carry out his duties and responsibilities, including particularly his duties and responsibilities relating to the following functions:

''(1) Developing and acquiring special operations-peculiar equipment and acquiring special operations-peculiar material, supplies, and services.

''(2) Providing advice and assistance to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the Assistant Secretary's overall supervision of the preparation and justification of the program recommendations and budget proposals for special operations forces.

''(3) Managing assigned resources from the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense (as required to be created pursuant to subsection (e)).''

MAJOR FORCE PROGRAM CATEGORY; PROGRAM AND BUDGET EXECUTION; GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS

Pub. L. 102–484, div. A, title IX, § 936(a), (b), Oct. 23, 1992, 106 Stat. 2479, provided that, during the period beginning on Feb. 1, 1993, and ending on Feb. 1, 1995, the provisions of Pub. L. 99–661, § 1311(e), set out below, would apply as if the Secretary of Defense had designated the United States Southern Command and the United States Central Command for the purposes of that section, and required the Secretary of Defense to submit to Congress a report setting forth the Secretary's recommendations for the grade structure for the special operations forces component commander for each unified command not later than Mar. 1, 1994.

Pub. L. 100–180, div. A, title XII, § 1211(e), Dec. 4, 1987, 101 Stat. 1156, directed that the major force program category for special operations forces of the Five-Year Defense Plan of the Department of Defense created pursuant to Pub. L. 99–661, § 1311(c), set out below, was to be created not later than 30 days after Dec. 4, 1987, and required the Secretary of Defense to submit to committees of Congress on such date a report explaining the program recommendations and budget proposals included in such category and a certification that all program recommendations and budget proposals for special operations forces had been included.

Section 1311(c)–(e) of Pub. L. 99–661 provided that:

''(c) MAJOR FORCE PROGRAM CATEGORY.—The Secretary of Defense shall create for the special operations forces a major force program category for the Five-Year Defense Plan of the Department of Defense. The Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, with the advice and assistance of the commander of the special operations command, shall provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.

''(d) PROGRAM AND BUDGET EXECUTION.—To the extent that there is authority to revise programs and budgets approved by Congress for special operations forces, such authority may be exercised only by the Secretary of Defense, after consulting with the commander of the special operations command.

''(e) GRADE FOR COMMANDERS OF CERTAIN AREA SPECIAL OPERATIONS COMMANDS.—The commander of the special operations command of the United States European Command, the United States Pacific Command, and any other unified combatant command that the Secretary of Defense may designate for the purposes of this section shall be of general or flag officer grade.''

[Identical provisions were contained in section 101(c) [§ 9115(c)–(e)] of Pub. L. 99–500 and Pub. L. 99–591, which was repealed by Pub. L. 102–484, div. A, title IX, § 936(c), Oct. 23, 1992, 106 Stat. 2479.]

REPORT ON CAPABILITIES OF UNITED STATES TO CONDUCT SPECIAL OPERATIONS AND ENGAGE IN LOW INTENSITY CONFLICTS

Section 101(c) [§ 9115(h)(2)] of Pub. L. 99–500 and Pub. L. 99–591, and section 1311(h)(2) of Pub. L. 99–661, required President, not later than one year after Oct. 1, 1986, to transmit to Congress a report on capabilities of United States to conduct special operations and engage in low intensity conflicts, the report to include a description of deficiencies in such capabilities, actions being taken throughout executive branch to correct such deficiencies, the principal low intensity conflict threats to interests of United States, and the actions taken and to be taken to implement this section.

§ 167a. Unified combatant command for joint warfighting experimentation: acquisition authority

(a) LIMITED ACQUISITION AUTHORITY FOR COMMANDER OF CERTAIN UNIFIED COMBATANT COMMAND.—The Secretary of Defense may delegate to the commander of the unified combatant command referred to in subsection (b) authority of the Secretary under chapter 137 of this title sufficient to enable the commander to develop, acquire, and maintain equipment described in subsection (c). The exercise of authority so delegated is subject to the authority, direction, and control of the Secretary.

(b) COMMAND DESCRIBED.—The commander to whom authority is delegated under subsection (a) is the commander of the unified combatant command that has the mission for joint warfighting experimentation, as assigned by the Secretary of Defense.

(c) EQUIPMENT.—The equipment referred to in subsection (a) is as follows:

(1) Equipment for battle management command, control, communications, and intelligence.

(2) Any other equipment that the commander referred to in subsection (b) determines necessary and appropriate for—

(A) facilitating the use of joint forces in military operations; or

(B) enhancing the interoperability of equipment used by the various components of joint forces.

(d) EXCEPTIONS.—The authority delegated under subsection (a) does not apply to the development or acquisition of a system for which—

(1) the total expenditure for research, development, test, and evaluation is estimated to be $10,000,000 or more; or

(2) the total expenditure for procurement is estimated to be $50,000,000 or more.

(e) INTERNAL AUDITS AND INSPECTIONS.—The commander referred to in subsection (b) shall require the inspector general of that command to conduct internal audits and inspections of purchasing and contracting administered by the commander under the authority delegated under subsection (a).

(f) LIMITATION ON AUTHORITY TO MAINTAIN EQUIPMENT.—The authority delegated under subsection (a) to maintain equipment is subject to the availability of funds authorized and appropriated specifically for that purpose.

(g) TERMINATION.—The Secretary may delegate the authority referred to in subsection (a) only during fiscal years 2004 through 2010, and any authority so delegated shall not be in effect after September 30, 2010.

(Added Pub. L. 108–136, div. A, title VIII, § 848(a)(1), Nov. 24, 2003, 117 Stat. 1554; amended Pub. L. 109–163, div. A, title VIII, § 846(a), Jan. 6, 2006, 119 Stat. 3391; Pub. L. 110–181, div. A, title VIII, § 825, Jan. 28, 2008, 122 Stat. 227.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, § 825(a)(1), substituted ‘‘, acquire, and maintain’’ for ‘‘and acquire’’.

Subsec. (f). Pub. L. 110–181, § 825(a)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 110–181, § 825(a)(2), (b), redesignated subsec. (f) as (g) and substituted ‘‘through 2010’’ for ‘‘through 2008’’ and ‘‘September 30, 2010’’ for ‘‘September 30, 2008’’.

2006—Subsec. (f). Pub. L. 109–163 substituted ‘‘through 2008’’ for ‘‘through 2006’’ and ‘‘September 30, 2008’’ for ‘‘September 30, 2006’’.

COMPTROLLER GENERAL REPORT

Pub. L. 108–136, div. A, title VIII, § 848(b), Nov. 24, 2003, 117 Stat. 1555, required the Comptroller General to review the implementation of this section and submit to Congress a report on such review not later than two years after Nov. 24, 2003.

§ 168. Military-to-military contacts and comparable activities

(a) PROGRAM AUTHORITY.—The Secretary of Defense may conduct military-to-military contacts and comparable activities that are designed to encourage a democratic orientation of defense establishments and military forces of other countries.

(b) ADMINISTRATION.—The Secretary may provide funds appropriated for carrying out subsection (a) to the following officials for use as provided in subsection (c):

(1) The commander of a combatant command, upon the request of the commander.

(2) An officer designated by the Chairman of the Joint Chiefs of Staff, with respect to an area or areas not under the area of responsibility of a commander of a combatant command.

(3) The head of any Department of Defense component.

(c) AUTHORIZED ACTIVITIES.—An official provided funds under subsection (b) may use those funds for the following activities and expenses:

(1) The activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities.

(2) The activities of military liaison teams.

(3) Exchanges of civilian or military personnel between the Department of Defense and defense ministries of foreign governments.

(4) Exchanges of military personnel between units of the armed forces and units of foreign armed forces.

(5) Seminars and conferences held primarily in a theater of operations.

(6) Distribution of publications primarily in a theater of operations.

(7) Personnel expenses for Department of Defense civilian and military personnel to the extent that those expenses relate to participation in an activity described in paragraph (3), (4), (5), or (6).

(8) Reimbursement of military personnel appropriations accounts for the pay and allowances paid to reserve component personnel for service while engaged in any activity referred to in another paragraph of this subsection.

(9) The assignment of personnel described in paragraph (3) or (4) on a non-reciprocal basis if the Secretary of Defense determines that such an assignment, rather than an exchange of personnel, is in the interests of the United States.

(d) RELATIONSHIP TO OTHER FUNDING.—Any amount provided during any fiscal year to an official under subsection (b) for an activity or expense referred to in subsection (c) shall be in addition to amounts otherwise available for those activities and expenses for that fiscal year.

(e) LIMITATIONS.—(1) Funds may not be provided under this section for a fiscal year for any activity for which—

(A) funding was proposed in the budget submitted to Congress for that fiscal year pursuant to section 1105(a) of title 31; and

(B) Congress did not authorize appropriations.

(2) An activity may not be conducted under this section with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.

(3) Funds may not be provided under this section for a fiscal year for any country that is not eligible in that fiscal year for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(4) Except for those activities specifically authorized under subsection (c), funds may not be used under this section for the provision of defense articles or defense services to any country or for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

(5) Funds available to carry out this section shall be available, to the extent provided in appropriations Acts, for programs or activities under this section that begin in a fiscal year and end in the following fiscal year.

(f) ACTIVE DUTY END STRENGTHS.—A member of a reserve component who is engaged in activities authorized under this section shall not be counted for purposes of the following personnel strength limitations:

(1) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to under this section.

(2) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

(3) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

(g) MILITARY-TO-MILITARY CONTACTS DEFINED.—In this section, the term ‘‘military-to-military contacts’’ means contacts between members of the armed forces and members of foreign armed forces through activities described in subsection (c).

(Added Pub. L. 103–337, div. A, title XIII, §1316(a)(1), Oct. 5, 1994, 108 Stat. 2898; amended Pub. L. 104–106, div. A, title IV, §416, Feb. 10, 1996, 110 Stat. 289; Pub. L. 108–375, div. A, title IV, §416(e), Oct. 28, 2004, 118 Stat. 1868; Pub. L. 110–181, div. A, title XII, §1201, Jan. 28, 2008, 122 Stat. 363; Pub. L. 110–417, [div. A], title XII, §1202(a), Oct. 14, 2008, 122 Stat. 4622.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (e)(3), (4), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 5 of part II of the Act is classified generally to part V (§2347 et seq.) of subchapter II of chapter 32 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

AMENDMENTS

2008—Subsec. (c)(9). Pub. L. 110–181 added par. (9).

Subsec. (e)(5). Pub. L. 110–417 added par. (5).

2004—Subsec. (f). Pub. L. 108–375 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

''(1) A member of a reserve component referred to in paragraph (2) shall not be counted for purposes of the following personnel strength limitations:

''(A) The end strength for active-duty personnel authorized pursuant to section 115(a)(1) of this title for the fiscal year in which the member carries out the activities referred to in paragraph (2).

''(B) The authorized daily average for members in pay grades E–8 and E–9 under section 517 of this title for the calendar year in which the member carries out such activities.

''(C) The authorized strengths for commissioned officers under section 523 of this title for the fiscal year in which the member carries out such activities.

''(2) A member of a reserve component referred to in paragraph (1) is any member on active duty under an order to active duty for 180 days or more who is engaged in activities authorized under this section.''

1996—Subsecs. (f), (g). Pub. L. 104–106 added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title XII, §1202(b), Oct. 14, 2008, 122 Stat. 4622, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 168 of title 10, United States Code, as so amended, that begin on or after that date.''

AUTHORITY FOR NON-RECIPROCAL EXCHANGES OF DEFENSE PERSONNEL BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES

Pub. L. 111–84, div. A, title XII, §1207, Oct. 28, 2009, 123 Stat. 2514, provided that:

''(a) AUTHORITY TO ENTER INTO NON-RECIPROCAL INTERNATIONAL EXCHANGE AGREEMENTS.—

''(1) IN GENERAL.—The Secretary of Defense may enter into non-reciprocal international defense personnel exchange agreements.

''(2) INTERNATIONAL DEFENSE PERSONNEL EXCHANGE AGREEMENTS DEFINED.—For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of military and civilian personnel of the defense ministry of that foreign government.

''(b) ASSIGNMENT OF PERSONNEL.—

''(1) IN GENERAL.—Pursuant to a non-reciprocal international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense.

''(2) MUTUAL AGREEMENT REQUIRED.—An individual may not be assigned to a position pursuant to a non-reciprocal international defense personnel exchange agreement unless the assignment is acceptable to both governments.

''(c) PAYMENT OF PERSONNEL COSTS.—

''(1) IN GENERAL.—The foreign government with which the United States has entered into a non-reciprocal international defense personnel exchange agreement shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its personnel under such agreement in accordance with the applicable laws and regulations of such government.

''(2) EXCLUDED COSTS.—Paragraph (1) does not apply to the following costs:

''(A) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

''(B) Costs incident to the use of facilities of the United States Government in the performance of assigned duties.

''(C) The cost of temporary duty of the exchanged personnel directed by the United States Government.

''(d) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to a non-reciprocal agreement under this section may take or be required to take an oath of allegiance or to hold an official capacity in the government.

''(e) REPORT.—

''(1) IN GENERAL.—Not later than 90 days after the end of the fiscal year in which the authority in subsection (a) has been exercised, the Secretary of Defense shall submit to the appropriate congressional committees a report on the use of the authority through the end of such fiscal year.

''(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall include the number of non-reciprocal international defense personnel exchange agreements, the number of personnel assigned pursuant to such agreements, the Department of Defense component to which the personnel have been assigned, the duty title of each assignment, and the countries with which the agreements have been concluded.

''(3) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term 'appropriate congressional committees' means—

''(A) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

''(B) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

''(f) DURATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2012.''

LIMITATION ON MILITARY-TO-MILITARY EXCHANGES AND CONTACTS WITH CHINESE PEOPLE'S LIBERATION ARMY

Pub. L. 106–65, div. A, title XII, §1201, Oct. 5, 1999, 113 Stat. 779, as amended by Pub. L. 111–84, div. A, title XII, §1246(d), Oct. 28, 2009, 123 Stat. 2545, provided that:

''(a) LIMITATION.—The Secretary of Defense may not authorize any military-to-military exchange or contact described in subsection (b) to be conducted by the armed forces with representatives of the People's Liberation Army of the People's Republic of China if that exchange or contact would create a national security risk due to an inappropriate exposure specified in subsection (b).

''(b) COVERED EXCHANGES AND CONTACTS.—Subsection (a) applies to any military-to-military exchange or contact that includes inappropriate exposure to any of the following:

''(1) Force projection operations.

''(2) Nuclear operations.

''(3) Advanced combined-arms and joint combat operations.

''(4) Advanced logistical operations.

''(5) Chemical and biological defense and other capabilities related to weapons of mass destruction.

''(6) Surveillance and reconnaissance operations.

''(7) Joint warfighting experiments and other activities related to a transformation in warfare.

''(8) Military space operations.

''(9) Other advanced capabilities of the Armed Forces.

''(10) Arms sales or military-related technology transfers.

''(11) Release of classified or restricted information.

''(12) Access to a Department of Defense laboratory.

''(c) EXCEPTIONS.—Subsection (a) does not apply to any search-and-rescue or humanitarian operation or exercise.

''(d) ANNUAL CERTIFICATION BY SECRETARY.—The Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than December 31 each year, a certification in writing as to whether or not any military-to-military exchange or contact during that calendar year was conducted in violation of subsection (a).''

AGREEMENTS FOR EXCHANGE OF DEFENSE PERSONNEL BETWEEN UNITED STATES AND FOREIGN COUNTRIES

Pub. L. 104–201, div. A, title X, § 1082, Sept. 23, 1996, 110 Stat. 2672, provided that:

''(a) AUTHORITY TO ENTER INTO INTERNATIONAL EXCHANGE AGREEMENTS.—(1) The Secretary of Defense may enter into international defense personnel exchange agreements.

''(2) For purposes of this section, an international defense personnel exchange agreement is an agreement with the government of an ally of the United States or another friendly foreign country for the exchange of—

''(A) military and civilian personnel of the Department of Defense; and

''(B) military and civilian personnel of the defense ministry of that foreign government.

''(b) ASSIGNMENT OF PERSONNEL.—(1) Pursuant to an international defense personnel exchange agreement, personnel of the defense ministry of a foreign government may be assigned to positions in the Department of Defense and personnel of the Department of Defense may be assigned to positions in the defense ministry of such foreign government. Positions to which exchanged personnel are assigned may include positions of instructors.

''(2) An agreement for the exchange of personnel engaged in research and development activities may provide for assignment of Department of Defense personnel to positions in private industry that support the defense ministry of the host foreign government.

''(3) An individual may not be assigned to a position pursuant to an international defense personnel exchange agreement unless the assignment is acceptable to both governments.

''(c) RECIPROCITY OF PERSONNEL QUALIFICATIONS REQUIRED.—Each government shall be required under an international defense personnel exchange agreement to provide personnel with qualifications, training, and skills that are essentially equal to those of the personnel provided by the other government.

''(d) PAYMENT OF PERSONNEL COSTS.—(1) Each government shall pay the salary, per diem, cost of living, travel costs, cost of language or other training, and other costs for its own personnel in accordance with the applicable laws and regulations of such government.

''(2) Paragraph (1) does not apply to the following costs:

''(A) The cost of temporary duty directed by the host government.

''(B) The cost of training programs conducted to familiarize, orient, or certify exchanged personnel regarding unique aspects of the assignments of the exchanged personnel.

''(C) Costs incident to the use of the facilities of the host government in the performance of assigned duties.

''(e) PROHIBITED CONDITIONS.—No personnel exchanged pursuant to an agreement under this section may take or be required to take an oath of allegiance to the host country or to hold an official capacity in the government of such country.

''(f) RELATIONSHIP TO OTHER AUTHORITY.—The requirements in subsections (c) and (d) shall apply in the exercise of any authority of the Secretaries of the military departments to enter into an agreement with the government of a foreign country to provide for the exchange of members of the armed forces and military personnel of the foreign country. The Secretary of Defense may prescribe regulations for the application of such subsections in the exercise of such authority.''

CHAPTER 7—BOARDS, COUNCILS, AND COMMITTEES

Sec.
171. Armed Forces Policy Council.
172. Ammunition storage board.
173. Advisory personnel.
174. Advisory personnel: research and development.
175. Reserve Forces Policy Board.
176. Armed Forces Institute of Pathology.
177. American Registry of Pathology.
178. The Henry M. Jackson Foundation for the Advancement of Military Medicine.
179. Nuclear Weapons Council.
180. Service academy athletic programs: review board.
181. Joint Requirements Oversight Council.
182. Center for Excellence in Disaster Management and Humanitarian Assistance.
183. Department of Defense Board of Actuaries.
184. Regional Centers for Security Studies.
185. Financial Management Modernization Executive Committee.
186. Defense Business System Management Committee.
187. Strategic Materials Protection Board.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title X, § 1061(a)(3), Oct. 14, 2008, 122 Stat. 4612, inserted period at end of item 183.

Pub. L. 110–181, div. A, title IX, § 906(a)(2), Jan. 28, 2008, 122 Stat. 277, added item 183.

2006—Pub. L. 109–364, div. A, title VIII, § 843(b), title IX, § 904(a)(2), Oct. 17, 2006, 120 Stat. 2339, 2353, substituted ''Regional Centers for Security Studies'' for ''Department of Defense regional centers for security studies'' in item 184 and added item 187.

2004—Pub. L. 108–375, div. A, title III, § 332(b)(2), Oct. 28, 2004, 118 Stat. 1855, added item 186.

2002—Pub. L. 107–314, div. A, title X, § 1041(a)(1)(B), Dec. 2, 2002, 116 Stat. 2645, struck out item 183 ''Advisory committees: annual justification required''.

2001—Pub. L. 107–107, div. A, title X, § 1009(a)(2), Dec. 28, 2001, 115 Stat. 1208, added item 185.

2000—Pub. L. 106–398, § 1 [[div. A], title IX, § 912(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–229, added item 184.

1997—Pub. L. 105–85, div. A, title III, § 382(a)(2), title IX, § 904(b), Nov. 18, 1997, 111 Stat. 1711, 1855, added items 182 and 183.

1996—Pub. L. 104–106, div. A, title IX, § 905(a)(2), Feb. 10, 1996, 110 Stat. 404, added item 181.

1991—Pub. L. 102–190, div. A, title V, § 513(b), Dec. 5, 1991, 105 Stat. 1361, added item 180.

1986—Pub. L. 99–661, div. C, title I, § 3137(a)(2), Nov. 14, 1986, 100 Stat. 4066, added item 179.

1983—Pub. L. 98–132, § 2(a)(2), Oct. 17, 1983, 97 Stat. 849, inserted ''The Henry M. Jackson'' before ''Foundation'' in item 178.

Pub. L. 98–36, § 2(b), May 27, 1983, 97 Stat. 201, added item 178.

1976—Pub. L. 94–361, title VIII, § 811(c), July 14, 1976, 90 Stat. 936, added items 176 and 177.

§ 171. Armed Forces Policy Council

(a) There is in the Department of Defense an Armed Forces Policy Council consisting of—

(1) the Secretary of Defense, as Chairman, with the power of decision;
(2) the Deputy Secretary of Defense;
(3) the Under Secretary of Defense for Acquisition, Technology, and Logistics;
(4) the Secretary of the Army;
(5) the Secretary of the Navy;
(6) the Secretary of the Air Force;
(7) the Under Secretary of Defense for Policy;
(8) the Deputy Under Secretary of Defense for Acquisition and Technology;
(9) the Chairman of the Joint Chiefs of Staff;
(10) the Chief of Staff of the Army;
(11) the Chief of Naval Operations;
(12) the Chief of Staff of the Air Force; and
(13) the Commandant of the Marine Corps.

(b) The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 85–599, § 9(c), Aug. 6, 1958, 72 Stat. 521; Pub. L. 92–596, § 5, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 95–140, § 3(b), Oct. 21, 1977, 91 Stat. 1173; Pub. L. 98–94, title XII, § 1213, Sept. 24, 1983, 97 Stat. 687; Pub. L. 99–500, § 101(c) [title X, § 903(e)], Oct. 18, 1986, 100 Stat. 1783–82, 1783–133, and Pub. L. 99–591, § 101(c) [title X, § 903(e)], Oct. 30, 1986, 100 Stat. 3341–82, 3341–133; Pub. L. 99–661, div. A, title IX, formerly title IV, § 903(e), Nov. 14, 1986, 100 Stat. 3912, renumbered title IX, Pub. L. 100–26, § 3(5), Apr. 21, 1987, 101 Stat. 273; Pub. L. 103–160, div. A, title IX, § 904(d)(1), (3), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 107–107, div. A, title X, § 1048(b)(2), Dec. 28, 2001, 115 Stat. 1225.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
171(a)	5:171e (less last sentence).	July 26, 1947, ch. 343, § 210; restated Aug. 10, 1949, ch. 412, § 7(a), 63 Stat. 581.
171(b)	5:171e (last sentence).	

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2001—Subsec. (a)(3). Pub. L. 107–107 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

1993—Subsec. (a)(3). Pub. L. 103–160, § 904(d)(1), substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

Subsec. (a)(8). Pub. L. 103–160, § 904(d)(3), substituted ''Deputy Under Secretary of Defense for Acquisition and Technology'' for ''Deputy Under Secretary of Defense for Acquisition''.

1986—Subsec. (a)(3) to (13) Pub. L. 99–500, Pub. L. 99–591, and Pub. L. 99–661 amended subsec. (a) identically, redesignating pars. (3) to (11) as (4), (5), (6), (7), (9), (10), (11), (12), and (13), respectively, adding new pars. (3) and (8), and substituting ''the Under Secretary of Defense for Acquisition'' for ''the Under Secretaries of Defense'' in par. (7).

1983—Subsec. (a)(11). Pub. L. 98–94 added par. (11).

1977—Subsec. (a)(2). Pub. L. 95–140, § 3(b)(1), substituted ''the Deputy'' for ''a Deputy''.

Subsec. (a)(6). Pub. L. 95–140, § 3(b)(2), substituted ''the Under Secretaries of Defense;'' for ''the Director of Defense Research and Engineering;''.

1972—Subsec. (a)(2). Pub. L. 92–596 substituted ''a Deputy Secretary'' for ''the Deputy Secretary''.

1958—Subsec. (a)(6) to (10). Pub. L. 85–599 added par. (6) and redesignated former pars. (6) to (9) as (7) to (10), respectively.

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–36, § 1, May 27, 1983, 97 Stat. 200, provided: ''That this Act [enacting section 178 of this title and amending section 2113 of this title] may be cited as the 'Foundation for the Advancement of Military Medicine Act of 1983'.''

§ 172. Ammunition storage board

The Secretaries of the military departments, acting through a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both, shall keep informed on stored supplies of ammunition and components thereof for use of the Army, Navy, Air Force, and Marine Corps, with particular regard to keeping those supplies properly dispersed and stored and to preventing hazardous conditions from arising to endanger life and property inside or outside of storage reservations.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 104–201, div. A, title IX, § 909, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 111–383, div. A, title X, § 1075(b)(7), Jan. 7, 2011, 124 Stat. 4369.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
172(a)	50:83 (less last sentence).	May 29, 1928, ch. 853 (last par. under ''Ordnance Establishment''), 45 Stat. 928.
172(b)	50:83 (last sentence).	

In subsection (a), the words ''informed on stored'' are substituted for the words ''advised of storage''. The words ''particular regard'' are substituted for the words ''special reference''. The words ''inside or outside of'' are substituted for the words ''within or without''. The word ''selected'' is substituted for the word ''appointed'', since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the words ''in carrying out'' are substituted for the words ''in the execution of''.

AMENDMENTS

2011—Pub. L. 111–383 struck out subsec. (a) designation before ''The Secretaries'' and struck out subsec. (b) which read as follows: ''The board shall confer with and advise the Secretaries of the military departments in carrying out the recommendations in House Document No. 199 of the Seventieth Congress.''

1996—Subsec. (a). Pub. L. 104–201 substituted ''a joint board selected by them composed of officers, civilian officers and employees of the Department of Defense, or both'' for ''a joint board of officers selected by them''.

§ 173. Advisory personnel

(a) The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.

(b) A person who serves as a member of a committee may not be paid for that service while holding another position or office under the United States for which he receives compensa-

tion. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(Aug. 10, 1956, ch. 1041, 70A Stat. 8; Pub. L. 89–718, § 2, Nov. 2, 1966, 80 Stat. 1115; Pub. L. 104–106, div. A, title X, § 1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
173(a)	5:171j(a) (1st sentence, as applicable to Secretary of Defense).	July 26, 1947, ch. 343, § 303 (as applicable to Secretary of Defense); Aug. 10, 1949, ch. 412, § 10(c) (as applicable to Secretary of Defense); Sept. 3, 1954, ch. 1263, § 8 (as applicable to Secretary of Defense), 68 Stat. 1228.
173(b)	5:171j(a) (less 1st sentence, as applicable to Secretary of Defense).	
173(c)	5:171j(b) (as applicable to Secretary of Defense).	

In subsection (a), the words ''consistent with other provisions of sections 171–171n, 172–172j, 181–1, 181–2, 411a, 411b, and 626–626d of this title and sections 401–405 of Title 50'' are omitted as surplusage. The word ''establish'' is substituted for the word ''appoint'', since the filling of the position involved is not appointment to an office in the constitutional sense.

In subsection (b), the word ''Secretary'' is substituted for the words ''appointing authority''.

In subsection (c), the words ''as a part-time adviser'' are substituted for the words ''in any other part-time capacity for a department or agency'' to conform to subsections (a) and (b).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted ''Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.'' for ''Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary determines.''

1966—Subsec. (c). Pub. L. 89–718 repealed subsec. (c) which provided that sections 281, 283, and 284 of title 18 did not apply to a person because of his service on a committee or as a part-time advisor under subsec. (a) of this section unless the unlawful act related to a matter directly involving a department or agency which he was advising or to a matter in which that department or agency was directly interested.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 174. Advisory personnel: research and development

(a) The Secretary of each military department may establish such advisory committees and panels as are necessary for the research and development activities of his department and may employ such part-time advisers as he considers necessary to carry out those activities.

(b) A person who serves as a member of such a committee or panel may not be paid for that service while holding another position or office under the United States for which he receives compensation. Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.

(c) The Secretary concerned may delegate any authority under this section to—

(1) the Under Secretary of his department;

(2) an Assistant Secretary of his department; or

(3) the chief, and one assistant to the chief, of any technical service, bureau, or office.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 104–106, div. A, title X, § 1061(e)(1), Feb. 10, 1996, 110 Stat. 443.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
174(a)	5:235b (1st sentence). 5:475g (1st sentence). 5:628b (1st sentence).	July 16, 1952, ch. 882, §§ 1, 7 (as applicable to § 1), 66 Stat. 725, 726.
174(b)	5:235b (less 1st sentence). 5:475g (less 1st sentence). 5:628b (less 1st sentence).	
174(c)	5:235h (as applicable to 5:235b). 5:475m (as applicable to 5:475g). 5:628h (as applicable to 5:628b).	

In subsection (a), the words ''the conduct of'' are omitted as surplusage.

In subsection (b), the words ''or panel'' are inserted for clarity. The words ''Secretary concerned'' are substituted for the words ''appointing authority''.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 substituted ''Other members and part-time advisers shall (except as otherwise specifically authorized by law) serve without compensation for such service.'' for ''Other members and part-time advisers may serve without compensation or may be paid not more than $50 for each day of service, as the Secretary concerned determines.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 175. Reserve Forces Policy Board

There is in the Office of the Secretary of Defense a Reserve Forces Policy Board. The functions, membership, and organization of that board are set forth in section 10301 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 9; Pub. L. 90–168, § 2(3), (4), Dec. 1, 1967, 81 Stat. 521; Pub. L. 98–94, title XII, § 1212(b), Sept. 24, 1983, 97 Stat. 687; Pub. L. 98–525, title XIII, § 1306, title XIV, § 1405(4), Oct. 19, 1984, 98 Stat. 2613, 2622; Pub. L. 98–557, § 21, Oct. 30, 1984, 98 Stat. 2870; Pub. L. 99–433, title V, § 531(a)(1), Oct. 1, 1986, 100 Stat. 1063; Pub. L. 103–337, div. A, title IX, § 921, title XVI, § 1661(b)(3), Oct. 5, 1994, 108 Stat. 2829, 2981.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
175(a)	50:1008(a).	July 9, 1952, ch. 608, §257 (less (e)), 66 Stat. 497.
175(b)	50:1008(b).	
175(c)	50:1008(c).	
175(d)	50:1008(d) (less proviso).	
175(e)	50:1008(d) (proviso).	

In subsection (a), the word ''are'' is substituted for the words ''is established'', to make clear the continuing authority of the organization established by the source statute. Clauses (3), (4), and (5) are substituted for 50:1008(a)(iii) for clarity. In clauses (6), (7), (8), and (9), the word ''designated'' is substituted for the word ''appointed'', in 50:1008(iv), (v), (vi), and (vii), to make it clear that the positions described are not constitutional offices.

In subsection (b), the words ''Regular Coast Guard or Coast Guard Reserve'' are substituted for the words ''Regular or Reserve * * * Coast Guard''.

AMENDMENTS

1994—Pub. L. 103–337, §1661(b)(3), amended section generally, substituting single undesignated par. for former subsecs. (a) to (f) relating to establishment, composition, functions, and powers of Reserve Forces Policy Board.

Subsec. (a)(4). Pub. L. 103–337, §921(1), substituted ''and an officer of the Regular Marine Corps each'' for ''or Regular Marine Corps''.

Subsec. (a)(10). Pub. L. 103–337, §921(2)–(4), added par. (10).

1986—Subsec. (d). Pub. L. 99–433 substituted ''3021'' and ''8021'' for ''3033'' and ''8033'', respectively.

1984—Subsec. (b). Pub. L. 98–557 substituted ''Regular or Reserve, to serve as voting members'' for ''regular or reserve, to serve as a voting member''.

Pub. L. 98–525, §1306, substituted ''two officers of the Coast Guard, regular or reserve'' for ''an officer of the Regular Coast Guard or the Coast Guard Reserve''.

Subsec. (c). Pub. L. 98–525, §1405(4), inserted a comma following ''Reserve Affairs''.

1983—Subsec. (c). Pub. L. 98–94 substituted ''Assistant Secretary of Defense for Reserve Affairs'' for ''Assistant Secretary of Defense for Manpower and Reserve Affairs''.

1967—Subsec. (a)(2). Pub. L. 90–168, §2(3), substituted ''the Assistant Secretary of the Army for Manpower and Reserve Affairs, the Assistant Secretary of the Navy for Manpower and Reserve Affairs, and the Assistant Secretary of the Air Force for Manpower and Reserve Affairs'' for ''the Secretary, the Under Secretary, or an Assistant Secretary designated under section 264(b) of this title, of each of the military departments''.

Subsec. (b). Pub. L. 90–168, §2(4), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury'' as the Secretary empowered to designate officers to serve on the Board and substituted ''serve as a voting member'' for ''serve without vote as a member'' in the description of the officer's service on the Board.

Subsec. (c). Pub. L. 90–168, §2(4), substituted ''Assistant Secretary of Defense for Manpower and Reserve Affairs'' for ''Assistant Secretary of Defense designated under section 264(a) of this title''.

Subsec. (d). Pub. L. 90–168, §2(4), inserted references to sections 5251 and 5252 of this title.

Subsec. (e). Pub. L. 90–168, §2(4), substituted ''member of a committee or board prescribed under a section listed in subsection (d)'' for ''member of a committee under section 3033 or 8033 of this title''.

Subsec. (f). Pub. L. 90–168, §2(4), added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1661(b)(3) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–94 effective Oct. 1, 1983, see section 1212(e) of Pub. L. 98–94 set out as a note under section 138 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

For effective date of amendment by Pub. L. 90–168, see section 7 of Pub. L. 90–168, set out as a note under section 138 of this title.

§176. Armed Forces Institute of Pathology

(a)(1) There is in the Department of Defense an Institute to be known as the Armed Forces Institute of Pathology (hereinafter in this section referred to as the ''Institute''), which has the responsibilities, functions, authority, and relationships set forth in this section. The Institute shall be a joint entity of the three military departments, subject to the authority, direction, and control of the Secretary of Defense.

(2) The Institute shall consist of a Board of Governors, a Director, two Deputy Directors, and a staff of such professional, technical, and clerical personnel as may be required.

(3) The Board of Governors shall consist of the Assistant Secretary of Defense for Health Affairs, who shall serve as chairman of the Board of Governors, the Assistant Secretary of Health and Human Services for Health, the Surgeons General of the Army, Navy, and Air Force, the Under Secretary for Health of the Department of Veterans Affairs, and a former Director of the Institute, as designated by the Secretary of Defense, or the designee of any of the foregoing.

(4) The Director and the Deputy Directors shall be appointed by the Secretary of Defense.

(b)(1) In carrying out the provisions of this section, the Institute is authorized to—

(A) contract with the American Registry of Pathology (established under section 177 of this title) for cooperative enterprises in medical research, consultation, and education between the Institute and the civilian medical profession under such conditions as may be agreed upon between the Board of Governors and the American Registry of Pathology;

(B) make available at no cost to the American Registry of Pathology such space, facilities, equipment, and support services within the Institute as the Board of Governors deems necessary for the accomplishment of their mutual cooperative enterprises; and

(C) contract with the American Registry of Pathology for the services of such professional, technical, or clerical personnel as are necessary to fulfill their cooperative enterprises.

(2) No contract may be entered into under paragraph (1) which obligates the Institute to make outlays in advance of the enactment of budget authority for such outlays.

(c) The Director is authorized, with the approval of the Board of Governors, to enter into agreements with the American Registry of Pathology for the services at any time of not more than six distinguished pathologists or scientists of demonstrated ability and experience for the purpose of enhancing the activities of the Institute in education, consultation, and research. Such pathologists or scientists may be appointed by the Director to administrative posi-

tions within the components or subcomponents of the Institute and may be authorized by the Director to exercise any or all professional duties within the Institute, notwithstanding any other provision of law. The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense.

(d) The Secretary of Defense shall promulgate such regulations as may be necessary to prescribe the organization, functions, and responsibilities of the Institute.

(Added Pub. L. 94–361, title VIII, § 811(b), July 14, 1976, 90 Stat. 933; amended Pub. L. 96–513, title V, § 511(6), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 101–189, div. A, title XVI, § 1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 103–160, div. A, title VII, § 733, Nov. 30, 1993, 107 Stat. 1697; Pub. L. 104–106, div. A, title IX, § 903(f)(1), Feb. 10, 1996, 110 Stat. 402; Pub. L. 104–201, div. A, title IX, § 901, Sept. 23, 1996, 110 Stat. 2617; Pub. L. 107–107, div. A, title X, § 1048(a)(4), Dec. 28, 2001, 115 Stat. 1222.)

AMENDMENTS

2001—Subsec. (a)(3). Pub. L. 107–107 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1996—Subsec. (a)(3). Pub. L. 104–106, § 903(a), (f)(1), which directed amendment of subsec. (a)(3), eff. Jan. 31, 1997, by substituting ''official in the Department of Defense with principal responsibility for health affairs'' for ''Assistant Secretary of Defense for Health Affairs'' and ''Under Secretary for Health of the Department of Veterans Affairs'' for ''Chief Medical Director of the Department of Veterans Affairs'', was repealed by Pub. L. 104–201.

1993—Subsec. (c). Pub. L. 103–160 inserted at end ''The Secretary of Defense, on a case-by-case basis, may waive the limitation on the number of distinguished pathologists or scientists with whom agreements may be entered into under this subsection if the Secretary determines that such waiver is in the best interest of the Department of Defense.''

1989—Subsec. (a)(3). Pub. L. 101–189 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1980—Subsec. (a)(3). Pub. L. 96–513, § 511(6)(A), substituted ''Secretary of Health and Human Services'' for ''Secretary of Health, Education, and Welfare''.

Subsec. (b)(1)(A). Pub. L. 96–513, § 511(6)(B), inserted ''of this title'' after ''177''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

ESTABLISHMENT OF JOINT PATHOLOGY CENTER

Pub. L. 110–181, div. A, title VII, § 722, Jan. 28, 2008, 122 Stat. 199, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) The Secretary of Defense proposed to disestablish all elements of the Armed Forces Institute of Pathology, except the National Medical Museum and the Tissue Repository, as part of the recommendations of the Secretary for the closure of Walter Reed Army Medical Center in the 2005 round of defense base closure and realignment.

''(2) The Defense Base Closure and Realignment Commission altered, but did not reject, the proposal of the Secretary of Defense to disestablish the Armed Forces Institute of Pathology.

''(3) The Commission's recommendation that the Armed Forces Institute of Pathology's 'capabilities not specified in this recommendation will be absorbed into other DOD, Federal, or civilian facilities' provides the flexibility to retain a Joint Pathology Center as a Department of Defense or Federal entity.

''(b) SENSE OF CONGRESS.—It is the sense of Congress that the Armed Forces Institute of Pathology has provided important medical benefits to the Armed Forces and to the United States and that the Federal Government should retain a Joint Pathology Center.

''(c) ESTABLISHMENT.—

''(1) ESTABLISHMENT REQUIRED.—The President shall establish and maintain a Joint Pathology Center that shall function as the reference center in pathology for the Federal Government.

''(2) ESTABLISHMENT WITHIN DOD.—Except as provided in paragraph (3), the Joint Pathology Center shall be established in the Department of Defense, consistent with the final recommendations of the 2005 Defense Base Closure and Realignment Commission, as approved by the President.

''(3) ESTABLISHMENT IN ANOTHER DEPARTMENT.—If the President makes a determination, within 180 days after the date of the enactment of this Act [Jan. 28, 2008], that the Joint Pathology Center cannot be established in the Department of Defense, the Joint Pathology Center shall be established as an element of a Federal agency other than the Department of Defense. The President shall incorporate the selection of such agency into the determination made under this paragraph.

''(d) SERVICES.—The Joint Pathology Center shall provide, at a minimum, the following:

''(1) Diagnostic pathology consultation services in medicine, dentistry, and veterinary sciences.

''(2) Pathology education, to include graduate medical education, including residency and fellowship programs, and continuing medical education.

''(3) Diagnostic pathology research.

''(4) Maintenance and continued modernization of the Tissue Repository and, as appropriate, utilization of the Repository in conducting the activities described in paragraphs (1) through (3).''

NATIONAL MUSEUM OF HEALTH AND MEDICINE

Pub. L. 103–337, div. A, title X, § 1067, Oct. 5, 1994, 108 Stat. 2851, as amended by Pub. L. 105–78, title VII, § 702, Nov. 13, 1997, 111 Stat. 1524, provided that:

''(a) PURPOSE.—It is the purpose of this section—

''(1) to display and interpret the collections of the Armed Forces Institute of Pathology currently located at Walter Reed Medical Center; and

''(2) to designate the public facility of the Armed Forces Institute of Pathology as the National Museum of Health and Medicine.

''(b) DESIGNATION.—The public facility of the Armed Forces Institute of Pathology shall also be known as the National Museum of Health and Medicine.''

CONGRESSIONAL FINDINGS AND DECLARATION

Section 811(a) of Pub. L. 94–361 provided that:

''(1) The Congress hereby finds and declares that—

''(A) the Armed Forces Institute of Pathology offers unique pathologic support to national and international medicine;

''(B) the Institute contains the Nation's most comprehensive collection of pathologic specimens for study and a staff of prestigious pathologists engaged in consultation, education, and research;

''(C) the activities of the Institute are of unique and vital importance in support of the health care of the Armed Forces of the United States;

''(D) the activities of the Institute are also of unique and vital importance in support of the civilian health care system of the United States;

''(E) the Institute provides an important focus for the exchange of information between civilian and military medicine, to the benefit of both; and

''(F) it is important to the health of the American people and of the members of the Armed Forces of the United States that the Institute continue its activities in serving both the military and civilian sectors in education, consultation, and research in the medical, dental, and veterinary sciences.

''(2) The Congress further finds and declares that beneficial cooperative efforts between private individuals, professional societies, and other entities on the one hand and the Armed Forces Institute of Pathology on the other can be carried out most effectively through the establishment of a private corporation.''

§ 177. American Registry of Pathology

(a)(1) There is authorized to be established a nonprofit corporation to be known as the American Registry of Pathology which shall not for any purpose be an agency or establishment of the United States Government. The American Registry of Pathology shall be subject to the provisions of this section and, to the extent not inconsistent with this section, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–501 et seq.).

(2) The American Registry of Pathology shall have a Board of Members (hereinafter in this section referred to as the ''Board'') consisting of not less than eleven individuals who are representatives of those professional societies and organizations which sponsor individual registries of pathology at the Armed Forces Institute of Pathology, of whom one shall be elected annually by the Board to serve as chairman. Each such sponsor shall appoint one member to the Board for a term of four years.

(3) The American Registry of Pathology shall have a Director, who shall be appointed by the Board with the concurrence of the Director of the Armed Forces Institute of Pathology, and such other officers as may be named and appointed by the Board. Such officers shall be compensated at rates fixed by the Board and shall serve at the pleasure of the Board.

(4) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish under the District of Columbia Nonprofit Corporation Act the corporation authorized by paragraph (1).

(5) The term of office of each member of the Board shall be four years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment and to the maximum extent practicable, one fourth at the end of one year, one fourth at the end of two years, one fourth at the end of three years, and one fourth at the end of four years, and (C) a member whose term has expired may serve until his successor has qualified. No member shall be eligible to serve more than two consecutive terms of four years each.

(6) Any vacancy in the Board shall not affect its powers, but such vacancy shall be filled in the manner in which the original appointment was made.

(b) In order to carry out the purposes of this section, the American Registry of Pathology is authorized to—

(1) enter into contracts with the Armed Forces Institute of Pathology for the provision of such services and personnel as may be necessary to carry out their cooperative enterprises;

(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of fascicles of tumor pathology, atlases, and other material;

(3) accept gifts and grants from and enter into contracts with individuals, private foundations, professional societies, institutions, and governmental agencies;

(4) enter into agreements with professional societies for the establishment and maintenance of Registries of Pathology; and

(5) serve as a focus for the interchange between military and civilian pathology and encourage the participation of medical, dental, and veterinary sciences in pathology for the mutual benefit of military and civilian medicine.

(c) In the performance of the functions set forth in subsection (b), the American Registry of Pathology is authorized to—

(1) enter into such other contracts, leases, cooperative agreements, or other transactions as the Board deems appropriate to conduct the activities of the American Registry of Pathology; and

(2) charge such fees for professional services as the Board deems reasonable and appropriate.

(d) The American Registry of Pathology may transmit to the Director and the Board of Governors of the Armed Forces Institute of Pathology and to the sponsors referred to in subsection (a)(2) annually, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments.

(Added Pub. L. 94–361, title VIII, § 811(b), July 14, 1976, 90 Stat. 934; amended Pub. L. 98–525, title XIV, § 1405(5), Oct. 19, 1984, 98 Stat. 2622.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a)(1), (4), is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, as amended, which is not classified to the Code.

AMENDMENTS

1984—Subsec. (a)(1). Pub. L. 98–525 substituted ''sec. 29–501'' for ''sec. 29–1001''.

§ 178. The Henry M. Jackson Foundation for the Advancement of Military Medicine

(a) There is authorized to be established a nonprofit corporation to be known as the Henry M. Jackson Foundation for the Advancement of Military Medicine (hereinafter in this section referred to as the ''Foundation'') which shall not for any purpose be an agency or instrumentality of the United States Government. The Foundation shall be subject to the provisions of this section and, to the extent not inconsistent with this section, the Corporations and Associations Articles of the State of Maryland.

(b) It shall be the purpose of the Foundation (1) to carry out medical research and education

projects under cooperative arrangements with the Uniformed Services University of the Health Sciences, (2) to serve as a focus for the interchange between military and civilian medical personnel, and (3) to encourage the participation of the medical, dental, nursing, veterinary, and other biomedical sciences in the work of the Foundation for the mutual benefit of military and civilian medicine.

(c)(1) The Foundation shall have a Council of Directors (hereinafter in this section referred to as the ''Council'') composed of—

(A) the Chairmen and ranking minority members of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives (or their designees from the membership of such committees), who shall be ex officio members,

(B) the Dean of the Uniformed Services University of the Health Sciences, who shall be an ex officio member, and

(C) four members appointed by the ex officio members of the Council designated in clauses (A) and (B).

(2) The term of office of each member of the Council appointed under clause (C) of paragraph (1) shall be four years, except that—

(A) any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of office of members first taking office shall expire, as designated by the ex officio members of the Council at the time of the appointment, two at the end of two years and two at the end of four years.

(3) The Council shall elect a chairman from among its members.

(d)(1) The Foundation shall have an Executive Director who shall be appointed by the Council and shall serve at the pleasure of the Council. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Council shall prescribe.

(2) The rate of compensation of the Executive Director shall be fixed by the Council.

(e) The initial members of the Council shall serve as incorporators and take whatever actions as are necessary to establish under the Corporations and Associations Articles of the State of Maryland the corporation authorized by subsection (a).

(f) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original designation or appointment was made.

(g) In order to carry out the purposes of this section, the Foundation is authorized to—

(1) enter into contracts with, accept grants from, and make grants to the Uniformed Services University of the Health Sciences for the purpose of carrying out cooperative enterprises in medical research, medical consultation, and medical education, including contracts for provision of such personnel and services as may be necessary to carry out such cooperative enterprises;

(2) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

(3) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

(4) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

(5) enter into contracts with individuals, public or private organizations, professional societies, and government agencies for the purpose of carrying out the functions of the Foundation;

(6) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; and

(7) charge such fees for professional services furnished by the Foundation as the Executive Director determines reasonable and appropriate.

(h) A person who is a full-time or part-time employee of the Foundation may not be an employee (full-time or part-time) of the Federal Government.

(i) The Council shall transmit to the President annually, and at such other times as the Council considers desirable, a report on the operations, activities, and accomplishments of the Foundation.

(Added Pub. L. 98–36, § 2(a), May 27, 1983, 97 Stat. 200; amended Pub. L. 98–132, § 2(a)(1), Oct. 17, 1983, 97 Stat. 849; Pub. L. 101–189, div. A, title VII, § 726(b)(2), Nov. 29, 1989, 103 Stat. 1480; Pub. L. 104–106, div. A, title XV, § 1502(a)(2), Feb. 10, 1996, 110 Stat. 502; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774.)

AMENDMENTS

1999—Subsec. (c)(1)(A). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (c)(1)(A). Pub. L. 104–106 substituted ''Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives'' for ''Committees on Armed Services of the Senate and the House of Representatives''.

1989—Subsec. (g)(1). Pub. L. 101–189 inserted '', accept grants from, and make grants to'' after ''contracts with''.

1983—Pub. L. 98–132, § 2(a)(1)(A), inserted ''The Henry M. Jackson'' before ''Foundation'' in section catchline.

Subsec. (a). Pub. L. 98–132, § 2(a)(1)(B), inserted ''Henry M. Jackson''.

CHANGE OF NAME

Section 1 of Pub. L. 98–132 provided: ''That (a) the Foundation for the Advancement of Military Medicine established pursuant to section 178 of title 10, United States Code, shall be designated and hereafter known as the 'Henry M. Jackson Foundation for the Advancement of Military Medicine', in honor of the late Henry M. Jackson, United States Senator from the State of Washington. Any reference to the Foundation for the Advancement of Military Medicine in any law, regulation, document, record, or other paper of the United States shall be held and considered to be a reference to the 'Henry M. Jackson Foundation for the Advancement of Military Medicine'.

''(b) The Council of Directors referred to in subsection (c) of section 178 of such title shall take such

action as is necessary under the Corporations and Associations Articles of the State of Maryland to amend the corporate name of the Foundation for the Advancement of Military Medicine established under such section to reflect the designation made by the first sentence of subsection (a).''

§ 179. Nuclear Weapons Council

(a) ESTABLISHMENT; MEMBERSHIP.—There is a Nuclear Weapons Council (hereinafter in this section referred to as the ''Council'') operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:

(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(2) The Vice Chairman of the Joint Chiefs of Staff.

(3) The Under Secretary for Nuclear Security of the Department of Energy.

(4) The Under Secretary of Defense for Policy.

(5) The commander of the United States Strategic Command.

(b) CHAIRMAN; MEETINGS.—(1) Except as provided in paragraph (2), the Chairman of the Council shall be the member designated under subsection (a)(1).

(2) A meeting of the Council shall be chaired by the Under Secretary for Nuclear Security of the Department of Energy whenever the matter under consideration is within the primary responsibility or concern of the Department of Energy, as determined by majority vote of the Council.

(3) The Council shall meet not less often than once every three months.

(c) STAFF AND ADMINISTRATIVE SERVICES; STAFF DIRECTOR.—(1) The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the Council.

(2) The Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs shall be the Staff Director of the Council.

(3)(A) Whenever the position of Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs has been vacant a period of more than 6 months, the Secretary of Energy shall designate a qualified individual to serve as acting staff director of the Council until the position of Assistant Secretary is filled.

(B) An individual designated under subparagraph (A) shall possess substantial technical and policy experience relevant to the management and oversight of nuclear weapons programs.

(d) RESPONSIBILITIES.—The Council shall be responsible for the following matters:

(1) Preparing the annual Nuclear Weapons Stockpile Memorandum.

(2) Developing nuclear weapons stockpiles options and the costs of such options.

(3) Coordinating programming and budget matters pertaining to nuclear weapons programs between the Department of Defense and the Department of Energy.

(4) Identifying various options for cost-effective schedules for nuclear weapons production.

(5) Considering safety, security, and control issues for existing weapons and for proposed new weapon program starts.

(6) Ensuring that adequate consideration is given to design, performance, and cost tradeoffs for all proposed new nuclear weapons programs.

(7) Providing broad guidance regarding priorities for research on nuclear weapons.

(8) Coordinating and approving activities conducted by the Department of Energy for the study, development, production, and retirement of nuclear warheads, including concept definition studies, feasibility studies, engineering development, hardware component fabrication, warhead production, and warhead retirement.

(9) Preparing comments on annual proposals for budget levels for research on nuclear weapons and transmitting those comments to the Secretary of Defense and the Secretary of Energy before the preparation of the annual budget requests by the Secretaries of those departments.

(10) Providing—

(A) broad guidance regarding priorities for research on improved conventional weapons, and

(B) comments on annual proposals for budget levels for research on improved conventional weapons,

and transmitting such guidance and comments to the Secretary of Defense before the preparation of the annual budget request of the Department of Defense.

(e) REPORT ON DIFFICULTIES RELATING TO SAFETY OR RELIABILITY.—The Council shall submit to Congress a report on any analysis conducted by the Council with respect to difficulties at nuclear weapons laboratories or nuclear weapons production plants that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.

(f) ANNUAL REPORT.—Each fiscal year, at the same time the President submits the budget pursuant to section 1105 of title 31, the Chairman of the Council, through the Secretary of Energy, shall submit to the congressional defense committees a report, in classified form, on the following:

(1) The effectiveness and efficiency of the Council, and of the deliberative and decision-making processes used by the Council, in carrying out the responsibilities described in subsection (d).

(2) A description of all activities conducted by the Department of Energy during that fiscal year, or planned to be conducted by the Department of Energy during the next fiscal year, for the study, development, production, and retirement of nuclear warheads and that have been approved by the Council, including a description of—

(A) the concept definition activities and feasibility studies conducted or planned to be conducted by the Department of Energy;

(B) the schedule for completion of each such activity or study; and

(C) the degree to which each such activity or study is consistent with United States policy for new nuclear warhead development or warhead modification and with established or projected military requirements.

(3) A description of the activities of the Council during the 12-month period ending on the date of the report together with any assessments or studies conducted by the Council during that period.

(4) A description of the highest priority requirements of the Department of Defense with respect to the Department of Energy stockpile stewardship and management program as of that date.

(5) An assessment of the extent to which the requirements referred to in paragraph (4) are being addressed by the Department of Energy as of that date.

(Added Pub. L. 99–661, div. C, title I, § 3137(a)(1), Nov. 14, 1986, 100 Stat. 4065; amended Pub. L. 100–180, div. A, title XII, § 1231(2), Dec. 4, 1987, 101 Stat. 1160; Pub. L. 100–456, div. A, title XII, § 1233(h), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 102–484, div. C, title XXXI, § 3133, Oct. 23, 1992, 106 Stat. 2639; Pub. L. 103–160, div. A, title IX, § 904(d)(1), Nov. 30, 1993, 107 Stat. 1728; Pub. L. 103–337, div. C, title XXXI, § 3152, Oct. 5, 1994, 108 Stat. 3090; Pub. L. 104–106, div. A, title IX, § 904(b)(1), title XV, § 1502(a)(7), Feb. 10, 1996, 110 Stat. 403, 502; Pub. L. 106–65, div. A, title X, § 1067(1), div. C, title XXXI, § 3163(a), (c), Oct. 5, 1999, 113 Stat. 774, 944; Pub. L. 106–398, § 1 [div. C, title XXXI, § 3152(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–464; Pub. L. 107–107, div. A, title X, § 1048(b)(2), Dec. 28, 2001, 115 Stat. 1225; Pub. L. 107–314, div. D, title XLII, § 4213(c), formerly Pub. L. 104–201, div. C, title XXXI, § 3159(c), Sept. 23, 1996, 110 Stat. 2842, renumbered § 4213(c) of Pub. L. 107–314 by Pub. L. 108–136, div. C, title XXXI, § 3141(e)(14), Nov. 24, 2003, 117 Stat. 1760; Pub. L. 108–375, div. A, title IX, § 902(a)–(d), Oct. 28, 2004, 118 Stat. 2025; Pub. L. 109–364, div. A, title IX, § 903, Oct. 17, 2006, 120 Stat. 2351; Pub. L. 111–383, div. A, title IX, § 901(j)(1), Jan. 7, 2011, 124 Stat. 4324.)

AMENDMENTS

2011—Subsec. (c)(2). Pub. L. 111–383, § 901(j)(1)(A), substituted ''Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs'' for ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs''.

Subsec. (c)(3)(A). Pub. L. 111–383 substituted ''Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs'' for ''Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs'' and ''Assistant Secretary'' for ''that Assistant to the Secretary''.

2006—Subsec. (a)(5). Pub. L. 109–364 added par. (5).

2004—Subsec. (a). Pub. L. 108–375, § 902(b), (d)(1), inserted heading and, in introductory provisions, struck out ''Joint'' before ''Nuclear Weapons Council'' and substituted ''operated as a joint activity of the Department of Defense and the Department of Energy. The membership of the Council is comprised of the following officers of those departments:'' for ''composed of three members as follows:''.

Subsec. (a)(4). Pub. L. 108–375, § 902(a), added par. (4).

Subsec. (b). Pub. L. 108–375, § 902(d)(2), inserted heading.

Subsec. (c). Pub. L. 108–375, § 902(d)(3), inserted heading.

Subsec. (c)(3)(B). Pub. L. 108–375, § 902(c)(1), substituted ''designated'' for ''appointed''.

Subsec. (d). Pub. L. 108–375, § 902(d)(4), inserted heading.

Subsec. (e). Pub. L. 108–375, § 902(c)(2), (d)(5), inserted heading and substituted ''The Council shall'' for ''In addition to the responsibilities set forth in subsection (d), the Council shall also'' in text.

Subsec. (f). Pub. L. 108–375, § 902(c)(3), (d)(6), inserted heading and substituted ''congressional defense committees'' for ''Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives'' in introductory provisions.

2001—Subsec. (a)(1). Pub. L. 107–107 substituted ''Under Secretary of Defense for Acquisition, Technology, and Logistics'' for ''Under Secretary of Defense for Acquisition and Technology''.

2000—Subsec. (a)(3). Pub. L. 106–398, § 1 [div. C, title XXXI, § 3152(a)(1)], added par. (3) and struck out former par. (3) which read as follows: ''One senior representative of the Department of Energy designated by the Secretary of Energy.''

Subsec. (b)(2). Pub. L. 106–398, § 1 [div. C, title XXXI, § 3152(a)(2)], substituted ''the Under Secretary for Nuclear Security of the Department of Energy'' for ''the representative designated under subsection (a)(3)''.

1999—Subsec. (b)(3). Pub. L. 106–65, § 3163(a)(1), added par. (3).

Subsec. (c)(3). Pub. L. 106–65, § 3163(a)(2), added par. (3).

Subsec. (f). Pub. L. 106–65, § 1067(1), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security'' in introductory provisions.

Subsec. (f)(3) to (5). Pub. L. 106–65, § 3163(c), added pars. (3) to (5).

1996—Subsec. (c)(2). Pub. L. 104–106, § 904(b)(1), substituted ''Nuclear and Chemical and Biological Defense Programs'' for ''Atomic Energy''.

Subsec. (e). Pub. L. 107–314, § 4213(c)(2), formerly Pub. L. 104–201, § 3159(c)(2), as renumbered by Pub. L. 108–136, added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 104–106, § 1502(a)(7), substituted ''to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on National Security and the Committee on Appropriations of the'' for ''to the Committees on Armed Services and Appropriations of the Senate and''.

Subsec. (f). Pub. L. 107–314, § 4213(c)(1), formerly Pub. L. 104–201, § 3159(c)(1), as renumbered by Pub. L. 108–136, redesignated subsec. (e) as (f).

1994—Subsecs. (a)(3), (b). Pub. L. 103–337, § 3152(c), substituted ''designated'' for ''appointed'' wherever appearing.

Subsec. (d)(8) to (10). Pub. L. 103–337, § 3152(a), added par. (8) and redesignated former pars. (8) and (9) as (9) and (10), respectively.

Subsec. (e). Pub. L. 103–337, § 3152(b), added subsec. (e).

1993—Subsec. (a)(1). Pub. L. 103–160 substituted ''Under Secretary of Defense for Acquisition and Technology'' for ''Under Secretary of Defense for Acquisition''.

1992—Subsec. (a)(1). Pub. L. 102–484 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Director of Defense Research and Engineering.''

1988—Subsec. (e). Pub. L. 100–456 struck out subsec. (e) which read as follows: ''The Council shall submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a report on the actions that have been taken by the Department of Defense and the Department of Energy to implement the recommendations of the President's Blue Ribbon Task Group on Nuclear Weapons Program Management. The Council shall include in such report its recommendation on the role and composition of the staff on the Council. The Council shall submit such report to the Committees not later than March 1, 1987.''

1987—Subsec. (e). Pub. L. 100–180 realigned margins of subsec. (e).

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 111–383 effective Jan. 1, 2011, see section 901(p) of Pub. L. 111–383, set out as a note under section 131 of this title.

CHAIRMAN OF JCS TO SERVE ON COUNCIL IF THERE IS NO VICE CHAIRMAN OF JCS

Pub. L. 99–661, div. C, title I, § 3137(b), Nov. 14, 1986, 100 Stat. 4066, provided that, if on Nov. 14, 1986, the position of Vice Chairman of the Joint Chiefs of Staff had not been established by law, the Chairman of the Joint Chiefs of Staff would be a member of the Nuclear Weapons Council established by section 179 of this title, and would remain a member of such Council until an individual had been appointed Vice Chairman of the Joint Chiefs of Staff.

§ 180. Service academy athletic programs: review board

(a) INDEPENDENT REVIEW BOARD.—The Secretary of Defense shall appoint a board to review the administration of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

(b) COMPOSITION OF BOARD.—The Secretary shall appoint the members of the board from among distinguished administrators of institutions of higher education, members of Congress, members of the Boards of Visitors of the academies, and other experts in collegiate athletics programs. The Superintendents of the three academies shall be members of the board. The Secretary shall designate one member of the board, other than a Superintendent of an academy, as Chairman.

(c) DUTIES.—The board shall, on an annual basis—

(1) review all aspects of the athletics programs of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, including—

(A) the policies relating to the administration of such programs;

(B) the appropriateness of the balance between the emphasis placed by each academy on athletics and the emphasis placed by such academy on academic pursuits; and

(C) the extent to which all athletes in all sports are treated equitably under the athletics program of each academy; and

(2) determine ways in which the administration of the athletics programs at the academies can serve as models for the administration of athletics programs at civilian institutions of higher education.

(d) ADMINISTRATIVE PROVISIONS.—(1) Each member of the board who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for Executive Schedule Level IV under section 5315 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the board. Members of the board who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the board.

(Added Pub. L. 102–190, div. A, title V, § 513(a), Dec. 5, 1991, 105 Stat. 1360; amended Pub. L. 106–65, div. A, title X, § 1066(a)(2), Oct. 5, 1999, 113 Stat. 770; Pub. L. 106–398, § 1 [[div. A], title X, § 1087(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–290.)

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–398 substituted ''section 5315'' for ''section 5376''.

1999—Subsec. (d)(1). Pub. L. 106–65 substituted ''Executive Schedule Level IV under section 5376 of title 5'' for ''grade GS–18 of the General Schedule under section 5332 of title 5''.

§ 181. Joint Requirements Oversight Council

(a) ESTABLISHMENT.—There is a Joint Requirements Oversight Council in the Department of Defense.

(b) MISSION.—In addition to other matters assigned to it by the President or Secretary of Defense, the Joint Requirements Oversight Council shall—

(1) assist the Chairman of the Joint Chiefs of Staff—

(A) in identifying, assessing, and approving joint military requirements (including existing systems and equipment) to meet the national military strategy;

(B) in identifying the core mission area associated with each such requirement; and

(C) in ensuring the consideration of trade-offs among cost, schedule, and performance objectives for joint military requirements in consultation with the advisors specified in subsection (d);

(2) assist the Chairman in establishing and assigning priority levels for joint military requirements;

(3) assist the Chairman, in consultation with the advisors to the Council under subsection (d), in reviewing the estimated level of resources required in the fulfillment of each joint military requirement and in ensuring that such resource level is consistent with the level of priority assigned to such requirement;

(4) assist acquisition officials in identifying alternatives to any acquisition program that meet joint military requirements for the purposes of section 2366a(b), section 2366b(a)(4), and section 2433(e)(2) of this title; and

(5) assist the Chairman, in consultation with the commanders of the combatant commands and the Under Secretary of Defense for Acquisition, Technology, and Logistics, in establishing an objective for the overall period of time within which an initial operational capability should be delivered to meet each joint military requirement.

(c) COMPOSITION.—(1) The Joint Requirements Oversight Council is composed of—

(A) the Vice Chairman of the Joint Chiefs of Staff, who is the chairman of the Council;

(B) an Army officer in the grade of general;

(C) a Navy officer in the grade of admiral;

(D) an Air Force officer in the grade of general;

(E) a Marine Corps officer in the grade of general; and

(F) in addition, when directed by the chairman, the commander of any combatant com-

mand (or, as directed by that commander, the deputy commander of that command) when matters related to the area of responsibility or functions of that command will be under consideration by the Council.

(2) Members of the Council under subparagraphs (B), (C), (D), and (E) of paragraph (1) shall be selected by the Chairman of the Joint Chiefs of Staff, after consultation with the Secretary of Defense, from officers in the grade of general or admiral, as the case may be, who are recommended for such selection by the Secretary of the military department concerned.

(d) ADVISORS.—(1) The following officials of the Department of Defense shall serve as advisors to the Council on matters within their authority and expertise:

(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(B) The Under Secretary of Defense (Comptroller).

(C) The Under Secretary of Defense for Policy.

(D) The Director of Cost Assessment and Program Evaluation.

(E) The Director of Operational Test and Evaluation.

(F) Such other civilian officials of the Department of Defense as are designated by the Secretary of Defense for purposes of this subsection.

(2) The Council shall seek and consider input from the commanders of the combatant commands in carrying out its mission under paragraphs (1) and (2) of subsection (b) and in conducting periodic reviews in accordance with the requirements of subsection (e).

(e) ORGANIZATION.—The Joint Requirements Oversight Council shall conduct periodic reviews of joint military requirements within a core mission area of the Department of Defense. In any such review of a core mission area, the officer or official assigned to lead the review shall have a deputy from a different military department.

(f) AVAILABILITY OF OVERSIGHT INFORMATION TO CONGRESSIONAL DEFENSE COMMITTEES.—(1) The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.

(2) In this subsection, the term ''oversight information'' means information and materials comprising analysis and justification that are prepared to support a recommendation that is made to, and approved by, the Secretary of Defense.

(g) DEFINITIONS.—In this section:

(1) The term ''joint military requirement'' means a capability necessary to fulfill a gap in a core mission area of the Department of Defense.

(2) The term ''core mission area'' means a core mission area of the Department of Defense identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.

(Added Pub. L. 104–106, div. A, title IX, § 905(a)(1), Feb. 10, 1996, 110 Stat. 403; amended Pub. L. 104–201, div. A, title IX, § 908, Sept. 23, 1996, 110 Stat. 2621; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title X, § 1043(b)(3), Nov. 24, 2003, 117 Stat. 1610; Pub. L. 110–181, div. A, title IX, § 942(a)–(d), Jan. 28, 2008, 122 Stat. 287, 288; Pub. L. 110–417, [div. A], title VIII, § 813(d)(1), Oct. 14, 2008, 122 Stat. 4527; Pub. L. 111–23, title I, §§ 101(d)(1), 105(a), title II, § 201(b), May 22, 2009, 123 Stat. 1709, 1717, 1719; Pub. L. 111–383, div. A, title VIII, § 841, title X, § 1075(b)(8), Jan. 7, 2011, 124 Stat. 4281, 4369.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383, § 841(d), substituted ''There is'' for ''The Secretary of Defense shall establish''.

Subsec. (b)(3). Pub. L. 111–383, § 1075(b)(8), which directed substitution of ''Program Evaluation'' for ''Performance Evaluation'', could not be executed because of the amendment by Pub. L. 111–383, § 841(c)(2). See below.

Pub. L. 111–383, § 841(c)(2), substituted ''advisors to the Council under subsection (d)'' for ''Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation''.

Subsec. (c)(1)(A). Pub. L. 111–383, § 841(a)(1), inserted ''Vice'' before ''Chairman of the Joint Chiefs of Staff''.

Subsec. (c)(1)(F). Pub. L. 111–383, § 841(b), added subpar. (F).

Subsec. (c)(2). Pub. L. 111–383, § 841(a)(2), substituted ''under subparagraphs (B), (C), (D), and (E) of paragraph (1)'' for '', other than the Chairman of the Joint Chiefs of Staff,''.

Subsec. (c)(3). Pub. L. 111–383, § 841(a)(3), struck out par. (3) which read as follows: ''The functions of the Chairman of the Joint Chiefs of Staff as chairman of the Council may only be delegated to the Vice Chairman of the Joint Chiefs of Staff.''

Subsec. (d)(1). Pub. L. 111–383, § 841(c)(1), substituted ''The following officials of the Department of Defense shall serve as advisors to the Council on matters within their authority and expertise:'' for ''The Under Secretary of Defense for Acquisition, Technology, and Logistics, the Under Secretary of Defense (Comptroller), and the Director of Cost Assessment and Program Evaluation shall serve as advisors to the Council on matters within their authority and expertise.'' and added subpars. (A) to (F).

2009—Subsec. (b)(1)(C). Pub. L. 111–23, § 201(b)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 111–23, § 201(b)(2)(A), inserted '', in consultation with the Under Secretary of Defense (Comptroller), the Under Secretary of Defense for Acquisition, Technology, and Logistics, and the Director of Cost Assessment and Performance Evaluation,'' after ''assist the Chairman''.

Subsec. (b)(5). Pub. L. 111–23, § 201(b)(2)(B)–(4), added par. (5).

Subsec. (d). Pub. L. 111–23, § 105(a), designated existing provisions as par. (1) and added par. (2).

Pub. L. 111–23, § 101(d)(1), substituted ''Director of Cost Assessment and Program Evaluation'' for ''Director of the Office of Program Analysis and Evaluation''.

2008—Subsec. (b). Pub. L. 110–181, § 942(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to mission of Joint Requirements Oversight Council.

Subsec. (b)(4). Pub. L. 110–417 substituted ''section 2366a(b), section 2366b(a)(4),'' for ''section 2366a(a)(4), section 2366b(b),''.

Subsec. (d). Pub. L. 110–181, § 942(b)(2), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 110–181, § 942(c), added subsec. (e).

Subsec. (f). Pub. L. 110–181, § 942(b)(1), redesignated subsec. (d) as (f).

Subsec. (g). Pub. L. 110–181, §942(d), added subsec. (g).

2003—Subsec. (d)(2). Pub. L. 108–136 substituted ''subsection, the term 'oversight'' for ''subsection:'', struck out ''(A) The term 'oversight'' before ''information' means'', and struck out subpar. (B) which read as follows: ''The term 'congressional defense committees' means—

''(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''

1999—Subsec. (d)(2)(B)(ii). Pub. L. 106–65 substituted ''Committee on Armed Services'' for ''Committee on National Security''.

1996—Subsec. (d). Pub. L. 104–201 added subsec. (d).

EFFECTIVE DATE

Section 905(b) of Pub. L. 104–106 provided that: ''The amendments made by this section [enacting this section] shall take effect on January 31, 1997.''

INPUT FROM COMMANDERS OF COMBATANT COMMANDS

Pub. L. 111–23, title I, §105(b), May 22, 2009, 123 Stat. 1718, provided that: ''The Joint Requirements Oversight Council in the Department of Defense shall seek and consider input from the commanders of combatant commands, in accordance with section 181(d) of title 10, United States Code (as amended by subsection (a)). Such input may include, but is not limited to, an assessment of the following:

''(1) Any current or projected missions or threats in the theater of operations of the commander of a combatant command that would inform the assessment of a new joint military requirement.

''(2) The necessity and sufficiency of a proposed joint military requirement in terms of current and projected missions or threats.

''(3) The relative priority of a proposed joint military requirement in comparison with other joint military requirements within the theater of operations of the commander of a combatant command.

''(4) The ability of partner nations in the theater of operations of the commander of a combatant command to assist in meeting the joint military requirement or the benefit, if any, of a partner nation assisting in development or use of technologies developed to meet the joint military requirement.''

REVIEW OF JOINT MILITARY REQUIREMENTS

Pub. L. 111–23, title II, §201(c), May 22, 2009, 123 Stat. 1720, provided that: ''The Secretary of Defense shall ensure that each new joint military requirement recommended by the Joint Requirements Oversight Council is reviewed to ensure that the Joint Requirements Oversight Council has, in making such recommendation—

''(1) taken appropriate action to seek and consider input from the commanders of the combatant commands, in accordance with the requirements of section 181(d) of title 10, United States Code (as amended by section 105(a) of this Act);

''(2) engaged in consideration of trade-offs among cost, schedule, and performance objectives in accordance with the requirements of section 181(b)(1)(C) of title 10, United States Code (as added by subsection (b)); and

''(3) engaged in consideration of issues of joint portfolio management, including alternative material and non-material solutions, as provided in Department of Defense instructions for the development of joint military requirements.''

STUDY GUIDANCE FOR ANALYSES OF ALTERNATIVES

Pub. L. 111–23, title II, §201(d), May 22, 2009, 123 Stat. 1720, provided that: ''The Director of Cost Assessment and Program Evaluation shall take the lead in the development of study guidance for an analysis of alternatives for each joint military requirement for which the Chairman of the Joint Requirements Oversight Council is the validation authority. In developing the guidance, the Director shall solicit the advice of appropriate officials within the Department of Defense and ensure that the guidance requires, at a minimum—

''(1) full consideration of possible trade-offs among cost, schedule, and performance objectives for each alternative considered; and

''(2) an assessment of whether or not the joint military requirement can be met in a manner that is consistent with the cost and schedule objectives recommended by the Joint Requirements Oversight Council.''

DEADLINES FOR INCLUSION OF CORE MISSION REFERENCES IN DOCUMENTS

Pub. L. 110–181, div. A, title IX, §942(f), Jan. 28, 2008, 122 Stat. 288, provided that: ''Effective June 1, 2009, all joint military requirements documents of the Joint Requirements Oversight Council produced to carry out its mission under section 181(b)(1) of title 10, United States Code, shall reference the core mission areas organized and defined under section 118b of such title. Not later than October 1, 2009, all such documents produced before June 1, 2009, shall reference such structure.''

REPORTS ON JOINT REQUIREMENTS OVERSIGHT COUNCIL REFORM INITIATIVE

Pub. L. 106–398, §1 [[div. A], title IX, §916], Oct. 30, 2000, 114 Stat. 1654, 1654A–231, as amended by Pub. L. 107–107, div. A, title IX, §923, Dec. 28, 2001, 115 Stat. 1199, directed the Chairman of the Joints Chiefs of Staff to submit reports to committees of Congress not later than Mar. 1, 2001, Sept. 1, 2001, Mar. 1, 2002, and Mar. 1, 2003, on the progress made on the initiative of the Chairman to reform and refocus the Joint Requirements Oversight Council.

§182. Center for Excellence in Disaster Management and Humanitarian Assistance

(a) ESTABLISHMENT.—The Secretary of Defense may operate a Center for Excellence in Disaster Management and Humanitarian Assistance (in this section referred to as the ''Center'').

(b) MISSIONS.—(1) The Center shall be used to provide and facilitate education, training, and research in civil-military operations, particularly operations that require international disaster management and humanitarian assistance and operations that require coordination between the Department of Defense and other agencies.

(2) The Center shall be used to make available high-quality disaster management and humanitarian assistance in response to disasters.

(3) The Center shall be used to provide and facilitate education, training, interagency coordination, and research on the following additional matters:

(A) Management of the consequences of nuclear, biological, and chemical events.

(B) Management of the consequences of terrorism.

(C) Appropriate roles for the reserve components in the management of such consequences and in disaster management and humanitarian assistance in response to natural disasters.

(D) Meeting requirements for information in connection with regional and global disasters, including the use of advanced communications technology as a virtual library.

(E) Tropical medicine, particularly in relation to the medical readiness requirements of the Department of Defense.

(4) The Center shall develop a repository of disaster risk indicators for the Asia-Pacific region.

(5) The Center shall perform such other missions as the Secretary of Defense may specify.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Secretary of Defense may enter into an agreement with appropriate officials of an institution of higher education to provide for joint operation of the Center. Any such agreement shall provide for the institution to furnish necessary administrative services for the Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Secretary of Defense may accept, on behalf of the Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Such donations may be accepted from any agency of the Federal Government, any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any other private source in the United States or a foreign country.

(2) The Secretary may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or members of the armed forces, to carry out any responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department of Defense or of any person involved in such a program.

(3) The Secretary shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a foreign donation would have a result described in paragraph (2).

(4) Funds accepted by the Secretary under paragraph (1) as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.

(Added Pub. L. 105–85, div. A, title III, § 382(a)(1), Nov. 18, 1997, 111 Stat. 1709.)

PAYMENTS FOR EDUCATION AND TRAINING OF PERSONNEL OF FOREIGN COUNTRIES

Pub. L. 107–248, title VIII, § 8093, Oct. 23, 2002, 116 Stat. 1558, provided that: ''During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance [probably should be Center for Excellence in Disaster Management and Humanitarian Assistance] may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 107–117, div. A, title VIII, § 8109, Jan. 10, 2002, 115 Stat. 2272.

Pub. L. 106–259, title VIII, § 8109, Aug. 9, 2000, 114 Stat. 698.

Pub. L. 106–79, title VIII, § 8139, Oct. 25, 1999, 113 Stat. 1269.

§ 183. Department of Defense Board of Actuaries

(a) IN GENERAL.—There shall be in the Department of Defense a Department of Defense Board of Actuaries (hereinafter in this section referred to as the ''Board'').

(b) MEMBERS.—(1) The Board shall consist of three members who shall be appointed by the Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries.

(2) The members of the Board shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the member's predecessor was appointed shall only serve until the end of such term. A member may serve after the end of the member's term until the member's successor takes office.

(3) A member of the Board may be removed by the Secretary of Defense only for misconduct or failure to perform functions vested in the Board.

(4) A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5 for each day the member is engaged in the performance of the duties of the Board and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703 of that title in connection with such duties.

(c) DUTIES.—The Board shall have the following duties:

(1) To review valuations of the Department of Defense Military Retirement Fund in accordance with section 1465(c) of this title and submit to the President and Congress, not less often than once every four years, a report on the status of that Fund, including such recommendations for modifications to the funding or amortization of that Fund as the Board considers appropriate and necessary to maintain that Fund on a sound actuarial basis.

(2) To review valuations of the Department of Defense Education Benefits Fund in accordance with section 2006(e) of this title and make recommendations to the President and Congress on such modifications to the funding or amortization of that Fund as the Board considers appropriate to maintain that Fund on a sound actuarial basis.

(3) To review valuations of such other funds as the Secretary of Defense shall specify for purposes of this section and make recommendations to the President and Congress on such modifications to the funding or amortization of such funds as the Board considers appropriate to maintain such funds on a sound actuarial basis.

(d) RECORDS.—The Secretary of Defense shall ensure that the Board has access to such records regarding the funds referred to in subsection (c) as the Board shall require to determine the actuarial status of such funds.

(e) REPORTS.—(1) The Board shall submit to the Secretary of Defense on an annual basis a

report on the actuarial status of each of the following:

(A) The Department of Defense Military Retirement Fund.

(B) The Department of Defense Education Benefits Fund.

(C) Each other fund specified by Secretary under subsection (c)(3).

(2) The Board shall also furnish its advice and opinion on matters referred to it by the Secretary.

(Added Pub. L. 110–181, div. A, title IX, §906(a)(1), Jan. 28, 2008, 122 Stat. 275.)

PRIOR PROVISIONS

A prior section 183, added Pub. L. 105–85, div. A, title IX, §904(a), Nov. 18, 1997, 111 Stat. 1854, required the Secretary of Defense to report annually on the justification or requirement and projected costs of Department of Defense advisory committees, prior to repeal by Pub. L. 107–314, div. A, title X, §1041(a)(1)(A), Dec. 2, 2002, 116 Stat. 2645.

INITIAL SERVICE AS BOARD MEMBERS

Pub. L. 110–181, div. A, title IX, §906(a)(3), Jan. 28, 2008, 122 Stat. 277, provided that: ''Each member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries as of the date of the enactment of this Act [Jan. 28, 2008] shall serve as an initial member of the Department of Defense Board of Actuaries under section 183 of title 10, United States Code (as added by paragraph (1)), from that date until the date otherwise provided for the completion of such individual's term as a member of the Department of Defense Retirement Board of Actuaries or the Department of Defense Education Benefits Board of Actuaries, as the case may be, unless earlier removed by the Secretary of Defense.''

§184. Regional Centers for Security Studies

(a) IN GENERAL.—The Secretary of Defense shall administer the Department of Defense Regional Centers for Security Studies in accordance with this section as international venues for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

(b) REGIONAL CENTERS SPECIFIED.—(1) A Department of Defense Regional Center for Security Studies is a Department of Defense institution that—

(A) is operated, and designated as such, by the Secretary of Defense for the study of security issues relating to a specified geographic region of the world; and

(B) serves as a forum for bilateral and multilateral research, communication, and exchange of ideas involving military and civilian participants.

(2) The Department of Defense Regional Centers for Security Studies are the following:

(A) The George C. Marshall European Center for Security Studies, established in 1993 and located in Garmisch-Partenkirchen, Germany.

(B) The Asia-Pacific Center for Security Studies, established in 1995 and located in Honolulu, Hawaii.

(C) The Center for Hemispheric Defense Studies, established in 1997 and located in Washington, D.C.

(D) The Africa Center for Strategic Studies, established in 1999 and located in Washington, D.C.

(E) The Near East South Asia Center for Strategic Studies, established in 2000 and located in Washington, D.C.

(3) No institution or element of the Department of Defense may be designated as a Department of Defense Regional Center for Security Studies for purposes of this section, other than the institutions specified in paragraph (2), except as specifically provided by law after October 17, 2006.

(c) REGULATIONS.—The administration of the Regional Centers under this section shall be carried out under regulations prescribed by the Secretary.

(d) PARTICIPATION.—Participants in activities of the Regional Centers may include United States and foreign military, civilian, and nongovernmental personnel.

(e) EMPLOYMENT AND COMPENSATION OF FACULTY.—At each Regional Center, the Secretary may, subject to the availability of appropriations—

(1) employ a Director, a Deputy Director, and as many civilians as professors, instructors, and lecturers as the Secretary considers necessary; and

(2) prescribe the compensation of such persons, in accordance with Federal guidelines.

(f) PAYMENT OF COSTS.—(1) Participation in activities of a Regional Center shall be on a reimbursable basis (or by payment in advance), except in a case in which reimbursement is waived in accordance with paragraph (3).

(2) For a foreign national participant, payment of costs may be made by the participant, the participant's own government, by a Department or agency of the United States other than the Department of Defense, or by a gift or donation on behalf of one or more Regional Centers accepted under section 2611 of this title on behalf of the participant's government.

(3) The Secretary of Defense may waive reimbursement of the costs of activities of the Regional Centers for foreign military officers and foreign defense and security civilian government officials from a developing country if the Secretary determines that attendance of such personnel without reimbursement is in the national security interest of the United States. Costs for which reimbursement is waived pursuant to this paragraph shall be paid from appropriations available to the Regional Centers.

(4) Funds accepted for the payment of costs shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available to that Regional Center for the same purposes and same period as the appropriation with which merged.

(5) Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.

(6) Funds available to carry out this section, including funds accepted under paragraph (4) and funds available under paragraph (5), shall be

available, to the extent provided in appropriations Acts, for programs and activities under this section that begin in a fiscal year and end in the following fiscal year.

(g) SUPPORT TO OTHER AGENCIES.—The Director of a Regional Center may enter into agreements with the Secretaries of the military departments, the heads of the Defense Agencies, and, with the concurrence of the Secretary of Defense, the heads of other Federal departments and agencies for the provision of services by that Regional Center under this section. Any such participating department and agency shall transfer to the Regional Center funds to pay the full costs of the services received.

(h) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the operation of the Regional Centers for security studies during the preceding fiscal year. The annual report shall include, for each Regional Center, the following information:

(1) The status and objectives of the center.

(2) The budget of the center, including the costs of operating the center.

(3) A description of the extent of the international participation in the programs of the center, including the costs incurred by the United States for the participation of each foreign nation.

(4) A description of the foreign gifts and donations, if any, accepted under section 2611 of this title.

(Added Pub. L. 106–398, § 1 [[div. A], title IX, § 912(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–228; amended Pub. L. 107–107, div. A, title X, § 1048(c)(2), Dec. 28, 2001, 115 Stat. 1226; Pub. L. 108–136, div. A, title IX, § 931(b)(2), Nov. 24, 2003, 117 Stat. 1581; Pub. L. 109–163, div. A, title IX, § 903(b), Jan. 6, 2006, 119 Stat. 3399; Pub. L. 109–364, div. A, title IX, § 904(a)(1), Oct. 17, 2006, 120 Stat. 2351; Pub. L. 110–417, [div. A], title IX, § 941(a)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(a)(3), Oct. 28, 2009, 123 Stat. 2472.)

AMENDMENTS

2009—Subsec. (b)(3). Pub. L. 111–84 substituted ''October 17, 2006'' for ''the date of the enactment of this section''.

2008—Subsec. (f)(6). Pub. L. 110–417 added par. (6).

2006—Pub. L. 109–364 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to notification to Congress of the establishment of new regional centers, annual report on the operation of such centers, and definition of ''regional center for security studies''.

Subsec. (b)(4). Pub. L. 109–163 substituted ''under section 2611 of this title.'' for ''under any of the following provisions of law:

''(A) Section 2611 of this title.

''(B) Section 1306 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2892).

''(C) Section 1065 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2653; 10 U.S.C. 113 note).''

2003—Subsec. (b)(4). Pub. L. 108–136 struck out ''foreign'' before ''gifts''.

2001—Subsec. (a). Pub. L. 107–107 substituted ''October 30, 2000,'' for ''the date of the enactment of this section,'' in introductory provisions.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–417, [div. A], title IX, § 941(a)(2), Oct. 14, 2008, 122 Stat. 4576, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 2008, and shall apply with respect to programs and activities under section 184 of title 10, United States Code (as so amended), that begin on or after that date.''

TEMPORARY WAIVER OF REIMBURSEMENT OF COSTS OF ACTIVITIES FOR NONGOVERNMENTAL PERSONNEL

Pub. L. 110–417, [div. A], title IX, § 941(b), Oct. 14, 2008, 122 Stat. 4577, as amended by Pub. L. 111–383, div. A, title IX, § 941, Jan. 7, 2011, 124 Stat. 4340, provided that:

''(1) AUTHORITY FOR TEMPORARY WAIVER.—In fiscal years 2009 through 2012, the Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under subsection (f) of section 184 of title 10, United States Code, of the costs of activities of Regional Centers under such section for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interests of the United States.

''(2) LIMITATION.—The amount of reimbursement that may be waived under paragraph (1) in any fiscal year may not exceed $1,000,000.

''(3) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 184(h) of title 10, United States Code, in each year through 2013 information on the attendance of personnel of nongovernmental and international organizations in activities of the Regional Centers during the preceding fiscal year for which a waiver of reimbursement was made under paragraph (1), including information on the costs incurred by the United States for the participation of personnel of each nongovernmental or international organization that so attended.''

§ 185. Financial Management Modernization Executive Committee

(a) ESTABLISHMENT OF FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE.—(1) The Secretary of Defense shall establish a Financial Management Modernization Executive Committee.

(2) The Committee shall be composed of the following:

(A) The Under Secretary of Defense (Comptroller), who shall be the chairman of the committee.

(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(C) The Under Secretary of Defense for Personnel and Readiness.

(D) The Chief Information Officer of the Department of Defense.

(E) Such additional personnel of the Department of Defense (including appropriate personnel of the military departments and Defense Agencies) as are designated by the Secretary.

(3) The Committee shall be accountable to the Senior Executive Council (composed of the Secretary of Defense, the Deputy Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force).

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Committee shall have the following duties:

(1) To establish a process that ensures that each critical accounting system, financial management system, and data feeder system of the Department of Defense is compliant with applicable Federal financial management and reporting requirements.

(2) To develop a management plan for the implementation of the financial and data feeder systems compliance process established pursuant to paragraph (1).

(3) To supervise and monitor the actions that are necessary to implement the management plan developed pursuant to paragraph (2), as approved by the Secretary of Defense.

(4) To ensure that a Department of Defense financial management enterprise architecture is developed and maintained in accordance with—

(A) the overall business process transformation strategy of the Department; and

(B) the architecture framework of the Department for command, control, communications, computers, intelligence, surveillance, and reconnaissance functions.

(5) To ensure that investments in existing or proposed financial management systems for the Department comply with the overall business practice transformation strategy of the Department and the financial management enterprise architecture developed under paragraph (4).

(6) To provide an annual accounting of each financial and data feeder system investment technology project to ensure that each such project is being implemented at acceptable cost and within a reasonable schedule and is contributing to tangible, observable improvements in mission performance.

(c) MANAGEMENT PLAN FOR IMPLEMENTATION OF FINANCIAL DATA FEEDER SYSTEMS COMPLIANCE PROCESS.—The management plan developed under subsection (b)(2) shall include among its principal elements at least the following elements:

(1) A requirement for the establishment and maintenance of a complete inventory of all budgetary, accounting, finance, and data feeder systems that support the transformed business processes of the Department and produce financial statements.

(2) A phased process (consisting of the successive phases of Awareness, Evaluation, Renovation, Validation, and Compliance) for improving systems referred to in paragraph (1) that provides for mapping financial data flow from the cognizant Department business function source (as part of the overall business process transformation strategy of the Department) to Department financial statements.

(3) Periodic submittal to the Secretary of Defense, the Deputy Secretary of Defense, and the Senior Executive Council (or any combination thereof) of reports on the progress being made in achieving financial management transformation goals and milestones included in the annual financial management improvement plan in 2002.

(4) Documentation of the completion of each phase specified in paragraph (2) of improvements made to each accounting, finance, and data feeder system of the Department.

(5) Independent audit by the Inspector General of the Department, the audit agencies of the military departments, and private sector firms contracted to conduct validation audits (or any combination thereof) at the validation phase for each accounting, finance, and data feeder system.

(d) DATA FEEDER SYSTEMS.—In this section, the term ''data feeder system'' means an automated or manual system from which information is derived for a financial management system or an accounting system.

(Added Pub. L. 107–107, div. A, title X, § 1009(a)(1), Dec. 28, 2001, 115 Stat. 1206; amended Pub. L. 107–314, div. A, title X, § 1004(h)(2), Dec. 2, 2002, 116 Stat. 2631.)

AMENDMENTS

2002—Subsec. (d). Pub. L. 107–314 substituted ''means an automated or manual system from which information is derived for a financial management system or an accounting system'' for ''has the meaning given that term in section 2222(c)(2) of this title''.

§ 186. Defense Business System Management Committee

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Defense Business Systems Management Committee, to be composed of the following persons:

(1) The Deputy Secretary of Defense.

(2) The Deputy Chief Management Officer of the Department of Defense.

(3) The Under Secretary of Defense for Acquisition, Logistics, and Technology.

(4) The Under Secretary of Defense for Personnel and Readiness.

(5) The Under Secretary of Defense (Comptroller).

(6) The Assistant Secretary of Defense for Networks and Information Integration.

(7) The Chief Management Officers of the military departments and the heads of such Defense Agencies as may be designated by the Secretary of Defense.

(8) Such additional personnel of the Department of Defense (including personnel assigned to the Joint Chiefs of Staff and combatant commands) as are designated by the Secretary of Defense.

(b) CHAIRMAN AND VICE CHAIRMAN.—The Deputy Secretary of Defense shall serve as the chairman of the Committee. The Deputy Chief Management Officer of the Department of Defense shall serve as the vice chairman of the Committee, and shall act as chairman in the absence of the Deputy Secretary of Defense.

(c) DUTIES.—(1) In addition to any other matters assigned to the Committee by the Secretary of Defense, the Committee shall—

(A) recommend to the Secretary of Defense policies and procedures necessary to effectively integrate the requirements of section 2222 of this title into all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the Department of Defense;

(B) review and approve any major update of the defense business enterprise architecture developed under subsection (b) of section 2222

of this title, including evolving the architecture, and of defense business systems modernization plans; and

(C) manage cross-domain integration consistent with such enterprise architecture.

(2) The Committee shall be responsible for coordinating defense business system modernization initiatives to maximize benefits and minimize costs for the Department of Defense and periodically report to the Secretary on the status of defense business system modernization efforts.

(3) The Committee shall ensure that funds are obligated for defense business system modernization in a manner consistent with section 2222 of this title.

(d) DEFINITIONS.—In this section, the terms ''defense business system'' and ''defense business system modernization'' have the meanings given such terms in section 2222 of this title.

(Added Pub. L. 108–375, div. A, title III, § 332(b)(1), Oct. 28, 2004, 118 Stat. 1854; amended Pub. L. 110–417, [div. A], title IX, § 904, Oct. 14, 2008, 122 Stat. 4567; Pub. L. 111–383, div. A, title X, § 1075(b)(9), Jan. 7, 2011, 124 Stat. 4369.)

AMENDMENTS

2011—Subsecs. (c), (d). Pub. L. 111–383 redesignated subsec. (c), relating to definitions, as (d).

2008—Subsec. (a)(2) to (6). Pub. L. 110–417, § 904(a)(1), (2), added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively. Former par. (6) redesignated (7).

Subsec. (a)(7). Pub. L. 110–417, § 904(a)(3), added par. (7) and struck out former par. (7) which read as follows: ''The Secretaries of the military departments and the heads of the Defense Agencies.''

Pub. L. 110–417, § 904(a)(1), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Subsec. (a)(8). Pub. L. 110–417, § 904(a)(1), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 110–417, § 904(b), substituted ''The Deputy Chief Management Officer of the Department of Defense shall serve as the vice chairman of the Committee, and shall act as chairman in the absence of the Deputy Secretary of Defense.'' for ''The Secretary of Defense shall designate one of the officials specified in paragraphs (2) through (5) of subsection (a) as the vice chairman of the Committee, who shall act as chairman in the absence of the Deputy Secretary of Defense.''

IMPLEMENTATION REQUIREMENTS

Pub. L. 108–375, div. A, title III, § 332(c), Oct. 28, 2004, 118 Stat. 1855, directed the Secretary of Defense, not later than 60 days after Oct. 28, 2004, to designate a vice chairman of the Defense Business System Management Committee, as required by subsec. (b) of this section, and to complete the delegation of responsibility for the review, approval, and oversight of the planning, design, acquisition, deployment, operation, maintenance, and modernization of defense business systems required by section 2222(f) of this title.

§ 187. Strategic Materials Protection Board

(a) ESTABLISHMENT.—(1) The Secretary of Defense shall establish a Strategic Materials Protection Board.

(2) The Board shall be composed of representatives of the following:

(A) The Secretary of Defense, who shall be the chairman of the Board.

(B) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

(C) The Under Secretary of Defense for Intelligence.

(D) The Secretary of the Army.

(E) The Secretary of the Navy.

(F) The Secretary of the Air Force.

(b) DUTIES.—In addition to other matters assigned to it by the Secretary of Defense, the Board shall—

(1) determine the need to provide a long term secure supply of materials designated as critical to national security to ensure that national defense needs are met;

(2) analyze the risk associated with each material designated as critical to national security and the effect on national defense that the nonavailability of such material would have;

(3) recommend a strategy to the President to ensure a secure supply of materials designated as critical to national security;

(4) recommend such other strategies to the President as the Board considers appropriate to strengthen the industrial base with respect to materials critical to national security; and

(5) publish not less frequently than once every two years in the Federal Register recommendations regarding materials critical to national security, including a list of specialty metals, if any, recommended for addition to, or removal from, the definition of ''specialty metal'' for purposes of section 2533b of this title.

(c) MEETINGS.—The Board shall meet as determined necessary by the Secretary of Defense but not less frequently than once every two years to make recommendations regarding materials critical to national security as described in subsection (b)(5).

(d) REPORTS.—After each meeting of the Board, the Board shall prepare and submit to Congress a report containing the results of the meeting and such recommendations as the Board determines appropriate.

(e) DEFINITIONS.—In this section:

(1) The term ''materials critical to national security'' means materials—

(A) upon which the production or sustainment of military equipment is dependent; and

(B) the supply of which could be restricted by actions or events outside the control of the Government of the United States.

(2) The term ''military equipment'' means equipment used directly by the armed forces to carry out military operations.

(3) The term ''secure supply'', with respect to a material, means the availability of a source or sources for the material, including the full supply chain for the material and components containing the material.

(Added Pub. L. 109–364, div. A, title VIII, § 843(a), Oct. 17, 2006, 120 Stat. 2338; amended Pub. L. 111–383, div. A, title VIII, § 829, Jan. 7, 2011, 124 Stat. 4272.)

AMENDMENTS

2011—Subsec. (b). Pub. L. 111–383, § 829(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to duties of the Strategic Materials Protection Board.

Subsec. (e). Pub. L. 111–383, § 829(a), added subsec. (e).

FIRST MEETING OF BOARD

Pub. L. 109–364, div. A, title VIII, § 843(c), Oct. 17, 2006, 120 Stat. 2339, provided that: ''The first meeting of the Strategic Materials Protection Board, established by section 187 of title 10, United States Code (as added by subsection (a)) shall be not later than 180 days after the date of the enactment of this Act [Oct. 17, 2006].''

CHAPTER 8—DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

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SUBCHAPTER I—COMMON SUPPLY AND SERVICE ACTIVITIES

Sec.
191. Secretary of Defense: authority to provide for common performance of supply or service activities.
192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense.
193. Combat support agencies: oversight.
194. Limitations on personnel.
195. Defense Automated Printing Service: applicability of Federal printing requirements.
196. Department of Defense Test Resource Management Center.
197. Defense Logistics Agency: fees charged for logistics information.

AMENDMENTS

2004—Pub. L. 108–375, div. A, title X, § 1010(b), Oct. 28, 2004, 118 Stat. 2038, added item 197.

2002—Pub. L. 107–314, div. A, title II, § 231(a)(2), Dec. 2, 2002, 116 Stat. 2489, added item 196.

1997—Pub. L. 105–85, div. A, title III, § 383(b), Nov. 18, 1997, 111 Stat. 1711, added item 195.

1986—Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1019, inserted ''AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES'' in chapter heading, added subchapter analysis and subchapter I analysis, and struck out former chapter analysis consisting of item 191 ''Unauthorized use of Defense Intelligence Agency name, initials, or seal''.

1985—Pub. L. 99–145, title XIII, § 1302(a)(2), Nov. 8, 1985, 99 Stat. 737, redesignated item 192 ''Benefits for certain employees of the Defense Intelligence Agency'' as item 1605 and transferred it to chapter 83 of this title.

1983—Pub. L. 98–215, title V, § 501(b), Dec. 9, 1983, 97 Stat. 1479, added item 192.

1982—Pub. L. 97–269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1144, added chapter 8 heading and analysis of sections for chapter 8, consisting of a single item 191.

§ 191. Secretary of Defense: authority to provide for common performance of supply or service activities

(a) AUTHORITY.—Whenever the Secretary of Defense determines such action would be more effective, economical, or efficient, the Secretary may provide for the performance of a supply or service activity that is common to more than one military department by a single agency of the Department of Defense.

(b) DESIGNATION OF COMMON SUPPLY OR SERVICE AGENCY.—Any agency of the Department of Defense established under subsection (a) (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) for the performance of a supply or service activity referred to in such subsection shall be designated as a Defense Agency or a Department of Defense Field Activity.

(Added Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1019; amended Pub. L. 100–26, § 7(i)(1), Apr. 21, 1987, 101 Stat. 282.)

REFERENCES IN TEXT

Subsection (d) of section 125 of this title, referred to in subsec. (b), was repealed by section 301(b)(1) of Pub. L. 99–433.

PRIOR PROVISIONS

A prior section 191 was renumbered section 202 of this title and subsequently repealed.

AMENDMENTS

1987—Subsec. (b). Pub. L. 100–26 substituted ''October 1, 1986'' for ''the date of the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986''.

COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE LOGISTICS AGENCY

Pub. L. 106–398, § 1 [[div. A], title IX, § 917], Oct. 30, 2000, 114 Stat. 1654, 1654A–232, directed the Comptroller General to review the operations of the Defense Logistics Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General's findings not later than Feb. 1, 2002.

COMPTROLLER GENERAL REVIEW OF OPERATIONS OF DEFENSE INFORMATION SYSTEMS AGENCY

Pub. L. 106–398, § 1 [[div. A], title IX, § 918], Oct. 30, 2000, 114 Stat. 1654, 1654A–232, directed the Comptroller General to review the operations of the Defense Information Systems Agency and to submit to committees of Congress one or more reports setting forth the Comptroller General's findings not later than Feb. 1, 2002.

REASSESSMENT OF DEFENSE AGENCIES AND DEPARTMENT OF DEFENSE FIELD ACTIVITIES

Section 303 of Pub. L. 99–433 directed Secretary of Defense to conduct a study of functions and organizational structure of Defense Agencies and Department of Defense Field Activities to determine the most effective, economical, or efficient means of providing supply or service activities common to more than one military department, with Secretary to submit a report to Congress not later than Oct. 1, 1987. The report was to include a study of improved application of computer systems to functions of Defense Agencies and Department of Defense Field Activities, including a plan for rapid replacement, where necessary, of existing automated data processing equipment with new equipment, and plans to achieve reductions in total number of members of Armed Forces and civilian employees assigned or detailed to permanent duty in Defense Agencies and Department of Defense Field Activities (other than National Security Agency) by 5 percent, 10 percent, and 15 percent of total number of such members and employees projected to be assigned or detailed to such duty on Sept. 30, 1988, together with a discussion of implications of each such reduction and a draft of any legislation that would be required to implement each such plan.

§ 192. Defense Agencies and Department of Defense Field Activities: oversight by the Secretary of Defense

(a) OVERALL SUPERVISION.—(1) The Secretary of Defense shall assign responsibility for the overall supervision of each Defense Agency and Department of Defense Field Activity designated under section 191(b) of this title—

(A) to a civilian officer within the Office of the Secretary of Defense listed in section 131(b) of this title; or

(B) to the Chairman of the Joint Chiefs of Staff.

(2) An official assigned such a responsibility with respect to a Defense Agency or Department of Defense Field Activity shall advise the Secretary of Defense on the extent to which the program recommendations and budget proposals of such agency or activity conform with the requirements of the military departments and of the unified and specified combatant commands.

(3) This subsection does not apply to the Defense Intelligence Agency or the National Security Agency.

(b) PROGRAM AND BUDGET REVIEW.—The Secretary of Defense shall establish procedures to ensure that there is full and effective review of the program recommendations and budget proposals of each Defense Agency and Department of Defense Field Activity.

(c) PERIODIC REVIEW.—(1) Periodically (and not less often than every two years), the Secretary of Defense shall review the services and supplies provided by each Defense Agency and Department of Defense Field Activity to ensure that—

(A) there is a continuing need for each such agency and activity; and

(B) the provision of those services and supplies by each such agency and activity, rather than by the military departments, is a more effective, economical, or efficient manner of providing those services and supplies or of meeting the requirements for combat readiness of the armed forces.

(2) Paragraph (1) shall apply to the National Security Agency as determined appropriate by the Secretary, in consultation with the Director of National Intelligence. The Secretary shall establish procedures under which information required for review of the National Security Agency shall be obtained.

(d) SPECIAL RULE FOR DEFENSE COMMISSARY AGENCY.—Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Commissary Agency, the Secretary of Defense may not transfer to the Secretary of a military department the responsibility to manage and fund the provision of services and supplies provided by the Defense Commissary Agency unless the transfer of the management and funding responsibility is specifically authorized by a law enacted after October 17, 1998.

(e) SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Director of the Agency shall report directly to the Deputy Chief Management Officer of the Department of Defense.

(Added Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 105–261, div. A, title III, § 361(a), Oct. 17, 1998, 112 Stat. 1984; Pub. L. 106–65, div. A, title X, § 1066(a)(3), Oct. 5, 1999, 113 Stat. 770; Pub. L. 109–163, div. A, title III, § 371, Jan. 6, 2006, 119 Stat. 3209; Pub. L. 110–181, div. A, title IX, §§ 904(c), 931(a)(1), Jan. 28, 2008, 122 Stat. 274, 285.)

PRIOR PROVISIONS

A prior section 192, Pub. L. 98–215, title V, § 501(a), Dec. 9, 1983, 97 Stat. 1478, which related to benefits for certain personnel of the Defense Intelligence Agency, was redesignated as section 1605 of this title and amended by Pub. L. 99–145, title XIII, § 1302(a)(1), Nov. 8, 1985, 99 Stat. 737. Provisions of prior section 192 as related to members of the armed forces were enacted as section 431 of Title 37, Pay and Allowances of the Uniformed Services, by section 1302(b)(1) of Pub. L. 99–145.

AMENDMENTS

2008—Subsec. (c)(2). Pub. L. 110–181, § 931(a)(1), substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

Subsec. (e)(2). Pub. L. 110–181, § 904(c), substituted ''that the Director of the Agency shall report directly to the Deputy Chief Management Officer of the Department of Defense.'' for ''that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.''

2006—Subsec. (e). Pub. L. 109–163 added subsec. (e).

1999—Subsec. (d). Pub. L. 106–65 substituted ''October 17, 1998'' for ''the date of the enactment of this subsection''.

1998—Subsec. (d). Pub. L. 105–261 added subsec. (d).

FIRST REVIEW OF DEFENSE AGENCIES BY SECRETARY OF DEFENSE

Pub. L. 99–433, title III, § 304(a), Oct. 1, 1986, 100 Stat. 1024, required the first review under subsec. (c) of this section to be completed not later than two years after the date that the report under Pub. L. 99–433, § 303(e), formerly set out as a note under section 191 of this title, was required to be submitted to Congress (Oct. 1, 1987).

§ 193. Combat support agencies: oversight

(a) COMBAT READINESS.—(1) Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense a report on the combat support agencies. Each such report shall include—

(A) a determination with respect to the responsiveness and readiness of each such agency to support operating forces in the event of a war or threat to national security; and

(B) any recommendations that the Chairman considers appropriate.

(2) In preparing each such report, the Chairman shall review the plans of each such agency with respect to its support of operating forces in the event of a war or threat to national security. After consultation with the Secretaries of the military departments and the commanders of the unified and specified combatant commands, as appropriate, the Chairman may, with the approval of the Secretary of Defense, take steps to provide for any revision of those plans that the Chairman considers appropriate.

(b) PARTICIPATION IN JOINT TRAINING EXERCISES.—The Chairman shall—

(1) provide for the participation of the combat support agencies in joint training exercises to the extent necessary to ensure that those agencies are capable of performing their

support missions with respect to a war or threat to national security; and

(2) assess the performance in joint training exercises of each such agency and, in accordance with guidelines established by the Secretary of Defense, take steps to provide for any change that the Chairman considers appropriate to improve that performance.

(c) READINESS REPORTING SYSTEM.—The Chairman shall develop, in consultation with the director of each combat support agency, a uniform system for reporting to the Secretary of Defense, the commanders of the unified and specified combatant commands, and the Secretaries of the military departments concerning the readiness of each such agency to perform with respect to a war or threat to national security.

(d) REVIEW OF NATIONAL SECURITY AGENCY AND NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY.—(1) Subsections (a), (b), and (c) shall apply to the National Security Agency and the National Geospatial-Intelligence Agency, but only with respect to combat support functions that the agencies perform for the Department of Defense.

(2) The Secretary, after consulting with the Director of National Intelligence, shall establish policies and procedures with respect to the application of subsections (a), (b), and (c) to the National Security Agency and the National Geospatial-Intelligence Agency.

(e) COMBAT SUPPORT CAPABILITIES OF DIA, NSA, AND NGA.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall develop and implement, as they may determine to be necessary, policies and programs to correct such deficiencies as the Chairman of the Joint Chiefs of Staff and other officials of the Department of Defense may identify in the capabilities of the Defense Intelligence Agency, the National Security Agency, and the National Geospatial-Intelligence Agency to accomplish assigned missions in support of military combat operations.

(f) DEFINITION OF COMBAT SUPPORT AGENCY.—In this section, the term ''combat support agency'' means any of the following Defense Agencies:

(1) The Defense Information Systems Agency.

(2) The Defense Intelligence Agency.

(3) The Defense Logistics Agency.

(4) The National Geospatial-Intelligence Agency.

(5) Any other Defense Agency designated as a combat support agency by the Secretary of Defense.

(Added Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1020; amended Pub. L. 104–201, div. A, title XI, §1112(c), Sept. 23, 1996, 110 Stat. 2683; Pub. L. 105–85, div. A, title X, §1073(a)(5), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108–136, div. A, title IX, §921(d)(3), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 109–364, div. A, title IX, §907, Oct. 17, 2006, 120 Stat. 2354; Pub. L. 110–181, div. A, title IX, §931(a)(2), (3), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(1), (2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

AMENDMENTS

2009—Subsecs. (d)(2), (e). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(1), (2). See 2008 Amendment note below.

2008—Subsecs. (d)(2), (e). Pub. L. 110–181 and Pub. L. 110–417, §932(a)(1), (2), made identical amendments, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence''. Pub. L. 110–417, §932(a)(1), (2), was repealed by Pub. L. 111–84.

2006—Subsec. (f)(1). Pub. L. 109–364 substituted ''Defense Information Systems Agency'' for ''Defense Communications Agency''.

2003—Subsec. (d). Pub. L. 108–136, §921(d)(3)(B), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in heading.

Subsec. (d)(1), (2). Pub. L. 108–136, §921(d)(3)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (e). Pub. L. 108–136, §921(d)(3)(A), (C), substituted ''NGA'' for ''NIMA'' in heading and ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in text.

Subsec. (f)(4). Pub. L. 108–136, §921(d)(3)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

1997—Subsec. (d)(1). Pub. L. 105–85 substituted ''agencies perform'' for ''agencies performs''.

1996—Subsec. (d). Pub. L. 104–201, §1112(c)(1)(A), substituted ''Review of National Security Agency and National Imagery and Mapping Agency'' for ''Review of National Security Agency'' in heading.

Subsec. (d)(1). Pub. L. 104–201, §1112(c)(1)(B), inserted ''and the National Imagery and Mapping Agency'' after ''the National Security Agency'' and substituted ''that the agencies'' for ''the Agency''.

Subsec. (d)(2). Pub. L. 104–201, §1112(c)(1)(C), inserted ''and the National Imagery and Mapping Agency'' after ''the National Security Agency''.

Subsec. (e). Pub. L. 104–201, §1112(c)(2), substituted ''DIA, NSA, and NIMA'' for ''DIA and NSA'' in heading and '', the National Security Agency, and the National Imagery and Mapping Agency'' for ''and the National Security Agency'' in text.

Subsec. (f)(4). Pub. L. 104–201, §1112(c)(3), substituted ''The National Imagery and Mapping Agency'' for ''Defense Mapping Agency''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1124 of title XI of div. A of Pub. L. 104–201 provided that: ''This title [enacting section 424 and chapter 22 of this title and sections 404e and 404f of Title 50, War and National Defense, amending this section, sections 201 and 451 to 456 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44, Public Printing and Documents, and sections 401a and 403–5 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under section 441 of this title, and amending provisions set out as a note under section 501 of Title 44] and the amendments made by this title shall take effect on October 1, 1996, or the date of the enactment of this Act [Sept. 23, 1996], whichever is later.''

FIRST REPORT AND OTHER ACTIONS BY CHAIRMAN OF JOINT CHIEFS OF STAFF

Section 304(b) of Pub. L. 99–433 required the first report under subsec. (a) of section 193 of this title to be

submitted and subsecs. (b) and (c) of section 193 to be implemented not later than one year after Oct. 1, 1986, and a report on implementation to be submitted to Congress for 1988 under section 113(c) of this title.

§ 194. Limitations on personnel

(a) CAP ON HEADQUARTERS MANAGEMENT PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities or management headquarters support activities in the Defense Agencies and Department of Defense Field Activities may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(b) CAP ON OTHER PERSONNEL.—The total number of members of the armed forces and civilian employees assigned or detailed to permanent duty in the Defense Agencies and Department of Defense Field Activities, other than members and employees assigned to management headquarters activities or management headquarters support activities, may not exceed the number that is the number of such members and employees assigned or detailed to such duty on September 30, 1989.

(c) PROHIBITION AGAINST CERTAIN ACTIONS TO EXCEED LIMITATIONS.—The limitations in subsections (a) and (b) may not be exceeded by recategorizing or redefining duties, functions, offices, or organizations.

(d) EXCLUSION OF NSA.—The National Security Agency shall be excluded in computing and maintaining the limitations required by this section.

(e) WAIVER.—The limitations in this section do not apply—

(1) in time of war; or

(2) during a national emergency declared by the President or Congress.

(f) DEFINITIONS.—In this section, the terms ''management headquarters activities'' and ''management headquarters support activities'' have the meanings given those terms in Department of Defense Directive 5100.73, entitled ''Department of Defense Management Headquarters and Headquarters Support Activities'' and dated January 7, 1985.

(Added Pub. L. 99–433, title III, § 301(a)(2), Oct. 1, 1986, 100 Stat. 1021; amended Pub. L. 100–180, div. A, title XIII, § 1314(b)(3), Dec. 4, 1987, 101 Stat. 1175; Pub. L. 101–189, div. A, title XVI, § 1622(h)(1), Nov. 29, 1989, 103 Stat. 1605.)

AMENDMENTS

1989—Subsecs. (a), (b). Pub. L. 101–189 substituted ''The'' for ''After September 30, 1989, the''.

1987—Subsec. (e)(2). Pub. L. 100–180 inserted ''the President or'' after ''declared by''.

EXCEPTIONS AND ADJUSTMENTS TO LIMITATIONS ON PERSONNEL

Baseline personnel limitations in this section inapplicable to certain acquisition personnel and personnel hired pursuant to a shortage category designation for fiscal year 2009 and fiscal years thereafter, and Secretary of Defense or a secretary of a military department authorized to adjust such limitations for fiscal year 2009 and fiscal years thereafter, see section 1111 of Pub. L. 110–417, set out as a note under section 143 of this title.

REDUCTIONS IN DEFENSE INTELLIGENCE AGENCY PERSONNEL

Pub. L. 100–202, § 101(b) [title VIII, § 8122], Dec. 22, 1987, 101 Stat. 1329–43, 1329–85, provided that nothing in section 102d(1) of Public Law 100–178, 101 Stat. 1010, section 601(b)(2)(A) of Public Law 99–433, 100 Stat. 1065 [set out below], or section 601(d) of Public Law 99–433, 100 Stat. 1065 [set out below], shall be construed as requiring or suggesting that the Secretary of Defense avoid allocating personnel reductions to the Defense Intelligence Agency, prior to repeal by Pub. L. 100–456, div. A, title XII, § 1213, Sept. 29, 1988, 102 Stat. 2053.

REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of Pub. L. 99–433, as amended by Pub. L. 100–180, div. A, title XIII, § 1312, Dec. 4, 1987, 101 Stat. 1174; Pub. L. 101–189, div. A, title XVI, § 1622(h)(2), Nov. 29, 1989, 103 Stat. 1606, provided that:

''(a) MILITARY DEPARTMENTS AND COMBATANT COMMANDS.—(1) The total number of members of the Armed Forces and civilian employees assigned or detailed to duty described in paragraph (2) may not exceed the number equal to 90 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

''(2) Duty referred to in paragraph (1) is permanent duty in the military departments and in the unified and specified combatant commands to perform management headquarters activities or management headquarters support activities.

''(3) In computing and implementing the limitation in paragraph (1), the Secretary of Defense shall exclude members and employees who are assigned or detailed to permanent duty to perform management headquarters activities or management headquarters support activities in the following:

''(A) The Office of the Secretary of the Army and the Army Staff.

''(B) The Office of the Secretary of the Navy, the Office of the Chief of Naval Operations, and the Headquarters, Marine Corps.

''(C) The Office of the Secretary of the Air Force and the Air Staff.

''(D) The immediate headquarters staff of the commander of each unified or specified combatant command.

''(4) If the Secretary of Defense applies any reduction in personnel required by the limitation in paragraph (1) to a unified or specified combatant command, the commander of that command, after consulting with his directly subordinate commanders, shall determine the manner in which the reduction shall be accomplished.

''(b) DEFENSE AGENCIES AND DOD FIELD ACTIVITIES.—(1)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the management headquarters activities and management headquarters support activities in the Defense Agencies and Department of Defense Field Activities by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

''(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 10 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

''(C) If the number of members and employees reduced under subparagraph (A) or (B) is in excess of the reduction required to be made by that subparagraph, such excess number may be applied to the number required to be reduced under paragraph (2).

''(2)(A) Not later than September 30, 1988, the Secretary of Defense shall reduce the total number of members of the Armed Forces and civilian employees assigned or detailed to permanent duty in the Defense

Agencies and Department of Defense Field Activities, other than members and employees assigned or detailed to duty in management headquarters activities or management headquarters support activities, by a number that is at least 5 percent of the total number of such members and employees assigned or detailed to such duty on September 30, 1986.

''(B) Not later than September 30, 1989, the Secretary shall carry out an additional reduction in such members and employees of not less than 5 percent of the number of such members and employees assigned or detailed to such duty on September 30, 1988.

''(3) If after the date of the enactment of this Act [Oct. 1, 1986] and before October 1, 1988, the total number of members and employees described in paragraph (1)(A) or (2)(A) is reduced by a number that is in excess of the number required to be reduced under that paragraph, the Secretary may, in meeting the additional reduction required by paragraph (1)(B) or (2)(B), as the case may be, offset such additional reduction by that excess number.

''(4) The National Security Agency shall be excluded in computing and making reductions under this subsection.

''(c) PROHIBITION AGAINST CERTAIN ACTIONS TO ACHIEVE REDUCTIONS.—Compliance with the limitations and reductions required by subsections (a) and (b) may not be accomplished by recategorizing or redefining duties, functions, offices, or organizations.

''(d) ALLOCATIONS TO BE MADE BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall allocate the reductions required to comply with the limitations in subsections (a) and (b) in a manner consistent with the efficient operation of the Department of Defense. If the Secretary determines that national security requirements dictate that a reduction (or any portion of a reduction) required by subsection (b) not be made from the Defense Agencies and Department of Defense Field Activities, the Secretary may allocate such reduction (or any portion of such reduction) (A) to personnel assigned or detailed to permanent duty in management headquarters activities or management headquarters support activities, or (B) to personnel assigned or detailed to permanent duty in other than management headquarters activities or management headquarters support activities, as the case may be, of the Department of Defense other than the Defense Agencies and Department of Defense Field Activities.

''(2) Among the actions that are taken to carry out the reductions required by subsections (a) and (b), the Secretary shall consolidate and eliminate unnecessary management headquarters activities and management headquarters support activities.

''(e) TOTAL REDUCTIONS.—Reductions in personnel required to be made under this section are in addition to any reductions required to be made under other provisions of this Act or any amendment made by this Act [see Short Title of 1986 Amendment note set out under section 111 of the title].

''(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.

''(g) DEFINITIONS.—For purposes of this section, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled 'Department of Defense Management Headquarters and Headquarters Support Activities' and dated January 7, 1985.''

§ 195. Defense Automated Printing Service: applicability of Federal printing requirements

The Defense Automated Printing Service shall comply fully with the requirements of section 501 of title 44 relating to the production and procurement of printing, binding, and blank-book work.

(Added Pub. L. 105–85, div. A, title III, § 383(a), Nov. 18, 1997, 111 Stat. 1711.)

AUTHORITY TO PROCURE SERVICES FROM GOVERNMENT PRINTING OFFICE

Section 387(c) of Pub. L. 105–85 provided that: ''Consistent with section 501 of title 44, United States Code, the Secretary of a military department or head of a Defense Agency may contract directly with the Government Printing Office for printing and duplication services otherwise available through the Defense Automated Printing Service.''

§ 196. Department of Defense Test Resource Management Center

(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the ''Center''). The Secretary shall designate the Center as a Department of Defense Field Activity.

(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation. A commissioned officer serving as the Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral. A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.

(2) There shall be a Deputy Director of the Center, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

(c) DUTIES OF DIRECTOR.—(1) The Director shall have the following duties:

(A) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

(i) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

(ii) all other test and evaluation facilities and resources within and outside of the Department of Defense, other than budgets and expenditures for activities described in section 139(i)[1] of this title.

(B) To review proposed significant changes to the test and evaluation facilities and resources of the Major Range and Test Facility Base before they are implemented by the Secretaries of the military departments or the heads of the Defense Agencies with test and evaluation responsibilities and advise the Secretary of Defense and the Under Secretary of Acquisition, Technology, and Logistics of the impact of such changes on the adequacy of such test and evaluation facilities and re-

[1] See References in Text note below.

sources to meet the test and evaluation requirements of the Department.

(C) To complete and maintain the strategic plan required by subsection (d).

(D) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

(E) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

(2) The Director shall have access to such records and data of the Department of Defense (including the appropriate records and data of each military department and Defense Agency) that are necessary in order to carry out the duties of the Director under this section.

(d) STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements.

(2) The strategic plan shall include the following:

(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

(C) An assessment of the test and evaluation facilities and resources that will be needed to meet such requirements and satisfy such performance measures.

(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

(E) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

(F) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

(3) Upon completing a strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

(e) CERTIFICATION OF BUDGETS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's or Defense Agency head's proposed budget for test and evaluation activities for a fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such strategic plan.

(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

(f) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

(g) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director's responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

(h) DEFINITION.—In this section, the term ''Major Range and Test Facility Base'' means the test and evaluation facilities and resources that are designated by the Secretary of Defense as facilities and resources comprising the Major Range and Test Facility Base.

(Added Pub. L. 107–314, div. A, title II, § 231(a)(1), Dec. 2, 2002, 116 Stat. 2487; amended Pub. L.

108–136, div. A, title II, §212, Nov. 24, 2003, 117 Stat. 1416; Pub. L. 109–163, div. A, title II, §258(a), title IX, §902, Jan. 6, 2006, 119 Stat. 3185, 3397; Pub. L. 111–84, div. A, title II, §251, Oct. 28, 2009, 123 Stat. 2241.)

REFERENCES IN TEXT

Section 139(i) of this title, referred to in subsec. (c)(1)(A)(ii), was redesignated as section 139(j) of this title by Pub. L. 110–181, title II, §221, Jan. 28, 2008, 122 Stat. 37.

AMENDMENTS

2009—Subsec. (c). Pub. L. 111–84 inserted par. (1) designation before ''The Director'', redesignated former par. (1) as subpar. (A) and former subpars. (A) and (B) as cl. (i) and (ii), respectively, of subpar. (A), added subpar. (B), redesignated former pars. (2) to (4) as subpars. (C) to (E), respectively, and added par. (2).

2006—Subsec. (b)(1). Pub. L. 109–163, §902(a), substituted ''individuals who have substantial experience in the field of test and evaluation.'' for ''commissioned officers of the armed forces on active duty or from among senior civilian officers and employees of the Department of Defense.''

Subsec. (b)(2). Pub. L. 109–163, §902(b), substituted ''individuals'' for ''senior civilian officers and employees of the Department of Defense''.

Subsec. (h). Pub. L. 109–163, §258(a), substituted ''Secretary of Defense'' for ''Director of Operational Test and Evaluation''.

2003—Subsec. (b)(1). Pub. L. 108–136, §212(a), substituted ''on active duty or from among senior civilian officers and employees of the Department of Defense. A commissioned officer serving as the Director'' for ''on active duty. The Director'' and inserted at end ''A civilian officer or employee serving as the Director, while so serving, has a pay level equivalent in grade to lieutenant general.''

Subsec. (c)(1)(B). Pub. L. 108–136, §212(b)(1), inserted '', other than budgets and expenditures for activities described in section 139(i) of this title'' after ''Department of Defense''.

Subsec. (e)(1). Pub. L. 108–136, §212(b)(2), struck out '', the Director of Operational Test and Evaluation,'' after ''each military department'' and substituted ''or Defense Agency head's'' for '', Director's, or head's''.

ADMINISTRATION OF PROGRAMS TO BEGIN AFTER FIRST STRATEGIC PLAN

Pub. L. 107–314, div. A, title II, §231(b), (c), Dec. 2, 2002, 116 Stat. 2489, directed that the first strategic plan required to be completed under subsec. (d)(1) of this section was to be completed not later than six months after Dec. 2, 2002, and that the duty of the Director of the Department of Defense Test Resource Management Center to administer the programs specified in subsec. (c)(4) of this section would take effect upon the beginning of the first fiscal year that began after the report on the first strategic plan was transmitted to committees of Congress.

§197. Defense Logistics Agency: fees charged for logistics information

(a) AUTHORITY.—The Secretary of Defense may charge fees for providing information in the Federal Logistics Information System through Defense Logistics Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person.

(b) AMOUNT.—The fee or fees prescribed under subsection (a) shall be such amount or amounts as the Secretary of Defense determines appropriate for recovering the costs of providing information as described in such subsection.

(c) RETENTION OF FEES.—Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purposes and period as the appropriation with which merged.

(d) DEFENSE LOGISTICS INFORMATION SERVICES DEFINED.—In this section, the term ''Defense Logistics Information Services'' means the organization within the Defense Logistics Agency that is known as Defense Logistics Information Services.

(Added Pub. L. 108–375, div. A, title X, §1010(a), Oct. 28, 2004, 118 Stat. 2038.)

SUBCHAPTER II—MISCELLANEOUS DEFENSE AGENCY MATTERS

Sec.
201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance.
[202. Repealed.]
203. Director of Missile Defense Agency.

AMENDMENTS

2002—Pub. L. 107–314, div. A, title II, §225(b)(1)(B)(ii), Dec. 2, 2002, 116 Stat. 2486, substituted ''Missile Defense Agency'' for ''Ballistic Missile Defense Organization'' in item 203.

1997—Pub. L. 105–107, title V, §503(d)(1), Nov. 20, 1997, 111 Stat. 2262, struck out item 202 ''Unauthorized use of Defense Intelligence Agency name, initials, or seal''.

Pub. L. 105–85, div. A, title II, §235(b), Nov. 18, 1997, 111 Stat. 1665, added item 203.

1996—Pub. L. 104–201, div. A, title XI, §1103(b), Sept. 23, 1996, 110 Stat. 2677, substituted ''Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance'' for ''Consultation regarding appointment of certain intelligence officials'' in item 201.

1991—Pub. L. 102–190, div. A, title IX, §922(b), Dec. 5, 1991, 105 Stat. 1453, added item 201 and redesignated former item 201 as 202.

1986—Pub. L. 99–433, title III, §301(a)(2), Oct. 1, 1986, 100 Stat. 1022, added subchapter heading and analysis of sections for subchapter II.

§201. Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance

(a) CONSULTATION REGARDING APPOINTMENT.—Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

(b) CONCURRENCE IN APPOINTMENT.—(1) In the event of a vacancy in a position referred to in paragraph (2), before appointing an individual to fill the vacancy or recommending to the President an individual to be nominated to fill the vacancy, the Secretary of Defense shall obtain the concurrence of the Director of National Intelligence as provided in section 106(b) of the National Security Act of 1947 (50 U.S.C. 403–6(b)).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(c) PERFORMANCE EVALUATIONS.—(1) The Director of National Intelligence shall provide annually to the Secretary of Defense, for the Secretary's consideration, an evaluation of the performance of the individuals holding the positions referred to in paragraph (2) in fulfilling their respective responsibilities with regard to the National Intelligence Program.

(2) The positions referred to in paragraph (1) are the following:

(A) The Director of the National Security Agency.

(B) The Director of the National Reconnaissance Office.

(C) The Director of the National Geospatial-Intelligence Agency.

(Added Pub. L. 102–190, div. A, title IX, § 922(a)(2), Dec. 5, 1991, 105 Stat. 1453; amended Pub. L. 104–201, div. A, title XI, § 1103(a), Sept. 23, 1996, 110 Stat. 2676; Pub. L. 108–136, div. A, title IX, § 921(d)(4), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, § 931(a)(4), (5), (c)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(3)–(5), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

PRIOR PROVISIONS

A prior section 201 was renumbered section 202 of this title and subsequently repealed.

AMENDMENTS

2009—Subsecs. (a), (b)(1), (c)(1). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(3)–(5). See 2008 Amendment notes below.

2008—Subsec. (a). Pub. L. 110–181, § 931(a)(4), and Pub. L. 110–417, § 932(a)(3), amended subsec. (a) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence''. Pub. L. 110–417, § 932(a)(3), was repealed by Pub. L. 111–84.

Subsec. (b)(1). Pub. L. 110–417, § 932(a)(4), which directed substitution of ''Director of National Intelligence'' for ''Director of Central Intelligence'', could not be executed because of the intervening amendment by Pub. L. 110–181, § 931(c)(2)(A), and was repealed by Pub. L. 111–84.

Pub. L. 110–181, § 931(c)(2)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Before submitting a recommendation to the President regarding the appointment of an individual to a position referred to in paragraph (2), the Secretary of Defense shall seek the concurrence of the Director of Central Intelligence in the recommendation. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the Director's concurrence, but shall include in the recommendation a statement that the Director does not concur in the recommendation.''

Subsec. (c)(1). Pub. L. 110–181, § 931(c)(2)(B), substituted ''National Intelligence Program'' for ''National Foreign Intelligence Program''.

Pub. L. 110–181, § 931(a)(5), and Pub. L. 110–417, § 932(a)(5), amended par. (1) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence''. Pub. L. 110–417, § 932(a)(5), was repealed by Pub. L. 111–84.

2003—Subsecs. (b)(2)(C), (c)(2)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

1996—Pub. L. 104–201 substituted ''Certain intelligence officials: consultation and concurrence regarding appointments; evaluation of performance'' for ''Consultation regarding appointment of certain intelligence officials'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency or Director of the National Security Agency, the Secretary of Defense shall consult with the Director of Central Intelligence regarding the recommendation.''

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

SIMILAR PROVISIONS

Provisions similar to those in subsecs. (a) and (b) of this section are contained in section 403–6(a) and (b) of Title 50, War and National Defense.

DEFENSE INTELLIGENCE AGENCY

Pub. L. 102–190, div. A, title IX, § 921, Dec. 5, 1991, 105 Stat. 1452, as amended by Pub. L. 103–337, div. A, title X, § 1070(d)(1), Oct. 5, 1994, 108 Stat. 2858, provided that, during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, the Assistant Secretary of Defense referred to in section 138(b)(3) of this title could be assigned supervision of the Defense Intelligence Agency other than day-to-day operational control over the Agency, set forth the responsibilities of the Director of the Defense Intelligence Agency during the period beginning on Dec. 5, 1991, and ending on Jan. 1, 1993, and directed the Secretary of the Army and the Director of the Defense Intelligence Agency to take all required actions in order to transfer the Armed Forces Medical Intelligence Center and the Missile and Space Intelligence Center from the Department of the Army to the control of the Defense Intelligence Agency not later than Jan. 1, 1992.

JOINT INTELLIGENCE CENTER

Section 923 of Pub. L. 102–190 provided that:

''(a) REQUIREMENT FOR CENTER.—The Secretary of Defense shall direct the consolidation of existing single-service current intelligence centers that are located within the District of Columbia or its vicinity into a joint intelligence center that is responsible for preparing current intelligence assessments (including indications and warning). The joint intelligence center shall be located within the District of Columbia or its vicinity. As appropriate for the support of military operations, the joint intelligence center shall provide for and manage the collection and analysis of intelligence.

''(b) MANAGEMENT.—The center shall be managed by the Defense Intelligence Agency in its capacity as the intelligence staff activity of the Chairman of the Joint Chiefs of Staff.

''(c) RESPONSIVENESS TO COMMAND AUTHORITIES.—The Secretary shall ensure that the center is fully responsive to the intelligence needs of the Secretary, the Chairman of the Joint Chiefs of Staff, and the commanders of the combatant commands.''

[§ 202. Repealed. Pub. L. 105–107, title V, § 503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 97–269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, § 191; amended Pub. L. 98–525, title XIV, § 1405(6), Oct. 19, 1984, 98 Stat. 2622; renumbered § 201, Pub. L. 99–433, title III, § 301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered § 202, Pub. L. 102–190, div. A, title IX, § 922(a)(1), Dec. 5, 1991, 105 Stat. 1453; Pub. L. 105–107, title V, § 503(b), Nov. 20, 1997, 111 Stat. 2262, related to unauthorized use of Defense Intelligence Agency name,

initials, or seal, after amendment by Pub. L. 105–107, which transferred subsec. (b) to end of section 425.

§ 203. Director of Missile Defense Agency

If an officer of the armed forces on active duty is appointed to the position of Director of the Missile Defense Agency, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general or general or, in the case of an officer of the Navy, vice admiral or admiral.

(Added Pub. L. 105–85, div. A, title II, § 235(a), Nov. 18, 1997, 111 Stat. 1665; amended Pub. L. 107–314, div. A, title II, § 225(b)(1)(A), (B)(i), Dec. 2, 2002, 116 Stat. 2486.)

AMENDMENTS

2002—Pub. L. 107–314 substituted ''Missile Defense Agency'' for ''Ballistic Missile Defense Organization'' in section catchline and text.

CHAPTER 9—DEFENSE BUDGET MATTERS

Sec.
221. Future-years defense program: submission to Congress; consistency in budgeting.
222. Future-years mission budget.
223. Ballistic missile defense programs: program elements.
223a. Ballistic missile defense programs: procurement.
224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation.
226. Scoring of outlays.
[227. Repealed.]
228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities.
229. Programs for combating terrorism: display of budget information.
[230. Repealed.]
231. Long-range plan for construction of naval vessels.
231a. Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification.
232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts.
233. Operation and maintenance budget presentation.
234. POW/MIA activities: display of budget information.
235. Procurement of contract services: specification of amounts requested in budget.

AMENDMENTS

2011—Pub. L. 111–383, div. A, title X, § 1023(b), Jan. 7, 2011, 124 Stat. 4350, added item 231 and struck out former item 231 ''Budgeting for construction of naval vessels: annual plan and certification''.

2009—Pub. L. 111–84, div. A, title VIII, § 803(a)(2), Oct. 28, 2009, 123 Stat. 2402, added item 235.

2008—Pub. L. 110–417, [div. A], title I, § 141(b), Oct. 14, 2008, 122 Stat. 4380, added item 231a.

2006—Pub. L. 109–364, div. A, title V, § 563(b), Oct. 17, 2006, 120 Stat. 2222, added item 234.

2004—Pub. L. 108–375, div. A, title II, § 214(b), title X, § 1003(a)(2), Oct. 28, 2004, 118 Stat. 1834, 2035, added items 232 and 233.

2003—Pub. L. 108–136, div. A, title II, § 223(a)(2), title X, § 1031(a)(6)(B)(ii), Nov. 24, 2003, 117 Stat. 1420, 1596, added item 223a and substituted ''Quarterly'' for ''Monthly'' in item 228.

2002—Pub. L. 107–314, div. A, title X, §§ 1022(b), 1041(a)(2)(B), Dec. 2, 2002, 116 Stat. 2640, 2645, struck out item 230 ''Amounts for declassification of records'' and added item 231.

2001—Pub. L. 107–107, div. A, title II, § 231(b)(2), Dec. 28, 2001, 115 Stat. 1037, substituted ''research, development, test, and evaluation'' for ''procurement'' in item 224.

1999—Pub. L. 106–65, div. A, title IX, § 932(b)(2), title X, § 1041(a)(2), Oct. 5, 1999, 113 Stat. 728, 758, added items 229 and 230.

1998—Pub. L. 105–261, div. A, title II, § 235(a)(2), Oct. 17, 1998, 112 Stat. 1953, added item 223.

1997—Pub. L. 105–85, div. A, title II, § 232(a)(2), title III, § 321(a)(2), Nov. 18, 1997, 111 Stat. 1663, 1673, added items 224 and 228.

1996—Pub. L. 104–106, div. A, title X, § 1061(f)(2), Feb. 10, 1996, 110 Stat. 443, struck out item 227 ''Recruiting costs''.

1993—Pub. L. 103–160, div. A, title III, § 374(b), Nov. 30, 1993, 107 Stat. 1637, added item 227.

1992—Pub. L. 102–484, div. A, title X, § 1002(d)(2), Oct. 23, 1992, 106 Stat. 2481, added items 221 and 222 and redesignated former item 221 as 226.

1991—Pub. L. 102–190, div. A, title X, § 1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, substituted ''DEFENSE BUDGET MATTERS'' for ''REGULAR COMPONENTS'' in chapter heading and added item 221.

§ 221. Future-years defense program: submission to Congress; consistency in budgeting

(a) The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.

(b)(1) The Secretary of Defense shall ensure that amounts described in subparagraph (A) of paragraph (2) for any fiscal year are consistent with amounts described in subparagraph (B) of paragraph (2) for that fiscal year.

(2) Amounts referred to in paragraph (1) are the following:

(A) The amounts specified in program and budget information submitted to Congress by the Secretary in support of expenditure estimates and proposed appropriations in the budget submitted to Congress by the President under section 1105(a) of title 31 for any fiscal year, as shown in the future-years defense program submitted pursuant to subsection (a).

(B) The total amounts of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress under that section for any fiscal year.

(c) Nothing in this section shall be construed to prohibit the inclusion in the future-years defense program of amounts for management contingencies, subject to the requirements of subsection (b).

(Added Pub. L. 101–189, div. A, title XVI, § 1602(a)(1), Nov. 29, 1989, 103 Stat. 1596, § 114a; amended Pub. L. 101–510, div. A, title XIV, § 1402(a)(1)–(3)(A), Nov. 5, 1990, 104 Stat. 1674; re-

numbered § 221 and amended Pub. L. 102–484, div. A, title X, § 1002(c), Oct. 23, 1992, 106 Stat. 2480.)

PRIOR PROVISIONS

A prior section 221 was renumbered section 226 of this title.

AMENDMENTS

1992—Pub. L. 102–484 renumbered section 114a of this title as this section, amended section catchline generally, and substituted ''future-years'' for ''multiyear'' wherever appearing in text.

1990—Pub. L. 101–510, § 1402(a)(3)(A), which directed amendment of section catchline by substituting ''Multiyear'' for ''Five-year'', was executed by substituting ''Multiyear'' for ''Five-Year'' as the probable intent of Congress.

Subsec. (a). Pub. L. 101–510, § 1402(a)(1), (2), substituted ''a multiyear'' for ''the current five-year'' and inserted at end ''Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.''

Subsecs. (b)(2)(A), (c). Pub. L. 101–510, § 1402(a)(2)(A), substituted ''multiyear'' for ''five-year''.

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF JOINT LIGHT TACTICAL VEHICLE

Pub. L. 111–383, div. A, title II, § 213, Jan. 7, 2011, 124 Stat. 4163, provided that: ''In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2012, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of the Army and the Navy a separate, dedicated program element is assigned to the Joint Light Tactical Vehicle.''

SEPARATE PROCUREMENT LINE ITEM FOR BODY ARMOR

Pub. L. 111–84, div. A, title I, § 141(b), Oct. 28, 2009, 123 Stat. 2223, provided that: ''In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each military department procurement account, a separate, dedicated procurement line item is designated for body armor.''

SEPARATE PROGRAM ELEMENTS REQUIRED FOR RESEARCH AND DEVELOPMENT OF INDIVIDUAL BODY ARMOR AND ASSOCIATED COMPONENTS

Pub. L. 111–84, div. A, title II, § 216, Oct. 28, 2009, 123 Stat. 2227, provided that: ''In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within each research, development, test, and evaluation account of each military department a separate, dedicated program element is assigned to the research and development of individual body armor and associated components.''

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR THE F–35B AND F–35C JOINT STRIKE FIGHTER AIRCRAFT

Pub. L. 111–84, div. A, title II, § 217, Oct. 28, 2009, 123 Stat. 2228, provided that: ''In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2011, and each subsequent fiscal year, the Secretary shall ensure that within the Navy research, development, test, and evaluation account and the Navy aircraft procurement account, a separate, dedicated line item and program element is assigned to each of the F-35B aircraft and the F-35C aircraft, to the extent that such accounts include funding for each such aircraft.''

GUIDANCE ON BUDGET JUSTIFICATION MATERIALS DESCRIBING FUNDING REQUESTED FOR OPERATION, SUSTAINMENT, MODERNIZATION, AND PERSONNEL OF MAJOR RANGES AND TEST FACILITIES

Pub. L. 111–84, div. A, title II, § 220, Oct. 28, 2009, 123 Stat. 2229, provided that:

''(a) GUIDANCE ON BUDGET JUSTIFICATION MATERIALS.—The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller) and the Director of the Department of Defense Test Resource Management Center, shall issue guidance clarifying and standardizing the information required in budget justification materials describing amounts to be requested in the budget of the President for a fiscal year (as submitted to Congress pursuant to section 1105(a) of title 31, United States Code) for funding for each facility and resource of the Major Range and Test Facility Base in connection with each of the following:

''(1) Operation.

''(2) Sustainment.

''(3) Investment and modernization.

''(4) Government personnel.

''(5) Contractor personnel.

''(b) APPLICABILITY.—The guidance issued under subsection (a) shall apply with respect to budgets of the President for fiscal years after fiscal year 2010.

''(c) MAJOR RANGE AND TEST FACILITY BASE DEFINED.—In this section, the term 'Major Range and Test Facility Base' has the meaning given that term in section 196(h) of title 10, United States Code.''

MILITARY MUNITIONS RESPONSE PROGRAM AND INSTALLATION RESTORATION PROGRAM

Pub. L. 111–84, div. A, title III, § 318(b), Oct. 28, 2009, 123 Stat. 2250, provided that: ''As part of the annual budget submission of the Secretary of Defense to Congress, the Secretary shall include the funding levels requested for the Military Munitions Response Program and the Installation Restoration Program.''

SEPARATE PROCUREMENT LINE ITEMS FOR FUTURE COMBAT SYSTEMS PROGRAM

Pub. L. 110–417, [div. A], title I, § 111, Oct. 14, 2008, 122 Stat. 4373, provided that: ''Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2011 and for each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated procurement line item is designated for each of the following elements of the Future Combat Systems program (in this section referred to as 'FCS'), to the extent the budget includes funding for such elements:

''(1) FCS Manned Ground Vehicles.

''(2) FCS Unmanned Ground Vehicles.

''(3) FCS Unmanned Aerial Systems.

''(4) FCS Unattended Ground Systems.

''(5) Other FCS elements.''

SEPARATE PROCUREMENT AND RESEARCH, DEVELOPMENT, TEST, AND EVALUATION LINE ITEMS AND PROGRAM ELEMENTS FOR SKY WARRIOR UNMANNED AERIAL SYSTEMS PROJECT

Pub. L. 110–417, [div. A], title II, § 214, Oct. 14, 2008, 122 Stat. 4386, provided that: ''Effective for fiscal year 2010 and for each fiscal year thereafter, the Secretary of Defense shall ensure that, in the annual budget submission of the Department of Defense to the President, within both the account for procurement and the account for research, development, test, and evaluation, a separate, dedicated line item and program element is

designated for the Sky Warrior Unmanned Aerial Systems project, to the extent such accounts include funding for such project.''

DISPLAY OF ANNUAL BUDGET REQUIREMENTS FOR AIR SOVEREIGNTY ALERT MISSION

Pub. L. 110–417, [div. A], title III, §354, Oct. 14, 2008, 122 Stat. 4426, provided that:

''(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—For fiscal year 2010 and each subsequent fiscal year, the Secretary of Defense shall submit to the President, for consideration by the President for inclusion with the budget materials submitted to Congress under section 1105(a) of title 31, United States Code, a consolidated budget justification display that covers all programs and activities of the Air Sovereignty Alert mission of the Air Force.

''(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for such fiscal year the following:

''(1) The funding requirements for the Air Sovereignty Alert mission, and the associated Command and Control mission, including such requirements for—

''(A) military personnel costs;

''(B) flying hours; and

''(C) any other associated mission costs.

''(2) The amount in the budget for the Air Force for each of the items referred to in paragraph (1).

''(3) The amount in the budget for the Air National Guard for each such item.''

REQUIREMENT FOR SEPARATE DISPLAY OF BUDGETS FOR AFGHANISTAN AND IRAQ

Pub. L. 110–417, [div. A], title XV, §1502, Oct. 14, 2008, 122 Stat. 4649, provided that:

''(a) OPERATIONS IN IRAQ AND AFGHANISTAN.—In any annual or supplemental budget request for the Department of Defense that is submitted to Congress after the date of the enactment of this Act [Oct. 14, 2008], the Secretary of Defense shall set forth separately any funding requested in such budget request for—

''(1) operations of the Department of Defense in Afghanistan; and

''(2) operations of the Department of Defense in Iraq.

''(b) SPECIFICITY OF DISPLAY.—Each budget request covered by subsection (a) shall, for any funding requested for operations in Iraq or Afghanistan—

''(1) clearly display the amount of such funding at the appropriation account level and at the program, project, or activity level; and

''(2) include a detailed description of the assumptions underlying the funding for the period covered by the budget request, including the anticipated troop levels, the operations intended to be carried out, and the equipment reset requirements necessary to support such operations.''

REPORT ON FUNDING OF THE DEPARTMENT OF DEFENSE FOR HEALTH CARE

Pub. L. 110–181, div. A, title VII, §718, Jan. 28, 2008, 122 Stat. 197, provided that:

''(a) REPORT.—If the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, and the aggregate amount included in that budget for the Department of Defense for health care for such fiscal year is less than the aggregate amount provided by Congress for the Department for health care for the preceding fiscal year, and, in the case of the Department, the total allocation from the Defense Health Program to any military department is less than the total of such allocation in the preceding fiscal year, the President shall submit to Congress a report on—

''(1) the reasons for the determination that inclusion of a lesser aggregate amount or allocation to any military department is in the national interest; and

''(2) the anticipated effects of the inclusion of such lesser aggregate amount or allocation to any military department on the access to and delivery of medical and support services to members of the Armed Forces and their family members.

''(b) TERMINATION.—The section shall not be in effect after December 31, 2017.''

SPECIFICATION OF AMOUNTS REQUESTED FOR PROCUREMENT OF CONTRACT SERVICES

Pub. L. 110–181, div. A, title VIII, §806, Jan. 28, 2008, 122 Stat. 213, which required that materials submitted to Congress in support of the Defense Department budget identify clearly and separately the amounts requested in each budget account for procurement of contract services, was repealed and restated as section 235 of this title by Pub. L. 111–84, div. A, title VIII, §803(a)(1), (3), Oct. 28, 2009, 123 Stat. 2402.

REPORT ON MAJOR DEPARTMENT OF DEFENSE HEADQUARTERS ACTIVITIES PERSONNEL

Pub. L. 110–181, div. A, title IX, §901(b), (c), Jan. 28, 2008, 122 Stat. 272, which required that the Secretary of Defense include a report with the defense budget materials for each fiscal year concerning the number of military personnel and civilian employees of the Department of Defense assigned to major headquarters activities for each component of the Department, any increase in personnel assigned to major headquarters activities attributable to certain reasons, and any cost savings associated with the elimination of contracts for the performance of major headquarters activities, was repealed by Pub. L. 111–84, div. A, title XI, §1109(b)(3), Oct. 28, 2009, 123 Stat. 2493.

MAJOR FORCE PROGRAM CATEGORY FOR SPACE

Pub. L. 111–118, div. A, title VIII, §8099, Dec. 19, 2009, 123 Stat. 3450, provided that: ''The Secretary of Defense shall create a major force program category for space for the Future Years Defense Program of the Department of Defense. The Secretary of Defense shall designate an official in the Office of the Secretary of Defense to provide overall supervision of the preparation and justification of program recommendations and budget proposals to be included in such major force program category.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. C, title VIII, §8104, Sept. 30, 2008, 122 Stat. 3644.

Pub. L. 110–116, div. A, title VIII, §8111, Nov. 13, 2007, 121 Stat. 1339.

REQUEST FOR FUNDS FOR ONGOING MILITARY OPERATION OVERSEAS

Pub. L. 110–116, div. A, title VIII, §8116, Nov. 13, 2007, 121 Stat. 1340, provided that: ''Any request for funds for a fiscal year after fiscal year 2008 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, shall be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code.''

ANNUAL REPORT ON PERSONNEL SECURITY INVESTIGATIONS FOR INDUSTRY AND NATIONAL INDUSTRIAL SECURITY PROGRAM

Pub. L. 109–364, div. A, title III, §347(a), (b), Oct. 17, 2006, 120 Stat. 2158, provided that:

''(a) ANNUAL REPORT REQUIRED.—The Secretary of Defense shall include in the budget justification documents submitted to Congress in support of the President's budget for the Department of Defense for each fiscal year, a report on the future requirements of the Department of Defense with respect to the Personnel Security Investigations for Industry and the National Industrial Security Program of the Defense Security Service.

''(b) CONTENTS OF REPORT.—Each report required to be submitted under subsection (a) shall include the following:

''(1) The funding requirements of the personnel security clearance investigation program and ability of the Secretary of Defense to fund the program.

''(2) The size of the personnel security clearance investigation process backlog.

''(3) The length of the average delay for an individual case pending in the personnel security clearance investigation process.

''(4) Any progress made by the Secretary of Defense during the 12 months preceding the date on which the report is submitted toward implementing planned changes in the personnel security clearance investigation process.

''(5) A determination certified by the Secretary of Defense of whether the personnel security clearance investigation process has improved during the 12 months preceding the date on which the report is submitted.''

BUDGETING FOR ONGOING MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

Pub. L. 109–364, div. A, title X, § 1008, Oct. 17, 2006, 120 Stat. 2374, provided that: ''The President's budget submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for each fiscal year after fiscal year 2007 shall include—

''(1) a request for the appropriation of funds for such fiscal year for ongoing military operations in Afghanistan and Iraq;

''(2) an estimate of all funds expected to be required in that fiscal year for such operations; and

''(3) a detailed justification of the funds requested.''

SEPARATE PROGRAM ELEMENTS REQUIRED FOR SIGNIFICANT SYSTEMS DEVELOPMENT AND DEMONSTRATION PROJECTS FOR ARMORED SYSTEMS MODERNIZATION PROGRAM

Pub. L. 109–163, div. A, title II, § 214, Jan. 6, 2006, 119 Stat. 3168, provided that:

''(a) PROGRAM ELEMENTS SPECIFIED.—Effective for the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2008 and each fiscal year thereafter, the Secretary of Defense shall ensure that a separate, dedicated program element is assigned to each of the following systems development and demonstration projects of the Armored Systems Modernization program:

''(1) Manned Ground Vehicles.

''(2) Systems of Systems Engineering and Program Management.

''(3) Future Combat Systems Reconnaissance Platforms and Sensors.

''(4) Future Combat Systems Unmanned Ground Vehicles.

''(5) Unattended Sensors.

''(6) Sustainment.

''(b) EARLY COMMENCEMENT OF DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for the systems development and demonstration projects of the Armored Systems Modernization program identified in subsection (a) as if the projects were already separate program elements.

''(c) TECHNOLOGY INSERTION TO CURRENT FORCE.—

''(1) REPORT ON ESTABLISHMENT OF ADDITIONAL PROGRAM ELEMENT.—Not later than June 1, 2006, the Secretary of the Army shall submit a report to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] describing the manner in which the costs of integrating Future Combat Systems capabilities into current force programs could be assigned to a separate, dedicated program element and any management issues that would be raised as a result of establishing such a program element.

''(2) DISPLAY IN BUDGET JUSTIFICATION MATERIALS.—As part of the budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2007 and each fiscal year thereafter, as submitted with the budget of the President under such section 1105(a), the Secretary of the Army shall set forth the budget justification material for technology insertion to the current force under the Armored Systems Modernization program.''

ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS

Pub. L. 107–314, div. A, title III, § 351, Dec. 2, 2002, 116 Stat. 2516, as amended by Pub. L. 110–417, [div. A], title X, § 1051, Oct. 14, 2008, 122 Stat. 4604, provided that:

''(a) REQUIREMENT TO SUBMIT INFORMATION.—Not later than 30 days after the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress information on the following information technology capital assets, including information technology capital assets that are a national security system, of the Department of Defense:

''(1) Information technology capital assets that have an estimated total cost for the fiscal year for which the budget is submitted in excess of $30,000,000 or an estimated total cost (as computed in fiscal year 2003 constant dollars) in excess of $120,000,000.

''(2) Information technology capital assets not covered by paragraph (1) that have been determined by the Chief Information Officer of the Department of Defense to be significant investments.

''(b) REQUIRED INFORMATION FOR HIGH-THRESHOLD ASSETS.—With respect to each information technology capital asset described in subsection (a)(1), the Secretary of Defense shall include the following information:

''(1) The name and identifying acronym of the information technology capital asset.

''(2) The date of initiation of the asset.

''(3) A summary of performance measurements and metrics.

''(4) The total amount of funds, by appropriation account, appropriated and obligated for prior fiscal years, with a specific breakout of such information for the two preceding fiscal years.

''(5) The funds, by appropriation account, requested for the next fiscal year.

''(6) The name of each prime contractor and the work to be performed.

''(7) Program management and management oversight information.

''(8) The original baseline cost and most current baseline information.

''(9) Information regarding compliance with the provisions of law enacted or amended by the Government Performance Results Act of 1993 (Public Law 103–62; 107 Stat. 285) [see Short Title of 1993 Amendment note under 31 U.S.C. 1101] and the Clinger–Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 642) [§§ 5001–5703 and §§ 4001–4402, see Tables for classification].

''(c) REQUIRED INFORMATION FOR SIGNIFICANT INVESTMENTS.—With respect to each information technology capital asset not covered by paragraph (1) of subsection (a), but covered by paragraph (2) of that subsection, the Secretary of Defense shall include such information in a format that is appropriate to the current status of such asset.

''(d) TOTAL COST DETERMINATIONS.—In estimating the total cost for a fiscal year or total cost of an information technology capital asset, the Secretary of Defense shall consider research and development costs, procurement costs, and operation and maintenance costs related to the information technology capital asset.

''(e) DEFINITIONS.—In this section:

''(1) The term 'information technology' has the meaning given that term in section 11101 of title 40, United States Code.

''(2) The term 'capital asset' has the meaning given that term in Office of Management and Budget Circular A–11.

''(3) The term 'national security system' has the meaning given that term in section 11103 of title 40, United States Code.''

DEPARTMENT OF DEFENSE REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS

Pub. L. 107–249, §131, Oct. 23, 2002, 116 Stat. 1586, provided that:

''(a) REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2003, the amount requested for environmental restoration, waste management, and environmental compliance activities in such fiscal year with respect to military installations approved for closure or realignment under the base closure laws shall accurately reflect the anticipated cost of such activities in such fiscal year.

''(b) BASE CLOSURE LAWS DEFINED.—In this section, the term 'base closure laws' means the following:

''(1) Section 2687 of title 10, United States Code.

''(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''(3) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 107–64, §131, Nov. 5, 2001, 115 Stat. 482.

BUDGET JUSTIFICATION DOCUMENTS FOR COSTS OF ARMED FORCES' PARTICIPATION IN CONTINGENCY OPERATIONS

Pub. L. 107–248, title VIII, §8132, Oct. 23, 2002, 116 Stat. 1568, provided that: ''The budget of the President for fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces' participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP–5 and OP–32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003.''

Similar provisions were contained in the following appropriation acts:

Pub. L. 111–118, div. A, title VIII, §8083, Dec. 19, 2009, 123 Stat. 3447.

Pub. L. 110–329, div. C, title VIII, §8086, Sept. 30, 2008, 122 Stat. 3641.

Pub. L. 110–116, div. A, title VIII, §8091, Nov. 13, 2007, 121 Stat. 1335.

Pub. L. 109–289, div. A, title VIII, §8089, Sept. 29, 2006, 120 Stat. 1294.

Pub. L. 109–148, div. A, title VIII, §8100, Dec. 30, 2005, 119 Stat. 2721.

Pub. L. 108–287, title VIII, §8116, Aug. 5, 2004, 118 Stat. 998.

Pub. L. 108–87, title VIII, §8115, Sept. 30, 2003, 117 Stat. 1099.

Pub. L. 107–117, div. A, title VIII, §8097, Jan. 10, 2002, 115 Stat. 2268.

Pub. L. 106–259, title VIII, §8097, Aug. 9, 2000, 114 Stat. 695.

Pub. L. 106–79, title VIII, §8110, Oct. 25, 1999, 113 Stat. 1257.

BUDGET SUBMISSIONS ON ACTIVE AND RESERVE MILITARY PERSONNEL ACCOUNTS

Pub. L. 105–262, title VIII, §8093, Oct. 17, 1998, 112 Stat. 2319, provided that: ''At the time the President submits his budget for fiscal year 2000 and any fiscal year thereafter, the Department of Defense shall transmit to the congressional defense committees [Committee on Armed Services and Subcommittee on National Security of the Committee on Appropriations of the House of Representatives and Committee on Armed Services and Subcommittee on Defense of the Committee on Appropriations of the Senate] a budget justification document for the active and reserve Military Personnel accounts, to be known as the 'M–1', which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for military personnel in any budget request, or amended budget request, for that fiscal year.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 105–56, title VIII, §8104, Oct. 8, 1997, 111 Stat. 1243.

MODIFICATION OF BUDGET DATA EXHIBITS

Pub. L. 105–85, div. A, title III, §324(c), Nov. 18, 1997, 111 Stat. 1678, provided that: ''The Under Secretary of Defense (Comptroller) shall ensure that aircraft budget data exhibits of the Department of Defense that are submitted to Congress display total numbers of active aircraft where numbers of primary aircraft or primary authorized aircraft are displayed in those exhibits.''

INCLUSION OF AIR FORCE DEPOT MAINTENANCE AS OPERATION AND MAINTENANCE BUDGET LINE ITEMS

Pub. L. 105–85, div. A, title III, §327, Nov. 18, 1997, 111 Stat. 1679, provided that: ''For fiscal year 1999 and each fiscal year thereafter, Air Force depot-level maintenance of materiel shall be displayed as one or more separate line items under each subactivity within the authorization request for operation and maintenance, Air Force, in the proposed budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, United States Code.''

IDENTIFICATION IN PRESIDENT'S BUDGET OF NATO COSTS

Pub. L. 106–79, title VIII, §8091, Oct. 25, 1999, 113 Stat. 1253, provided that: ''The budget of the President for fiscal year 2001 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include budget activity groups (known as 'subactivities') in all appropriations accounts provided in this Act [see Tables for classification], as may be necessary, to separately identify all costs incurred by the Department of Defense to support the North Atlantic Treaty Organization and all Partnership For Peace programs and initiatives. The budget justification materials submitted to the Congress in support of the budget of the Department of Defense for fiscal year 2001, and subsequent fiscal years, shall provide complete, detailed estimates for all such costs.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105–262, title VIII, §8095, Oct. 17, 1998, 112 Stat. 2319.

Pub. L. 105–56, title VIII, §8116, Oct. 8, 1997, 111 Stat. 1245.

PROGRAM ELEMENTS FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 104–106, div. A, title II, § 251, Feb. 10, 1996, 110 Stat. 233, which required that in budget justification materials submitted to Congress in support of Department of Defense budget, the amount requested for activities of the Ballistic Missile Defense Organization be set forth in accordance with specified program elements, was repealed and restated as section 223 of this title by Pub. L. 105–261, div. A, title II, § 235(a)(1), (b), Oct. 17, 1998, 112 Stat. 1953.

BUDGET SUBMISSIONS ON SALARIES AND EXPENSES RELATED TO ADMINISTRATIVE ACTIVITIES

Pub. L. 109–148, div. A, title VIII, § 8032, Dec. 30, 2005, 119 Stat. 2705, provided that: ''The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, and hereafter, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108–287, title VIII, § 8036, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108–87, title VIII, § 8036, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107–248, title VIII, § 8036, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107–117, div. A, title VIII, § 8039, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106–259, title VIII, § 8039, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106–79, title VIII, § 8042, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105–262, title VIII, § 8042, Oct. 17, 1998, 112 Stat. 2306.

Pub. L. 105–56, title VIII, § 8046, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104–208, div. A, title I, § 101(b) [title VIII, § 8047], Sept. 30, 1996, 110 Stat. 3009–71, 3009–98.

Pub. L. 104–61, title VIII, § 8058, Dec. 1, 1995, 109 Stat. 663.

Pub. L. 103–335, title VIII, § 8069, Sept. 30, 1994, 108 Stat. 2635.

Pub. L. 103–139, title VIII, § 8082, Nov. 11, 1993, 107 Stat. 1458.

Pub. L. 102–396, title IX, § 9132, Oct. 6, 1992, 106 Stat. 1936.

SUBMISSION OF MULTIYEAR DEFENSE PROGRAM

Section 1402(b) of Pub. L. 101–510 provided for limitations on obligation by Secretary of Defense of fiscal year 1991 advance procurement funds if, as of end of 90-day period beginning on date on which President's budget for fiscal year 1992 was submitted to Congress, the Secretary had not submitted to Congress fiscal year 1992 multiyear defense program.

MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN BUDGET

Section 1404 of Pub. L. 101–510 directed President to submit with budget submitted to Congress each year of programs of Department of Defense, a budget that organizes programs within major functional category 050 (National Defense) on basis of major roles and missions of Department of Defense, prior to repeal by Pub. L. 102–484, div. A, title X, § 1002(b), Oct. 23, 1992, 106 Stat. 2480. See section 222 of this title.

§ 222. Future-years mission budget

(a) FUTURE-YEARS MISSION BUDGET.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.

(b) CONSISTENCY WITH FUTURE-YEARS DEFENSE PROGRAM.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.

(c) RELATIONSHIP TO OTHER DEFENSE BUDGET FORMATS.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year.

(Added Pub. L. 102–484, div. A, title X, § 1002(a)(2), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–337, div. A, title X, § 1004, Oct. 5, 1994, 108 Stat. 2834; Pub. L. 110–181, div. A, title IX, § 944(a), (b), Jan. 28, 2008, 122 Stat. 289, 290.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–510, div. A, title XIV, § 1404, Nov. 5, 1990, 104 Stat. 1675, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102–484, § 1002(b).

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, § 944(a), amended last sentence generally. Prior to amendment, last sentence read as follows: ''That budget shall be submitted for any fiscal year not later than 60 days after the date on which the President's budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.''

Subsec. (b). Pub. L. 110–181, § 944(b), substituted ''on the basis of both major force programs and the core mission areas identified under the most recent quadrennial roles and missions review pursuant to section 118b of this title.'' for ''on the basis of major roles, missions, or forces of the Department of Defense.''

1994—Subsec. (a). Pub. L. 103–337 substituted ''not later than 60 days after the date on which'' for ''at the same time that''.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title IX, § 944(c), Jan. 28, 2008, 122 Stat. 290, provided that: ''The amendments made by this section [amending this section] shall apply with respect to the future-years mission budget for fiscal year 2010 and each fiscal year thereafter.''

§ 223. Ballistic missile defense programs: program elements

(a) PROGRAM ELEMENTS SPECIFIED BY PRESIDENT.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the amount requested for activities of the Missile Defense Agency shall be set forth in accordance with such program elements as the President may specify.

(b) SEPARATE PROGRAM ELEMENTS FOR PROGRAMS ENTERING ENGINEERING AND MANUFACTUR-

ING DEVELOPMENT.—(1) The Secretary of Defense shall ensure that each ballistic missile defense program that enters engineering and manufacturing development is assigned a separate, dedicated program element.

(2) In this subsection, the term ''engineering and manufacturing development'' means the period in the course of an acquisition program during which the primary objectives are to—

(A) translate the most promising design approach into a stable, interoperable, producible, supportable, and cost-effective design;

(B) validate the manufacturing or production process; and

(C) demonstrate system capabilities through testing.

(c) MANAGEMENT AND SUPPORT.—The amount requested for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a) shall include requests for the amounts necessary for the management and support of the programs, projects, and activities contained in that program element.

(Added Pub. L. 105–261, div. A, title II, §235(a)(1), Oct. 17, 1998, 112 Stat. 1953; amended Pub. L. 107–107, div. A, title II, §232(a), (b), Dec. 28, 2001, 115 Stat. 1037; Pub. L. 107–314, div. A, title II, §225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2486; Pub. L. 108–136, div. A, title II, §221(a), (b)(1), (c)(1), Nov. 24, 2003, 117 Stat. 1419.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 104–106, div. A, title II, §251, Feb. 10, 1996, 110 Stat. 233, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 105–261, §235(b).

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, §221(a), inserted ''by President'' after ''Specified'' in heading, substituted ''such program elements as the President may specify.'' for ''program elements governing functional areas as follows:'' in introductory provisions, and struck out pars. (1) to (6), which read as follows:

''(1) Technology.

''(2) Ballistic Missile Defense System.

''(3) Terminal Defense Segment.

''(4) Midcourse Defense Segment.

''(5) Boost Defense Segment.

''(6) Sensors Segment.''

Subsec. (b)(2). Pub. L. 108–136, §221(c)(1), substituted ''means the period in the course of an acquisition program during which the'' for ''means the development phase whose''.

Subsec. (c). Pub. L. 108–136, §221(b)(1), substituted ''for a fiscal year for any program element specified for that fiscal year pursuant to subsection (a)'' for ''for each program element specified in subsection (a)''.

2002—Subsec. (a). Pub. L. 107–314 substituted ''Missile Defense Agency'' for ''Ballistic Missile Defense Organization''.

2001—Subsec. (a). Pub. L. 107–107, §232(a), substituted ''in accordance with program elements governing functional areas as follows:'' for ''in accordance with the following program elements:'' in introductory provisions, added pars. (1) to (6), and struck out former pars. (1) to (12) which read as follows:

''(1) The Patriot system.

''(2) The Navy Area system.

''(3) The Theater High-Altitude Area Defense system.

''(4) The Navy Theater Wide system.

''(5) The Medium Extended Air Defense System.

''(6) Joint Theater Missile Defense.

''(7) National Missile Defense.

''(8) Support Technologies.

''(9) Family of Systems Engineering and Integration.

''(10) Ballistic Missile Defense Technical Operations.

''(11) Threat and Countermeasures.

''(12) International Cooperative Programs.''

Subsec. (b). Pub. L. 107–107, §232(b), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Amounts requested for Theater Missile Defense and National Missile Defense major defense acquisition programs shall be specified in individual, dedicated program elements, and amounts appropriated for those programs shall be available only for Ballistic Missile Defense activities.''

ACQUISITION ACCOUNTABILITY REPORTS ON THE BALLISTIC MISSILE DEFENSE SYSTEM

Pub. L. 111–383, div. A, title II, §225, Jan. 7, 2011, 124 Stat. 4170, provided that:

''(a) BASELINES REQUIRED.—The Secretary of Defense shall ensure that the Missile Defense Agency establishes and maintains an acquisition baseline for each program element of the ballistic missile defense system, as specified in section 223 of title 10, United States Code.

''(b) ELEMENTS OF BASELINES.—Each acquisition baseline required by subsection (a) for a program element shall include the following:

''(1) A comprehensive schedule for the program element, including—

''(A) research and development milestones;

''(B) acquisition milestones, including design reviews and key decision points;

''(C) key test events, including ground and flight tests and ballistic missile defense system tests; and

''(D) delivery and fielding schedules.

''(2) A detailed technical description of—

''(A) the capability to be developed, including hardware and software;

''(B) system requirements;

''(C) how the proposed capability satisfies a capability identified by the commanders of the combatant commands on a prioritized capabilities list;

''(D) key knowledge points that must be achieved to permit continuation of the program and to inform production and deployment decisions; and

''(E) how the Missile Defense Agency plans to improve the capability over time.

''(3) A cost estimate for the program element, including—

''(A) a life cycle cost estimate;

''(B) program acquisition unit costs for the program element;

''(C) average procurement unit costs and program acquisition costs for the program element; and

''(D) an identification when the program joint cost analysis requirements description document is scheduled to be approved.

''(4) A test baseline summarizing the comprehensive test program for the program element outlined in the integrated master test plan.

''(c) ANNUAL REPORTS ON ACQUISITION BASELINES.—

''(1) ANNUAL REPORTS REQUIRED.—Not later than February 15, 2011, and annually thereafter, the Director of the Missile Defense Agency shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report on the acquisition baselines required by subsection (a). The first such report shall set forth the acquisition baselines, and each later report shall identify the significant changes or variances, if any, in any such baseline from any earlier report under this subsection.

''(2) FORM.—Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

''(d) ANNUAL REPORTS ON MISSILE DEFENSE EXECUTIVE BOARD ACTIVITIES.—The Director shall include in each report under subsection (c) a description of the activities of the Missile Defense Executive Board during the preceding fiscal year, including the following:

''(1) A list of each meeting of the Board during the preceding fiscal year.

''(2) The agenda and issues considered at each such meeting.

''(3) A description of any decisions or recommendations made by the Board at each such meeting.''

BUDGET AND ACQUISITION REQUIREMENTS FOR MISSILE DEFENSE AGENCY ACTIVITIES

Pub. L. 110–181, div. A, title II, § 223, Jan. 28, 2008, 122 Stat. 39, provided that:

''(a) REVISED BUDGET STRUCTURE.—The budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall set forth separately amounts requested for the Missile Defense Agency for each of the following:

''(1) Research, development, test, and evaluation.

''(2) Procurement.

''(3) Operation and maintenance.

''(4) Military construction.

''(b) REVISED BUDGET STRUCTURE FOR FISCAL YEAR 2009.—The budget justification materials submitted to Congress in support of the Department of Defense budget for fiscal year 2009 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) shall—

''(1) identify all known and estimated operation and support costs; and

''(2) set forth separately amounts requested for the Missile Defense Agency for each of the following:

''(A) Research, development, test, and evaluation.

''(B) Procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

''(C) Military construction.

''(c) AVAILABILITY OF RDT&E FUNDS FOR FISCAL YEAR 2009.—Upon approval by the Secretary of Defense, and consistent with the plan submitted under subsection (f), funds appropriated pursuant to an authorization of appropriations or otherwise made available for fiscal year 2009 for research, development, test, and evaluation for the Missile Defense Agency—

''(1) may be used for the fielding of ballistic missile defense capabilities approved previously by Congress; and

''(2) may not be used for—

''(A) military construction activities; or

''(B) procurement or advance procurement of long lead items, including for Terminal High Altitude Area Defense firing units 3 and 4, and for Standard Missile-3 Block 1A interceptors.

''(d) FULL FUNDING REQUIREMENT NOT APPLICABLE TO USE OF PROCUREMENT FUNDS FOR FISCAL YEARS 2009 AND 2010.—In any case in which funds appropriated pursuant to an authorization of appropriations or otherwise made available for procurement for the Missile Defense Agency for fiscal years 2009 and 2010 are used for the fielding of ballistic missile defense capabilities, the funds may be used for the fielding of those capabilities on an 'incremental' basis, notwithstanding any law or policy of the Department of Defense that would otherwise require a 'full funding' basis.

''(e) RELATIONSHIP TO OTHER LAW.—Nothing in this provision shall be construed to alter or otherwise affect in any way the applicability of the requirements and other provisions of section 234(a) through (d) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1837; 10 U.S.C. 2431 note).

''(f) PLAN REQUIRED.—Not later than March 1, 2008, the Director of the Missile Defense Agency shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a plan for transitioning the Missile Defense Agency from using exclusively research, development, test, and evaluation funds to using procurement, military construction, operations and maintenance, and research, development, test, and evaluation funds for the appropriate budget activities, and for transitioning from incremental funding to full funding for fiscal years after fiscal year 2010.

''(g) OBJECTIVES FOR ACQUISITION ACTIVITIES.—

''(1) IN GENERAL.—Commencing as soon as practicable, but not later than the submittal to Congress of the budget for the President for fiscal year 2009 under section 1105(a) of title 31, United States Code, the Missile Defense Agency shall take appropriate actions to achieve the following objectives in its acquisition activities:

''(A) Improved transparency.

''(B) Improved accountability.

''(C) Enhanced oversight.

''(2) REQUIRED ACTIONS.—In order to achieve the objectives specified in paragraph (1), the Missile Defense Agency shall, at a minimum, take actions as follows:

''(A) Establish acquisition cost, schedule, and performance baselines for each ballistic missile defense system element that—

''(i) has entered the equivalent of the systems development and demonstration phase of acquisition; or

''(ii) is being produced and acquired for operational fielding.

''(B) Provide unit cost reporting data for each ballistic missile defense system element covered by subparagraph (A), and secure independent estimation and verification of such cost reporting data.

''(C) Include, in the budget justification materials described in subsection (a), a description of actions being taken in the fiscal year in which such materials are submitted, and the actions to be taken in the fiscal year covered by such materials, to achieve such objectives.

''(3) SPECIFICATION OF BALLISTIC MISSILE DEFENSE SYSTEM ELEMENTS.—The ballistic missile defense system elements that, as of October 2007, are ballistic missile defense system elements covered by paragraph (2)(A) are the following elements:

''(A) Ground-based Midcourse Defense.

''(B) Aegis Ballistic Missile Defense.

''(C) Terminal High Altitude Area Defense.

''(D) Forward-Based X-band radar-Transportable (AN/TPY–2).

''(E) Command, Control, Battle Management, and Communications.

''(F) Sea-Based X-band radar.

''(G) Upgraded Early Warning radars.''

REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION

Pub. L. 107–314, div. A, title II, § 225(a), Dec. 2, 2002, 116 Stat. 2486, provided that: ''Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency.''

COOPERATIVE BALLISTIC MISSILE DEFENSE PROGRAM ELEMENT

Pub. L. 105–85, div. A, title II, § 233, Nov. 18, 1997, 111 Stat. 1663, as amended by Pub. L. 107–314, div. A, title II, § 225(b)(4)(A), Dec. 2, 2002, 116 Stat. 2486, provided that:

''(a) REQUIREMENT FOR NEW PROGRAM ELEMENT.—The Secretary of Defense shall establish a program element for the Missile Defense Agency, to be referred to as the 'Cooperative Ballistic Missile Defense Program', to support technical and analytical cooperative efforts between the United States and other nations that contribute to United States ballistic missile defense capabilities. Except as provided in subsection (b), all international cooperative ballistic missile defense programs of the Department of Defense shall be budgeted and administered through that program element.

''(b) AUTHORITY FOR EXCEPTIONS.—The Secretary of Defense may exclude from the program element established pursuant to subsection (a) any international cooperative ballistic missile defense program of the Department of Defense that after the date of the enactment of this Act [Nov. 18, 1997] is designated by the Secretary of Defense (pursuant to applicable Department of Defense acquisition regulations and policy) to be managed as a separate acquisition program.

''(c) RELATIONSHIP TO OTHER PROGRAM ELEMENTS.—The program element established pursuant to subsection (a) is in addition to the program elements for activities of the Missile Defense Agency required under section 251 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 233; [former] 10 U.S.C. 221 note).''

§ 223a. Ballistic missile defense programs: procurement

(a) BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall specify, for each ballistic missile defense system element for which the Missile Defense Agency is engaged in planning for production and initial fielding, the following information:

(1) The production rate capabilities of the production facilities planned to be used for production of that element.

(2) The potential date of availability of that element for initial fielding.

(3) The estimated date on which the administration of the acquisition of that element is to be transferred from the Director of the Missile Defense Agency to the Secretary of a military department.

(b) FUTURE-YEARS DEFENSE PROGRAM.—The Secretary of Defense shall include in the future-years defense program submitted to Congress each year under section 221 of this title an estimate of the amount necessary for procurement for each ballistic missile defense system element, together with a discussion of the underlying factors and reasoning justifying the estimate.

(c) PERFORMANCE CRITERIA.—The Director of the Missile Defense Agency shall include in the performance criteria prescribed for planned development phases of the ballistic missile defense system and its elements a description of the intended effectiveness of each such phase against foreign adversary capabilities.

(d) TESTING PROGRESS.—The Director of Operational Test and Evaluation shall make available for review by the congressional defense committees the developmental and operational test plans established to assess the effectiveness of the ballistic missile defense system and its elements with respect to the performance criteria described in subsection (c).

(Added Pub. L. 108–136, div. A, title II, § 223(a)(1), Nov. 24, 2003, 117 Stat. 1420.)

IMPLEMENTATION OF REQUIREMENT FOR AVAILABILITY OF TEST PLANS

Pub. L. 108–136, div. A, title II, § 223(b), Nov. 24, 2003, 117 Stat. 1420, directed that subsec. (d) of this section was to be implemented not later than Mar. 1, 2004.

§ 224. Ballistic missile defense programs: display of amounts for research, development, test, and evaluation

(a) REQUIREMENT.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the integration of a ballistic missile defense element into the overall ballistic missile defense architecture shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation and, within that account, under the subaccount (or other budget activity level) for the Missile Defense Agency.

(b) TRANSFER CRITERIA.—(1) The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department. The criteria established for such a transfer shall, at a minimum, address the following:

(A) The technical maturity of the program.

(B) The availability of facilities for production.

(C) The commitment of the Secretary of the military department concerned to procurement funding for that program, as shown by funding through the future-years defense program and other defense planning documents.

(2) The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.

(c) NOTIFICATION OF TRANSFER.—Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary's intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.

(d) CONFORMING BUDGET AND PLANNING TRANSFERS.—When a ballistic missile defense program is transferred from the Missile Defense Agency to the Secretary of a military department in accordance with this section, the Secretary of Defense shall ensure that all appropriate conforming changes are made to proposed or projected funding allocations in the future-years defense program under section 221 of this title and other Department of Defense program, budget, and planning documents.

(e) FOLLOW-ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The Secretary of Defense shall ensure that, before a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly delineated.

(Added Pub. L. 105–85, div. A, title II, § 232(a)(1), Nov. 18, 1997, 111 Stat. 1662; amended Pub. L. 107–107, div. A, title II, § 231(a), (b)(1), Dec. 28, 2001, 115 Stat. 1035, 1036; Pub. L. 107–314, div. A,

title II, §§ 222, 225(b)(1)(A), Dec. 2, 2002, 116 Stat. 2485, 2486; Pub. L. 108–136, div. A, title II, § 226, title X, § 1043(b)(4), Nov. 24, 2003, 117 Stat. 1421, 1611.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 226(b), substituted ''the integration of a ballistic missile defense element into the overall ballistic missile defense architecture'' for ''a Department of Defense missile defense program described in subsection (b)''.

Subsec. (e). Pub. L. 108–136, § 226(a), substituted ''before a'' for ''for each'', inserted ''is'' before ''transferred'', and substituted ''roles and responsibilities'' for ''responsibility'' and ''are clearly delineated'' for ''remains with the Director''.

Subsec. (f). Pub. L. 108–136, § 1043(b)(4), struck out heading and text of subsec. (f). Text read as follows: ''In this section, the term 'congressional defense committees' means the following:

''(1) The Committee on Armed Services and the Committee on Appropriations of the Senate.

''(2) The Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''

2002—Subsecs. (a), (b)(1), (c), (d). Pub. L. 107–314, § 225(b)(1)(A), substituted ''Missile Defense Agency'' for ''Ballistic Missile Defense Organization''.

Subsec. (e). Pub. L. 107–314 substituted ''for each'' for ''before a'', ''transferred'' for ''is transferred'', ''Missile Defense Agency'' for ''Ballistic Missile Defense Organization'', and ''responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director'' for ''roles and responsibilities for research, development, test, and evaluation related to system improvements for that program are clearly defined''.

2001—Pub. L. 107–107, § 231(b)(1), substituted ''research, development, test, and evaluation'' for ''procurement'' in section catchline.

Subsec. (a). Pub. L. 107–107, § 231(a)(1), substituted ''research, development, test, and evaluation'' for ''procurement'' in two places.

Subsecs. (b) to (f). Pub. L. 107–107, § 231(a)(2), added subsecs. (b) to (f) and struck out former subsecs. (b) and (c) which related to covered programs and core theater ballistic missile defense program, respectively.

§ 226. Scoring of outlays

(a) ANNUAL OMB/CBO REPORT.—Not later than April 1 of each year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall submit to the Speaker of the House of Representatives and the Committees on Armed Services, Appropriations, and the Budget of the Senate a joint report containing an agreed resolution of all differences between—

(1) the technical assumptions to be used by the Office of Management and Budget in preparing estimates with respect to all accounts in major functional category 050 (National Defense) for the budget to be submitted to Congress in that year pursuant to section 1105 of title 31; and

(2) the technical assumptions to be used by the Congressional Budget Office in preparing estimates with respect to those accounts for that budget.

(b) USE OF AVERAGES.—If the two Directors are unable to agree upon any technical assumption, the report shall reflect the average of the relevant outlay rates or assumptions used by the two offices.

(c) MATTERS TO BE INCLUDED.—The report with respect to a budget shall identify the following:

(1) The agreed first-year and outyear outlay rates for each account in budget function 050 (National Defense) for each fiscal year covered by the budget.

(2) The agreed amount of outlays estimated to occur from unexpended appropriations made for fiscal years before the fiscal year that begins after submission of the report.

(Added Pub. L. 102–190, div. A, title X, § 1002(a)(1), Dec. 5, 1991, 105 Stat. 1455, § 221; renumbered § 226, Pub. L. 102–484, div. A, title X, § 1002(a)(1), Oct. 23, 1992, 106 Stat. 2480; amended Pub. L. 103–160, div. A, title XI, § 1104, Nov. 30, 1993, 107 Stat. 1749; Pub. L. 108–136, div. A, title X, § 1031(a)(5), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 109–364, div. A, title X, § 1007, Oct. 17, 2006, 120 Stat. 2373.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 101–189, § 5(a), Nov. 29, 1989, 103 Stat. 1364, which was set out as a note under section 114a [now 221] of this title, prior to repeal by Pub. L. 102–190, § 1002(b)(1).

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–364 substituted ''April 1 of each year'' for ''January 15 of each year'' in introductory provisions.

2003—Subsec. (a). Pub. L. 108–136 substituted ''January 15'' for ''December 15'' in introductory provisions and ''in that year'' for ''in the following year'' in par. (1).

1993—Subsec. (a). Pub. L. 103–160 substituted ''Not later than December 15 of each year'' for ''Not later than the day on which the budget for any fiscal year is submitted to Congress pursuant to section 1105 of title 31'' in introductory provisions and ''the budget to be submitted to Congress in the following year pursuant to section 1105 of title 31'' for ''that budget'' in par. (1).

1992—Pub. L. 102–484 renumbered section 221 of this title as this section.

SENSE OF CONGRESS REGARDING BUDGET RESOLUTIONS, BUDGET SCOREKEEPING, AND REQUIRED REDUCTIONS IN NATIONAL DEFENSE OUTLAYS

Pub. L. 101–189, § 5, Nov. 29, 1989, 103 Stat. 1364, as amended by Pub. L. 102–190, div. A, title X, § 1002(b), Dec. 5, 1991, 105 Stat. 1455, provided that:

''(a) SENSE OF CONGRESS REGARDING BUDGET RESOLUTIONS AND BUDGET SCOREKEEPING.—It is the sense of Congress that, in order to prevent a recurrence of a mismatch between budget authority and outlays for budget function 050 (National Defense), the technical assumptions contained in the report under section 221 [now 226] of title 10, United States Code, with respect to any budget should be used in the preparation of that budget, the preparation of the budget resolution, and in all scorekeeping in connection with budget function 050 (National Defense).

''(b) SENSE OF CONGRESS REGARDING REQUIRED REDUCTIONS AND OTHER CHANGES IN NATIONAL DEFENSE OUTLAYS IN RELATION TO BUDGET AUTHORITY.—It is the sense of Congress that the outlay level specified for national defense for any fiscal year in the budget resolution for that fiscal year should not require a reduction (or other change) in outlays for national defense for that fiscal year below (or in relation to) the estimated outlays specified for national defense in the budget for such fiscal year (submitted to Congress pursuant to section 1105 of title 31, United States Code) by more than the amount by which such estimated outlays would be reduced (or otherwise changed) if the amount of budget authority provided for in each title of the President's request for budget authority for national defense (as contained in such budget) were reduced (or

otherwise changed) by the uniform percentage necessary for the requested budget authority for national defense to be equal to the budget authority specified for national defense in that budget resolution unless the budget resolution is accompanied by a report that describes the difference between the budget authority and outlays for National Defense (function 050) in the President's budget and the budget resolution.''

[§ 227. Repealed. Pub. L. 104–106, div. A, title X, § 1061(f)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 103–160, div. A, title III, § 374(a), Nov. 30, 1993, 107 Stat. 1636, directed Secretary of Defense to include recruiting costs in budget justification documents submitted to Congress each year in connection with submission of budget.

§ 228. Quarterly reports on allocation of funds within operation and maintenance budget subactivities

(a) QUARTERLY REPORT.—The Secretary of Defense shall submit to the congressional defense committees a quarterly report on the allocation of appropriations to O&M budget activities and to the subactivities of those budget activities. Each such report shall be submitted not later than 60 days after the end of the fiscal-year quarter to which the report pertains.

(b) MATTERS TO BE INCLUDED.—Each such report shall set forth the following for each subactivity of the O&M budget activities:

(1) The amount of budget authority appropriated for that subactivity in the most recent regular Department of Defense Appropriations Act.

(2) The amount of budget authority actually made available for that subactivity, taking into consideration supplemental appropriations, rescissions, and other adjustments required by law or made pursuant to law.

(3) The amount programmed to be expended from such subactivity.

(c) IDENTIFICATION OF CERTAIN FLUCTUATIONS.—(1) If, in the report under this section for a quarter of a fiscal year after the first quarter of that fiscal year, an amount shown under subsection (b) for a subactivity is different by more than $15,000,000 from the corresponding amount for that subactivity in the report for the first quarter of that fiscal year, the Secretary shall include in the report notice of that difference.

(2) If, in the report under this section for a quarter of a fiscal year after a quarter for which the report under this section includes a notice under paragraph (1), an amount shown under subsection (b) for a subactivity is different by more than $15,000,000 from the corresponding amount for that subactivity in the most recent report that includes a notice under paragraph (1) or this paragraph, the Secretary shall include in the report notice of that difference.

(d) REPORT ON FLUCTUATIONS.—If a report under this section includes a notice under subsection (c), the Secretary shall include in the report with each such notice the following:

(1) The reasons for the reallocations of funds resulting in the inclusion of that notice in the report.

(2) Each budget subactivity involved in those reallocations.

(3) The effect of those reallocations on the operation and maintenance activities funded through the subactivity with respect to which the notice is included in the report.

(e) O&M BUDGET ACTIVITY DEFINED.—In this section, the term ''O&M budget activity'' means a budget activity within an operation and maintenance appropriation of the Department of Defense for a fiscal year.

(Added Pub. L. 105–85, div. A, title III, § 321(a)(1), Nov. 18, 1997, 111 Stat. 1672; amended Pub. L. 107–314, div. A, title III, § 361, Dec. 2, 2002, 116 Stat. 2519; Pub. L. 108–136, div. A, title X, §§ 1031(a)(6)(A), (B)(i), 1043(b)(5), Nov. 24, 2003, 117 Stat. 1596, 1611.)

AMENDMENTS

2003—Pub. L. 108–136, § 1031(a)(6)(B)(i), substituted ''Quarterly'' for ''Monthly'' in section catchline.

Subsec. (a). Pub. L. 108–136, § 1031(a)(6)(A)(i), substituted ''Quarterly'' for ''Monthly'' in heading, ''quarterly'' for ''monthly'' in first sentence, and ''fiscal-year quarter'' for ''month'' in second sentence.

Subsec. (c). Pub. L. 108–136, § 1031(a)(6)(A)(ii), substituted ''quarter'' for ''month'' wherever appearing.

Subsec. (e). Pub. L. 108–136, § 1043(b)(5), substituted ''O&M Budget Activity Defined'' for ''Definitions'' in heading and a comma for a colon after ''section'', struck out par. (1) designation before ''The term'', and struck out par. (2) which read as follows: ''The term 'congressional defense committees' means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''

2002—Subsec. (a). Pub. L. 107–314, § 361(a), substituted ''to the congressional defense committees'' for ''to Congress''.

Subsec. (e). Pub. L. 107–314, § 361(b), substituted ''Definitions'' for ''O&M Budget Activity Defined'' in heading, inserted introductory provisions, designated existing provisions as par. (1) and substituted ''The'' for ''For purposes of this section, the'', and added par. (2).

FIRST REPORT

Pub. L. 105–85, div. A, title III, § 321(b), Nov. 18, 1997, 111 Stat. 1673, directed that the first report under this section was to be for Dec. 1997.

§ 229. Programs for combating terrorism: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President's annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) shall include—

(1) the amount requested, by appropriation and functional area, for each of the program elements, projects, and initiatives that support the Department of Defense combating terrorism program, with supporting narrative descriptions and rationale for the funding levels requested; and

(2) a summary, to the program element and project level of detail, of estimated expenditures for the current year, funds requested for the budget year, and budget estimates through the completion of the current future-years de-

fense plan for the Department of Defense combating terrorism program.

(c) EXPLANATION OF INCONSISTENCIES.—As part of the budget display under subsection (a) for any fiscal year, the Secretary shall identify and explain—

(1) any inconsistencies between (A) the information submitted under subsection (b) for that fiscal year, and (B) the information provided to the Director of the Office of Management and Budget in support of the annual report of the President to Congress on funding for executive branch counterterrorism and antiterrorism programs and activities for that fiscal year in accordance with section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998 (31 U.S.C. 1113 note); and

(2) any inconsistencies between (A) the execution, during the previous fiscal year and the current fiscal year, of programs and activities of the Department of Defense combating terrorism program, and (B) the funding and specification for such programs and activities for those fiscal years in the manner provided by Congress (both in statutes and in relevant legislative history).

(d) SEMIANNUAL REPORTS ON OBLIGATIONS AND EXPENDITURES.—The Secretary shall submit to the congressional defense committees a semiannual report on the obligation and expenditure of funds for the Department of Defense combating terrorism program. Such reports shall be submitted not later than April 15 each year, with respect to the first half of a fiscal year, and not later than November 15 each year, with respect to the second half of a fiscal year. Each such report shall compare the amounts of those obligations and expenditures to the amounts authorized and appropriated for the Department of Defense combating terrorism program for that fiscal year, by budget activity, sub-budget activity, and program element or line item. The second report for a fiscal year shall show such information for the second half of the fiscal year and cumulatively for the whole fiscal year. The report shall be submitted in unclassified form, but may have a classified annex.

(e) DEPARTMENT OF DEFENSE COMBATING TERRORISM PROGRAM.—In this section, the term ''Department of Defense combating terrorism program'' means the programs, projects, and activities of the Department of Defense related to combating terrorism inside and outside the United States.

(Added Pub. L. 106–65, div. A, title IX, § 932(b)(1), Oct. 5, 1999, 113 Stat. 727; amended Pub. L. 108–136, div. A, title X, § 1043(b)(6), Nov. 24, 2003, 117 Stat. 1611.)

REFERENCES IN TEXT

Section 1051(b) of the National Defense Authorization Act for Fiscal Year 1998, referred to in subsec. (c)(1), is section 1051(b) of Pub. L. 105–85, which is set out as a note under section 1113 of Title 31, Money and Finance.

AMENDMENTS

2003—Subsec. (f). Pub. L. 108–136 struck out heading and text of subsec. (f). Text read as follows: ''In this section, the term 'congressional defense committees' means—

''(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

''(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.''

PRIORITIZATION OF FUNDS FOR EQUIPMENT READINESS AND STRATEGIC CAPABILITY

Pub. L. 109–364, div. A, title III, § 323, Oct. 17, 2006, 120 Stat. 2146, as amended by Pub. L. 110–181, div. A, title III, § 353, Jan. 28, 2008, 122 Stat. 72; Pub. L. 111–383, div. A, title III, § 332(a)–(f), Jan. 7, 2011, 124 Stat. 4185, 4187, provided that:

''(a) PRIORITIZATION OF FUNDS.—The Secretary of Defense shall take such steps as may be necessary through the planning, programming, budgeting, and execution systems of the Department of Defense to ensure that financial resources are provided for each fiscal year as necessary to enable—

''(1) the Secretary of each military department to meet the requirements of that military department for that fiscal year for the repair, recapitalization, and replacement of equipment used in overseas contingency operations; and

''(2) the Secretary of the Army to meet the requirements of the Army for that fiscal year, in addition to the requirements under paragraph (1), for—

''(A) the fulfillment of the equipment requirements of modular units in accordance with the Modular Force Initiative report submitted to Congress in March 2006; and

''(B) the reconstitution of equipment and materiel in prepositioned stocks in accordance with requirements under the Army Prepositioned Stocks Strategy 2015 or a subsequent strategy implemented under the guidelines in section 2229 of title 10, United States Code.

''(b) SUBMISSION OF BUDGET INFORMATION.—

''(1) SUBMISSION OF INFORMATION.—As part of the budget justification materials submitted to Congress in support of the President's budget for a fiscal year or a request for supplemental appropriations, the Secretary of Defense shall include the following:

''(A) The information described in paragraph (2) for the fiscal year for which the budget justification materials are submitted, the fiscal year during which the materials are submitted, and the preceding fiscal year.

''(B) The information described in paragraph (2) for each of the fiscal years covered by the future-years defense program for the fiscal year in which the report is submitted based on estimates of any amounts required to meet each of the requirements under subsection (a) that are not met for that fiscal year and are deferred to the future-years defense program.

''(C) A consolidated budget justification summary of the information submitted under subparagraphs (A) and (B).

''(2) INFORMATION DESCRIBED.—The information described in this paragraph is information that clearly and separately identifies, by appropriations account, budget activity, activity group, sub-activity group, and program element or line item, the amounts requested for the programs, projects, and activities of—

''(A) each of the military departments for the repair, recapitalization, or replacement of equipment used in overseas contingency operations; and

''(B) the Army for—

''(i) the fulfillment of the equipment requirements of modular units; and

''(ii) the reconstitution of equipment and materiel in prepositioned stocks.

''(c) ANNUAL REPORT ON ARMY PROGRESS.—(1) On the date on which the President submits to Congress the budget for a fiscal year under section 1105 of title 31, United States Code, the Secretary of the Army shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report setting forth the progress of the Army in fulfilling the key enabler equipment requirements of modular units and

in repairing, recapitalizing, and replacing equipment and materiel used in support of overseas contingency operations underway as of the date of such report, and associated sustainment. Any information included in the report shall be itemized by active duty component and reserve component.

''(2) Each such report shall include the following:

''(A) An assessment of the key enabler equipment and personnel of the Army, including—

''(i) a comparison of—

''(I) the authorized level of key enabler equipment;

''(II) the level of key enabler equipment on hand; and

''(III) the planned purchases of key enabler equipment as set forth in the future-years defense program submitted with the budget for such fiscal year;

''(ii) a comparison of the authorized and actual personnel levels for personnel with key enabler personnel specialities [sic] with the requirements for key enabler personnel specialties;

''(iii) an identification of any shortfalls indicated by the comparisons in clauses (i) and (ii); and

''(iv) an assessment of the number and type of key enabler equipment that the Army projects it will have on hand by the end of such future-years defense program that will require repair, recapitalization, or replacement at or before the end of the time period covered by such future-years defense program (which assessment shall account for additional repair, recapitalization, or replacement resulting from use of key enabler equipment in overseas contingency operations).

''(B) If an assessment under subparagraph (A) identifies shortfalls that will exist within the period covered by the future-years defense program submitted in such fiscal year, an identification of the risks associated with such shortfalls and mitigation strategies to address such risks.

''(C) A schedule for the accomplishment of the purposes set forth in paragraph (1).

''(D) The results of Army assessments of modular force capabilities, including lessons learned from existing modular units and any modifications that have been made to modularity.

''(E) A description of the status of the development of doctrine on how modular combat, functional, and support forces will train, be sustained, and fight.

''(F) The comments of the Chief of the National Guard Bureau and the Chief of the Army Reserve on each of the items described in subparagraphs (A) through (E).

''(d) ANNUAL COMPTROLLER GENERAL REPORT ON ARMY PROGRESS.—Not later than 180 days after the date on which the Secretary of the Army submits a report under subsection (c), the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the Comptroller General's review of such report. Each report under this subsection shall include such information and recommendations as the Comptroller General considers appropriate in light of such review.

''(e) DEFINITIONS.—In this section:

''(1) The term 'contingency operation' has the meaning given that term in section 101(a)(13) of title 10, United States Code.

''(2) The term 'key enabler', in the case of equipment or personnel, means equipment or personnel, as the case may be, that make a modular force or unit as capable or more capable than the non-modular force or unit it replaced, including the following:

''(A) Equipment such as tactical and high frequency radio, tactical wheeled vehicles, battle command systems, unmanned aerial vehicles, all-source analysis systems, analysis and control elements, fire support sensor systems, firefinder radar, joint network nodes, long-range advanced scout surveillance systems, Trojan Spirit systems (or any successor system), and any other equipment items identified by the Army as making a modular force or unit as capable or more capable than the non-modular force or unit it replaced.

''(B) Personnel in specialties needed to operate or support the equipment specified in subparagraph (A) and personnel in specialties relating to civil affairs, communication and information systems operation, explosive ordinance disposal, military intelligence, psychological operations, and any other personnel specialties identified by the Army as making a modular force or unit as capable or more capable than the non-modular force or unit it replaced.

''(f) TERMINATION OF REPORT REQUIREMENTS.—The requirement for the submission of a report under subsection (c) or (d) shall terminate on the date of the submission of the report required to be submitted under that subsection to accompany or follow the President's budget submission for fiscal year 2015.''

QUARTERLY DETAILED ACCOUNTING FOR OPERATIONS CONDUCTED AS PART OF THE GLOBAL WAR ON TERRORISM

Pub. L. 108–375, div. A, title X, § 1041, Oct. 28, 2004, 118 Stat. 2048, provided that:

''(a) QUARTERLY ACCOUNTING.—Not later than 45 days after the end of each quarter of a year, 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], for each operation specified in subsection (b)—

''(1) a full accounting of all costs incurred for such operation during such quarter and all amounts expended during such quarter for such operation; and

''(2) a description of the purposes for which those costs were incurred and those amounts were expended.

''(b) OPERATIONS COVERED.—The operations referred to in subsection (a) are the following:

''(1) Operation Iraqi Freedom.

''(2) Operation Enduring Freedom.

''(3) Operation Noble Eagle.

''(4) Any other operation that the President designates as being an operation of the Global War on Terrorism.

''(c) REQUIREMENT FOR COMPREHENSIVENESS.—For the purpose of providing a full and complete accounting of the costs and expenditures under subsection (a) for an operation specified in subsection (b), the Secretary shall account in the quarterly submission under subsection (a) for all costs and expenditures that are reasonably attributable to that operation, including personnel costs.''

[§ 230. Repealed. Pub. L. 107–314, div. A, title X, § 1041(a)(2)(A), Dec. 2, 2002, 116 Stat. 2645]

Section, added Pub. L. 106–65, div. A, title X, § 1041(a)(1), Oct. 5, 1999, 113 Stat. 758; amended Pub. L. 106–398, § 1 [[div. A], title X, § 1075(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–280, related to inclusion in the budget justification materials submitted to Congress of specific identification of amounts required for declassification of records.

§ 231. Long-range plan for construction of naval vessels

(a) QUADRENNIAL NAVAL VESSEL CONSTRUCTION PLAN.—At the same time that the budget of the President is submitted under section 1105(a) of title 31 during each year in which the Secretary of Defense submits a quadrennial defense review, the Secretary of the Navy shall submit to the congressional defense committees a long-range plan for the construction of combatant and support vessels for the Navy that supports the force structure recommendations of the quadrennial defense review.

(b) MATTERS INCLUDED.—The plan under subsection (a) shall include the following:

(1) A detailed construction schedule of naval vessels for the 10-year period beginning on the date on which the plan is submitted, including a certification by the Secretary that the budget for the fiscal year in which the plan is submitted and the budget for the future-years defense program submitted under section 221 of this title are sufficient for funding such schedule.

(2) A probable construction schedule for the 10-year period beginning on the date that is 10 years after the date on which the plan is submitted.

(3) A notional construction schedule for the 10-year period beginning on the date that is 20 years after the date on which the plan is submitted.

(4) The estimated levels of annual funding necessary to carry out the construction schedules under paragraphs (1), (2), and (3).

(5) For the construction schedules under paragraphs (1) and (2)—

(A) a determination by the Director of Cost Assessment and Program Evaluation of the level of funding necessary to execute such schedules; and

(B) an evaluation by the Director of the potential risk associated with such schedules, including detailed effects on operational plans, missions, deployment schedules, and fulfillment of the requirements of the combatant commanders.

(c) NAVAL COMPOSITION.—In submitting the plan under subsection (a), the Secretary shall ensure that such plan is in accordance with section 5062(b) of this title.

(d) ASSESSMENT WHEN BUDGET IS INSUFFICIENT.—If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is less than the level determined necessary by the Director of Cost Assessment and Program Evaluation under subsection (b)(5), the Secretary of the Navy shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the budget, including the risk associated with a reduced force structure that may result from funding naval vessel construction at such a level.

(e) CBO EVALUATION.—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which the plan is submitted and the future-years defense program submitted under section 221 of this title.

(f) CHANGES TO THE CONSTRUCTION PLAN.—In any year in which a quadrennial defense review is not submitted and the budget of the President submitted under section 1105(a) of title 31 decreases the number of vessels requested in the future-years defense program submitted under section 221 of this title, the Secretary of the Navy shall submit to the congressional defense committees a report on such decrease including—

(1) an addendum to the most recent quadrennial defense review that fully explains and justifies the decrease with respect to the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a); and

(2) a description of the additional reviews and analyses considered by the Secretary after the previous quadrennial defense review was submitted that justify the decrease.

(g) DEFINITIONS.—In this section:

(1) The term ''budget'', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term ''defense budget materials'', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term ''quadrennial defense review'' means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of this title.

(Added Pub. L. 107–314, div. A, title X, § 1022(a)(1), Dec. 2, 2002, 116 Stat. 2639; amended Pub. L. 111–383, div. A, title X, § 1023(a), Jan. 7, 2011, 124 Stat. 4349.)

AMENDMENTS

2011—Pub. L. 111–383 amended section generally. Prior to amendment, section related to submission of an annual plan for construction of naval vessels and certification that the budget for the current fiscal year and the future-years defense program is sufficient for procurement of vessels provided for in the plan.

§ 231a. Budgeting for procurement of aircraft for the Navy and Air Force: annual plan and certification

(a) ANNUAL AIRCRAFT PROCUREMENT PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for each fiscal year—

(1) a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy and the Department of the Air Force developed in accordance with this section; and

(2) a certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provided in the plan.

(b) COVERED AIRCRAFT.—The aircraft specified in this subsection are the aircraft as follows:

(1) Fighter aircraft.

(2) Attack aircraft.

(3) Bomber aircraft.

(4) Strategic lift aircraft.

(5) Intratheater lift aircraft.

(6) Intelligence, surveillance, and reconnaissance aircraft.

(7) Tanker aircraft.

(8) Any other major support aircraft designated by the Secretary of Defense for purposes of this section.

(c) ANNUAL AIRCRAFT PROCUREMENT PLAN.—(1) The annual aircraft procurement plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the aviation force provided for under the plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), except that, if at the time the plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then the plan should be designed so that the aviation force provided for under the plan is capable of supporting the aviation force structure recommended in the report of the most recent Quadrennial Defense Review.

(2) Each annual aircraft procurement plan shall include the following:

(A) A detailed program for the procurement of the aircraft specified in subsection (b) for each of the Department of the Navy and the Department of the Air Force over the next 30 fiscal years.

(B) A description of the necessary aviation force structure to meet the requirements of the national security strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

(D) An assessment by the Secretary of Defense of the extent to which the combined aircraft forces of the Department of the Navy and the Department of the Air Force meet the national security requirements of the United States.

(d) ASSESSMENT WHEN AIRCRAFT PROCUREMENT BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

(e) DEFINITIONS.—In this section:

(1) The term ''budget'', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(2) The term ''defense budget materials'', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(3) The term ''Quadrennial Defense Review'' means the review of the defense programs and policies of the United States that is carried out every 4 years under section 118 of this title.

(Added Pub. L. 110–417, [div. A], title I, § 141(a), Oct. 14, 2008, 122 Stat. 4379.)

§ 232. United States Joint Forces Command: amounts for research, development, test, and evaluation to be derived only from Defense-wide amounts

(a) REQUIREMENT.—Amounts for research, development, test, and evaluation for the United States Joint Forces Command shall be derived only from amounts made available to the Department of Defense for Defense-wide research, development, test, and evaluation.

(b) SEPARATE DISPLAY IN BUDGET.—Any amount in the budget submitted to Congress under section 1105 of title 31 for any fiscal year for research, development, test, and evaluation for the United States Joint Forces Command shall be set forth under the account of the Department of Defense for Defense-wide research, development, test, and evaluation.

(Added Pub. L. 108–375, div. A, title II, § 214(a), Oct. 28, 2004, 118 Stat. 1834.)

EFFECTIVE DATE

Pub. L. 108–375, div. A, title II, § 214(c), Oct. 28, 2004, 118 Stat. 1834, provided that: ''Section 232 of title 10, United States Code (as added by subsection (a))[,] applies to fiscal years beginning with fiscal year 2007.''

§ 233. Operation and maintenance budget presentation

(a) IDENTIFICATION OF BASELINE AMOUNTS IN O&M JUSTIFICATION DOCUMENTS.—In any case in which the amount requested in the President's budget for a fiscal year for a Department of Defense operation and maintenance program, project, or activity is different from the amount appropriated for that program, project, or activity for the current year, the O&M justification documents supporting that budget shall identify that appropriated amount and the difference between that amount and the amount requested in the budget, stated as an amount and as a percentage.

(b) NAVY FOR SHIP DEPOT MAINTENANCE AND FOR INTERMEDIATE SHIP MAINTENANCE.—In the O&M justification documents for the Navy for any fiscal year, amounts requested for ship depot maintenance and amounts requested for intermediate ship maintenance shall be identified and distinguished.

(c) DEFINITIONS.—In this section:

(1) The term ''O&M justification documents'' means Department of Defense budget justification documents with respect to accounts for operation and maintenance submitted to the congressional defense committees in support of the Department of Defense component of the President's budget for any fiscal year.

(2) The term ''President's budget'' means the budget of the President submitted to Congress under section 1105 of title 31 for any fiscal year.

(3) The term ''current year'' means the fiscal year during which the President's budget is submitted in any year.

(Added Pub. L. 108–375, div. A, title X, § 1003(a)(1), Oct. 28, 2004, 118 Stat. 2035.)

§ 234. POW/MIA activities: display of budget information

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION DOCUMENTS.—The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovery organizations.

(b) REQUIREMENTS FOR BUDGET DISPLAY.—The budget display under subsection (a) for a fiscal year shall include for each such organization the following:

(1) A statement of what percentage of the requirements originally requested by the organization in the budget review process that the budget requests funds for.

(2) A summary of actual or estimated expenditures by that organization for the fiscal year during which the budget is submitted and for the fiscal year preceding that year.

(3) The amount in the budget for that organization.

(4) A detailed explanation of the shortfalls, if any, in the funding of any requirement shown pursuant to paragraph (1), when compared to the amount shown pursuant to paragraph (3).

(5) The budget estimate for that organization for the five fiscal years after the fiscal year for which the budget is submitted.

(c) DEPARTMENT OF DEFENSE POW/MIA ACCOUNTING AND RECOVERY ORGANIZATIONS.—In this section, the term ''Department of Defense POW/MIA accounting and recovery organization'' means any of the following (and any successor organization):

(1) The Defense Prisoner of War/Missing Personnel Office (DPMO).

(2) The Joint POW/MIA Accounting Command (JPAC).

(3) The Armed Forces DNA Identification Laboratory (AFDIL).

(4) The Life Sciences Equipment Laboratory (LSEL) of the Air Force.

(5) Any other element of the Department of Defense the mission of which (as designated by the Secretary of Defense) involves the accounting for and recovery of members of the armed forces who are missing in action or prisoners of war or who are unaccounted for.

(d) OTHER DEFINITIONS.—In this section:

(1) The term ''defense budget materials'', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

(2) The term ''budget'', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

(Added Pub. L. 109–364, div. A, title V, § 563(a), Oct. 17, 2006, 120 Stat. 2221.)

§ 235. Procurement of contract services: specification of amounts requested in budget

(a) SUBMISSION WITH ANNUAL BUDGET JUSTIFICATION MATERIALS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include the information described in subsection (b) with respect to the procurement of contract services.

(b) INFORMATION PROVIDED.—For each budget account, the materials submitted shall clearly and separately identify—

(1) the amount requested for the procurement of contract services for each Department of Defense component, installation, or activity; and

(2) the number of full-time contractor employees (or the equivalent of full-time in the case of part-time contractor employees) projected and justified for each Department of Defense component, installation, or activity based on the inventory of contracts for services required by subsection (c) of section 2330a of this title and the review required by subsection (e) of such section.

(c) CONTRACT SERVICES DEFINED.—In this section, the term ''contract services''—

(1) means services from contractors; but

(2) excludes services relating to research and development and services relating to military construction.

(Added Pub. L. 111–84, div. A, title VIII, § 803(a)(1), Oct. 28, 2009, 123 Stat. 2401.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in Pub. L. 110–181, div. A, title VIII, § 806, Jan. 28, 2008, 122 Stat. 213, which was set out as a note under section 221 of this title, prior to repeal by Pub. L. 111–84, § 803(a)(3).

CHAPTER 11—RESERVE COMPONENTS

Sec.
261. Reference to chapters 1003, 1005, and 1007.

AMENDMENTS

1994—Pub. L. 103–337, div. A, title XVI, § 1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2979, added item 261 and struck out former items 261 to 281.

1993—Pub. L. 103–160, div. A, title VIII, § 828(c)(1), Nov. 30, 1993, 107 Stat. 1714, added item 279.

1984—Pub. L. 98–525, title XIV, § 1405(7)(C), Oct. 19, 1984, 98 Stat. 2622, in item 264 substituted ''armed force'' for ''military department'' and ''Reserves'' for ''reserves'' and struck out ''; reports to Congress'' at end.

1978—Pub. L. 95–485, title IV, § 406(b)(2), Oct. 20, 1978, 92 Stat. 1616, struck out item 279 ''Training reports''.

1967—Pub. L. 90–168, § 2(7), Dec. 1, 1967, 81 Stat. 522, substituted ''designation of general or flag officers of each military department; personnel and logistic support for reserves; reports to Congress'' for ''responsibility for'' in item 264.

1960—Pub. L. 86–559, §1(2)(D), June 30, 1960, 74 Stat. 264, added item 281.

1958—Pub. L. 85–861, §1(6), Sept. 2, 1958, 72 Stat. 1439, added items 270, 271, 272 and 279.

§261. Reference to chapters 1003, 1005, and 1007

Provisions of law relating to the reserve components generally, including provisions relating to the organization and administration of the reserve components, are set forth in chapter 1003 (beginning with section 10101), chapter 1005 (beginning with section 10141), and chapter 1007 (beginning with section 10201) of this title.

(Added Pub. L. 103–337, div. A, title XVI, §1661(a)(2)(B), Oct. 5, 1994, 108 Stat. 2980.)

PRIOR PROVISIONS

Prior sections 261 to 265 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 261, act Aug. 10, 1956, ch. 1041, 70A Stat. 10, named the reserve components of the armed forces. See sections 10101 and 10213 of this title.

Section 262, acts Aug. 10, 1956, ch. 1041, 70A Stat. 10; Dec. 1, 1967, Pub. L. 90–168, §2(5), 81 Stat. 521, related to purpose of reserve components. See section 10102 of this title.

Section 263, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to basic policy for ordering Army National Guard of the United States and Air National Guard of the United States into Federal service. See section 10103 of this title.

Section 264, acts Aug. 10, 1956, ch. 1041, 70A Stat. 11; Dec. 1, 1967, Pub. L. 90–168, §2(6), 81 Stat. 521; Nov. 19, 1969, Pub. L. 91–121, title III, §303, 83 Stat. 206; Oct. 20, 1978, Pub. L. 95–485, title IV, §406(a), 92 Stat. 1616; Oct. 19, 1984, Pub. L. 98–525, title XIV, §1405(7)(A), (B), 98 Stat. 2622, authorized Secretaries of each armed force to designate officers to be responsible for reserve affairs and assigned responsibility for providing personnel and logistic support for reserves. See sections 10203 and 18501 of this title.

Section 265, act Aug. 10, 1956, ch. 1041, 70A Stat. 11, related to participation of reserve officers in preparation and administration of policies and regulations affecting reserve components. See section 10211 of this title.

Prior section 266 was renumbered section 12643 of this title.

Prior sections 267 to 281 were repealed by Pub. L. 103–337, div. A, title XVI, §§1661(a)(2)(A), 1691, Oct. 5, 1994, 108 Stat. 2979, 3026, effective Dec. 1, 1994.

Section 267, act Aug. 10, 1956, ch. 1041, 70A Stat. 12, related to placement and status of members of Ready Reserve, Standby Reserve, and Retired Reserve. See section 10141(a), (b) of this title.

Section 268, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85–861, §1(3), 72 Stat. 1437; Dec. 1, 1967, Pub. L. 90–168, §2(8), 81 Stat. 522; Oct. 12, 1982, Pub. L. 97–295, §1(5), 96 Stat. 1289, related to composition, organization, and structure of Ready Reserve. See sections 10142 and 10143 of this title.

Section 269, acts Aug. 10, 1956, ch. 1041, 70A Stat. 12; Sept. 2, 1958, Pub. L. 85–861, §1(4), 72 Stat. 1437; June 30, 1960, Pub. L. 86–559, §1(2)(A), 74 Stat. 264; Dec. 1, 1967, Pub. L. 90–168, §2(9), 81 Stat. 522; Oct. 20, 1978, Pub. L. 95–485, title IV, §405(a)(1), 92 Stat. 1615; Sept. 24, 1983, Pub. L. 98–94, title X, §1018, 97 Stat. 669; Sept. 29, 1988, Pub. L. 100–456, div. A, title XII, §1234(a)(1), 102 Stat. 2059, related to placement in and transfer from Ready Reserve. See sections 10145 and 10146 of this title.

Section 270, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 87–378, §2, Oct. 4, 1961, 75 Stat. 807; Pub. L. 88–110, §4, Sept. 3, 1963, 77 Stat. 136; Pub. L. 90–168, §2(10), Dec. 1, 1967, 81 Stat. 523; Pub. L. 92–156, title III, §303(a), Nov. 17, 1971, 85 Stat. 425; Pub. L. 96–513, title V, §511(7), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 100–456, div. A, title XII, §1234(a)(2), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 101–189, div. A, title V, §501(b), Nov. 29, 1989, 103 Stat. 1435, related to training requirements of Ready Reserve. See sections 10147 and 10148 of this title.

Section 271, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 95–485, title IV, §405(b), Oct. 20, 1978, 92 Stat. 1615, related to system of continuous screening of units and members of Ready Reserve. See section 10149 of this title.

Section 272, added Pub. L. 85–861, §1(5)(A), Sept. 2, 1958, 72 Stat. 1438; amended Pub. L. 96–513, title V, §511(8), Dec. 12, 1980, 94 Stat. 2920, related to transfers back from Standby Reserve to Ready Reserve. See section 10150 of this title.

Section 273, act Aug. 10, 1956, ch. 1041, 70A Stat. 13, related to composition of Standby Reserve and maintenance of inactive status list in Standby Reserve. See sections 10151 to 10153 of this title.

Section 274, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; June 30, 1960, Pub. L. 86–559, §1(2)(B), 74 Stat. 264; Dec. 12, 1980, Pub. L. 96–513, title V, §511(9), 94 Stat. 2920, related to composition of Retired Reserve. See section 10154 of this title.

Section 275, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Sept. 2, 1958, Pub. L. 85–861, §1(5)(B), 72 Stat. 1439, related to maintenance of personnel records of members of reserve components. See section 10204 of this title.

Section 276, acts Aug. 10, 1956, ch. 1041, 70A Stat. 13; Apr. 21, 1987, Pub. L. 100–26, §7(k)(4), 101 Stat. 284, related to maintenance of mobilization forces. See section 10207 of this title.

Section 277, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, prohibited discrimination in administering laws applicable to both Regulars and Reserves. See section 10209 of this title.

Section 278, act Aug. 10, 1956, ch. 1041, 70A Stat. 14, related to dissemination of information of interest to reserve components. See section 10210 of this title.

Section 279, added Pub. L. 103–160, div. A, title VIII, §822(d)(1), Nov. 30, 1993, 107 Stat. 1707, authorized acceptance of gratuitous services of officers of reserve components. See section 10212 of this title.

A prior section 279, added Pub. L. 85–861, §1(5)(C), Sept. 2, 1958, 72 Stat. 1439; amended Pub. L. 94–273, §11(2), Apr. 21, 1976, 90 Stat. 378, directed Secretary of Defense to report to President and Congress, in January of each year, on the status of training of each reserve component and the progress made in strengthening the reserve components during the preceding fiscal year, prior to repeal by Pub. L. 95–485, §406(b)(1).

Section 280, acts Aug. 10, 1956, ch. 1041, 70A Stat. 14; Sept. 2, 1958, Pub. L. 85–861, §33(a)(2), 72 Stat. 1564; Sept. 7, 1962, Pub. L. 87–651, title I, §101, 76 Stat. 506; Sept. 11, 1967, Pub. L. 90–83, §3(1), 81 Stat. 220; Aug. 17, 1977, Pub. L. 95–105, title V, §509(d)(3), 91 Stat. 860; Dec. 12, 1980, Pub. L. 96–513, title V, §§501(5), 511(10), 94 Stat. 2907, 2920; Oct. 19, 1984, Pub. L. 98–525, title XIV, §1405(8), 98 Stat. 2622; Dec. 5, 1991, Pub. L. 102–190, div. A, title X, §1061(a)(3), 105 Stat. 1472, authorized Secretary of each military department and Secretary of Transportation to prescribe regulations. See section 10202 of this title.

Section 281, added Pub. L. 86–559, §1(2)(C), June 30, 1960, 74 Stat. 264; amended Pub. L. 100–456, div. A, title XII, §1234(a)(1), Sept. 29, 1988, 102 Stat. 2059, provided that certain references in this title to the adjutant general or assistant adjutant general of the National Guard of a jurisdiction be applied to another officer of the National Guard performing the duties of that office. See section 10214 of this title.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as a note under section 10001 of this title.

CHAPTER 13—THE MILITIA

Sec.
311. Militia: composition and classes.
312. Militia duty: exemptions.

§ 311. Militia: composition and classes

(a) The militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become, citizens of the United States and of female citizens of the United States who are members of the National Guard.

(b) The classes of the militia are—

(1) the organized militia, which consists of the National Guard and the Naval Militia; and

(2) the unorganized militia, which consists of the members of the militia who are not members of the National Guard or the Naval Militia.

(Aug. 10, 1956, ch. 1041, 70A Stat. 14; Pub. L. 85–861, § 1(7), Sept. 2, 1958, 72 Stat. 1439; Pub. L. 103–160, div. A, title V, § 524(a), Nov. 30, 1993, 107 Stat. 1656.)

HISTORICAL AND REVISION NOTES

1956 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
311(a)	32:1 (less last 19 words).	June 3, 1916, ch. 134, § 57, 39 Stat. 197; June 28, 1947, ch. 162, § 7 (as applicable to § 57 of the Act of June 3, 1916, ch. 134), 61 Stat. 192.
311(b)	32:1 (last 19 words).	

In subsection (a), the words ''who have made a declaration of intention'' are substituted for the words ''who have or shall have declared their intention''. The words ''at least 17 years of age and * * * under 45 years of age'' are substituted for the words ''who shall be more than seventeen years of age and * * * not more than forty-five years of age''. The words ''except as provided in section 313 of title 32'' are substituted for the words ''except as hereinafter provided'', to make explicit the exception as to maximum age.

In subsection (b), the words ''The organized militia, which consists of the National Guard and the Naval Militia'' are substituted for the words ''the National Guard, the Naval Militia'', since the National Guard and the Naval Militia constitute the organized militia.

1958 ACT

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
311(a)	32 App.:1.	July 30, 1956, ch. 789, § 1, 70 Stat. 729.

The words ''appointed as . . . under section 4 of this title'' are omitted as surplusage.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–160 substituted ''members'' for ''commissioned officers''.

1958—Subsec. (a). Pub. L. 85–861 included female citizens of the United States who are commissioned officers of the National Guard.

§ 312. Militia duty: exemptions

(a) The following persons are exempt from militia duty:

(1) The Vice President.

(2) The judicial and executive officers of the United States, the several States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) Members of the armed forces, except members who are not on active duty.

(4) Customhouse clerks.

(5) Persons employed by the United States in the transmission of mail.

(6) Workmen employed in armories, arsenals, and naval shipyards of the United States.

(7) Pilots on navigable waters.

(8) Mariners in the sea service of a citizen of, or a merchant in, the United States.

(b) A person who claims exemption because of religious belief is exempt from militia duty in a combatant capacity, if the conscientious holding of that belief is established under such regulations as the President may prescribe. However, such a person is not exempt from militia duty that the President determines to be noncombatant.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15; Pub. L. 100–456, div. A, title XII, § 1234(a)(3), Sept. 29, 1988, 102 Stat. 2059; Pub. L. 109–163, div. A, title X, § 1057(a)(7), Jan. 6, 2006, 119 Stat. 3441.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
312(a)	32:3 (less last 67 words).	June 3, 1916, ch. 134, § 59, 39 Stat. 197.
312(b)	32:3 (last 67 words).	

In subsection (a), the words ''Members of the armed forces'' are substituted for the words ''persons in the military or naval service''. The words ''except members who are not on active duty'' are inserted to reflect an opinion of the Judge Advocate General of the Army (JAGA 1952/4374, 9 July 1952). The word ''artificers'' is omitted as covered by the word ''workmen''. The words ''naval shipyards'' are substituted for the words ''navy yards'' to reflect modern terminology. The words ''on navigable waters'' are inserted to preserve the original coverage of the word ''pilots''. The words ''actually'' and ''without regard to age'' are omitted as surplusage.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–163 substituted ''States, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands'' for ''States and Territories, and Puerto Rico''.

1988—Subsec. (a)(2). Pub. L. 100–456 substituted ''and Puerto Rico'' for ''Puerto Rico, and the Canal Zone''.

CHAPTER 15—INSURRECTION

Sec.
331. Federal aid for State governments.
332. Use of militia and armed forces to enforce Federal authority.
333. Interference with State and Federal law.
334. Proclamation to disperse.
335. Guam and Virgin Islands included as ''State''.
[336. Repealed.]

AMENDMENTS

2008—Pub. L. 110–181, div. A, title X, § 1068(a)(3), (4)(A), Jan. 28, 2008, 122 Stat. 325, substituted ''INSURRECTION'' for ''ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER'' in chapter heading, added item 333, and struck out former item 333 ''Major public emergencies; interference with State and Federal law''.

2006—Pub. L. 109–364, div. A, title X, § 1076(a)(3), (4)(B), Oct. 17, 2006, 120 Stat. 2405, substituted ''ENFORCEMENT OF THE LAWS TO RESTORE PUBLIC ORDER'' for ''INSURRECTION'' in chapter heading and ''Major public emergencies; interference with State and Federal law'' for ''Interference with State and Federal law'' in item 333.

1980—Pub. L. 96–513, title V, § 511(11)(C), Dec. 12, 1980, 94 Stat. 2921, added item 335.

§ 331. Federal aid for State governments

Whenever there is an insurrections in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
331	50:201.	R.S. 5297.

The words ''armed forces'' are substituted for the words ''land or naval forces of the United States''. The word ''governor'' is substituted for the word ''executive''. The word ''may'' is substituted for the words ''it shall be lawful * * * to''. The words ''into Federal service'' are substituted for the word ''forth'' for uniformity and clarity.

§ 332. Use of militia and armed forces to enforce Federal authority

Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15; Pub. L. 109–163, div. A, title X, § 1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
332	50:202.	R.S. 5298.

50:202 (last 22 words) is omitted as surplusage. The words ''armed forces'' are substituted for the words ''land and naval forces of the United States''. The words ''call into Federal service such of the militia'' are substituted for the words ''call forth the militia of any or all the States'' for clarity and uniformity. The word ''may'' is substituted for the words ''it shall be lawful''. The words ''faithful execution of the'' and ''in whatever State or Territory thereof the laws of the United States may be forcibly opposed'' are omitted as surplusage.

DERIVATION

Act July 29, 1861, ch. 25, § 1, 12 Stat. 281.

AMENDMENTS

2006—Pub. L. 109–163 struck out ''or Territory'' after ''in any State''.

EX. ORD. NO. 10730. ASSISTANCE FOR REMOVAL OF AN OBSTRUCTION OF JUSTICE WITHIN THE STATE OF ARKANSAS

Ex. Ord. No. 10730, Sept. 24, 1957, 22 F.R. 7628, authorized the Secretary of Defense to order into the active military service of the United States units of the National Guard of the United States and of the Air National Guard of the United States within the State of Arkansas for an indefinite period and until relieved by appropriate orders in order to enforce any orders of the United States District Court for the Eastern District of Arkansas for the removal of obstructions to justice in respect to enrollment and attendance at public schools in the Little Rock School District, Little Rock, Arkansas; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such orders of the district court; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11053. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF MISSISSIPPI

Ex. Ord. No. 11053, Sept. 30, 1962, 27 F.R. 9681, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Mississippi for an indefinite period and until relieved by appropriate orders in order to enforce all orders of the United States District Court for the Southern District of Mississippi and of the United States Court of Appeals for the Fifth Circuit for the removal of obstructions to justice in the State of Mississippi; authorized the Secretary of Defense to also use the armed forces of the United States to enforce such court orders; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11111. ASSISTANCE FOR REMOVAL OF OBSTRUCTIONS OF JUSTICE AND SUPPRESSION OF UNLAWFUL COMBINATIONS WITHIN THE STATE OF ALABAMA

Ex. Ord. No. 11111, June 11, 1963, 28 F.R. 5709, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States within that State and the orders of the United States District Court for the Northern District of Alabama, to remove obstructions to justice, and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the laws of the United States or impede the course of justice under those laws within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

EX. ORD. NO. 11118. ASSISTANCE FOR REMOVAL OF UNLAWFUL OBSTRUCTIONS OF JUSTICE IN THE STATE OF ALABAMA

Ex. Ord. No. 11118, Sept. 10, 1963, 28 F.R. 9863, authorized the Secretary of Defense to call into the active military service of the United States units of the Army National Guard and of the Air National Guard of the State of Alabama for an indefinite period and until relieved by appropriate orders in order to enforce the laws of the United States and any orders of United States Courts relating to the enrollment and attendance of students in public schools in the State of Alabama and to suppress unlawful assemblies, conspiracies, and domestic violence which oppose the law or impede the course of justice under the law within that State; authorized the Secretary of Defense to also use the armed forces of the United States for such purposes; and authorized the Secretary of Defense to delegate his authority to the Secretary of the Army or the Secretary of the Air Force.

§ 333. Interference with State and Federal law

The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers nec-

essary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it—

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or protection named in the Constitution and secured by law, and the constituted authorities of that State are unable, fail, or refuse to protect that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

(Aug. 10, 1956, ch. 1041, 70A Stat. 15; Pub. L. 109–364, div. A, title X, § 1076(a)(1), Oct. 17, 2006, 120 Stat. 2404; Pub. L. 110–181, div. A, title X, § 1068(a)(1), Jan. 28, 2008, 122 Stat. 325.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
333	50:203.	R.S. 5299.

The words ''armed forces'' are substituted for the words ''land or naval forces of the United States''. The word ''shall'' is substituted for the words ''it shall be lawful for * * * and it shall be his duty''.

DERIVATION

Act Apr. 20, 1871, ch. 22, § 3, 17 Stat. 14.

AMENDMENTS

2008—Pub. L. 110–181 amended section generally, substituting provisions directing the President to suppress certain insurrections and domestic violence in a State for provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority.

2006—Pub. L. 109–364 amended section catchline and text generally, substituting provisions authorizing the President to employ the armed forces during a natural disaster or terrorist attack or to suppress an insurrection in a State and requiring notice to Congress during the exercise of such authority for provisions directing the President to suppress certain insurrections and domestic violence in a State.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–181, div. A, title X, § 1068(d), Jan. 28, 2008, 122 Stat. 326, provided that: ''The amendments made by this section [amending this section and sections 334 and 12304 of this title and repealing section 2567 of this title] shall take effect on the date of the enactment of this Act [Jan. 28, 2008].''

§ 334. Proclamation to disperse

Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16; Pub. L. 109–364, div. A, title X, § 1076(a)(2), Oct. 17, 2006, 120 Stat. 2405; Pub. L. 110–181, div. A, title X, § 1068(a)(2), Jan. 28, 2008, 122 Stat. 325.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
334	50:204.	R.S. 5300.

The words ''militia or the armed forces'' are substituted for the words ''military forces'' for clarity and to conform to sections 331, 332, and 333 of this title.

DERIVATION

Act July 29, 1861, ch. 25, § 2, 12 Stat. 282.

AMENDMENTS

2008—Pub. L. 110–181 struck out ''or those obstructing the enforcement of the laws'' after ''insurgents''.

2006—Pub. L. 109–364 inserted ''or those obstructing the enforcement of the laws'' after ''insurgents''.

PROC. NO. 3204. OBSTRUCTION OF JUSTICE IN THE STATE OF ARKANSAS

Proc. No. 3204, Sept. 23, 1957, 22 F.R. 7628, commanded all persons in the State of Arkansas who were obstructing the enforcement of orders of the United States District Court for the Eastern District of Arkansas relating to enrollment and attendance at public schools, particularly Central High School at Little Rock, Arkansas, to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3497. OBSTRUCTION OF JUSTICE IN THE STATE OF MISSISSIPPI

Proc. No. 3497, Sept. 30, 1962, 27 F.R. 9681, commanded all persons in the State of Mississippi who were obstructing the enforcement of orders entered by the United States District Court for the Southern District of Mississippi and the United States Court of Appeals for the Fifth Circuit to cease and desist therefrom and to disperse and retire peaceably forthwith.

PROC. NO. 3542. UNLAWFUL OBSTRUCTION OF JUSTICE AND COMBINATIONS IN THE STATE OF ALABAMA

Proc. No. 3542, June 11, 1963, 28 F.R. 5707, commanded the Governor of the State of Alabama and all other persons who were obstructing the orders of the United States District Court for the Northern District of Alabama relating to the enrollment and attendance of Negro students at the University of Alabama to cease and desist therefrom.

PROC. NO. 3554. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3554, Sept. 10, 1963, 28 F.R. 9861, commanded all persons obstructing the enforcement of orders entered by the United States District Courts in the State of Alabama relating to the enrollment and attendance of students in public schools in that State to cease and desist therefrom and to disperse and retire peaceably forthwith.

PROC. NO. 3645. OBSTRUCTION OF JUSTICE IN THE STATE OF ALABAMA

Proc. No. 3645, Mar. 23, 1965, 30 F.R. 3739, commanded all persons engaged or who may engage in domestic violence obstructing the enforcement of the laws and the judicial order approving the right to march along U.S. Highway 80 from Selma to Montgomery, Alabama commencing during the period from Mar. 19, 1965 to Mar. 22, 1965 and terminating within 5 days of the commencement to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3795. OBSTRUCTION OF JUSTICE IN THE STATE OF MICHIGAN

Proc. No. 3795, July 26, 1967, 32 F.R. 10905, commanded all persons engaged in domestic violence and disorder in Detroit, Michigan, and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3840. OBSTRUCTION OF JUSTICE IN THE WASHINGTON METROPOLITAN AREA

Proc. No. 3840, Apr. 9, 1968, 33 F.R. 5495, commanded all persons engaged in acts of violence threatening the Washington Metropolitan Area and obstructing the execution of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3841. OBSTRUCTION OF JUSTICE IN THE STATE OF ILLINOIS

Proc. No. 3841, Apr. 9, 1968, 33 F.R. 5497, commanded all persons engaged in violence in and about the City of Chicago and obstructing the enforcement of the laws to cease and desist therefrom and to disperse forthwith.

PROC. NO. 3842. OBSTRUCTION OF JUSTICE IN THE STATE OF MARYLAND

Proc. No. 3842, Apr. 9, 1968, 33 F.R. 5499, commanded all persons engaged in acts of violence and obstructing the enforcement of the laws in and about the City of Baltimore to cease and desist therefrom and to disperse forthwith.

§335. Guam and Virgin Islands included as "State"

For purposes of this chapter, the term ''State'' includes Guam and the Virgin Islands.

(Added Pub. L. 90–497, §11, Sept. 11, 1968, 82 Stat. 847; amended Pub. L. 96–513, title V, §511(11)(A), Dec. 12, 1980, 94 Stat. 2920; Pub. L. 109–163, div. A, title X, §1057(a)(8), Jan. 6, 2006, 119 Stat. 3441.)

AMENDMENTS

2006—Pub. L. 109–163 struck out ''the unincorporated territories of'' before ''Guam''.

1980—Pub. L. 96–513 inserted ''and Virgin Islands'' after ''Guam'' in section catchline and inserted provision respecting applicability to the Virgin Islands.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section 11 of Pub. L. 90–497 provided that this section is effective on date of enactment of Pub. L. 90–497, which was approved on Sept. 11, 1968.

[§336. Repealed. Pub. L. 96–513, title V, §511(11)(B), Dec. 12, 1980, 94 Stat. 2921]

Section, added Pub. L. 90–496, §12, Aug. 23, 1968, 82 Stat. 841, included Virgin Islands within ''State''. See section 335 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as an Effective Date of 1980 Amendment note under section 101 of this title.

CHAPTER 17—ARMING OF AMERICAN VESSELS

Sec.
351. During war or threat to national security.

§351. During war or threat to national security

(a) The President, through any agency of the Department of Defense designated by him, may arm, have armed, or allow to be armed, any watercraft or aircraft that is capable of being used as a means of transportation on, over, or under water, and is documented, registered, or licensed under the laws of the United States.

(b) This section applies during a war and at any other time when the President determines that the security of the United States is threatened by the application, or the imminent danger of application, of physical force by any foreign government or agency against the United States, its citizens, the property of its citizens, or their commercial interests.

(c) Section 16 of the Act of March 4, 1909 (22 U.S.C. 463) does not apply to vessels armed under this section.

(Aug. 10, 1956, ch. 1041, 70A Stat. 16; Pub. L. 96–513, title V, §511(12), Dec. 12, 1980, 94 Stat. 2921.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
351(a)	50:481 (1st sentence, less 1st 7 words).	June 29, 1948, ch. 715, 62 Stat. 1095.
351(b)	50:481 (1st 7 words of 1st sentence and 2d sentence).	
351(c)	50:481 (less 1st and 2d sentences).	

In subsection (a), the wording of the special definition of ''vessel'' and ''American vessel'', contained in section 16 of the Neutrality Act of 1939, 54 Stat. 12 (22 U.S.C. 456), is substituted for the words ''any American vessel as defined in the Neutrality Act of 1939''.

In subsection (b), the words ''or national emergency'' are omitted, since the words of the source statute defining that term have been substituted for it.

In subsection (c), the words ''(relating to bonds from armed vessels on clearing)'' are omitted as surplusage.

AMENDMENTS

1980—Subsec. (c). Pub. L. 96–513 substituted ''Section 16 of the Act of March 4, 1909 (22 U.S.C. 463)'' for ''Section 463 of title 22''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of this title.

CHAPTER 18—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

Sec.
371. Use of information collected during military operations.
372. Use of military equipment and facilities.
373. Training and advising civilian law enforcement officials.
374. Maintenance and operation of equipment.
375. Restriction on direct participation by military personnel.
376. Support not to affect adversely military preparedness.
377. Reimbursement.
378. Nonpreemption of other law.
379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.
380. Enhancement of cooperation with civilian law enforcement officials.
381. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities.
382. Emergency situations involving weapons of mass destruction.

AMENDMENTS

2011—Pub. L. 111–383, div. A, title X, §1075(b)(10)(C), Jan. 7, 2011, 124 Stat. 4369, added item 382 and struck

out former item 382 ''Emergency situations involving chemical or biological weapons of mass destruction''.

2008—Pub. L. 110–417, [div. A], title VIII, § 885(b)(2), Oct. 14, 2008, 122 Stat. 4561, added item 381 and struck out former item 381 ''Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense''.

1996—Pub. L. 104–201, div. A, title XIV, § 1416(a)(2), Sept. 23, 1996, 110 Stat. 2723, added item 382.

1993—Pub. L. 103–160, div. A, title XI, § 1122(a)(2), Nov. 30, 1993, 107 Stat. 1755, added item 381.

1989—Pub. L. 101–189, div. A, title XII, § 1216(a), Nov. 29, 1989, 103 Stat. 1569, in chapter heading substituted ''18'' for ''8''.

1988—Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2043, amended chapter analysis generally substituting, in chapter heading ''CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES'' for ''CHAPTER 18—MILITARY COOPERATION WITH CIVILIAN LAW ENFORCEMENT OFFICIALS'', in item 374 ''Maintenance and operation of equipment'' for ''Assistance by Department of Defense personnel'', in item 376 ''Support not to affect adversely military preparedness'' for ''Assistance not to affect adversely military preparedness'' and in item 380 ''Enhancement of cooperation with civilian law enforcement officials'' for ''Department of Defense drug law enforcement assistance: annual plan''.

1987—Pub. L. 100–180, div. A, title XII, § 1243(b), Dec. 4, 1987, 101 Stat. 1164, added item 380.

1986—Pub. L. 99–570, title III, § 3053(b)(2), Oct. 27, 1986, 100 Stat. 3207–76, added item 379.

§ 371. Use of information collected during military operations

(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2043.)

AMENDMENTS

1988—Pub. L. 100–456 amended section generally, designating existing provisions as subsec. (a), inserting reference to military training, and adding subsecs. (b) and (c).

SHORT TITLE OF 1986 AMENDMENT

Pub. L. 99–570, title III, § 3051, Oct. 27, 1986, 100 Stat. 3207–74, provided that: ''This subtitle [subtitle A (§§ 3051–3059) of title III of Pub. L. 99–570, enacting section 379 of this title, amending sections 374 and 911 of this title, enacting provisions set out as notes under sections 374, 525, and 9441 of this title, and repealing provisions set out as a note under section 89 of Title 14, Coast Guard] may be cited as the 'Defense Drug Interdiction Assistance Act'.''

AUTHORITY FOR JOINT TASK FORCES TO PROVIDE SUPPORT TO LAW ENFORCEMENT AGENCIES CONDUCTING COUNTER-TERRORISM ACTIVITIES

Pub. L. 108–136, div. A, title X, § 1022, Nov. 24, 2003, 117 Stat. 1594, as amended by Pub. L. 109–163, div. A, title X, § 1022, Jan. 6, 2006, 119 Stat. 3427; Pub. L. 110–181, div. A, title X, § 1021, Jan. 28, 2008, 122 Stat. 304; Pub. L. 110–417, [div. A], title X, § 1022, Oct. 14, 2008, 122 Stat. 4586; Pub. L. 111–84, div. A, title X, § 1012, Oct. 28, 2009, 123 Stat. 2441; Pub. L. 111–383, div. A, title X, § 1012(a)–(b)(2), Jan. 7, 2011, 124 Stat. 4346, 4347, provided that:

''(a) AUTHORITY.—A joint task force of the Department of Defense that provides support to law enforcement agencies conducting counter-drug activities may also provide, subject to all applicable laws and regulations, support to law enforcement agencies conducting counter-terrorism activities.

''(b) AVAILABILITY OF FUNDS.—During fiscal years 2006 through 2011, funds available to a joint task force to support counter-drug activities may also be used to provide the counter-terrorism support authorized by subsection (a).

''(c) ANNUAL REPORT.—Not later than December 31 of each year after 2008 in which the authority in subsection (a) is in effect, the Secretary of Defense shall submit to Congress a report setting forth, for the one-year period ending on the date of such report, the following:

''(1) An assessment of the effect on counter-drug and counter-terrorism activities and objectives of using counter-drug funds of a joint task force to provide counterterrorism support authorized by subsection (a).

''(2) A description of the type of support and any recipient of support provided under subsection (a).

''(3) A list of current joint task forces conducting counter-drug operations.

''(4) A certification by the Secretary of Defense that any support provided under subsection (a) during such one-year period was provided in compliance with the requirements of subsection (d).

''(d) CONDITIONS.—(1) Any support provided under subsection (a) may only be provided in the geographic area of responsibility of the joint task force.

''(2)(A) Support for counter-terrorism activities provided under subsection (a) may only be provided if the Secretary of Defense determines that the objectives of using the counter-drug funds of any joint task force to provide such support relate significantly to the objectives of providing support for counter-drug activities by that joint task force or any other joint task force.

''(B) The Secretary of Defense may waive the requirements of subparagraph (A) if the Secretary determines that such a waiver is vital to the national security interests of the United States. The Secretary shall promptly submit to Congress notice in writing of any waiver issued under this subparagraph.

''(C) The Secretary of Defense may delegate any responsibility of the Secretary under subparagraph (B) to the Deputy Secretary of Defense or to the Under Secretary of Defense for Policy. Except as provided in the preceding sentence, such a responsibility may not be delegated to any official of the Department of Defense or any other official.''

§ 372. Use of military equipment and facilities

(a) IN GENERAL.—The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

(b) EMERGENCIES INVOLVING CHEMICAL AND BIOLOGICAL AGENTS.—(1) In addition to equipment

and facilities described in subsection (a), the Secretary may provide an item referred to in paragraph (2) to a Federal, State, or local law enforcement or emergency response agency to prepare for or respond to an emergency involving chemical or biological agents if the Secretary determines that the item is not reasonably available from another source. The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.

(2) An item referred to in paragraph (1) is any material or expertise of the Department of Defense appropriate for use in preparing for or responding to an emergency involving chemical or biological agents, including the following:

(A) Training facilities.

(B) Sensors.

(C) Protective clothing.

(D) Antidotes.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 104–106, div. A, title III, § 378, Feb. 10, 1996, 110 Stat. 284; Pub. L. 104–201, div. A, title XIV, § 1416(b), Sept. 23, 1996, 110 Stat. 2723.)

AMENDMENTS

1996—Pub. L. 104–106 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (b)(1). Pub. L. 104–201 inserted at end ''The requirement for a determination that an item is not reasonably available from another source does not apply to assistance provided under section 382 of this title pursuant to a request of the Attorney General for the assistance.''

1988—Pub. L. 100–456 amended section generally, inserting ''(including associated supplies or spare parts)'' and substituting ''Department of Defense'' for ''Army, Navy, Air Force, or Marine Corps''.

SUPPORT FOR NON-FEDERAL DEVELOPMENT AND TESTING OF MATERIAL FOR CHEMICAL AGENT DEFENSE

Pub. L. 110–181, div. A, title X, § 1034, Jan. 28, 2008, 122 Stat. 308, provided that:

''(a) AUTHORITY TO PROVIDE TOXIC CHEMICALS OR PRECURSORS.—

''(1) IN GENERAL.—The Secretary of Defense, in coordination with the heads of other elements of the Federal Government, may make available, to a State, a unit of local government, or a private entity incorporated in the United States, small quantities of a toxic chemical or precursor for the development or testing, in the United States, of material that is designed to be used for protective purposes.

''(2) TERMS AND CONDITIONS.—Any use of the authority under paragraph (1) shall be subject to such terms and conditions as the Secretary considers appropriate.

''(b) PAYMENT OF COSTS AND DISPOSITION OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall ensure, through the advance payment required by paragraph (2) and through any other payments that may be required, that a recipient of toxic chemicals or precursors under subsection (a) pays for all actual costs, including direct and indirect costs, associated with providing the toxic chemicals or precursors.

''(2) ADVANCE PAYMENT.—In carrying out paragraph (1), the Secretary shall require each recipient to make an advance payment in an amount that the Secretary determines will equal all such actual costs.

''(3) CREDITS.—A payment received under this subsection shall be credited to the account that was used to cover the costs for which the payment was provided. Amounts so credited shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as other amounts in that account.

''(c) CHEMICAL WEAPONS CONVENTION.—The Secretary shall ensure that toxic chemicals and precursors are made available under this section for uses and in quantities that comply with the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on January 13, 1993, and entered into force with respect to the United States on April 29, 1997.

''(d) REPORT.—

''(1) Not later than March 15, 2008, and each year thereafter, the Secretary shall submit to Congress a report on the use of the authority under subsection (a) during the previous calendar year. The report shall include a description of each use of the authority and specify what material was made available and to whom it was made available.

''(2) Each report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

''(e) DEFINITIONS.—In this section, the terms 'precursor', 'protective purposes', and 'toxic chemical' have the meanings given those terms in the convention referred to in subsection (c), in paragraph 2, paragraph 9(b), and paragraph 1, respectively, of article II of that convention.''

TRANSFER OF EXCESS PERSONAL PROPERTY

Pub. L. 101–189, div. A, title XII, § 1208, Nov. 29, 1989, 103 Stat. 1566, as amended by Pub. L. 102–484, div. A, title X, § 1044, Oct. 23, 1992, 106 Stat. 2493, which authorized the Secretary of Defense to transfer excess personal property of the Department of Defense to Federal and State agencies, provided conditions for transfer, and terminated the Secretary's authority on Sept. 30, 1997, was repealed and restated in section 2576a of this title by Pub. L. 104–201, div. A, title X, § 1033(a)(1), (b)(1), Sept. 23, 1996, 110 Stat. 2639, 2640.

§ 373. Training and advising civilian law enforcement officials

The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 99–145, title XIV, § 1423(a), Nov. 8, 1985, 99 Stat. 752; Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2043.)

AMENDMENTS

1988—Pub. L. 100–456 amended section generally, substituting provisions authorizing Secretary of Defense, in accordance with applicable law, to make Defense Department personnel available for training, etc., for former subsecs. (a) to (c) authorizing Secretary of Defense to assign members of Army, Navy, Air Force, and Marine Corps, etc., for training, etc., briefing sessions by Attorney General, and other functions of Attorney General and Administrator of General Services.

1985—Pub. L. 99–145 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1985 AMENDMENT

Section 1423(b) of Pub. L. 99–145 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1986.''

§ 374. Maintenance and operation of equipment

(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

(A) a criminal violation of a provision of law specified in paragraph (4)(A);

(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws;

(C) a foreign or domestic counter-terrorism operation; or

(D) a rendition of a suspected terrorist from a foreign country to the United States to stand trial.

(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

(A) Detection, monitoring, and communication of the movement of air and sea traffic.

(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

(C) Aerial reconnaissance.

(D) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

(E) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

(F) Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)—

(i) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;

(ii) the operation of a base of operations for civilian law enforcement and supporting personnel; and

(iii) the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(D) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

(4) In this subsection:

(A) The term ''Federal law enforcement agency'' means a Federal agency with jurisdiction to enforce any of the following:

(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States) or any other territory or possession of the United States.

(iv) Chapter 705 of title 46.

(v) Any law, foreign or domestic, prohibiting terrorist activities.

(B) The term ''land area of the United States'' includes the land area of any territory, commonwealth, or possession of the United States.

(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to operate equipment for purposes other than described in subsection (b)(2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1115; amended Pub. L. 98–525, title XIV, § 1405(9), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 99–570, title III, § 3056, Oct. 27, 1986, 100 Stat. 3207–77; Pub. L. 99–661, div. A, title XIII, § 1373(c), Nov. 14, 1986, 100 Stat. 4007; Pub. L. 100–418, title I, § 1214(a)(1), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2043; Pub. L. 101–189, div. A, title XII, §§ 1210, 1216(b), (c), Nov. 29, 1989, 103 Stat. 1566, 1569; Pub. L. 102–484, div. A, title X, § 1042, Oct. 23, 1992, 106 Stat. 2492; Pub. L. 105–277, div. B, title II, § 201, Oct. 21, 1998, 112 Stat. 2681–567; Pub. L. 106–65, div. A, title X, § 1066(a)(4), Oct. 5, 1999, 113 Stat. 770; Pub. L. 109–304, § 17(a)(1), Oct. 6, 2006, 120 Stat. 1706.)

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (b)(4)(A)(i), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act

to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Controlled Substances Import and Export Act, referred to in subsec. (b)(4)(A)(i), is title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285, as amended, which is classified principally to subchapter II (§951 et seq.) of chapter 13 of Title 21. For complete classification of the Act to the Code, see Short Title note set out under section 951 of Title 21 and Tables.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b)(4)(A)(iii), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of Title 19, Customs Duties.

AMENDMENTS

2006—Subsec. (b)(4)(A)(iv). Pub. L. 109–304 substituted ''Chapter 705 of title 46'' for ''The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)''.

1999—Subsec. (b)(1)(C), (D). Pub. L. 106–65, §1066(a)(4)(A), realigned margins.

Subsec. (b)(2)(F)(i). Pub. L. 106–65, §1066(a)(4)(B), struck out semicolon after ''law enforcement personnel;''.

1998—Subsec. (b)(1)(C), (D). Pub. L. 105–277, §201(1), (2), added subpars. (C) and (D).

Subsec. (b)(2)(F)(i). Pub. L. 105–277, §201(3), inserted ''along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel;'' after ''transportation of civilian law enforcement personnel'' and struck out ''and'' at end.

Subsec. (b)(2)(F)(ii). Pub. L. 105–277, §201(4)(A), inserted ''and supporting'' before ''personnel''.

Subsec. (b)(2)(F)(iii). Pub. L. 105–277, §201(4)(B), (C), added cl. (iii).

Subsec. (b)(4)(A). Pub. L. 105–277, §201(5), substituted ''a Federal agency'' for ''an agency'' in introductory provisions.

Subsec. (b)(4)(A)(v). Pub. L. 105–277, §201(6), added cl. (v).

1992—Subsec. (b)(2)(B) to (F). Pub. L. 102–484, §1042(1), added subpar. (B) and redesignated former subpars. (B) to (E) as (C) to (F), respectively.

Subsec. (b)(3). Pub. L. 102–484, §1042(2), substituted ''paragraph (2)(D)'' for ''paragraph (2)(C)''.

1989—Subsec. (b)(2)(E). Pub. L. 101–189, §1210, substituted ''and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States)'' for '', the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States'' in introductory provisions.

Subsec. (b)(4)(A)(iii). Pub. L. 101–189, §1216(b), substituted ''general note 2 of the Harmonized Tariff Schedule of the United States'' for ''general headnote 2 of the Tariff Schedules of the United States''.

Subsec. (c). Pub. L. 101–189, §1216(c), substituted ''subsection (b)(2)'' for ''paragraph (2)''.

1988—Pub. L. 100–456 substituted ''Maintenance and operation of equipment'' for ''Assistance by Department of Defense personnel'' in section catchline, and amended text generally, revising and restating former subsecs. (a) to (d) as subsecs. (a) to (c).

Subsec. (a)(3). Pub. L. 100–418, which directed substitution of ''general note 2 of the Harmonized Tariff Schedule of the United States'' for ''general headnote 2 of the Tariff Schedules of the United States'', could not be executed because of intervening general amendment by Pub. L. 100–456.

1986—Subsec. (a). Pub. L. 99–570, §3056(a), inserted provision at end relating to assistance that such agency is authorized to furnish to any foreign government which is involved in the enforcement of similar laws.

Subsec. (c). Pub. L. 99–570, §3056(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows:

''(1) In an emergency circumstance, equipment operated by or with the assistance of personnel assigned under subsection (a) may be used outside the land area of the United States (or any territory or possession of the United States) as a base of operations by Federal law enforcement officials to facilitate the enforcement of a law listed in subsection (a) and to transport such law enforcement officials in connection with such operations, if—

''(A) equipment operated by or with the assistance of personnel assigned under subsection (a) is not used to interdict or to interrupt the passage of vessels or aircraft; and

''(B) the Secretary of Defense and the Attorney General jointly determine that an emergency circumstance exists.

''(2) For purposes of this subsection, an emergency circumstance may be determined to exist only when—

''(A) the size or scope of the suspected criminal activity in a given situation poses a serious threat to the interests of the United States; and

''(B) enforcement of a law listed in subsection (a) would be seriously impaired if the assistance described in this subsection were not provided.''

Subsec. (d). Pub. L. 99–661 added subsec. (d).

1984—Subsec. (a)(3). Pub. L. 98–525 struck out ''(19 U.S.C. 1202)'' after ''Tariff Schedules of the United States''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100–418, set out as an Effective Date note under section 3001 of Title 19, Customs Duties.

FUNDS FOR YOUNG MARINES PROGRAM

Pub. L. 110–116, div. A, title VIII, §8030, Nov. 13, 2007, 121 Stat. 1321, provided that: ''Notwithstanding any other provision of law, funds available during the current fiscal year and hereafter for 'Drug Interdiction and Counter-Drug Activities, Defense' may be obligated for the Young Marines program.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 109–289, div. A, title VIII, §8028, Sept. 29, 2006, 120 Stat. 1279.

Pub. L. 109–148, div. A, title VIII, §8033, Dec. 30, 2005, 119 Stat. 2705.

Pub. L. 108–287, title VIII, §8037, Aug. 5, 2004, 118 Stat. 978.

Pub. L. 108–87, title VIII, §8037, Sept. 30, 2003, 117 Stat. 1080.

Pub. L. 107–248, title VIII, §8037, Oct. 23, 2002, 116 Stat. 1544.

Pub. L. 107–117, div. A, title VIII, §8040, Jan. 10, 2002, 115 Stat. 2256.

Pub. L. 106–259, title VIII, §8040, Aug. 9, 2000, 114 Stat. 683.

Pub. L. 106–79, title VIII, §8043, Oct. 25, 1999, 113 Stat. 1240.

Pub. L. 105–262, title VIII, §8043, Oct. 17, 1998, 112 Stat. 2307.

Pub. L. 105–56, title VIII, §8047, Oct. 8, 1997, 111 Stat. 1231.

Pub. L. 104–208, div. A, title I, §101(b) [title VIII, §8048], Sept. 30, 1996, 110 Stat. 3009–71, 3009–99.

COUNTER-DRUG ACTIVITIES; CONDITIONS ON TRANSFERS OF FUNDS AND DETAILING PERSONNEL; RELATIONSHIP TO OTHER LAW

Pub. L. 103–337, div. A, title X, §1011(b)–(d), Oct. 5, 1994, 108 Stat. 2836, provided that:

''(b) CONDITION ON TRANSFER OF FUNDS.—Funds appropriated for the Department of Defense may not be transferred to a National Drug Control Program agency account except to the extent provided in a law that specifically states—

''(1) the amount authorized to be transferred;

''(2) the account from which such amount is authorized to be transferred; and

''(3) the account to which such amount is authorized to be transferred.

''(c) CONDITION ON DETAILING PERSONNEL.—Personnel of the Department of Defense may not be detailed to another department or agency in order to implement the National Drug Control Strategy unless the Secretary of Defense certifies to Congress that the detail of such personnel is in the national security interest of the United States.

''(d) RELATIONSHIP TO OTHER LAW.—A provision of law may not be construed as modifying or superseding the provisions of subsection (b) or (c) unless that provision of law—

''(1) specifically refers to this section; and

''(2) specifically states that such provision of law modifies or supersedes the provisions of subsection (b) or (c), as the case may be.''

Pub. L. 111–118, div. A, title VIII, § 8047(a), Dec. 19, 2009, 123 Stat. 3439, provided that: ''None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.''

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 110–329, div. C, title VIII, § 8047(a), Sept. 30, 2008, 122 Stat. 3631.

Pub. L. 110–116, div. A, title VIII, § 8048(a), Nov. 13, 2007, 121 Stat. 1325.

Pub. L. 109–289, div. A, title VIII, § 8045(a), Sept. 29, 2006, 120 Stat. 1283.

Pub. L. 109–148, div. A, title VIII, § 8052(a), Dec. 30, 2005, 119 Stat. 2709.

Pub. L. 108–287, title VIII, § 8057(a), Aug. 5, 2004, 118 Stat. 983.

Pub. L. 108–87, title VIII, § 8057(a), Sept. 30, 2003, 117 Stat. 1085.

Pub. L. 107–248, title VIII, § 8058(a), Oct. 23, 2002, 116 Stat. 1549.

Pub. L. 107–117, div. A, title VIII, § 8063(a), Jan. 10, 2002, 115 Stat. 2261.

Pub. L. 106–259, title VIII, § 8062(a), Aug. 9, 2000, 114 Stat. 688.

Pub. L. 106–79, title VIII, § 8065(a), Oct. 25, 1999, 113 Stat. 1244.

Pub. L. 105–262, title VIII, § 8065(a), Oct. 17, 1998, 112 Stat. 2311.

Pub. L. 105–56, title VIII, § 8071(a), Oct. 8, 1997, 111 Stat. 1235.

Pub. L. 104–208, div. A, title I, § 101(b) [title VIII, § 8080(a)], Sept. 30, 1996, 110 Stat. 3009–71, 3009–104.

Pub. L. 104–61, title VIII, § 8096(a), Dec. 1, 1995, 109 Stat. 671.

Pub. L. 103–335, title VIII, § 8154(a), Sept. 30, 1994, 108 Stat. 2658.

ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

Pub. L. 101–510, div. A, title X, § 1004, Nov. 5, 1990, 104 Stat. 1629, as amended by Pub. L. 102–190, div. A, title X, § 1088(a), Dec. 5, 1991, 105 Stat. 1484; Pub. L. 102–484, div. A, title X, § 1041(a)–(d)(1), Oct. 23, 1992, 106 Stat. 2491; Pub. L. 103–160, div. A, title XI, § 1121(a), (b), Nov. 30, 1993, 107 Stat. 1753; Pub. L. 103–337, div. A, title X, § 1011(a), Oct. 5, 1994, 108 Stat. 2836; Pub. L. 105–261, div. A, title X, § 1021, Oct. 17, 1998, 112 Stat. 2120; Pub. L. 107–107, div. A, title X, § 1021, Dec. 28, 2001, 115 Stat. 1212; Pub. L. 109–364, div. A, title X, § 1021, Oct. 17, 2006, 120 Stat. 2382; Pub. L. 111–383, div. A, title X, § 1015(a), Jan. 7, 2011, 124 Stat. 4347, provided that:

''(a) SUPPORT TO OTHER AGENCIES.—During fiscal years 2002 through 2011, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

''(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

''(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

''(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

''(b) TYPES OF SUPPORT.—The purposes for which the Secretary of Defense may provide support under subsection (a) are the following:

''(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

''(A) preserving the potential future utility of such equipment for the Department of Defense; and

''(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

''(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in paragraph (1) for the purpose of—

''(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

''(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

''(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

''(4) The establishment (including an unspecified minor military construction project) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities of the Department of Defense or any Federal, State, or local law enforcement agency within or outside the United States or for the purpose of facilitating counter-drug activities of a foreign law enforcement agency outside the United States.

''(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments, and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

''(6) The detection, monitoring, and communication of the movement of—

''(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

''(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary.

''(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

''(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

''(9) The provision of linguist and intelligence analysis services.

''(10) Aerial and ground reconnaissance.

''(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.

''(d) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided

under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

''(e) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

''(f) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1564 [10 U.S.C. 124 note])) for the purpose of aiding civilian law enforcement agencies.

''(g) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

''(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (e), section 376 of title 10, United States Code.

''(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) When a decision is made to carry out a military construction project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of Senate and House of Representatives] written notice of the decision, including the justification for the project and the estimated cost of the project. The project may be commenced only after the end of the 21-day period beginning on the date on which the written notice is received by Congress.

''(2) Paragraph (1) applies to an unspecified minor military construction project that—

''(A) is intended for the construction, modification, or repair of any facility for the purposes set forth in subsection (b)(4); and

''(B) has an estimated cost of more than $500,000.

''(3) This subsection may not be construed as an authorization for the use of funds for any military construction project that would exceed the approved cost limitations of an unspecified minor military construction project under section 2805(a)(2) of title 10, United States Code.''

[Pub. L. 111–383, div. A, title X, § 1015(b), Jan. 7, 2011, 124 Stat. 4348, provided that: ''The amendments made by subsection (a) [amending section 1004 of Pub. L. 101–510, set out above] shall take effect on the date of the enactment of this Act [Jan. 7, 2011], and shall apply with respect to facilities projects for which a decision is made to be carried out on or after that date.'']

COMMUNICATIONS NETWORK

Section 1103 of Pub. L. 100–456 related to integration of United States assets dedicated to interdiction of illegal drugs into an effective communications network, prior to repeal by Pub. L. 101–189, div. A, title XII, § 1204(b), Nov. 29, 1989, 103 Stat. 1564. See section 1204(a) of Pub. L. 101–189 set out as a note under section 124 of this title.

ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR NATIONAL GUARD

Section 1105 of Pub. L. 100–456 related to funding and training of National Guard for purpose of drug interdiction and enforcement operations and for operation and maintenance of equipment and facilities for such purpose, prior to repeal by Pub. L. 101–189, div. A, title XII, § 1207(b), Nov. 29, 1989, 103 Stat. 1566. See section 112 of Title 32, National Guard.

ADDITIONAL DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE

Pub. L. 99–570, title III, § 3057, Oct. 27, 1986, 100 Stat. 3207–77, provided that the Secretary of Defense was to submit to Congress, within 90 days after Oct. 27, 1986, a list of all forms of assistance that were to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies and a plan for promptly lending equipment and rendering drug interdiction-related assistance included on the list, provided for congressional approval of the list and plan, required the Secretary to convene a conference of the heads of Government agencies with jurisdiction over drug law enforcement to determine the appropriate distribution of the assets or other assistance to be made available by the Department to such agencies, and provided for monitoring of the Department's performance by the General Accounting Office.

§ 375. Restriction on direct participation by military personnel

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that any activity (including the provision of any equipment or facility or the assignment or detail of any personnel) under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search, seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

(Added Pub. L. 97–86, title IX § 905(a)(1), Dec. 1, 1981, 95 Stat. 1116; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 101–189, div. A, title XII, § 1211, Nov. 29, 1989, 103 Stat. 1567.)

AMENDMENTS

1989—Pub. L. 101–189 substituted ''any activity'' for ''the provision of any support'', struck out ''to any civilian law enforcement official'' after ''any personnel)'', and substituted ''a search, seizure, arrest,'' for ''a search and seizure, an arrest,''.

1988—Pub. L. 100–456 amended section generally. Prior to amendment, section read as follows: ''The Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any assistance (including the provision of any equipment or facility or the assignment of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in an interdiction of a vessel or aircraft, a search and seizure, arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.''

§ 376. Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

(Added Pub. L. 97–86, title, IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1116; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2045.)

AMENDMENTS

1988—Pub. L. 100–456 substituted ''Support'' for ''Assistance'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''Assistance (including the provision of any equipment or facility or the assignment of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such assistance will adversely affect the military preparedness of the United States. The Secretary of Defense shall issue such regulations as may be necessary to insure that the provision of any such assistance does not adversely affect the military preparedness of the United States.''

§ 377. Reimbursement

(a) Subject to subsection (c), to the extent otherwise required by section 1535 of title 31 (popularly known as the ''Economy Act'') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b)(1) Subject to subsection (c), the Secretary of Defense shall require a Federal agency to which law enforcement support or support to a national special security event is provided by National Guard personnel performing duty under section 502(f) of title 32 to reimburse the Department of Defense for the costs of that support, notwithstanding any other provision of law. No other provision of this chapter shall apply to such support.

(2) Any funds received by the Department of Defense under this subsection as reimbursement for support provided by personnel of the National Guard shall be credited, at the election of the Secretary of Defense, to the following:

(A) The appropriation, fund, or account used to fund the support.

(B) The appropriation, fund, or account currently available for reimbursement purposes.

(c) An agency to which support is provided under this chapter or section 502(f) of title 32 is not required to reimburse the Department of Defense for such support if the Secretary of Defense waives reimbursement. The Secretary may waive the reimbursement requirement under this subsection if such support—

(1) is provided in the normal course of military training or operations; or

(2) results in a benefit to the element of the Department of Defense or personnel of the National Guard providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1116; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 110–181, div. A, title X, § 1061, Jan. 28, 2008, 122 Stat. 319.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, § 1061(1), substituted ''Subject to subsection (c), to the extent'' for ''To the extent''.

Subsecs. (b), (c). Pub. L. 110–181, § 1061(2), added subsecs. (b) and (c) and struck out former subsec. (b) which read as follows: ''An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

''(1) is provided in the normal course of military training or operations; or

''(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.''

1988—Pub. L. 100–456 amended section generally. Prior to amendment, section read as follows: ''The Secretary of Defense shall issue regulations providing that reimbursement may be a condition of assistance to a civilian law enforcement official under this chapter.''

§ 378. Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

(Added Pub. L. 97–86, title IX, § 905(a)(1), Dec. 1, 1981, 95 Stat. 1116; amended Pub. L. 98–525, title XIV, § 1405(10), Oct. 19, 1984, 98 Stat. 2622; Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2045.)

AMENDMENTS

1988—Pub. L. 100–456 reenacted section without change.

1984—Pub. L. 98–525 substituted ''before December 1, 1981'' for ''prior to the enactment of this chapter''.

§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

(a) The Secretary of Defense and the Secretary of Homeland Security shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

(1) as may be agreed upon by the Secretary of Defense and the Secretary of Homeland Security; and

(2) as are otherwise within the jurisdiction of the Coast Guard.

(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Homeland Security, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

(d) In this section, the term ''drug-interdiction area'' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) de-

termines that activities involving smuggling of drugs into the United States are ongoing.

(Added Pub. L. 99–570, title III, § 3053(b)(1), Oct. 27, 1986, 100 Stat. 3207–75; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2045; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsecs. (a), (b)(1), (c). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1988—Pub. L. 100–456 amended section generally, substituting ''every appropriate surface naval vessel'' for ''appropriate surface naval vessels'' in subsec. (a), substituting ''section 374(b)(4)(A)'' for ''section 374(a)(1)'' in subsec. (c), and inserting ''(as defined in section 374(b)(4)(B) of this title)'' in subsec. (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

§ 380. Enhancement of cooperation with civilian law enforcement officials

(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

(b) Each briefing conducted under subsection (a) shall include the following:

(1) An explanation of the procedures for civilian law enforcement officials—

(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

(B) to obtain surplus military equipment.

(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

(c) The Attorney General and the Administrator of General Services shall—

(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.

(Added Pub. L. 100–180, div. A, title XII, § 1243(a), Dec. 4, 1987, 101 Stat. 1163; amended Pub. L. 100–456, div. A, title XI, § 1104(a), Sept. 29, 1988, 102 Stat. 2046.)

AMENDMENTS

1988—Pub. L. 100–456 amended section generally, substituting provisions relating to annual briefing of law enforcement personnel of each State by Secretary of Defense and Attorney General and establishment of offices and telephone communication with those offices regarding surplus military equipment for provisions requiring the Secretary to report to Congress on the availability of assistance, etc., to civilian law enforcement and drug interdiction agencies and to convene a conference and requiring the Comptroller General to monitor and report on the Secretary's compliance with those requirements.

§ 381. Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities

(a) PROCEDURES.—(1) The Secretary of Defense shall establish procedures in accordance with this subsection under which States and units of local government may purchase equipment suitable for counter-drug, homeland security, and emergency response activities through the Department of Defense. The procedures shall require the following:

(A) Each State desiring to participate in a procurement of equipment suitable for counter-drug, homeland security, or emergency response activities through the Department of Defense shall submit to the Department, in such form and manner and at such times as the Secretary prescribes, the following:

(i) A request for equipment.

(ii) Advance payment for such equipment, in an amount determined by the Secretary based on estimated or actual costs of the equipment and administrative costs incurred by the Department.

(B) A State may include in a request submitted under subparagraph (A) only the type of equipment listed in the catalog produced under subsection (c).

(C) A request for equipment shall consist of an enumeration of the equipment that is desired by the State and units of local government within the State. The Governor of a State may establish such procedures as the Governor considers appropriate for administering and coordinating requests for equipment from units of local government within the State.

(D) A State requesting equipment shall be responsible for arranging and paying for shipment of the equipment to the State and localities within the State.

(2) In establishing the procedures, the Secretary of Defense shall coordinate with the General Services Administration and other Federal agencies for purposes of avoiding duplication of effort.

(b) REIMBURSEMENT OF ADMINISTRATIVE COSTS.—In the case of any purchase made by a State or unit of local government under the procedures established under subsection (a), the Secretary of Defense shall require the State or unit of local government to reimburse the Department of Defense for the administrative costs to the Department of such purchase.

(c) GSA CATALOG.—The Administrator of General Services, in coordination with the Secretary of Defense, shall produce and maintain a

catalog of equipment suitable for counter-drug, homeland security, and emergency response activities for purchase by States and units of local government under the procedures established by the Secretary under this section.

(d) DEFINITIONS.—In this section:

(1) The term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

(2) The term ''unit of local government'' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State; an Indian tribe which performs law enforcement or emergency response functions as determined by the Secretary of the Interior; or any agency of the District of Columbia government or the United States Government performing law enforcement or emergency response functions in and for the District of Columbia or the Trust Territory of the Pacific Islands.

(3) The term ''equipment suitable for counter-drug, homeland security, and emergency response activities'' has the meaning given such term in regulations prescribed by the Secretary of Defense. In prescribing the meaning of the term, the Secretary may not include any equipment that the Department of Defense does not procure for its own purposes and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security.

(Added Pub. L. 103–160, div. A, title XI, § 1122(a)(1), Nov. 30, 1993, 107 Stat. 1754; amended Pub. L. 110–417, [div. A], title VIII, § 885(a), (b)(1), Oct. 14, 2008, 122 Stat. 4560, 4561.)

AMENDMENTS

2008—Pub. L. 110–417, § 885(b)(1), substituted ''Procurement of equipment by State and local governments through the Department of Defense: equipment for counter-drug, homeland security, and emergency response activities'' for ''Procurement by State and local governments of law enforcement equipment suitable for counter-drug activities through the Department of Defense'' in section catchline.

Subsec. (a)(1). Pub. L. 110–417, § 885(a)(1), in introductory provisions, struck out ''law enforcement'' before ''equipment'' and inserted '', homeland security, and emergency response'' after ''counter-drug'', in subpar. (A), inserted '', homeland security, or emergency response'' after ''counter-drug'' in introductory provisions and struck out ''law enforcement'' before ''equipment'' in cl. (i), in subpar. (C) struck out ''law enforcement'' before ''equipment'' wherever appearing, and in subpar. (D) struck out ''law enforcement'' before ''equipment shall''.

Subsec. (c). Pub. L. 110–417, § 885(a)(2), struck out ''law enforcement'' before ''equipment'' and inserted '', homeland security, and emergency response'' after ''counter-drug''.

Subsec. (d)(2), (3). Pub. L. 110–417, § 885(a)(3), in par. (2) inserted ''or emergency response'' after ''law enforcement'' in two places and in par. (3) struck out ''law enforcement'' before ''equipment suitable'' and inserted '', homeland security, and emergency response'' after ''counter-drug'' and ''and, in the case of equipment for homeland security activities, may not include any equipment that is not found on the Authorized Equipment List published by the Department of Homeland Security'' before period at end.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

DEADLINE FOR ESTABLISHING PROCEDURES

Pub. L. 103–160, div. A, title XI, § 1122(b), Nov. 30, 1993, 107 Stat. 1755, directed the Secretary of Defense to establish procedures under subsec. (a) of this section not later than six months after Nov. 30, 1993.

§ 382. Emergency situations involving weapons of mass destruction

(a) IN GENERAL.—The Secretary of Defense, upon the request of the Attorney General, may provide assistance in support of Department of Justice activities relating to the enforcement of section 175, 229, or 2332a of title 18 during an emergency situation involving a biological or chemical weapon of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

(1) the Secretary of Defense and the Attorney General jointly determine that an emergency situation exists; and

(2) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

(b) EMERGENCY SITUATIONS COVERED.—In this section, the term ''emergency situation involving a biological or chemical weapon of mass destruction'' means a circumstance involving a biological or chemical weapon of mass destruction—

(1) that poses a serious threat to the interests of the United States; and

(2) in which—

(A) civilian expertise and capabilities are not readily available to provide the required assistance to counter the threat immediately posed by the weapon involved;

(B) special capabilities and expertise of the Department of Defense are necessary and critical to counter the threat posed by the weapon involved; and

(C) enforcement of section 175, 229, or 2332a of title 18 would be seriously impaired if the Department of Defense assistance were not provided.

(c) FORMS OF ASSISTANCE.—The assistance referred to in subsection (a) includes the operation of equipment (including equipment made available under section 372 of this title) to monitor, contain, disable, or dispose of the weapon involved or elements of the weapon.

(d) REGULATIONS.—(1) The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this section.

(2)(A) Except as provided in subparagraph (B), the regulations may not authorize the following actions:

(i) Arrest.

(ii) Any direct participation in conducting a search for or seizure of evidence related to a violation of section 175, 229, or 2332a of title 18.

(iii) Any direct participation in the collection of intelligence for law enforcement purposes.

(B) The regulations may authorize an action described in subparagraph (A) to be taken under the following conditions:

(i) The action is considered necessary for the immediate protection of human life, and civilian law enforcement officials are not capable of taking the action.

(ii) The action is otherwise authorized under subsection (c) or under otherwise applicable law.

(e) REIMBURSEMENTS.—The Secretary of Defense shall require reimbursement as a condition for providing assistance under this section to the extent required under section 377 of this title.

(f) DELEGATIONS OF AUTHORITY.—(1) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this section. The Secretary of Defense may delegate the Secretary's authority under this section only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.

(2) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this section. The Attorney General may delegate that authority only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

(g) RELATIONSHIP TO OTHER AUTHORITY.—Nothing in this section shall be construed to restrict any executive branch authority regarding use of members of the armed forces or equipment of the Department of Defense that was in effect before September 23, 1996.

(Added Pub. L. 104–201, div. A, title XIV, §1416(a)(1), Sept. 23, 1996, 110 Stat. 2721; amended Pub. L. 105–85, div. A, title X, §1073(a)(6), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 111–383, div. A, title X, §1075(b)(10)(A), (B), Jan. 7, 2011, 124 Stat. 4369.)

AMENDMENTS

2011—Pub. L. 111–383, §1075(b)(10)(B), struck out ''chemical or biological'' before ''weapons'' in section catchline.

Subsecs. (a), (b)(2)(C), (d)(2)(A)(ii). Pub. L. 111–383, §1075(b)(10)(A), substituted ''section 175, 229, or 2332a'' for ''section 175 or 2332c''.

1997—Subsec. (g). Pub. L. 105–85 substituted ''September 23, 1996'' for ''the date of the enactment of the National Defense Authorization Act for Fiscal Year 1997''.

MILITARY ASSISTANCE TO CIVIL AUTHORITIES TO RESPOND TO ACT OR THREAT OF TERRORISM

Pub. L. 106–65, div. A, title X, §1023, Oct. 5, 1999, 113 Stat. 747, authorized the Secretary of Defense, upon the request of the Attorney General, to provide assistance to civil authorities in responding to an act of terrorism or threat of an act of terrorism within the United States, if the Secretary determined that certain conditions were met, subject to reimbursement and limitations on funding and personnel, and provided that this authority applied between Oct. 1, 1999, and Sept. 30, 2004.

CHAPTER 20—HUMANITARIAN AND OTHER ASSISTANCE

Sec.
401. Humanitarian and civic assistance provided in conjunction with military operations.
402. Transportation of humanitarian relief supplies to foreign countries.
[403. Repealed.]
404. Foreign disaster assistance.
405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation.
[406. Renumbered.]
407. Humanitarian demining assistance: authority; limitations.
408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel.
409. Center for Complex Operations.
[410. Repealed.]

PRIOR PROVISIONS

Chapter was comprised of subchapter I, sections 401 to 404, and subchapter II, section 410, prior to amendment by Pub. L. 104–106, div. A, title V, §571(c), Feb. 10, 1996, 110 Stat. 353, which struck out headings for subchapters I and II.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title X, §1031(b), Oct. 14, 2008, 122 Stat. 4590, added item 409.

Pub. L. 110–181, div. A, title XII, §1207(b), Jan. 28, 2008, 122 Stat. 367, added item 408.

2006—Pub. L. 109–364, div. A, title XII, §1203(b)(2), Oct. 17, 2006, 120 Stat. 2415, added item 407.

1996—Pub. L. 104–106, div. A, title X, §1061(g)(2), title XIII, §1301(b), Feb. 10, 1996, 110 Stat. 443, 473, which directed amendment of table of sections at beginning of subchapter I of this chapter by striking out item 403 and adding item 405, were executed by striking out item 403 ''International peacekeeping activities'' and adding item 405 in analysis for this chapter to reflect the probable intent of Congress and amendments by Pub. L. 104–106, §571(c)(1), (2). See below.

Pub. L. 104–106, div. A, title V, §571(c)(1), (2), Feb. 10, 1996, 110 Stat. 353, struck out subchapter analysis, consisting of items for subchapter I ''Humanitarian Assistance'' and subchapter II ''Civil-Military Cooperation'' and struck out subchapter I heading ''HUMANITARIAN ASSISTANCE''.

1994—Pub. L. 103–337, div. A, title XIV, §1412(b), Oct. 5, 1994, 108 Stat. 2913, added item 404.

1992—Pub. L. 102–484, div. A, title X, §1081(b)(2), title XIII, §1342(c)(2), Oct. 23, 1992, 106 Stat. 2516, 2558, added subchapter analysis, subchapter I heading, and item 403.

1987—Pub. L. 100–180, div. A, title III, §332(b)(6), Dec. 4, 1987, 101 Stat. 1080, substituted ''HUMANITARIAN AND OTHER ASSISTANCE'' for ''HUMANITARIAN AND CIVIC ASSISTANCE PROVIDED IN CONJUNCTION WITH MILITARY OPERATIONS'' in chapter heading, ''Humanitarian and civic assistance provided in conjunction with military operations'' for ''Armed forces participation in humanitarian and civic assistance activities'' in item 401, and ''Transportation of humanitarian relief supplies to foreign countries'' for ''Approval of Secretary of State'' in item 402, and struck out items 403 ''Payment of expenses'', 404 ''An-

nual report to Congress'', 405 ''Definition of humanitarian and civic assistance'', and 406 ''Expenditure limitation''.

§ 401. Humanitarian and civic assistance provided in conjunction with military operations

(a)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian and civic assistance activities in conjunction with authorized military operations of the armed forces in a country if the Secretary concerned determines that the activities will promote—

(A) the security interests of both the United States and the country in which the activities are to be carried out; and

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian and civic assistance activities carried out under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States. Such activities shall serve the basic economic and social needs of the people of the country concerned.

(3) Humanitarian and civic assistance may not be provided under this section (directly or indirectly) to any individual, group, or organization engaged in military or paramilitary activity.

(b) Humanitarian and civic assistance may not be provided under this section to any foreign country unless the Secretary of State specifically approves the provision of such assistance.

(c)(1) Expenses incurred as a direct result of providing humanitarian and civic assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for such purpose.

[(2), (3) Repealed. Pub. L. 109–364, div. A, title XII, § 1203(a)(3), Oct. 17, 2006, 120 Stat. 2413.]

(4) Nothing in this section may be interpreted to preclude the incurring of minimal expenditures by the Department of Defense for purposes of humanitarian and civic assistance out of funds other than funds appropriated pursuant to paragraph (1), except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance.

(d) The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year. The Secretary shall include in each such report—

(1) a list of the countries in which humanitarian and civic assistance activities were carried out during the preceding fiscal year;

(2) the type and description of such activities carried out in each country during the preceding fiscal year; and

(3) the amount expended in carrying out each such activity in each such country during the preceding fiscal year.

(e) In this section, the term ''humanitarian and civic assistance'' means any of the following:

(1) Medical, surgical, dental, and veterinary care provided in areas of a country that are rural or are underserved by medical, surgical, dental, and veterinary professionals, respectively, including education, training, and technical assistance related to the care provided.

(2) Construction of rudimentary surface transportation systems.

(3) Well drilling and construction of basic sanitation facilities.

(4) Rudimentary construction and repair of public facilities.

(Added Pub. L. 99–661, div. A, title III, § 333(a)(1), Nov. 14, 1986, 100 Stat. 3857; amended Pub. L. 100–180, div. A, title III, § 332(b)(1)–(5), Dec. 4, 1987, 101 Stat. 1080; Pub. L. 100–456, div. A, title XII, § 1233(g)(1), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 103–160, div. A, title XI, § 1182(a)(1), title XV, § 1504(b), Nov. 30, 1993, 107 Stat. 1771, 1839; Pub. L. 104–106, div. A, title XIII, § 1313(a), (b), title XV, § 1502(a)(8), Feb. 10, 1996, 110 Stat. 474, 475, 503; Pub. L. 104–201, div. A, title X, § 1074(a)(2), title XIII, § 1304, Sept. 23, 1996, 110 Stat. 2658, 2704; Pub. L. 106–65, div. A, title X, § 1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, § 1 [[div. A], title XII, § 1235], Oct. 30, 2000, 114 Stat. 1654, 1654A–331; Pub. L. 108–375, div. A, title XII, § 1221, Oct. 28, 2004, 118 Stat. 2089; Pub. L. 109–163, div. A, title XII, § 1201, Jan. 6, 2006, 119 Stat. 3455; Pub. L. 109–364, div. A, title XII, § 1203(a), Oct. 17, 2006, 120 Stat. 2413.)

AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109–364, § 1203(a)(1), struck out par. (4) which read as follows: ''The Secretary of Defense shall ensure that no member of the armed forces, while providing assistance under this section that is described in subsection (e)(5)—

''(A) engages in the physical detection, lifting, or destroying of landmines or other explosive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

''(B) provides such assistance as part of a military operation that does not involve the armed forces.''

Subsec. (b). Pub. L. 109–364, § 1203(a)(2), struck out ''(1)'' before ''Humanitarian'' and struck out par. (2) which read as follows: ''Any authority provided under any other provision of law to provide assistance that is described in subsection (e)(5) to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section. Any such provision may be construed as superseding a provision of this section only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable under such provision.''

Subsec. (c)(2). Pub. L. 109–364, § 1203(a)(3), struck out par. (2) which read as follows: ''Expenses covered by paragraph (1) include the following expenses incurred in providing assistance described in subsection (e)(5):

''(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

''(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or sup-

porting the activities described in subsection (e)(5), including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.''

Subsec. (c)(3). Pub. L. 109–364, §1203(a)(3), struck out par. (3) which read as follows: ''The cost of equipment, services, and supplies provided in any fiscal year under paragraph (2)(B) may not exceed $10,000,000.''

Pub. L. 109–163, §1201(a), substituted ''$10,000,000'' for ''$5,000,000''.

Subsec. (e)(1). Pub. L. 109–163, §1201(b), inserted ''surgical,'' before ''dental,'' in two places and '', including education, training, and technical assistance related to the care provided'' before period at end.

Subsec. (e)(5). Pub. L. 109–364, §1203(a)(4), struck out par. (5) which read as follows: ''Detection and clearance of landmines and other explosive remnants of war, including activities relating to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.''

2004—Subsec. (a)(4)(A). Pub. L. 108–375, §1221(b)(1), inserted ''or other explosive remnants of war'' after ''landmines''.

Subsec. (c)(2)(B). Pub. L. 108–375, §1221(b)(2), substituted ''equipment or supplies for clearing landmines or other explosive remnants of war'' for ''landmine clearing equipment or supplies''.

Subsec. (e)(5). Pub. L. 108–375, §1221(a), inserted ''and other explosive remnants of war'' after ''landmines'' in two places.

2000—Subsec. (e)(1). Pub. L. 106–398 substituted ''areas of a country that are rural or are underserved by medical, dental, and veterinary professionals, respectively'' for ''rural areas of a country''.

1999—Subsec. (d). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security'' in introductory provisions.

1996—Subsec. (a)(4). Pub. L. 104–201, §1074(a)(2)(A), substituted ''armed forces'' for ''Armed Forces'' in two places.

Pub. L. 104–106, §1313(b), added par. (4).

Subsec. (b). Pub. L. 104–201, §1304(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(2) to (4). Pub. L. 104–201, §1304(a), added pars. (2) and (3) and redesignated former par. (2) as (4).

Subsec. (d). Pub. L. 104–106, §1502(a)(8), substituted ''Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations'' for ''Committees on Armed Services and Foreign Relations of the Senate and to the Committees on Armed Services and Foreign Affairs''.

Subsec. (e). Pub. L. 104–201, §1074(a)(2)(B), inserted ''any of the following'' after ''means'' in introductory provisions.

Pub. L. 104–106, §1313(a)(1), substituted ''means:'' for ''means—'' in introductory provisions.

Subsec. (e)(1). Pub. L. 104–106, §1313(a)(2), (3), substituted ''Medical'' for ''medical'' and ''country.'' for ''country;''.

Subsec. (e)(2). Pub. L. 104–106, §1313(a)(2), (3), substituted ''Construction'' for ''construction'' and ''systems.'' for ''systems;''.

Subsec. (e)(3). Pub. L. 104–106, §1313(a)(2), (4), substituted ''Well'' for ''well'' and ''facilities.'' for ''facilities; and''.

Subsec. (e)(4). Pub. L. 104–106, §1313(a)(2), substituted ''Rudimentary'' for ''rudimentary''.

Subsec. (e)(5). Pub. L. 104–106, §1313(a)(5), added par. (5).

1993—Subsec. (c)(2). Pub. L. 103–160, §1504(b), inserted before period '', except that funds appropriated to the Department of Defense for operation and maintenance (other than funds appropriated pursuant to such paragraph) may be obligated for humanitarian and civic assistance under this section only for incidental costs of carrying out such assistance''.

Subsec. (f). Pub. L. 103–160, §1182(a)(1), struck out subsec. (f) which read as follows: ''Not more than $16,400,000 may be obligated or expended for the purposes of this section during fiscal years 1987 through 1991.''

1988—Subsec. (c)(2). Pub. L. 100–456 substituted ''paragraph (1)'' for ''subsection (a)''.

1987—Pub. L. 100–180, §332(b)(1)(A), substituted ''Humanitarian and civic assistance provided in conjunction with military operations'' for ''Armed forces participation in humanitarian and civic assistance activities'' in section catchline.

Subsec. (a). Pub. L. 100–180, §332(b)(1)(B), (C), (5), redesignated former subsec. (a) as par. (1) and former cls. (1) and (2) as cls. (A) and (B), respectively, redesignated former subsecs. (b) and (c) as pars. (2) and (3), respectively, and substituted ''section'' for ''chapter'' wherever appearing.

Subsec. (b). Pub. L. 100–180, §332(b)(2), (5), struck out section catchline of former section 402 ''Approval of Secretary of State'', designated text of former section 402 as subsec. (b) of this section, and substituted ''section'' for ''chapter''.

Subsec. (c). Pub. L. 100–180, §332(b)(3), (5), struck out section catchline of former section 403 ''Payment of expenses'', redesignated former section 403(a) and (b) as subsec. (c)(1) and (2), respectively, of this section, and substituted ''section'' for ''chapter'' wherever appearing.

Subsec. (d). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 404 ''Annual report to Congress'', designated text of former section 404 as subsec. (d) of this section, and substituted ''section'' for ''chapter''.

Subsec. (e). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 405 ''Definition of humanitarian and civic assistance'', designated text of former section 405 as subsec. (e) of this section, and substituted ''section'' for ''chapter''.

Subsec. (f). Pub. L. 100–180, §332(b)(4), (5), struck out section catchline of former section 406 ''Expenditure limitation'', designated text of former section 406 as subsec. (f) of this section, and substituted ''section'' for ''chapter''.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

HUMANITARIAN ASSISTANCE PROGRAM FOR CLEARING LANDMINES

Pub. L. 103–337, div. A, title XIV, §1413, Oct. 5, 1994, 108 Stat. 2913, required Secretary of Defense to carry out program for humanitarian purposes to provide assistance to other nations in detection and clearance of landmines, specified that such assistance was to be provided through instruction, education, training, and advising of personnel of those nations in procedures determined effective for detecting and clearing landmines, specified forms of assistance, required Secretary to ensure that no member of Armed Forces engaged in physical detection, lifting, or destroying of landmines (unless done for concurrent purpose of supporting United States military operations) or gave such assistance as part of military operation not involving Armed Forces, made funds available, specified uses of funds, and required Secretary to provide notice to Congress of activities carried out under the program, prior to repeal by Pub. L. 104–106, div. A, title XIII, §1313(c), Feb. 10, 1996, 110 Stat. 475.

HUMANITARIAN AND CIVIC ASSISTANCE

Section 1504 of Pub. L. 103–160 provided that:

''(a) REGULATIONS.—The regulations required to be prescribed under section 401 of title 10, United States Code, shall be prescribed not later than March 1, 1994. In prescribing such regulations, the Secretary of Defense shall consult with the Secretary of State.

''(b) LIMITATION ON USE OF FUNDS.—[Amended section 401(c)(2) of this title.]

''(c) NOTIFICATIONS REGARDING HUMANITARIAN RELIEF.—Any notification provided to the appropriate congressional committees with respect to assistance activities under section 2551 [now 2561] of title 10, United States Code, shall include a detailed description of any items for which transportation is provided that are excess nonlethal supplies of the Department of Defense, including the quantity, acquisition value, and value at the time of the transportation of such items.

''(d) REPORT ON HUMANITARIAN ASSISTANCE ACTIVITIES.—(1) The Secretary of Defense shall submit to the appropriate congressional committees a report on the activities planned to be carried out by the Department of Defense during fiscal year 1995 under sections 401, 402, 2547 [now 2557], and 2551 [now 2561] of title 10, United States Code. The report shall include information, developed after consultation with the Secretary of State, on the distribution of excess nonlethal supplies transferred to the Secretary of State during fiscal year 1993 pursuant to section 2547 of that title.

''(2) The report shall be submitted at the same time that the President submits the budget for fiscal year 1995 to Congress pursuant to section 1105 of title 31, United States Code.

''(e) AUTHORIZATION OF APPROPRIATIONS.—The funds authorized to be appropriated by section 301(18) [107 Stat. 1616] shall be available to carry out humanitarian and civic assistance activities under sections 401, 402, and 2551 [now 2561] of title 10, United States Code.

''(f) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section, the term 'appropriate congressional committees' means—

''(1) the Committee on Appropriations, the Committee on Armed Services [now Committee on National Security], and the Committee on Foreign Affairs of the House of Representatives; and

''(2) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.''

HUMANITARIAN ASSISTANCE; EMERGENCY TRANSPORTATION OF INDIVIDUALS

Pub. L. 102–396, title II, Oct. 6, 1992, 106 Stat. 1884, provided: ''That where required and notwithstanding any other provision of law, funds made available under this heading [Humanitarian Assistance] for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.''

APPROPRIATION OF FUNDS FOR HUMANITARIAN AND CIVIC ASSISTANCE; ANNUAL REPORT TO CONGRESS ON OBLIGATIONS; USE OF CIVIC ACTION TEAMS IN TRUST TERRITORIES OF PACIFIC ISLANDS AND FREELY ASSOCIATED STATES OF MICRONESIA

Pub. L. 109–148, div. A, title VIII, § 8009, Dec. 30, 2005, 119 Stat. 2699, which appropriated funds pursuant to this section and authorized obligations for humanitarian and civic assistance costs under this chapter, with such obligations being reported as required by subsec. (d) of this section, and authorized the use of Civic Action Teams for the provision of assistance in the Trust Territories of the Pacific Islands and freely associated states of Micronesia and the provision of medical services at Army medical facilities in Hawaii upon a determination by the Secretary of the Army, was from the Department of Defense Appropriations Act, 2006 and was repeated in provisions of subsequent appropriations acts which are not set out in the Code. Similar provisions were contained in the following prior appropriations acts:

Pub. L. 108–287, title VIII, § 8009, Aug. 5, 2004, 118 Stat. 971.

Pub. L. 108–87, title VIII, § 8009, Sept. 30, 2003, 117 Stat. 1073.

Pub. L. 107–248, title VIII, § 8009, Oct. 23, 2002, 116 Stat. 1538.

Pub. L. 107–117, div. A, title VIII, § 8009, Jan. 10, 2002, 115 Stat. 2249, as amended by Pub. L. 108–136, div. A, title X, § 1031(j), Nov. 24, 2003, 117 Stat. 1605.

Pub. L. 106–259, title VIII, § 8009, Aug. 9, 2000, 114 Stat. 676.

Pub. L. 106–79, title VIII, § 8009, Oct. 25, 1999, 113 Stat. 1232.

Pub. L. 105–262, title VIII, § 8009, Oct. 17, 1998, 112 Stat. 2298.

Pub. L. 105–56, title VIII, § 8009, Oct. 8, 1997, 111 Stat. 1222.

Pub. L. 104–208, div. A, title I, § 101(b) [title VIII, § 8010], Sept. 30, 1996, 110 Stat. 3009–71, 3009–90.

Pub. L. 104–61, title VIII, § 8011, Dec. 1, 1995, 109 Stat. 653.

Pub. L. 103–335, title VIII, § 8011, Sept. 30, 1994, 108 Stat. 2619.

Pub. L. 103–139, title VIII, § 8012, Nov. 11, 1993, 107 Stat. 1439.

Pub. L. 102–396, title IX, § 9021, Oct. 6, 1992, 106 Stat. 1904.

Pub. L. 102–172, title VIII, § 8021, Nov. 26, 1991, 105 Stat. 1175.

Pub. L. 101–511, title VIII, § 8021, Nov. 5, 1990, 104 Stat. 1879.

Pub. L. 101–165, title IX, § 9031, Nov. 21, 1989, 103 Stat. 1135.

Pub. L. 100–463, title VIII, § 8051, Oct. 1, 1988, 102 Stat. 2270–25.

Pub. L. 100–202, § 101(b) [title VIII, § 8063], Dec. 22, 1987, 101 Stat. 1329–43, 1329–73.

§ 402. Transportation of humanitarian relief supplies to foreign countries

(a) Notwithstanding any other provision of law, and subject to subsection (b), the Secretary of Defense may transport to any country, without charge, supplies which have been furnished by a nongovernmental source and which are intended for humanitarian assistance. Such supplies may be transported only on a space available basis.

(b)(1) The Secretary may not transport supplies under subsection (a) unless the Secretary determines that—

(A) the transportation of such supplies is consistent with the foreign policy of the United States;

(B) the supplies to be transported are suitable for humanitarian purposes and are in usable condition;

(C) there is a legitimate humanitarian need for such supplies by the people or entity for whom they are intended;

(D) the supplies will in fact be used for humanitarian purposes; and

(E) adequate arrangements have been made for the distribution or use of such supplies in the destination country.

(2) The President shall establish procedures for making the determinations required under paragraph (1). Such procedures shall include inspection of supplies before acceptance for transport.

(3) It shall be the responsibility of the entity requesting the transport of supplies under this section to ensure that the supplies are suitable for transport.

(c)(1) Supplies transported under this section may be distributed by an agency of the United States Government, a foreign government, an international organization, or a private nonprofit relief organization.

(2) Supplies transported under this section may not be distributed, directly or indirectly, to any individual, group, or organization engaged in a military or paramilitary activity.

(d)(1) The Secretary of Defense may use the authority provided by subsection (a) to transport supplies intended for use to respond to, or mitigate the effects of, an event or condition, such as an oil spill, that threatens serious harm to the environment, but only if other sources to provide such transportation are not readily available.

(2) Notwithstanding subsection (a), the Secretary of Defense may require reimbursement for costs incurred by the Department of Defense to transport supplies under this subsection.

(e) Not later than July 31 each year, the Secretary of State shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives a report identifying the origin, contents, destination, and disposition of all supplies transported under this section during the 12-month period ending on the preceding June 30.

(Added Pub. L. 100–180, div. A, title III, §332(a), Dec. 4, 1987, 101 Stat. 1079; amended Pub. L. 101–510, div. A, title XIII, §1311(2), Nov. 5, 1990, 104 Stat. 1669; Pub. L. 104–106, div. A, title XV, §1502(a)(8), Feb. 10, 1996, 110 Stat. 503; Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 108–136, div. A, title III, §312(a), (b), Nov. 24, 2003, 117 Stat. 1429.)

PRIOR PROVISIONS

A prior section 402 was renumbered section 401(b) of this title.

AMENDMENTS

2003—Subsec. (b)(1)(C). Pub. L. 108–136, §312(b)(1), inserted ''or entity'' after ''people''.

Subsec. (b)(1)(E). Pub. L. 108–136, §312(b)(2), inserted ''or use'' after ''distribution''.

Subsec. (b)(3). Pub. L. 108–136, §312(b)(3), substituted ''entity requesting the transport of supplies under this section to ensure that the supplies'' for ''donor to ensure that supplies to be transported under this section''.

Subsecs. (d), (e). Pub. L. 108–136, §312(a), added subsec. (d) and redesignated former subsec. (d) as (e).

1999—Subsec. (d). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

1996—Subsec. (d). Pub. L. 104–106 substituted ''Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on National Security and the Committee on International Relations'' for ''Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs''.

1990—Subsec. (d). Pub. L. 101–510 substituted ''Not later than July 31 each year'' for ''At the end of each six-month period'' and ''the 12-month period ending on the preceding June 30'' for ''such six-month period''.

CHANGE OF NAME

Committee on International Relations of House of Representatives changed to Committee on Foreign Affairs of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Ex. Ord. No. 12163, Sept. 29, 1979, 44 F.R. 56673, as amended, set out as a note under section 2381 of Title 22, Foreign Relations and Intercourse.

PROCESSING OF APPLICATIONS FOR TRANSPORTATION OF HUMANITARIAN ASSISTANCE ABROAD BY DEPARTMENT OF DEFENSE

Pub. L. 106–309, title IV, §403, Oct. 17, 2000, 114 Stat. 1097, provided that:

''(a) PRIORITY FOR DISASTER RELIEF ASSISTANCE.—In processing applications for the transportation of humanitarian assistance abroad under section 402 of title 10, United States Code, the Administrator of the United States Agency for International Development shall afford a priority to applications for the transportation of disaster relief assistance.

''(b) MODIFICATION OF APPLICATIONS.—The Administrator of the United States Agency for International Development shall take all possible actions to assist applicants for the transportation of humanitarian assistance abroad under such section 402 in modifying or completing applications submitted under such section in order to meet applicable requirements under such section. The actions shall include efforts to contact such applicants for purposes of the modification or completion of such applications.''

FIRST REPORT DEADLINE

Section 332(d) of Pub. L. 100–180 directed that first report under section 402(d) of this title be submitted not more than six months after the date on which the most recent report was submitted under section 1540(e) of the Department of Defense Authorization Act, 1985 (Pub. L. 98–525; 98 Stat. 2638).

[§403. Repealed. Pub. L. 104–106, div. A, title X, §1061(g)(1), Feb. 10, 1996, 110 Stat. 443]

Section, added Pub. L. 102–484, div. A, title XIII, §1342(c)(1), Oct. 23, 1992, 106 Stat. 2557; amended Pub. L. 103–160, div. A, title XV, §1501(b), (c), Nov. 30, 1993, 107 Stat. 1836, related to international peacekeeping activities.

§404. Foreign disaster assistance

(a) IN GENERAL.—The President may direct the Secretary of Defense to provide disaster assistance outside the United States to respond to manmade or natural disasters when necessary to prevent loss of lives or serious harm to the environment.

(b) FORMS OF ASSISTANCE.—Assistance provided under this section may include transportation, supplies, services, and equipment.

(c) NOTIFICATION REQUIRED.—Not later than 48 hours after the commencement of disaster assistance activities to provide assistance under this section, the President shall transmit to Congress a report containing notification of the assistance provided, and proposed to be provided, under this section and a description of so much of the following as is then available:

(1) The manmade or natural disaster for which disaster assistance is necessary.

(2) The threat to human lives or the environment presented by the disaster.

(3) The United States military personnel and material resources that are involved or expected to be involved.

(4) The disaster assistance that is being provided or is expected to be provided by other nations or public or private relief organizations.

(5) The anticipated duration of the disaster assistance activities.

(d) ORGANIZING POLICIES AND PROGRAMS.—Amounts appropriated to the Department of De-

fense for any fiscal year for Overseas Humanitarian, Disaster, and Civic Aid (OHDACA) programs of the Department shall be available for organizing general policies and programs for disaster relief programs for disasters occurring outside the United States.

(e) LIMITATION ON TRANSPORTATION ASSISTANCE.—Transportation services authorized under subsection (b) may be provided in response to a manmade or natural disaster to prevent serious harm to the environment, when human lives are not at risk, only if other sources to provide such transportation are not readily available.

(Added Pub. L. 103–337, div. A, title XIV, § 1412(a), Oct. 5, 1994, 108 Stat. 2912; amended Pub. L. 108–136, div. A, title III, § 312(c), Nov. 24, 2003, 117 Stat. 1430.)

PRIOR PROVISIONS

A prior section 404 was renumbered section 401(d) of this title.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 312(c)(1), inserted ''or serious harm to the environment'' after ''loss of lives''.

Subsec. (c)(2). Pub. L. 108–136, § 312(c)(2), inserted ''or the environment'' after ''human lives''.

Subsec. (e). Pub. L. 108–136, § 312(c)(3), added subsec. (e).

EX. ORD. NO. 12966. FOREIGN DISASTER ASSISTANCE

Ex. Ord. No. 12966, July 14, 1995, 60 F.R. 36949, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Defense Authorization Act for Fiscal Year 1995, Public Law 103–337 (the ''Act'') [see Tables for classification] and section 301 of title 3, United States Code, it is hereby ordered as follows:

SECTION 1. This order governs the implementation of section 404 of title 10, United States Code, as added by amendment set forth in section 1412(a) of the Act. Pursuant to 10 U.S.C. 404(a), the Secretary of Defense is hereby directed to provide disaster assistance outside the United States to respond to manmade or natural disasters when the Secretary of Defense determines that such assistance is necessary to prevent loss of lives. The Secretary of Defense shall exercise the notification functions required of the President by 10 U.S.C. 404(c).

SEC. 2. The Secretary of Defense shall provide disaster assistance only: (a) at the direction of the President; or

(b) with the concurrence of the Secretary of State; or

(c) in emergency situations in order to save human lives, where there is not sufficient time to seek the prior initial concurrence of the Secretary of State, in which case the Secretary of Defense shall advise, and seek the concurrence of, the Secretary of State as soon as practicable thereafter.

For the purpose of section 2(b) of this order, only the Secretary of State, or the Deputy Secretary of State, or persons acting in those capacities, shall have the authority to withhold concurrence. Concurrence of the Secretary of State is not required for the execution of military operations undertaken pursuant to, and consistent with, assistance provided in accordance with parts (b) and (c) of this section, or with respect to matters relating to the internal financial processes of the Department of Defense.

SEC. 3. In providing assistance covered by this order, the Secretary of Defense shall consult with the Administrator of the Agency for International Development, in the Administrator's capacity as the President's Special Coordinator for International Disaster Assistance.

SEC. 4. This order does not affect any activity or program authorized under any other provision of law, except that referred to in section 1 of this order.

SEC. 5. This order is effective at 12:01 a.m., e.d.t. on July 15, 1995.

WILLIAM J. CLINTON.

§ 405. Use of Department of Defense funds for United States share of costs of United Nations peacekeeping activities: limitation

(a) PROHIBITION ON USE OF FUNDS.—Funds available to the Department of Defense may not be used to make a financial contribution (directly or through another department or agency of the United States) to the United Nations—

(1) for the costs of a United Nations peacekeeping activity; or

(2) for any United States arrearage to the United Nations.

(b) APPLICATION OF PROHIBITION.—The prohibition in subsection (a) applies to voluntary contributions, as well as to contributions pursuant to assessment by the United Nations for the United States share of the costs of a peacekeeping activity.

(Added Pub. L. 104–106, div. A, title XIII, § 1301(a), Feb. 10, 1996, 110 Stat. 473.)

PRIOR PROVISIONS

A prior section 405 was renumbered section 401(e) of this title.

USE OF DEPARTMENT OF DEFENSE FUNDS FOR UNITED NATIONS FORCES

Pub. L. 105–261, div. A, title XII, § 1231(b), Oct. 17, 1998, 112 Stat. 2155, provided that: ''No funds available to the Department of Defense may be used—

''(1) for a monetary contribution to the United Nations for the establishment of a standing international force under the United Nations; or

''(2) to assign or detail any member of the Armed Forces to duty with a United Nations Stand By Force.''

[§ 406. Renumbered § 401(f)]

§ 407. Humanitarian demining assistance: authority; limitations

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may carry out humanitarian demining assistance in a country if the Secretary concerned determines that the assistance will promote either—

(A) the security interests of both the United States and the country in which the activities are to be carried out; or

(B) the specific operational readiness skills of the members of the armed forces who participate in the activities.

(2) Humanitarian demining assistance under this section shall complement, and may not duplicate, any other form of social or economic assistance which may be provided to the country concerned by any other department or agency of the United States.

(3) The Secretary of Defense shall ensure that no member of the armed forces, while providing humanitarian demining assistance under this section—

(A) engages in the physical detection, lifting, or destroying of landmines or other explo-

sive remnants of war (unless the member does so for the concurrent purpose of supporting a United States military operation); or

(B) provides such assistance as part of a military operation that does not involve the armed forces.

(b) LIMITATIONS.—(1) Humanitarian demining assistance may not be provided under this section unless the Secretary of State specifically approves the provision of such assistance.

(2) Any authority provided under any other provision of law to provide humanitarian demining assistance to a foreign country shall be carried out in accordance with, and subject to, the limitations prescribed in this section.

(c) EXPENSES.—(1) Expenses incurred as a direct result of providing humanitarian demining assistance under this section to a foreign country shall be paid for out of funds specifically appropriated for the purpose of the provision by the Department of Defense of overseas humanitarian assistance.

(2) Expenses covered by paragraph (1) include the following:

(A) Travel, transportation, and subsistence expenses of Department of Defense personnel providing such assistance.

(B) The cost of any equipment, services, or supplies acquired for the purpose of carrying out or supporting humanitarian demining activities, including any nonlethal, individual, or small-team equipment or supplies for clearing landmines or other explosive remnants of war that are to be transferred or otherwise furnished to a foreign country in furtherance of the provision of assistance under this section.

(3) The cost of equipment, services, and supplies provided in any fiscal year under this section may not exceed $10,000,000.

(d) ANNUAL REPORT.—The Secretary of Defense shall include in the annual report under section 401 of this title a separate discussion of activities carried out under this section during the preceding fiscal year, including—

(1) a list of the countries in which humanitarian demining assistance was carried out during the preceding fiscal year;

(2) the type and description of humanitarian demining assistance carried out in each country during the preceding fiscal year, as specified in paragraph (1);

(3) a list of countries in which humanitarian demining assistance could not be carried out during the preceding fiscal year due to insufficient numbers of Department of Defense personnel to carry out such activities; and

(4) the amount expended in carrying out such assistance in each such country during the preceding fiscal year.

(e) HUMANITARIAN DEMINING ASSISTANCE DEFINED.—In this section, the term ''humanitarian demining assistance'', as it relates to training and support, means detection and clearance of landmines and other explosive remnants of war, including activities related to the furnishing of education, training, and technical assistance with respect to the detection and clearance of landmines and other explosive remnants of war.

(Added Pub. L. 109–364, div. A, title XII, § 1203(b)(1), Oct. 17, 2006, 120 Stat. 2413.)

§ 408. Equipment and training of foreign personnel to assist in Department of Defense accounting for missing United States Government personnel

(a) IN GENERAL.—The Secretary of Defense may provide assistance to any foreign nation to assist the Department of Defense with recovery of and accounting for missing United States Government personnel.

(b) TYPES OF ASSISTANCE.—The assistance provided under subsection (a) may include the following:

(1) Equipment.

(2) Supplies.

(3) Services.

(4) Training of personnel.

(c) APPROVAL BY SECRETARY OF STATE.—Assistance may not be provided under this section to any foreign nation unless the Secretary of State specifically approves the provision of such assistance.

(d) LIMITATION.—The amount of assistance provided under this section in any fiscal year may not exceed $1,000,000.

(e) CONSTRUCTION WITH OTHER ASSISTANCE.—The authority to provide assistance under this section is in addition to any other authority to provide assistance to foreign nations under law.

(f) ANNUAL REPORTS.—(1) Not later than December 31 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the assistance provided under this section during the fiscal year ending in such year.

(2) Each report under paragraph (1) shall include, for the fiscal year covered by such report, the following:

(A) A listing of each foreign nation provided assistance under this section.

(B) For each nation so provided assistance, a description of the type and amount of such assistance.

(Added Pub. L. 110–181, div. A, title XII, § 1207(a), Jan. 28, 2008, 122 Stat. 367.)

§ 409. Center for Complex Operations

(a) CENTER AUTHORIZED.—The Secretary of Defense may establish a center to be known as the ''Center for Complex Operations'' (in this section referred to as the ''Center'').

(b) PURPOSES.—The purposes of the Center established under subsection (a) shall be the following:

(1) To provide for effective coordination in the preparation of Department of Defense personnel and other United States Government personnel for complex operations.

(2) To foster unity of effort during complex operations among—

(A) the departments and agencies of the United States Government;

(B) foreign governments and militaries;

(C) international organizations and international nongovernmental organizations; and

(D) domestic nongovernmental organizations.

(3) To conduct research; collect, analyze, and distribute lessons learned; and compile best

practices in matters relating to complex operations.

(4) To identify gaps in the education and training of Department of Defense personnel, and other relevant United States Government personnel, relating to complex operations, and to facilitate efforts to fill such gaps.

(c) CONCURRENCE OF THE SECRETARY OF STATE.—The Secretary of Defense shall seek the concurrence of the Secretary of State to the extent the efforts and activities of the Center involve the entities referred to in subparagraphs (B) and (C) of subsection (b)(2).

(d) SUPPORT FROM OTHER UNITED STATES GOVERNMENT DEPARTMENTS OR AGENCIES.—The head of any non-Department of Defense department or agency of the United States Government may—

(1) provide to the Secretary of Defense services, including personnel support, to support the operations of the Center; and

(2) transfer funds to the Secretary of Defense to support the operations of the Center.

(e) ACCEPTANCE OF GIFTS AND DONATIONS.—(1) Subject to paragraph (3), the Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center.

(2) The sources specified in this paragraph are the following:

(A) The government of a State or a political subdivision of a State.

(B) The government of a foreign country.

(C) A foundation or other charitable organization, including a foundation or charitable organization that is organized or operates under the laws of a foreign country.

(D) Any source in the private sector of the United States or a foreign country.

(3) The Secretary may not accept a gift or donation under this subsection if acceptance of the gift or donation would compromise or appear to compromise—

(A) the ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out the responsibility or duty of the Department in a fair and objective manner; or

(B) the integrity of any program of the Department or of any person involved in such a program.

(4) The Secretary shall provide written guidance setting forth the criteria to be used in determining the applicability of paragraph (3) to any proposed gift or donation under this subsection.

(f) CREDITING OF FUNDS TRANSFERRED OR ACCEPTED.—Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.

(g) DEFINITIONS.—In this section:

(1) The term ''complex operation'' means an operation as follows:

(A) A stability operation.

(B) A security operation.

(C) A transition and reconstruction operation.

(D) A counterinsurgency operation.

(E) An operation consisting of irregular warfare.

(2) The term ''gift or donation'' means any gift or donation of funds, materials (including research materials), real or personal property, or services (including lecture services and faculty services).

(Added Pub. L. 110–417, [div. A], title X, § 1031(a), Oct. 14, 2008, 122 Stat. 4589.)

[§ 410. Repealed. Pub. L. 104–106, div. A, title V, § 571(a)(1), Feb. 10, 1996, 110 Stat. 353]

Section, added Pub. L. 102–484, div. A, title X, § 1081(b)(1), Oct. 23, 1992, 106 Stat. 2515, related to Civil-Military Cooperative Action Program.

PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR ILLEGAL DRUGS

Section 1045 of Pub. L. 102–484, required Secretary of Defense to conduct pilot outreach program to reduce demand for illegal drugs, required program to include outreach activities by active and reserve components of Armed Forces and focus primarily on youths in general and inner-city youths in particular, and related to payment of travel and living expenses, funding, duration of program, and reporting requirements, prior to repeal by Pub. L. 104–106, div. A, title V, § 571(b), Feb. 10, 1996, 110 Stat. 353.

CONGRESSIONAL FINDINGS

Section 1081(a) of Pub. L. 102–484, related to findings of Congress as to use of military resources to assist in addressing domestic needs, prior to repeal by Pub. L. 104–106, div. A, title V, § 571(a)(2), Feb. 10, 1996, 110 Stat. 353.

CHAPTER 21—DEPARTMENT OF DEFENSE INTELLIGENCE MATTERS

Subchapter		Sec.
I.	General Matters	421
II.	Intelligence Commercial Activities	431

AMENDMENTS

1991—Pub. L. 102–88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added items for subchapters I and II.

SUBCHAPTER I—GENERAL MATTERS

Sec.
421. Funds for foreign cryptologic support.
422. Use of funds for certain incidental purposes.
423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency.
424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies.
425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies.
426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities.
427. Intelligence oversight activities of Department of Defense: annual reports.
428. Defense industrial security.

AMENDMENTS

2011—Pub. L. 111–383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, made technical correction to di-

rectory language of Pub. L. 111–84, § 921(b)(2). See 2009 Amendment note below.

2009—Pub. L. 111–84, div. A, title X, § 1073(a)(5), Oct. 28, 2009, 123 Stat. 2472, redesignated item 438 as 428.

Pub. L. 111–84, div. A, title IX, § 921(b)(2), Oct. 28, 2009, 123 Stat. 2432, as amended by Pub. L. 111–383, div. A, title X, § 1075(d)(10), Jan. 7, 2011, 124 Stat. 4373, added item 423 and struck out former item 423 ''Authority to use proceeds from counterintelligence operations of the military departments''.

2008—Pub. L. 110–417, [div. A], title VIII, § 845(a)(2), Oct. 14, 2008, 122 Stat. 4542, added item 438.

2006—Pub. L. 109–364, div. A, title IX, § 932(b), Oct. 17, 2006, 120 Stat. 2363, added item 427.

2003—Pub. L. 108–136, div. A, title IX, §§ 921(d)(5)(B)(ii), 923(c)(2), Nov. 24, 2003, 117 Stat. 1569, 1576, substituted ''Disclosure of organizational and personnel information: exemption for specified intelligence agencies'' for ''Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency'' in item 424 and added item 426.

2001—Pub. L. 107–108, title V, § 501(b)(3), Dec. 28, 2001, 115 Stat. 1404, substituted ''Use of funds for certain incidental purposes'' for ''Counterintelligence official reception and representation expenses'' in item 422.

1997—Pub. L. 105–107, title V, § 503(d)(2), Nov. 20, 1997, 111 Stat. 2263, added items 424 and 425 and struck out former items 424 ''Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency'' and 425 ''Disclosure of personnel information: exemption for National Reconnaissance Office''.

1993—Pub. L. 103–178, title V, § 503(a)(2), Dec. 3, 1993, 107 Stat. 2039, added item 425.

1991—Pub. L. 102–88, title V, § 504(a)(1), Aug. 14, 1991, 105 Stat. 437, added subchapter heading.

1989—Pub. L. 101–189, div. A, title XVI, § 1622(c)(2), Nov. 29, 1989, 103 Stat. 1604, substituted ''Funds for foreign cryptologic support'' for ''Funds for Foreign Cryptologic Support'' in item 421.

1988—Pub. L. 100–453, title VII, §§ 701(b), 703(b), Sept. 29, 1988, 102 Stat. 1912, 1913, in item 421 substituted ''Funds for Foreign Cryptologic Support'' for ''Funds transfers for foreign cryptologic support'' and added item 424.

1987—Pub. L. 100–180, div. A, title XII, § 1231(3), Dec. 4, 1987, 101 Stat. 1160, substituted ''departments'' for ''department'' in item 423.

§ 421. Funds for foreign cryptologic support

(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.

(Added Pub. L. 96–450, title IV, § 401(a), Oct. 14, 1980, 94 Stat. 1977, § 140a; amended Pub. L. 97–258, § 3(b)(2), Sept. 13, 1982, 96 Stat. 1063; renumbered § 128 and amended Pub. L. 99–433, title I, §§ 101(a)(3), 110(d)(5), Oct. 1, 1986, 100 Stat. 994, 1002; renumbered § 421, Pub. L. 100–26, § 9(a)(2), Apr. 21, 1987, 101 Stat. 287; Pub. L. 100–453, title VII, § 701(a), Sept. 29, 1988, 102 Stat. 1911; Pub. L. 101–189, div. A, title XVI, § 1622(c)(3), Nov. 29, 1989, 103 Stat. 1604.)

References in Text

The National Security Act of 1947, referred to in subsec. (c), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50 and Tables.

Amendments

1989—Subsec. (c). Pub. L. 101–189 substituted ''House of Representatives pursuant to the provisions of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.). Funds'' for ''House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds''.

1988—Pub. L. 100–453 struck out ''transfers'' after ''Funds'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.''

1987—Pub. L. 100–26 renumbered section 128 of this title as this section.

1986—Pub. L. 99–433 renumbered section 140a of this title as section 128 of this title and substituted ''Funds'' for ''Secretary of Defense: funds'' in section catchline.

1982—Pub. L. 97–258 struck out provision that payments under this section could be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).

Comprehensive Independent Study of National Cryptography Policy

Pub. L. 103–160, div. A, title II, § 267, Nov. 30, 1993, 107 Stat. 1611, directed Secretary of Defense, not later than 90 days after Nov. 30, 1993, to request National Research Council of National Academy of Sciences to conduct a comprehensive study to assess effect of cryptographic technologies on national security, law enforcement, commercial, and privacy interests, and effect of export controls on commercial interests, with cooperation of other agencies, and report findings and conclusions within 2 years after processing of security clearances to Secretary of Defense, and directed Secretary to submit a report in unclassified form to Committee on Armed Services, Committee on the Judiciary, and Select Committee on Intelligence of Senate and to Committee on Armed Services, Committee on the Judiciary, and Permanent Select Committee on Intelligence of House of Representatives, not later than 120 days after the report is submitted to the Secretary.

§ 422. Use of funds for certain incidental purposes

(a) Counterintelligence Official Reception and Representation Expenses.—The Secretary

of Defense may use funds available to the Department of Defense for counterintelligence programs to pay the expenses of hosting foreign officials in the United States under the auspices of the Department of Defense for consultation on counterintelligence matters.

(b) PROMOTIONAL ITEMS FOR RECRUITMENT PURPOSES.—The Secretary of Defense may use funds available for an intelligence element of the Department of Defense to purchase promotional items of nominal value for use in the recruitment of individuals for employment by that element.

(Added Pub. L. 99–569, title IV, § 401(c), Oct. 27, 1986, 100 Stat. 3195, § 140a; renumbered § 422, Pub. L. 100–26, § 9(a)(3), Apr. 21, 1987, 101 Stat. 287; amended Pub. L. 107–108, title V, § 501(a)–(b)(2), Dec. 28, 2001, 115 Stat. 1404.)

AMENDMENTS

2001—Pub. L. 107–108 substituted ''Use of funds for certain incidental purposes'' for ''Counterintelligence official reception and representation expenses'' in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1987—Pub. L. 100–26 renumbered section 140a of this title as this section.

§ 423. Authority to use proceeds from counterintelligence operations of the military departments or the Defense Intelligence Agency

(a) The Secretary of Defense may authorize, without regard to the provisions of section 3302 of title 31, use of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency to offset necessary and reasonable expenses, not otherwise prohibited by law, incurred in such operations, and to make exceptional performance awards to personnel involved in such operations, if use of appropriated funds to meet such expenses or to make such awards would not be practicable.

(b) As soon as the net proceeds from such counterintelligence operations are no longer necessary for the conduct of those operations, such proceeds shall be deposited into the Treasury as miscellaneous receipts.

(c) The Secretary of Defense shall establish policies and procedures to govern acquisition, use, management, and disposition of proceeds from counterintelligence operations conducted by components of the military departments or the Defense Intelligence Agency, including effective internal systems of accounting and administrative controls.

(Added Pub. L. 99–569, title IV, § 403(a), Oct. 27, 1986, 100 Stat. 3196, § 140b; renumbered § 423 and amended Pub. L. 100–26, § 9(a)(3), (b)(3), Apr. 21, 1987, 101 Stat. 287; Pub. L. 111–84, div. A, title IX, § 921(a), (b)(1), Oct. 28, 2009, 123 Stat. 2432.)

AMENDMENTS

2009—Pub. L. 111–84 inserted ''or the Defense Intelligence Agency'' after ''military departments'' wherever appearing.

1987—Pub. L. 100–26 renumbered section 140b of this title as this section and struck out ''United States Code,'' after ''section 3302 of title 31,'' in subsec. (a).

§ 424. Disclosure of organizational and personnel information: exemption for specified intelligence agencies

(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (c), no provision of law shall be construed to require the disclosure of—

(1) the organization or any function of an organization of the Department of Defense named in subsection (b); or

(2) the number of persons employed by or assigned or detailed to any such organization or the name, official title, occupational series, grade, or salary of any such person.

(b) COVERED ORGANIZATIONS.—This section applies to the following organizations of the Department of Defense:

(1) The Defense Intelligence Agency.

(2) The National Reconnaissance Office.

(3) The National Geospatial-Intelligence Agency.

(c) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.

(Added Pub. L. 104–201, div. A, title XI, § 1112(d), Sept. 23, 1996, 110 Stat. 2683; amended Pub. L. 108–136, div. A, title IX, § 921(d)(5)(A), (B)(i), Nov. 24, 2003, 117 Stat. 1569.)

PRIOR PROVISIONS

A prior section 424, added Pub. L. 100–178, title VI, § 603(a), Dec. 2, 1987, 101 Stat. 1016, § 1607; renumbered § 424 and amended Pub. L. 100–453, title VII, § 703(a), Sept. 29, 1988, 102 Stat. 1912, related to disclosure of organizational and personnel information with respect to the Defense Intelligence Agency prior to repeal by Pub. L. 104–201, div. A, title XI, §§ 1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996.

AMENDMENTS

2003—Pub. L. 108–136, § 921(d)(5)(B)(i), substituted ''Disclosure of organizational and personnel information: exemption for specified intelligence agencies'' for ''Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency, National Reconnaissance Office, and National Imagery and Mapping Agency'' in section catchline.

Subsec. (b)(3). Pub. L. 108–136, § 921(d)(5)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

DISCLOSURE OF GOVERNMENTAL AFFILIATION BY DEPARTMENT OF DEFENSE INTELLIGENCE PERSONNEL OUTSIDE OF UNITED STATES

Pub. L. 103–359, title V, § 503, Oct. 14, 1994, 108 Stat. 3430, provided that:

''(a) IN GENERAL.—Notwithstanding section 552a(e)(3) of title 5, United States Code, intelligence personnel of the Department of Defense who are authorized by the Secretary of Defense to collect intelligence from human sources shall not be required, when making an initial assessment contact outside the United States, to give notice of governmental affiliation to potential sources who are United States persons.

''(b) RECORDS.—Records concerning such contacts shall be maintained by the Department of Defense and made available upon request to the appropriate committees of the Congress in accordance with applicable

security procedures. Such records shall include for each such contact an explanation of why notice of government affiliation could not reasonably be provided, the nature of the information obtained from the United States person as a result of the contact, and whether additional contacts resulted with the person concerned.

''(c) DEFINITIONS.—For the purposes of this section—

''(1) the term 'United States' includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States; and

''(2) the term 'United States person' means any citizen, national, or permanent resident alien of the United States.''

EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION

Pub. L. 102–496, title IV, § 406, Oct. 24, 1992, 106 Stat. 3186, which provided that, except as required by President and except with respect to provision of information to Congress, nothing in Pub. L. 102–496 or any other provision of law was to be construed to require disclosure of name, title, or salary of any person employed by, or assigned or detailed to, National Reconnaissance Office or disclosure of number of such persons, was repealed and restated in former section 425 of this title by Pub. L. 103–178, title V, § 503(a)(1), (b), Dec. 3, 1993, 107 Stat. 2038, 2039.

§ 425. Prohibition of unauthorized use of name, initials, or seal: specified intelligence agencies

(a) PROHIBITION.—Except with the written permission of both the Secretary of Defense and the Director of National Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary and the Director, any of the following (or any colorable imitation thereof):

(1) The words ''Defense Intelligence Agency'', the initials ''DIA'', or the seal of the Defense Intelligence Agency.

(2) The words ''National Reconnaissance Office'', the initials ''NRO'', or the seal of the National Reconnaissance Office.

(3) The words ''National Imagery and Mapping Agency'', the initials ''NIMA'', or the seal of the National Imagery and Mapping Agency.

(4) The words ''Defense Mapping Agency'', the initials ''DMA'', or the seal of the Defense Mapping Agency.

(5) The words ''National Geospatial-Intelligence Agency'', the initials ''NGA,'' or the seal of the National Geospatial-Intelligence Agency.

(b) AUTHORITY TO ENJOIN VIOLATIONS.—Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other actions as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.

(Added and amended Pub. L. 105–107, title V, § 503(a), (b), Nov. 20, 1997, 111 Stat. 2262; Pub. L. 108–136, div. A, title IX, § 921(d)(6), Nov. 24, 2003, 117 Stat. 1569; Pub. L. 110–181, div. A, title IX, § 931(a)(6), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(6), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

CODIFICATION

The text of section 202(b) of this title, which was transferred to this section by Pub. L. 105–107, § 503(b), was based on Pub. L. 97–269, title V, § 501(a), Sept. 27, 1982, 96 Stat. 1145, § 191; renumbered § 201, Pub. L. 99–433, title III, § 301(a)(1), Oct. 1, 1986, 100 Stat. 1019; renumbered § 202, Pub. L. 102–190, div. A, title IX, § 922(a)(1), Dec. 5, 1991, 105 Stat. 1453.

PRIOR PROVISIONS

A prior section 425, added Pub. L. 103–178, title V, § 503(a)(1), Dec. 3, 1993, 107 Stat. 2038, related to disclosure of information about personnel at National Reconnaissance Office prior to repeal by Pub. L. 104–201, div. A, title XI, §§ 1112(d), 1124, Sept. 23, 1996, 110 Stat. 2683, 2688, effective Oct. 1, 1996. See section 424 of this title.

AMENDMENTS

2009—Subsec. (a). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(6). See 2008 Amendment note below.

2008—Subsec. (a). Pub. L. 110–181 and Pub. L. 110–417, § 932(a)(6), amended subsec. (a) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'' in introductory provisions. Pub. L. 110–417, § 932(a)(6), was repealed by Pub. L. 111–84.

2003—Subsec. (a)(5). Pub. L. 108–136 added par. (5).

1997—Subsec. (b). Pub. L. 105–107, § 503(b), renumbered section 202(b) of this title as subsec. (b) of this section and inserted heading.

CHANGE OF NAME

Reference to National Imagery and Mapping Agency considered to be reference to National Geospatial-Intelligence Agency, see section 921(a) of Pub. L. 108–136, set out as a note under section 441 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

§ 426. Integration of Department of Defense intelligence, surveillance, and reconnaissance capabilities

(a) ISR INTEGRATION COUNCIL.—(1) The Under Secretary of Defense for Intelligence shall establish an Intelligence, Surveillance, and Reconnaissance Integration Council—

(A) to assist the Under Secretary with respect to matters relating to the integration of intelligence, surveillance, and reconnaissance capabilities, and coordination of related developmental activities, of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands; and

(B) otherwise to provide a means to facilitate the integration of such capabilities and the coordination of such developmental activities.

(2) The Council shall be composed of—

(A) the senior intelligence officers of the armed forces and the United States Special Operations Command;

(B) the Director of Operations of the Joint Staff; and

(C) the directors of the intelligence agencies of the Department of Defense.

(3) The Under Secretary of Defense for Intelligence shall invite the participation of the Director of National Intelligence (or that Director's representative) in the proceedings of the Council.

(4) Each Secretary of a military department may designate an officer or employee of such military department to attend the proceedings of the Council as a representative of such military department.

(b) ISR INTEGRATION ROADMAP.—(1) The Under Secretary of Defense for Intelligence shall develop a comprehensive plan, to be known as the ''Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap'', to guide the development and integration of the Department of Defense intelligence, surveillance, and reconnaissance capabilities for the 15-year period of fiscal years 2004 through 2018.

(2) The Under Secretary shall develop the Defense Intelligence, Surveillance, and Reconnaissance Integration Roadmap in consultation with the Intelligence, Surveillance, and Reconnaissance Integration Council and the Director of National Intelligence.

(Added Pub. L. 108–136, div. A, title IX, § 923(c)(1), Nov. 24, 2003, 117 Stat. 1575; amended Pub. L. 109–364, div. A, title X, § 1071(a)(3), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110–181, div. A, title IX, § 931(a)(7), (8), Jan. 28, 2008, 122 Stat. 285; Pub. L. 111–383, div. A, title IX, § 922(b), Jan. 7, 2011, 124 Stat. 4331.)

AMENDMENTS

2011—Subsec. (a)(4). Pub. L. 111–383 added par. (4).

2008—Subsecs. (a)(3), (b)(2). Pub. L. 110–181 substituted ''Director of National Intelligence'' for ''Director of Central Intelligence''.

2006—Subsec. (a)(1)(B). Pub. L. 109–364 substituted ''coordination'' for ''coordiation''.

INTEGRATION OF DEFENSE INTELLIGENCE, SURVEILLANCE, AND RECONNAISSANCE CAPABILITIES

Pub. L. 108–136, div. A, title IX, § 923(a), (b), Nov. 24, 2003, 117 Stat. 1574, 1575, as amended by Pub. L. 111–383, div. A, title IX, § 922(a), Jan. 7, 2011, 124 Stat. 4330, provided that:

''(a) FINDINGS.—Congress makes the following findings:

''(1) As part of transformation efforts within the Department of Defense, each of the Armed Forces is developing intelligence, surveillance, and reconnaissance capabilities that best support future war fighting as envisioned by the leadership of the military department concerned.

''(2) Concurrently, intelligence agencies of the Department of Defense outside the military departments are developing transformation roadmaps to best support the future decisionmaking and war fighting needs of their principal customers, but are not always closely coordinating those efforts with the intelligence, surveillance, and reconnaissance development efforts of the military departments.

''(3) A senior official of each military department has been designated as the integrator of intelligence, surveillance, and reconnaissance for each of the Armed Forces in such military department, but there is not currently a well-defined forum through which the integrators of intelligence, surveillance, and reconnaissance capabilities for each of the Armed Forces can routinely interact with each other and with senior representatives of Department of Defense intelligence agencies, as well as with other members of the intelligence community, to ensure unity of effort and to preclude unnecessary duplication of effort.

''(4) The current funding structure of a National Intelligence Program (NIP) and a Military Intelligence Program (MIP) may not be the best approach for supporting the development of an intelligence, surveillance, and reconnaissance structure that is integrated to meet the national security requirements of the United States in the 21st century.

''(5) The position of Under Secretary of Defense for Intelligence was established in 2002 by Public Law 107–314 [see 10 U.S.C. 137] in order to facilitate resolution of the challenges to achieving an integrated intelligence, surveillance, and reconnaissance structure in the Department of Defense to meet such 21st century requirements.

''(b) GOAL.—It shall be a goal of the Department of Defense to fully integrate the intelligence, surveillance, and reconnaissance capabilities and coordinate the developmental activities of the military departments, intelligence agencies of the Department of Defense, and relevant combatant commands as those departments, agencies, and commands transform their intelligence, surveillance, and reconnaissance systems to meet current and future needs.''

§ 427. Intelligence oversight activities of Department of Defense: annual reports

(a) ANNUAL REPORTS REQUIRED.—(1) Not later than March 1 of each year, the Secretary of Defense shall submit—

(A) to the congressional committees specified in subparagraph (A) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to tactical intelligence and intelligence-related activities of the Department; and

(B) to the congressional committees specified in subparagraph (B) of paragraph (2) a report on the intelligence oversight activities of the Department of Defense during the previous calendar year insofar as such oversight activities relate to intelligence and intelligence-related activities of the Department other than those specified in subparagraph (A).

(2)(A) The committees specified in this subparagraph are the following:

(i) The Committee on Armed Services and the Committee on Appropriations of the Senate.

(ii) The Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the House of Representatives.

(B) The committees specified in this subparagraph are the following:

(i) The Select Committee on Intelligence, the Committee on Armed Services, and the Committee on Appropriations of the Senate.

(ii) The Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

(b) ELEMENTS.—Each report under subsection (a) shall include, for the calendar year covered by such report and with respect to oversight activities subject to coverage in that report, the following:

(1) A description of any violation of law or of any Executive order or Presidential directive (including Executive Order No. 12333) that comes to the attention of any General Counsel or Inspector General within the Department of Defense, or the Under Secretary of Defense for Intelligence, and a description of the actions taken by such official with respect to such activity.

(2) A description of the results of intelligence oversight inspections undertaken by each of the following:

(A) The Office of the Secretary of Defense.

(B) Each military department.

(C) Each combat support agency.

(D) Each field operating agency.

(3) A description of any changes made in any program for the intelligence oversight activities of the Department of Defense, including any training program.

(4) A description of any changes made in any published directive or policy memoranda on the intelligence or intelligence-related activities of—

(A) any military department;

(B) any combat support agency; or

(C) any field operating agency.

(c) DEFINITIONS.—In this section:

(1) The term ''intelligence oversight activities of the Department of Defense'' refers to any activity undertaken by an agency, element, or component of the Department of Defense to ensure compliance with regard to requirements or instructions on the intelligence and intelligence-related activities of the Department under law or any Executive order or Presidential directive (including Executive Order No. 12333).

(2) The term ''combat support agency'' has the meaning given that term in section 193(f) of this title.

(3) The term ''field operating agency'' means a specialized subdivision of the Department of Defense that carries out activities under the operational control of the Department.

(Added Pub. L. 109–364, div. A, title IX, § 932(a), Oct. 17, 2006, 120 Stat. 2362.)

REFERENCES IN TEXT

Executive Order No. 12333, referred to in subsecs. (b)(1) and (c)(1), is set out as a note under section 401 of Title 50, War and National Defense.

§ 428. Defense industrial security

(a) RESPONSIBILITY FOR DEFENSE INDUSTRIAL SECURITY.—The Secretary of Defense shall be responsible for the protection of classified information disclosed to contractors of the Department of Defense.

(b) CONSISTENCY WITH EXECUTIVE ORDERS AND DIRECTIVES.—The Secretary shall carry out the responsibility assigned under subsection (a) in a manner consistent with Executive Order 12829 (or any successor order to such executive order) and consistent with policies relating to the National Industrial Security Program (or any successor to such program).

(c) PERFORMANCE OF INDUSTRIAL SECURITY FUNCTIONS FOR OTHER AGENCIES.—The Secretary may perform industrial security functions for other agencies of the Federal government upon request or upon designation of the Department of Defense as executive agent for the National Industrial Security Program (or any successor to such program).

(d) REGULATIONS AND POLICY GUIDANCE.—The Secretary shall prescribe, and from time to time revise, such regulations and policy guidance as are necessary to ensure the protection of classified information disclosed to contractors of the Department of Defense.

(e) DEDICATION OF RESOURCES.—The Secretary shall ensure that sufficient resources are provided to staff, train, and support such personnel as are necessary to fully protect classified information disclosed to contractors of the Department of Defense.

(f) BIENNIAL REPORT.—The Secretary shall report biennially to the congressional defense committees on expenditures and activities of the Department of Defense in carrying out the requirements of this section. The Secretary shall submit the report at or about the same time that the President's budget is submitted pursuant to section 1105(a) of title 31 in odd numbered years. The report shall be in an unclassified form (with a classified annex if necessary) and shall cover the activities of the Department of Defense in the preceding two fiscal years, including the following:

(1) The workforce responsible for carrying out the requirements of this section, including the number and experience of such workforce; training in the performance of industrial security functions; performance metrics; and resulting assessment of overall quality.

(2) A description of funds authorized, appropriated, or reprogrammed to carry out the requirements of this section, the budget execution of such funds, and the adequacy of budgets provided for performing such purpose.

(3) Statistics on the number of contractors handling classified information of the Department of Defense, and the percentage of such contractors who are subject to foreign ownership, control, or influence.

(4) Statistics on the number of violations identified, enforcement actions taken, and the percentage of such violations occurring at facilities of contractors subject to foreign ownership, control, or influence.

(5) An assessment of whether major contractors implementing the program have adequate enforcement programs and have trained their employees adequately in the requirements of the program.

(6) Trend data on attempts to compromise classified information disclosed to contractors of the Department of Defense to the extent that such data are available.

(Added Pub. L. 110–417, [div. A], title VIII, § 845(a)(1), Oct. 14, 2008, 122 Stat. 4541, § 438; renumbered § 428, Pub. L. 111–84, div. A, title X, § 1073(a)(4), Oct. 28, 2009, 123 Stat. 2472; Pub. L. 111–383, div. A, title X, § 1075(b)(11), Jan. 7, 2011, 124 Stat. 4369.)

REFERENCES IN TEXT

Executive Order 12829, referred to in subsec. (b), is set out as a note under section 435 of Title 50, War and National Defense.

AMENDMENTS

2011—Subsec. (f). Pub. L. 111–383 struck out ‘‘, United States Code,’’ after ‘‘title 31’’.

2009—Pub. L. 111–84 renumbered section 438 of this title as this section.

REQUIREMENT FOR ENTITIES WITH FACILITY CLEARANCES THAT ARE NOT UNDER FOREIGN OWNERSHIP CONTROL OR INFLUENCE MITIGATION

Pub. L. 111–383, div. A, title VIII, § 845, Jan. 7, 2011, 124 Stat. 4285, provided that:

‘‘(a) REQUIREMENT.—The Secretary of Defense shall develop a plan to ensure that covered entities employ and maintain policies and procedures that meet requirements under the national industrial security program. In developing the plan, the Secretary shall consider whether or not covered entities, or any category of covered entities, should be required to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

‘‘(b) COVERED ENTITY.—A covered entity under this section is an entity—

‘‘(1) to which the Department of Defense has granted a facility clearance; and

‘‘(2) that is not subject to foreign ownership control or influence mitigation measures.

‘‘(c) GUIDANCE.—The Secretary of Defense shall issue guidance, including appropriate compliance mechanisms, to implement the requirement in subsection (a). To the extent determined appropriate by the Secretary, the guidance shall require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.

‘‘(d) REPORT.—Not later than 270 days after the date of the enactment of this Act [Jan. 7, 2011], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the plan developed pursuant to subsection (a) and the guidance issued pursuant to subsection (c). The report shall specifically address the rationale for the Secretary’s decision on whether or not to require covered entities, or any category of covered entities, to establish government security committees similar to those required for companies that are subject to foreign ownership control or influence mitigation measures.’’

SUBMISSION OF FIRST BIENNIAL REPORT

Pub. L. 110–417, [div. A], title VIII, § 845(b), Oct. 14, 2008, 122 Stat. 4542, provided that: ‘‘Notwithstanding the deadline in subsection (f) of section 438 [now 428] of title 10, United States Code, as added by this section, the first biennial report submitted after the date of the enactment of this Act [Oct. 14, 2008] pursuant to such subsection shall be submitted not later than September 1, 2009, and shall address the period from the date of the enactment of this Act to the issuance of such report.’’

SUBCHAPTER II—INTELLIGENCE COMMERCIAL ACTIVITIES

Sec.
431. Authority to engage in commercial activities as security for intelligence collection activities.
432. Use, disposition, and auditing of funds.
433. Relationship with other Federal laws.
434. Reservation of defenses and immunities.
435. Limitations.
436. Regulations.
437. Congressional oversight.

AMENDMENTS

1992—Pub. L. 102–484, div. A, title X, § 1052(1), Oct. 23, 1992, 106 Stat. 2499, inserted ‘‘Sec.’’ above item ‘‘431’’.

1991—Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 437, added subchapter heading and analysis of sections.

§ 431. Authority to engage in commercial activities as security for intelligence collection activities

(a) AUTHORITY.—The Secretary of Defense, subject to the provisions of this subchapter, may authorize the conduct of those commercial activities necessary to provide security for authorized intelligence collection activities abroad undertaken by the Department of Defense. No commercial activity may be initiated pursuant to this subchapter after December 31, 2015.

(b) INTERAGENCY COORDINATION AND SUPPORT.—Any such activity shall—

(1) be coordinated with, and (where appropriate) be supported by, the Director of the Central Intelligence Agency; and

(2) to the extent the activity takes place within the United States, be coordinated with, and (where appropriate) be supported by, the Director of the Federal Bureau of Investigation.

(c) DEFINITIONS.—In this subchapter:

(1) The term ‘‘commercial activities’’ means activities that are conducted in a manner consistent with prevailing commercial practices and includes—

(A) the acquisition, use, sale, storage and disposal of goods and services;

(B) entering into employment contracts and leases and other agreements for real and personal property;

(C) depositing funds into and withdrawing funds from domestic and foreign commercial business or financial institutions;

(D) acquiring licenses, registrations, permits, and insurance; and

(E) establishing corporations, partnerships, and other legal entities.

(2) The term ‘‘intelligence collection activities’’ means the collection of foreign intelligence and counterintelligence information.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 437; amended Pub. L. 104–93, title V, § 503, Jan. 6, 1996, 109 Stat. 973; Pub. L. 105–272, title V, § 501, Oct. 20, 1998, 112 Stat. 2404; Pub. L. 106–398, § 1 [[div. A], title X, § 1077], Oct. 30, 2000, 114 Stat. 1654, 1654A–282; Pub. L. 107–314, div. A, title X, § 1053, Dec. 2, 2002, 116 Stat. 2649; Pub. L. 108–375, div. A, title IX, § 921, Oct. 28, 2004, 118 Stat. 2029; Pub. L. 109–364, div. A, title IX, § 931, Oct. 17, 2006, 120 Stat. 2362; Pub. L. 110–181, div. A, title IX, § 931(b)(1), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(7), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475; Pub. L. 111–383, div. A, title IX, § 921, Jan. 7, 2011, 124 Stat. 4330.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–383 substituted ‘‘December 31, 2015’’ for ‘‘December 31, 2010’’.

2009—Subsec. (b)(1). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(7). See 2008 Amendment note below.

2008—Subsec. (b)(1). Pub. L. 110–417, § 932(a)(7), which directed the amendment of subsec. (b)(1) by substituting ‘‘Director of National Intelligence’’ for ‘‘Director of Central Intelligence’’, was repealed by Pub. L. 111–84.

Pub. L. 110–181 substituted ‘‘Director of the Central Intelligence Agency’’ for ‘‘Director of Central Intelligence’’.

2006—Subsec. (a). Pub. L. 109–364 substituted ''2010'' for ''2006''.
2004—Subsec. (a). Pub. L. 108–375 substituted ''2006'' for ''2004''.
2002—Subsec. (a). Pub. L. 107–314 substituted ''2004'' for ''2002''.
2000—Subsec. (a). Pub. L. 106–398 substituted ''2002'' for ''2000''.
1998—Subsec. (a). Pub. L. 105–272 substituted ''2000'' for ''1998''.
1996—Subsec. (a). Pub. L. 104–93 substituted ''1998'' for ''1995''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE

Section 504(b) of Pub. L. 102–88 provided that: ''The Secretary of Defense may not authorize any activity under section 431 of title 10, United States Code, as added by subsection (a), until the later of—

''(1) the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 14, 1991]; or

''(2) the effective date of regulations first prescribed under section 436 of such title, as added by subsection (a).''

§ 432. Use, disposition, and auditing of funds

(a) USE OF FUNDS.—Funds generated by a commercial activity authorized pursuant to this subchapter may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.

(b) AUDITS.—(1) The Secretary of Defense shall assign an organization within the Department of Defense to have auditing responsibility with respect to activities authorized under this subchapter.

(2) That organization shall audit the use and disposition of funds generated by any commercial activity authorized under this subchapter not less often than annually. The results of all such audits shall be promptly reported to the intelligence committees (as defined in section 437(d) of this title).

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

§ 433. Relationship with other Federal laws

(a) IN GENERAL.—Except as provided by subsection (b), a commercial activity conducted pursuant to this subchapter shall be carried out in accordance with applicable Federal law.

(b) AUTHORIZATION OF WAIVERS WHEN NECESSARY TO MAINTAIN SECURITY.—(1) If the Secretary of Defense determines, in connection with a commercial activity authorized pursuant to section 431 of this title, that compliance with certain Federal laws or regulations pertaining to the management and administration of Federal agencies would create an unacceptable risk of compromise of an authorized intelligence activity, the Secretary may, to the extent necessary to prevent such compromise, waive compliance with such laws or regulations.

(2) Any determination and waiver by the Secretary under paragraph (1) shall be made in writing and shall include a specification of the laws and regulations for which compliance by the commercial activity concerned is not required consistent with this section.

(3) The authority of the Secretary under paragraph (1) may be delegated only to the Deputy Secretary of Defense, an Under Secretary of Defense, an Assistant Secretary of Defense, or a Secretary of a military department.

(c) FEDERAL LAWS AND REGULATIONS.—For purposes of this section, Federal laws and regulations pertaining to the management and administration of Federal agencies are only those Federal laws and regulations pertaining to the following:

(1) The receipt and use of appropriated and nonappropriated funds.

(2) The acquisition or management of property or services.

(3) Information disclosure, retention, and management.

(4) The employment of personnel.

(5) Payments for travel and housing.

(6) The establishment of legal entities or government instrumentalities.

(7) Foreign trade or financial transaction restrictions that would reveal the commercial activity as an activity of the United States Government.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 438.)

§ 434. Reservation of defenses and immunities

The submission to judicial proceedings in a State or other legal jurisdiction, in connection with a commercial activity undertaken pursuant to this subchapter, shall not constitute a waiver of the defenses and immunities of the United States.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 435. Limitations

(a) LAWFUL ACTIVITIES.—Nothing in this subchapter authorizes the conduct of any intelligence activity that is not otherwise authorized by law or Executive order.

(b) DOMESTIC ACTIVITIES.—Personnel conducting commercial activity authorized by this subchapter may only engage in those activities in the United States to the extent necessary to support intelligence activities abroad.

(c) PROVIDING GOODS AND SERVICES TO THE DEPARTMENT OF DEFENSE.—Commercial activity may not be undertaken within the United States for the purpose of providing goods and services to the Department of Defense, other than as may be necessary to provide security for the activities subject to this subchapter.

(d) NOTICE TO UNITED STATES PERSONS.—(1) In carrying out a commercial activity authorized under this subchapter, the Secretary of Defense may not permit an entity engaged in such activity to employ a United States person in an operational, managerial, or supervisory position, and may not assign or detail a United States person to perform operational, managerial, or

supervisory duties for such an entity, unless that person is informed in advance of the intelligence security purpose of that activity.

(2) In this subsection, the term ''United States person'' means an individual who is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 436. Regulations

The Secretary of Defense shall prescribe regulations to implement the authority provided in this subchapter. Such regulations shall be consistent with this subchapter and shall at a minimum—

(1) specify all elements of the Department of Defense who are authorized to engage in commercial activities pursuant to this subchapter;

(2) require the personal approval of the Secretary or Deputy Secretary of Defense for all sensitive activities to be authorized pursuant to this subchapter;

(3) specify all officials who are authorized to grant waivers of laws or regulations pursuant to section 433(b) of this title, or to approve the establishment or conduct of commercial activities pursuant to this subchapter;

(4) designate a single office within the Defense Intelligence Agency to be responsible for the management and supervision of all activities authorized under this subchapter;

(5) require that each commercial activity proposed to be authorized under this subchapter be subject to appropriate legal review before the activity is authorized; and

(6) provide for appropriate internal audit controls and oversight for such activities.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 439.)

§ 437. Congressional oversight

(a) PROPOSED REGULATIONS.—Copies of regulations proposed to be prescribed under section 436 of this title (including any proposed revision to such regulations) shall be submitted to the intelligence committees not less than 30 days before they take effect.

(b) CURRENT INFORMATION.—Consistent with title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Secretary of Defense shall ensure that the intelligence committees are kept fully and currently informed of actions taken pursuant to this subchapter, including any significant anticipated activity to be authorized pursuant to this subchapter.

(c) ANNUAL REPORT.—Not later each year than the date provided in section 507 of the National Security Act of 1947 (50 U.S.C. 415b), the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report on all commercial activities authorized under this subchapter that were undertaken during the previous fiscal year. Such report shall include (with respect to the fiscal year covered by the report) the following:

(1) A description of any exercise of the authority provided by section 433(b) of this title.

(2) A description of any expenditure of funds made pursuant to this subchapter (whether from appropriated or non-appropriated funds).

(3) A description of any actions taken with respect to audits conducted pursuant to section 432 of this title to implement recommendations or correct deficiencies identified in such audits.

(4) A description of each corporation, partnership, or other legal entity that was established.

(Added Pub. L. 102–88, title V, § 504(a)(2), Aug. 14, 1991, 105 Stat. 440; amended Pub. L. 107–306, title VIII, § 811(b)(4)(A), Nov. 27, 2002, 116 Stat. 2423; Pub. L. 108–136, div. A, title X, § 1031(a)(7), Nov. 24, 2003, 117 Stat. 1596; Pub. L. 108–375, div. A, title X, § 1084(d)(3), Oct. 28, 2004, 118 Stat. 2061.)

REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (b), is act July 26, 1947, ch. 343, 61 Stat. 495, as amended. Title V of the Act is classified generally to subchapter III (§ 413 et seq.) of chapter 15 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 50 and Tables.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–375 inserted ''(50 U.S.C. 415b)'' after ''National Security Act of 1947''.

2003—Subsec. (b). Pub. L. 108–136, § 1031(a)(7)(A), struck out at end ''The Secretary shall promptly notify the appropriate committees of Congress whenever a corporation, partnership, or other legal entity is established pursuant to this subchapter.''

Subsec. (c). Pub. L. 108–136, § 1031(a)(7)(B), substituted ''report) the following:'' for ''report)—'' in introductory provisions, ''A'' for ''a'' in pars. (1) to (3), a period for the semicolon at end of par. (1) and for ''; and'' at end of par. (2), and added par. (4).

2002—Subsec. (c). Pub. L. 107–306, § 811(b)(4)(A)(i), in introductory provisions, substituted ''Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))'' for ''Not later than January 15 of each year, the Secretary shall submit to the appropriate committees of Congress''.

Subsec. (d). Pub. L. 107–306, § 811(b)(4)(A)(ii), struck out heading and text of subsec. (d). Text read as follows: ''In this section, the term 'intelligence committees' means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.''

CHAPTER 22—NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

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PRIOR PROVISIONS

A prior chapter 22 was renumbered chapter 23 of this title.

AMENDMENTS

2003—Pub. L. 108–136, div. A, title IX, § 921(d)(1), Nov. 24, 2003, 117 Stat. 1568, substituted ''NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY'' FOR ''NATIONAL IMAGERY AND MAPPING AGENCY'' in chapter heading.

SUBCHAPTER I—MISSIONS AND AUTHORITY

Sec.
441. Establishment.
442. Missions.
443. Imagery intelligence and geospatial information: support for foreign countries.
444. Support from Central Intelligence Agency.
[445. Repealed.]

AMENDMENTS

1997—Pub. L. 105–107, title V, §503(d)(3), Nov. 20, 1997, 111 Stat. 2263, struck out item 445 ''Protection of agency identifications and organizational information''.

§441. Establishment

(a) ESTABLISHMENT.—The National Geospatial-Intelligence Agency is a combat support agency of the Department of Defense and has significant national missions.

(b) DIRECTOR.—(1) The Director of the National Geospatial-Intelligence Agency is the head of the agency.

(2) Upon a vacancy in the position of Director, the Secretary of Defense shall recommend to the President an individual for appointment to the position.

(3) If an officer of the armed forces on active duty is appointed to the position of Director, the position shall be treated as having been designated by the President as a position of importance and responsibility for purposes of section 601 of this title and shall carry the grade of lieutenant general, or, in the case of an officer of the Navy, vice admiral.

(c) DIRECTOR OF NATIONAL INTELLIGENCE COLLECTION TASKING AUTHORITY.—Unless otherwise directed by the President, the Director of National Intelligence shall have authority (except as otherwise agreed by the Director and the Secretary of Defense) to—

(1) approve collection requirements levied on national imagery collection assets;

(2) determine priorities for such requirements; and

(3) resolve conflicts in such priorities.

(d) AVAILABILITY AND CONTINUED IMPROVEMENT OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION FUNCTION.—The Secretary of Defense, in consultation with the Director of National Intelligence, shall take all necessary steps to ensure the full availability and continued improvement of imagery intelligence support for all-source analysis and production.

(Added Pub. L. 104–201, div. A, title XI, §1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108–136, div. A, title IX, §921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, §931(a)(9), (10), (c)(1)(A), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, §932(a)(8), (9), (b)(1), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, §1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

AMENDMENTS

2009—Subsecs. (c), (d). Pub. L. 111–84 repealed Pub. L. 110–417, §932(a)(8), (9), (b)(1). See 2008 Amendment notes below.

2008—Subsec. (c). Pub. L. 110–181, §931(a)(9), (c)(1)(A), and Pub. L. 110–417, §932(b)(1), amended subsec. (c) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'' in heading and text. Pub. L. 110–417, §932(b)(1), was repealed by Pub. L. 111–84.

Pub. L. 110–181, §931(a)(9), and Pub. L. 110–417, §932(a)(8), amended subsec. (c) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence''. Pub. L. 110–417, §932(a)(8), was repealed by Pub. L. 111–84.

Subsec. (d). Pub. L. 110–181, §931(a)(10), and Pub. L. 110–417, §932(a)(9), amended subsec. (d) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence''. Pub. L. 110–417, §932(a)(9), was repealed by Pub. L. 111–84.

2003—Subsecs. (a), (b)(1). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

SHORT TITLE OF 1996 AMENDMENT

Section 1101 of title XI of div. A of Pub. L. 104–201 provided that: ''This title [enacting this chapter, section 424 of this title, and sections 404e and 404f of Title 50, War and National Defense, amending sections 193, 201, and 451 to 456 of this title, sections 2302, 3132, 4301, 4701, 5102, 5342, 6339, and 7323 of Title 5, Government Organization and Employees, section 105 of the Ethics in Government Act of 1978, set out in the Appendix to Title 5, section 82 of Title 14, Coast Guard, section 2006 of Title 29, Labor, section 1336 of Title 44, Public Printing and Documents, and sections 401a and 403–5 of Title 50, renumbering chapter 22 and sections 451, 452, 2792 to 2796, and 2798 of this title as chapter 23 and sections 481, 482, 451 to 455, and 456 of this title, respectively, repealing sections 424, 425, 2791, and 2797 of this title, enacting provisions set out as notes under this section and section 193 of this title, and amending provisions set out as a note under section 501 of Title 44] may be cited as the 'National Imagery and Mapping Agency Act of 1996'.''

SAVINGS PROVISIONS

Section 1116 of title XI of div. A of Pub. L. 104–201, as amended by Pub. L. 105–85, div. A, title X, §1073(c)(8), Nov. 18, 1997, 111 Stat. 1904, provided that:

''(a) CONTINUING EFFECT ON LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, international agreements, grants, contracts, leases, certificates, licenses, registrations, privileges, and other administrative actions—

''(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in connection with any of the functions which are transferred under this title [see Short Title of 1996 Amendment note above] or any function that the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is authorized to perform by law, and

''(2) which are in effect at the time this title takes effect, or were final before the effective date of this title [Oct. 1, 1996] and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Defense, the Director of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] or other authorized official, a court of competent jurisdiction, or by operation of law.

''(b) PROCEEDINGS NOT AFFECTED.—This title and the amendments made by this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before an element of the Department of Defense or Central Intelligence Agency at the time this title takes effect, with respect to function of that element transferred by section 1111 [set out below], but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this section shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.''

REDESIGNATION OF NATIONAL IMAGERY AND MAPPING AGENCY AS NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

Pub. L. 108–136, div. A, title IX, §921(a), (g), Nov. 24, 2003, 117 Stat. 1568, 1570, provided that:

''(a) REDESIGNATION.—The National Imagery and Mapping Agency of the Department of Defense is hereby redesignated as the National Geospatial-Intelligence Agency.

''(g) REFERENCES.—Any reference to the National Imagery and Mapping Agency in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the National Geospatial-Intelligence Agency.''

CONGRESSIONAL FINDINGS

Section 1102 of Pub. L. 104–201 provided that: ''Congress makes the following findings:

''(1) There is a need within the Department of Defense and the Intelligence Community of the United States to provide a single agency focus for the growing number and diverse types of customers for imagery and geospatial information resources within the Government, to ensure visibility and accountability for those resources, and to harness, leverage, and focus rapid technological developments to serve the imagery, imagery intelligence, and geospatial information customers.

''(2) There is a need for a single Government agency to solicit and advocate the needs of that growing and diverse pool of customers.

''(3) A single combat support agency dedicated to imagery, imagery intelligence, and geospatial information could act as a focal point for support of all imagery intelligence and geospatial information customers, including customers in the Department of Defense, the Intelligence Community, and related agencies outside of the Department of Defense.

''(4) Such an agency would best serve the needs of the imagery, imagery intelligence, and geospatial information customers if it were organized—

''(A) to carry out its mission responsibilities under the authority, direction, and control of the Secretary of Defense, with the advice of the Chairman of the Joint Chiefs of Staff; and

''(B) to carry out its responsibilities to national intelligence customers in accordance with policies and priorities established by the Director of Central Intelligence.''

ESTABLISHMENT OF NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY; TRANSFER OF FUNCTIONS

Section 1111 of Pub. L. 104–201 provided that:

''(a) ESTABLISHMENT.—There is hereby established in the Department of Defense a Defense Agency to be known as the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency].

''(b) TRANSFER OF FUNCTIONS FROM DEPARTMENT OF DEFENSE ENTITIES.—The missions and functions of the following elements of the Department of Defense are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

''(1) The Defense Mapping Agency.

''(2) The Central Imagery Office.

''(3) Other elements of the Department of Defense as specified in the classified annex to this Act [see section 1002 of Pub. L. 104–201, set out as a note under section 114 of this title].

''(c) TRANSFER OF FUNCTIONS FROM CENTRAL INTELLIGENCE AGENCY.—The missions and functions of the following elements of the Central Intelligence Agency are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]:

''(1) The National Photographic Interpretation Center.

''(2) Other elements of the Central Intelligence Agency as specified in the classified annex to this Act.

''(d) PRESERVATION OF LEVEL AND QUALITY OF IMAGERY INTELLIGENCE SUPPORT TO ALL-SOURCE ANALYSIS AND PRODUCTION.—In managing the establishment of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency], the Secretary of Defense, in consultation with the Director of Central Intelligence, shall ensure that imagery intelligence support provided to all-source analysis and production is in no way degraded or compromised.''

TRANSFERS OF PERSONNEL AND ASSETS

Section 1113 of Pub. L. 104–201 provided that:

''(a) PERSONNEL AND ASSETS.—Subject to subsections (b) and (c), the personnel, assets, unobligated balances of appropriations and authorizations of appropriations, and, to the extent jointly determined appropriate by the Secretary of Defense and Director of Central Intelligence, obligated balances of appropriations and authorizations of appropriations employed, used, held, arising from, or available in connection with the missions and functions transferred under section 1111(b) or section 1111(c) [set out above] are transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. Transfers of appropriations from the Central Intelligence Agency under this subsection shall be made in accordance with section 1531 of title 31, United States Code.

''(b) DETERMINATION OF CIA POSITIONS TO BE TRANSFERRED.—Not earlier than two years after the effective date of this subtitle [Oct. 1, 1996], the Secretary of Defense and the Director of Central Intelligence shall determine which, if any, positions and personnel of the Central Intelligence Agency are to be transferred to the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency]. The positions to be transferred, and the employees serving in such positions, shall be transferred to the National Imagery and Mapping Agency under terms and conditions prescribed by the Secretary of Defense and the Director of Central Intelligence.

''(c) RULE FOR CIA IMAGERY ACTIVITIES ONLY PARTIALLY TRANSFERRED.—If the National Photographic Interpretation Center of the Central Intelligence Agency or any imagery-related activity of the Central Intelligence Agency authorized to be performed by the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] is not completely transferred to the National Imagery and Mapping Agency, the Secretary of Defense and the Director of Central Intelligence shall—

''(1) jointly determine which, if any, contracts, leases, property, and records employed, used, held, arising from, available to, or otherwise relating to such Center or activity is to be transferred to the National Imagery and Intelligence Agency; and

''(2) provide by written agreement for the transfer of such items.''

CREDITABLE CIVILIAN SERVICE FOR CAREER CONDITIONAL EMPLOYEES OF DEFENSE MAPPING AGENCY

Section 1115 of Pub. L. 104–201 provided that: ''In the case of an employee of the National Imagery and Mapping Agency [now National Geospatial-Intelligence Agency] who, on the day before the effective date of this title [Oct. 1, 1996], was an employee of the Defense Mapping Agency in a career-conditional status, the continuous service of that employee as an employee of the National Imagery and Mapping Agency on and after such date shall be considered creditable service for the purpose of any determination of the career status of the employee.''

DEFINITIONS

Section 1117 of Pub. L. 104–201 provided that: ''In this subtitle [subtitle A (§§ 1111–1118) of title XI of div. A of Pub. L. 104–201, enacting this chapter, section 424 of this title, and sections 404e and 404f of Title 50, War and National Defense, amending sections 193 and 451 to 456 of this title, section 1336 of Title 44, Public Printing and Documents, and section 403–5 of Title 50, renumbering chapter 22 and sections 2792 to 2796 and 2798 of this title as chapter 23 and sections 451 to 455 and 456 of this title, respectively, repealing sections 424 and 425 of this title, enacting provisions set out as notes under this section, and amending provisions set out as a note under section 501 of Title 44], the terms 'function', 'imagery', 'imagery intelligence', and 'geospatial information' have the meanings given those terms in section 467 of title 10, United States Code, as added by section 1112.''

§ 442. Missions

(a) NATIONAL SECURITY MISSIONS.—(1) The National Geospatial-Intelligence Agency shall, in support of the national security objectives of the United States, provide geospatial intelligence consisting of the following:

(A) Imagery.

(B) Imagery intelligence.

(C) Geospatial information.

(2)(A) As directed by the Director of National Intelligence, the National Geospatial-Intelligence Agency shall develop a system to facilitate the analysis, dissemination, and incorporation of likenesses, videos, and presentations produced by ground-based platforms, including handheld or clandestine photography taken by or on behalf of human intelligence collection organizations or available as open-source information, into the National System for Geospatial Intelligence.

(B) The authority provided by this paragraph does not include authority for the National Geospatial-Intelligence Agency to manage tasking of handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

(3) Geospatial intelligence provided in carrying out paragraphs (1) and (2) shall be timely, relevant, and accurate.

(b) NAVIGATION INFORMATION.—The National Geospatial-Intelligence Agency shall improve means of navigating vessels of the Navy and the merchant marine by providing, under the authority of the Secretary of Defense, accurate and inexpensive nautical charts, sailing directions, books on navigation, and manuals of instructions for the use of all vessels of the United States and of navigators generally.

(c) MAPS, CHARTS, ETC.—The National Geospatial-Intelligence Agency shall prepare and distribute maps, charts, books, and geodetic products as authorized under subchapter II of this chapter.

(d) NATIONAL MISSIONS.—The National Geospatial-Intelligence Agency also has national missions as specified in section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a)).

(e) SYSTEMS.—The National Geospatial-Intelligence Agency may, in furtherance of a mission of the Agency, design, develop, deploy, operate, and maintain systems related to the processing and dissemination of imagery intelligence and geospatial information that may be transferred to, accepted or used by, or used on behalf of—

(1) the armed forces, including any combatant command, component of a combatant command, joint task force, or tactical unit; or

(2) any other department or agency of the United States.

(Added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2678; amended Pub. L. 108–136, div. A, title IX, § 921(c)(1), (d)(2)(A), (f), Nov. 24, 2003, 117 Stat. 1568, 1570; Pub. L. 111–259, title IV, § 432, Oct. 7, 2010, 124 Stat. 2732.)

AMENDMENTS

2010—Subsec. (a)(2). Pub. L. 111–259, § 432(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 111–259, § 432(1), (3), redesignated par. (2) as (3) and substituted ''paragraphs (1) and (2)'' for ''paragraph (1)''.

2003—Subsec. (a)(1). Pub. L. 108–136, § 921(c)(1)(A), (d)(2)(A), in introductory provisions, substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' and inserted ''geospatial intelligence consisting of'' after ''provide''.

Subsec. (a)(2). Pub. L. 108–136, § 921(c)(1)(B), substituted ''Geospatial intelligence'' for ''Imagery, intelligence, and information''.

Subsecs. (b), (c). Pub. L. 108–136, § 921(d)(2)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (d). Pub. L. 108–136, § 921(d)(2)(A), (f), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' and ''section 110(a) of the National Security Act of 1947 (50 U.S.C. 404e(a))'' for ''section 120(a) of the National Security Act of 1947''.

Subsec. (e). Pub. L. 108–136, § 921(d)(2)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in introductory provisions.

§ 443. Imagery intelligence and geospatial information: support for foreign countries

(a) USE OF APPROPRIATED FUNDS.—The Director of the National Geospatial-Intelligence Agency may use appropriated funds available to the National Geospatial-Intelligence Agency to provide foreign countries with imagery intelligence and geospatial information support.

(b) USE OF FUNDS OTHER THAN APPROPRIATED FUNDS.—The Director may use funds other than appropriated funds to provide foreign countries with imagery intelligence and geospatial information support, notwithstanding provisions of law relating to the expenditure of funds of the United States, except that—

(1) no such funds may be expended, in whole or in part, by or for the benefit of the National Geospatial-Intelligence Agency for a purpose for which Congress had previously denied funds;

(2) proceeds from the sale of imagery intelligence or geospatial information items may be used only to purchase replacement items similar to the items that are sold; and

(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

(c) ACCOMMODATION PROCUREMENTS.—The authority under this section may be exercised to conduct accommodation procurements on behalf of foreign countries.

(d) COORDINATION WITH DIRECTOR OF NATIONAL INTELLIGENCE.—The Director of the Agency shall coordinate with the Director of National Intelligence any action under this section that involves imagery intelligence or intelligence products or involves providing support to an intelligence or security service of a foreign country.

(Added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2679; amended Pub. L. 105–85, div. A, title X, § 1073(a)(7), Nov. 18, 1997, 111 Stat. 1900; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, § 931(a)(11), (c)(1)(B), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(a)(10), (b)(2), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

AMENDMENTS

2009—Subsec. (d). Pub. L. 111–84 repealed Pub. L. 110–417, § 932(a)(10), (b)(2). See 2008 Amendment note below.

2008—Subsec. (d). Pub. L. 110–181 and Pub. L. 110–417, § 932(a)(10), (b)(2), amended subsec. (d) identically, substituting ''Director of National Intelligence'' for ''Director of Central Intelligence'' in heading and text. Pub. L. 110–417, § 932(a)(10), (b)(2), was repealed by Pub. L. 111–84.

2003—Subsecs. (a), (b)(1). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' wherever appearing.

1997—Subsec. (b)(1). Pub. L. 105–85 substituted semicolon for period after ''denied funds''.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

§ 444. Support from Central Intelligence Agency

(a) SUPPORT AUTHORIZED.—The Director of the Central Intelligence Agency may provide support in accordance with this section to the Director of the National Geospatial-Intelligence Agency. The Director of the National Geospatial-Intelligence Agency may accept support provided under this section.

(b) ADMINISTRATIVE AND CONTRACT SERVICES.—(1) In furtherance of the national intelligence effort, the Director of the Central Intelligence Agency may provide administrative and contract services to the National Geospatial-Intelligence Agency as if that agency were an organizational element of the Central Intelligence Agency.

(2) Services provided under paragraph (1) may include the services of security police. For purposes of section 15 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403*o*), an installation of the National Geospatial-Intelligence Agency that is provided security police services under this section shall be considered an installation of the Central Intelligence Agency.

(3) Support provided under this subsection shall be provided under terms and conditions agreed upon by the Secretary of Defense and the Director of the Central Intelligence Agency.

(c) DETAIL OF PERSONNEL.—The Director of the Central Intelligence Agency may detail personnel of the Central Intelligence Agency indefinitely to the National Geospatial-Intelligence Agency without regard to any limitation on the duration of interagency details of Federal Government personnel.

(d) REIMBURSABLE OR NONREIMBURSABLE SUPPORT.—Support under this section may be provided and accepted on either a reimbursable basis or a nonreimbursable basis.

(e) AUTHORITY TO TRANSFER FUNDS.—(1) The Director of the National Geospatial-Intelligence Agency may transfer funds available for that agency to the Director of the Central Intelligence Agency for the Central Intelligence Agency.

(2) The Director of the Central Intelligence Agency—

(A) may accept funds transferred under paragraph (1); and

(B) shall expend such funds, in accordance with the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), to provide administrative and contract services or detail personnel to the National Geospatial-Intelligence Agency under this section.

(Added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568; Pub. L. 110–181, div. A, title IX, § 931(b)(2), Jan. 28, 2008, 122 Stat. 285; Pub. L. 110–417, [div. A], title IX, § 932(c), Oct. 14, 2008, 122 Stat. 4576; Pub. L. 111–84, div. A, title X, § 1073(c)(10), Oct. 28, 2009, 123 Stat. 2475.)

REFERENCES IN TEXT

The Central Intelligence Agency Act of 1949, referred to in subsec. (e)(2)(B), is act June 20, 1949, ch. 227, 63 Stat. 208, which is classified generally to section 403a et seq. of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 403a of Title 50 and Tables.

AMENDMENTS

2009—Pub. L. 111–84 repealed Pub. L. 110–417, § 932(c). See 2008 Amendment note below.

2008—Pub. L. 110–181 and Pub. L. 110–417, § 932(c), amended section identically, substituting ''Director of the Central Intelligence Agency'' for ''Director of Central Intelligence'' wherever appearing. Pub. L. 110–417, § 932(c), was repealed by Pub. L. 111–84.

2003—Subsecs. (a), (b)(1), (2), (c), (e)(1), (2)(B). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' wherever appearing.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–84, div. A, title X, § 1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(10) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110–417 as enacted.

[§ 445. Repealed. Pub. L. 105–107, title V, § 503(c), Nov. 20, 1997, 111 Stat. 2262]

Section, added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2680; amended Pub. L. 105–85, div. A, title X, § 1073(a)(8), Nov. 18, 1997, 111 Stat. 1900, related to protection of agency identifications and organizational information.

SUBCHAPTER II—MAPS, CHARTS, AND GEODETIC PRODUCTS

Sec.
451. Maps, charts, and books.
452. Pilot charts.
453. Sale of maps, charts, and navigational publications: prices; use of proceeds.
454. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations.
455. Maps, charts, and geodetic data: public availability; exceptions.
456. Civil actions barred.
457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure.

AMENDMENTS

1999—Pub. L. 106–65, div. A, title X, §§ 1010(b), 1045(b), Oct. 5, 1999, 113 Stat. 739, 763, substituted ''Sale of maps, charts, and navigational publications: prices; use of proceeds'' for ''Prices of maps, charts, and navigational publications'' in item 453 and added item 457.

§ 451. Maps, charts, and books

The Secretary of Defense may—

(1) have the National Geospatial-Intelligence Agency prepare maps, charts, and nautical books required in navigation and have those materials published and furnished to navigators; and

(2) buy the plates and copyrights of existing maps, charts, books on navigation, and sailing directions and instructions.

(Added Pub. L. 97–295, § 1(50)(C), Oct. 12, 1982, 96 Stat. 1299, § 2792; renumbered § 451 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
2792	10:7392.	

In the section, the words ''Secretary of Defense'' and ''Defense Mapping Agency'' are substituted for ''Secretary of the Navy'' and ''United States Naval Oceanographic Office'', respectively, for consistency with 10:2791. The words ''under such regulations as he prescribes'' are omitted as unnecessary.

PRIOR PROVISIONS

A prior section 451 was renumbered section 481 of this title.

AMENDMENTS

2003—Par. (1). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

1996—Pub. L. 104–201 renumbered section 2792 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency'' in par. (1).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

§ 452. Pilot charts

(a) There shall be conspicuously printed on pilot charts prepared in the National Geospatial-Intelligence Agency the following: ''Prepared from data furnished by the National Geospatial-Intelligence Agency of the Department of Defense and by the Department of Commerce, and published at the National Geospatial-Intelligence Agency under the authority of the Secretary of Defense''.

(b) The Secretary of Commerce shall furnish to the National Geospatial-Intelligence Agency, as quickly as possible, all meteorological information received by the Secretary that is necessary for, and of the character used in, preparing pilot charts.

(Added Pub. L. 97–295, § 1(50)(C), Oct. 12, 1982, 96 Stat. 1299, § 2793; renumbered § 452 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
2793	10:7393.	

The words ''Secretary of Defense'' and ''Defense Mapping Agency'' are substituted for ''Secretary of the Navy'' and ''United States Naval Oceanographic Office'', respectively, for consistency with 10:2791. The words ''Secretary of Commerce'' are substituted for ''Weather Bureau of the Department of Commerce'' to reflect the transfer of functions from the Weather Bureau to the Secretary of Commerce under Reorganization Plan No. 2 of 1965 (eff. July 13, 1965, 79 Stat. 1318). The word ''quickly'' is substituted for ''expeditiously'' for consistency in title 10.

PRIOR PROVISIONS

A prior section 452 was renumbered section 482 of this title.

AMENDMENTS

2003—Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' wherever appearing.

1996—Pub. L. 104–201 renumbered section 2793 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

§ 453. Sale of maps, charts, and navigational publications: prices; use of proceeds

(a) PRICES.—All maps, charts, and other publications offered for sale by the National Geospatial-Intelligence Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.

(b) USE OF PROCEEDS TO PAY FOREIGN LICENSING FEES.—(1) The Secretary of Defense may pay any NGA foreign data acquisition fee out of the

proceeds of the sale of maps, charts, and other publications of the Agency, and those proceeds are hereby made available for that purpose.

(2) In this subsection, the term ''NGA foreign data acquisition fee'' means any licensing or other fee imposed by a foreign country or international organization for the acquisition or use of data or products by the National Geospatial-Intelligence Agency.

(Added Pub. L. 97–295, § 1(50)(C), Oct. 12, 1982, 96 Stat. 1299, § 2794; renumbered § 453 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 106–65, div. A, title X, § 1010(a), Oct. 5, 1999, 113 Stat. 739; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), (B), Nov. 24, 2003, 117 Stat. 1568.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
2794	10:7394.	

The words ''Secretary of Defense'' and ''Defense Mapping Agency'' are substituted for ''Secretary of the Navy'' and ''United States Naval Oceanographic Office'', respectively, for consistency with 10:2791. The word ''prescribed'' is substituted for ''determined'' for consistency in title 10. The last sentence, which provided that money from sales be covered into the Treasury, is omitted because of 31:3302.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 921(d)(2)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

Subsec. (b)(1). Pub. L. 108–136, § 921(d)(2)(B), substituted ''NGA'' for ''NIMA''.

Subsec. (b)(2). Pub. L. 108–136, § 921(d)(2)(A), (B), substituted ''NGA'' for ''NIMA'' and ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

1999—Pub. L. 106–65 amended section catchline and text generally. Prior to amendment, text read as follows: ''All maps, charts, and other publications offered for sale by the National Imagery and Mapping Agency shall be sold at prices and under regulations that may be prescribed by the Secretary of Defense.''

1996—Pub. L. 104–201 renumbered section 2794 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

§ 454. Exchange of mapping, charting, and geodetic data with foreign countries and international organizations

The Secretary of Defense may authorize the National Geospatial-Intelligence Agency to exchange or furnish mapping, charting, and geodetic data, supplies and services to a foreign country or international organization pursuant to an agreement for the production or exchange of such data.

(Added Pub. L. 99–569, title VI, § 601(a), Oct. 27, 1986, 100 Stat. 3202, § 2795; renumbered § 454 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

1996—Pub. L. 104–201 renumbered section 2795 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

§ 455. Maps, charts, and geodetic data: public availability; exceptions

(a) The National Geospatial-Intelligence Agency shall offer for sale maps and charts at scales of 1:500,000 and smaller, except those withheld in accordance with subsection (b) or those specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to such Executive order.

(b)(1) Notwithstanding any other provision of law, the Secretary of Defense may withhold from public disclosure any geodetic product in the possession of, or under the control of, the Department of Defense—

(A) that was obtained or produced, or that contains information that was provided, pursuant to an international agreement that restricts disclosure of such product or information to government officials of the agreeing parties or that restricts use of such product or information to government purposes only;

(B) that contains information that the Secretary of Defense has determined in writing would, if disclosed, reveal sources and methods, or capabilities, used to obtain source material for production of the geodetic product; or

(C) that contains information that the Director of the National Geospatial-Intelligence Agency has determined in writing would, if disclosed, jeopardize or interfere with ongoing military or intelligence operations, reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities.

(2) In this subsection, the term ''geodetic product'' means imagery, imagery intelligence, or geospatial information.

(c)(1) Regulations to implement this section (including any amendments to such regulations) shall be published in the Federal Register for public comment for a period of not less than 30 days before they take effect.

(2) Regulations under this section shall address the conditions under which release of geodetic products authorized under subsection (b) to be withheld from public disclosure would be appropriate—

(A) in the case of allies of the United States; and

(B) in the case of qualified United States contractors (including contractors that are small business concerns) who need such products for use in the performance of contracts with the United States.

(Added Pub. L. 102–88, title V, § 502(a)(1), Aug. 14, 1991, 105 Stat. 435, § 2796; amended Pub. L.

103–359, title V, § 502, Oct. 14, 1994, 108 Stat. 3430; renumbered § 455 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 105–85, div. A, title IX, § 933(a), (b)(1), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 106–398, § 1 [[div. A], title X, § 1074], Oct. 30, 2000, 114 Stat. 1654, 1654A–280; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Subsecs. (a), (b)(1)(C). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

2000—Subsec. (b)(1)(C). Pub. L. 106–398 substituted '', reveal military operational or contingency plans, or reveal, jeopardize, or compromise military or intelligence capabilities'' for ''or reveal military operational or contingency plans''.

1997—Subsec. (b)(1)(B). Pub. L. 105–85, § 933(a), inserted '', or capabilities,'' after ''methods''.

Subsec. (b)(2). Pub. L. 105–85, § 933(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''In this subsection, the term 'geodetic product' means any map, chart, geodetic data, or related product.''

1996—Pub. L. 104–201 renumbered section 2796 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency'' in subsecs. (a) and (b)(1)(C).

1994—Subsec. (b)(1)(C). Pub. L. 103–359 inserted ''jeopardize or interfere with ongoing military or intelligence operations or'' after ''disclosed,''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

REGULATIONS

Pub. L. 102–88, title V, § 502(b), Aug. 14, 1991, 105 Stat. 436, directed that regulations to implement section 2796 (now 455) of this title be published in the Federal Register for public comment in accordance with subsec. (c) of that section not later than 90 days after Aug. 14, 1991.

§ 456. Civil actions barred

(a) CLAIMS BARRED.—No civil action may be brought against the United States on the basis of the content of a navigational aid prepared or disseminated by the National Geospatial-Intelligence Agency.

(b) NAVIGATIONAL AIDS COVERED.—Subsection (a) applies with respect to a navigational aid in the form of a map, a chart, or a publication and any other form or medium of product or information in which the National Geospatial-Intelligence Agency prepares or disseminates navigational aids.

(Added Pub. L. 103–337, div. A, title X, § 1074(b), Oct. 5, 1994, 108 Stat. 2861, § 2798; renumbered § 456 and amended Pub. L. 104–201, div. A, title XI, § 1112(b), Sept. 23, 1996, 110 Stat. 2682; Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' wherever appearing.

1996—Pub. L. 104–201 renumbered section 2798 of this title as this section and substituted ''National Imagery and Mapping Agency'' for ''Defense Mapping Agency'' wherever appearing.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as a note under section 193 of this title.

EFFECTIVE DATE

Section 1074(d) of Pub. L. 103–337 provided that: ''Section 2798 [now 456] of title 10, United States Code, as added by subsection (b), shall take effect on the date of the enactment of this Act [Oct. 5, 1994] and shall apply with respect to (1) civil actions brought before such date that are pending adjudication on such date, and (2) civil actions brought on or after such date.''

§ 457. Operational files previously maintained by or concerning activities of National Photographic Interpretation Center: authority to withhold from public disclosure

(a) AUTHORITY.—The Secretary of Defense may withhold from public disclosure operational files described in subsection (b) to the same extent that operational files may be withheld under section 701 of the National Security Act of 1947 (50 U.S.C. 431).

(b) COVERED OPERATIONAL FILES.—The authority under subsection (a) applies to operational files in the possession of the National Geospatial-Intelligence Agency that—

(1) as of September 22, 1996, were maintained by the National Photographic Interpretation Center; or

(2) concern the activities of the Agency that, as of such date, were performed by the National Photographic Interpretation Center.

(c) OPERATIONAL FILES DEFINED.—In this section, the term ''operational files'' has the meaning given that term in section 701(b) of the National Security Act of 1947 (50 U.S.C. 431(b)).

(Added Pub. L. 106–65, div. A, title X, § 1045(a), Oct. 5, 1999, 113 Stat. 762; amended Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in introductory provisions.

SUBCHAPTER III—PERSONNEL MANAGEMENT

Sec.
461. Management rights.
462. Financial assistance to certain employees in acquisition of critical skills.

AMENDMENTS

2001—Pub. L. 107–108, title V, § 504(b), Dec. 28, 2001, 115 Stat. 1406, added item 462.

§ 461. Management rights

(a) SCOPE.—If there is no obligation under the provisions of chapter 71 of title 5 for the head of an agency of the United States to consult or negotiate with a labor organization on a particular matter by reason of that matter being covered by a provision of law or a Governmentwide regulation, the Director of the National Geospatial-Intelligence Agency is not obligated to consult or negotiate with a labor organization on that matter even if that provision of law or regula-

tion is inapplicable to the National Geospatial-Intelligence Agency.

(b) BARGAINING UNITS.—The Director of the National Geospatial-Intelligence Agency shall accord exclusive recognition to a labor organization under section 7111 of title 5 only for a bargaining unit that was recognized as appropriate for the Defense Mapping Agency on September 30, 1996.

(c) TERMINATION OF BARGAINING UNIT COVERAGE OF POSITION MODIFIED TO AFFECT NATIONAL SECURITY DIRECTLY.—(1) If the Director of the National Geospatial-Intelligence Agency determines that the responsibilities of a position within a collective bargaining unit should be modified to include intelligence, counterintelligence, investigative, or security duties not previously assigned to that position and that the performance of the newly assigned duties directly affects the national security of the United States, then, upon such a modification of the responsibilities of that position, the position shall cease to be covered by the collective bargaining unit and the employee in that position shall cease to be entitled to representation by a labor organization accorded exclusive recognition for that collective bargaining unit.

(2) A determination described in paragraph (1) that is made by the Director of the National Geospatial-Intelligence Agency may not be reviewed by the Federal Labor Relations Authority or any court of the United States.

(Added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2681; amended Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), (C), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–136, § 921(d)(2)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in two places.

Subsec. (b). Pub. L. 108–136, § 921(d)(2)(C), substituted ''The Director of the National Geospatial-Intelligence Agency'' for ''The National Imagery and Mapping Agency'' and ''on September 30, 1996'' for ''on the day before the date on which employees and positions of the Defense Mapping Agency in that bargaining unit became employees and positions of the National Imagery and Mapping Agency under the National Imagery and Mapping Agency Act of 1996 (title XI of the National Defense Authorization Act for Fiscal Year 1997)''.

Subsec. (c). Pub. L. 108–136, § 921(d)(2)(A), substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency'' in two places.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

§ 462. Financial assistance to certain employees in acquisition of critical skills

The Secretary of Defense may establish an undergraduate training program with respect to civilian employees of the National Geospatial-Intelligence Agency that is similar in purpose, conditions, content, and administration to the program established by the Secretary of Defense under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

(Added Pub. L. 107–108, title V, § 504(a), Dec. 28, 2001, 115 Stat. 1405; amended Pub. L. 108–136, div. A, title IX, § 921(d)(2)(A), Nov. 24, 2003, 117 Stat. 1568.)

REFERENCES IN TEXT

Section 16 of the National Security Agency Act of 1959, referred to in text, is section 16 of Pub. L. 86–36, which is set out as a note under section 402 of Title 50, War and National Defense.

AMENDMENTS

2003—Pub. L. 108–136 substituted ''National Geospatial-Intelligence Agency'' for ''National Imagery and Mapping Agency''.

SUBCHAPTER IV—DEFINITIONS

Sec.
467. Definitions.

§ 467. Definitions

In this chapter:

(1) The term ''function'' means any duty, obligation, responsibility, privilege, activity, or program.

(2)(A) The term ''imagery'' means, except as provided in subparagraph (B), a likeness or presentation of any natural or manmade feature or related object or activity and the positional data acquired at the same time the likeness or representation was acquired, including—

(i) products produced by space-based national intelligence reconnaissance systems; and

(ii) likenesses or presentations produced by satellites, airborne platforms, unmanned aerial vehicles, or other similar means.

(B) Such term does not include handheld or clandestine photography taken by or on behalf of human intelligence collection organizations.

(3) The term ''imagery intelligence'' means the technical, geographic, and intelligence information derived through the interpretation or analysis of imagery and collateral materials.

(4) The term ''geospatial information'' means information that identifies the geographic location and characteristics of natural or constructed features and boundaries on the earth and includes—

(A) statistical data and information derived from, among other things, remote sensing, mapping, and surveying technologies; and

(B) mapping, charting, geodetic data, and related products.

(5) The term ''geospatial intelligence'' means the exploitation and analysis of imagery and geospatial information to describe, assess, and visually depict physical features and geographically referenced activities on the earth. Geospatial intelligence consists of imagery, imagery intelligence, and geospatial information.

(Added Pub. L. 104–201, div. A, title XI, § 1112(a)(2), Sept. 23, 1996, 110 Stat. 2682; amended Pub. L. 105–85, div. A, title IX, § 933(b)(2), Nov. 18, 1997, 111 Stat. 1866; Pub. L. 108–136, div. A, title IX, § 921(b), Nov. 24, 2003, 117 Stat. 1568.)

AMENDMENTS

2003—Par. (5). Pub. L. 108–136 added par. (5).

1997—Par. (4). Pub. L. 105–85 inserted ''and'' at end of subpar. (A), substituted ''geodetic data, and related products.'' for ''and geodetic data; and'' in subpar. (B), and struck out subpar. (C) which read as follows: ''geodetic products, as defined in section 455(c) of this title.''

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 1124 of Pub. L. 104–201, set out as an Effective Date of 1996 Amendment note under section 193 of this title.

CHAPTER 23—MISCELLANEOUS STUDIES AND REPORTS

Sec.
480. Reports to Congress: submission in electronic form.
481. Racial and ethnic issues; gender issues: surveys.
482. Quarterly reports: personnel and unit readiness.
483. Reports on transfers from high-priority readiness appropriations.
484. Annual report on aircraft inventory.
485. Joint and service concept development and experimentation.
486. Quadrennial report on emerging operational concepts.
487. Unit operations tempo and personnel tempo: annual report.
488. Management of electromagnetic spectrum: biennial strategic plan.
489. Annual report on Department of Defense operation and financial support for military museums.
490. Space cadre management: biennial report.

AMENDMENTS

2008—Pub. L. 110–417, [div. A], title II, §241(b), Oct. 14, 2008, 122 Stat. 4398, added item 485 and struck out former item 485 ''Joint warfighting experimentation''.

Pub. L. 110–181, div. A, title IX, §912(b), Jan. 28, 2008, 122 Stat. 281, added item 490.

2004—Pub. L. 108–375, div. A, title X, §1033(b), Oct. 28, 2004, 118 Stat. 2048, added item 489.

2003—Pub. L. 108–136, div. A, title X, §1054(b), Nov. 24, 2003, 117 Stat. 1615, added item 488.

2002—Pub. L. 107–314, div. A, title V, §561(a)(2), Dec. 2, 2002, 116 Stat. 2554, substituted ''Racial and ethnic issues; gender issues: surveys'' for ''Race relations, gender discrimination, and hate group activity: annual survey and report'' in item 481.

2001—Pub. L. 107–107, div. A, title X, §1042(b), Dec. 28, 2001, 115 Stat. 1218, added item 480.

1999—Pub. L. 106–65, div. A, title II, §241(a)(2), title III, §361(d)(3), title IX, §923(b)(2), Oct. 5, 1999, 113 Stat. 550, 575, 725, added items 486 and 487 and repealed Pub. L. 105–261, §373(d)(2). See 1998 Amendment note below.

1998—Pub. L. 105–261, div. A, title IX, §923(b)(2), title X, §1069(a)(1), Oct. 17, 1998, 112 Stat. 2105, 2135, substituted ''Annual report'' for ''Report'' in item 484 and added item 485.

Pub. L. 105–261, div. A, title III, §373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which directed amendment of analysis, effective June 1, 2001, by striking out item 482, was repealed by Pub. L. 106–65, div. A, title III, §361(d)(3), Oct. 5, 1999, 113 Stat. 575.

1997—Pub. L. 105–85, div. A, title III, §§322(a)(2), 323(b), 324(a)(2), Nov. 18, 1997, 111 Stat. 1675, 1677, substituted ''Quarterly reports: personnel and unit readiness'' for ''Quarterly readiness reports'' in item 482 and added items 483 and 484.

1996—Pub. L. 104–201, div. A, title V, §571(c)(2), title XI, §§1112(a)(1), 1123(a)(4), Sept. 23, 1996, 110 Stat. 2532, 2677, 2688, substituted ''Race relations, gender discrimination, and hate group activity: annual survey and report'' for ''Racial and ethnic issues; biennial survey; biennial report'' in item 451, renumbered chapter 22 of this title as this chapter, and redesignated items 451 and 452 as 481 and 482, respectively.

Pub. L. 104–106, div. A, title III, §361(a)(2), Feb. 10, 1996, 110 Stat. 273, added item 452.

§480. Reports to Congress: submission in electronic form

(a) REQUIREMENT.—Whenever the Secretary of Defense or any other official of the Department of Defense submits to Congress (or any committee of either House of Congress) a report that the Secretary (or other official) is required by law to submit, the Secretary (or other official) shall provide to Congress (or such committee) a copy of the report in an electronic medium.

(b) EXCEPTION.—Subsection (a) does not apply to a report submitted in classified form.

(c) DEFINITION.—In this section, the term ''report'' includes any certification, notification, or other communication in writing.

(Added Pub. L. 107–107, div. A, title X, §1042(a), Dec. 28, 2001, 115 Stat. 1218; amended Pub. L. 107–314, div. A, title X, §1042, Dec. 2, 2002, 116 Stat. 2646.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–314 substituted ''shall provide to Congress (or'' for ''shall, upon request by any committee of Congress to which the report is submitted or referred, provide to Congress (or each''.

§481. Racial and ethnic issues; gender issues: surveys

(a) IN GENERAL.—(1) The Secretary of Defense shall carry out four quadrennial surveys (each in a separate year) in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess gender issues and discrimination, among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called ''hate group'' activity.

(2) The four surveys shall be as follows:

(A) To identify and assess racial and ethnic issues and discrimination among members of the armed forces serving on active duty.

(B) To identify and assess racial and ethnic issues and discrimination among members of the armed forces in the reserve components.

(C) To identify and assess gender issues and discrimination among members of the armed forces serving on active duty.

(D) To identify and assess gender issues and discrimination members of the armed forces in the reserve components.

(3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the ''Armed Forces Workplace and Equal Opportunity Surveys''. The surveys under this section relating to gender issues and discrimination shall be known as the ''Armed Forces Workplace and Gender Relations Surveys''.

(4) Each survey under this section shall be conducted separately from any other survey conducted by the Department of Defense.

(b) ARMED FORCES WORKPLACE AND EQUAL OPPORTUNITY SURVEYS.—The Armed Forces Work-

place and Equal Opportunity Surveys shall be conducted so as to solicit information on racial and ethnic issues, including issues relating to harassment and discrimination, and the climate in the armed forces for forming professional relationships among members of the armed forces of various racial and ethnic groups. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

(c) ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.—The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. Both such surveys shall be conducted so as to solicit information on the following:

(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

(2) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

(3) The effectiveness of current processes for complaints on and investigations into gender-based discrimination.

(d) SURVEYS TO BE CONDUCTED IN DIFFERENT YEARS.—Each of the four quadrennial surveys conducted under this section shall be conducted in a different year from any other survey conducted under this section, so that one such survey is conducted during each year.

(e) REPORTS TO CONGRESS.—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.

(Added Pub. L. 103–337, div. A, title V, § 554(a)(1), Oct. 5, 1994, 108 Stat. 2773, § 451; renumbered § 481 and amended Pub. L. 104–201, div. A, title V, § 571(c)(1), title XI, § 1121(a), Sept. 23, 1996, 110 Stat. 2532, 2687; Pub. L. 107–314, div. A, title V, § 561(a)(1), Dec. 2, 2002, 116 Stat. 2553.)

AMENDMENTS

2002—Pub. L. 107–314 substituted ''Racial and ethnic issues; gender issues: surveys'' for ''Race relations, gender discrimination, and hate group activity: annual survey and report'' as section catchline and amended text generally, substituting provisions requiring four quadrennial surveys and report for provisions requiring an annual survey and report.

1996—Pub. L. 104–201, § 1121(a), renumbered section 451 of this title as this section.

Pub. L. 104–201, § 571(c)(1), substituted ''Race relations, gender discrimination, and hate group activity: annual survey and report'' for ''Racial and ethnic issues; biennial survey; biennial report'' as section catchline and amended text generally, substituting provisions requiring an annual survey and report for provisions requiring a biennial survey and report.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title V, § 561(b), Dec. 2, 2002, 116 Stat. 2554, provided that: ''The first survey under section 481 of title 10, United States Code, as amended by subsection (a)(1), shall be carried out during 2003.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES

Pub. L. 107–314, div. A, title V, § 562, Dec. 2, 2002, 116 Stat. 2554, provided that:

''(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to Congress, for each of fiscal years 2002 through 2006, a report on the status of female members of the Armed Forces. Information in the annual report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

''(b) MATTERS TO BE INCLUDED.—The report for a fiscal year under subsection (a) shall include the following information:

''(1) The positions, weapon systems, and fields of skills for which, by policy, female members are not eligible for assignment, as follows:

''(A) In the report for fiscal year 2002—

''(i) an identification of each position, weapon system, and field of skills for which, by policy, female members are not eligible; and

''(ii) the rationale for the applicability of the policy to each such position, weapon system, and field.

''(B) In the report for each fiscal year after fiscal year 2002, the positions, weapon systems, and fields for which policy on the eligibility of female members for assignment has changed during that fiscal year, including a discussion of how the policy has changed and the rationale for the change.

''(2) Information on joint spouse assignments, as follows:

''(A) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were jointly assigned during that fiscal year, as defined in the applicable Department of Defense and military department personnel assignment policies.

''(B) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were assigned during that fiscal year, but were not jointly assigned (as so defined).

''(3) Promotion selection rates for female members, for male members, and for all personnel in the reports submitted by promotion selection boards in that fiscal year for promotion to grades E–7, E–8, and E–9, and, in the case of commissioned officers, promotion to grades O–4, O–5, and O–6.

''(4) Retention rates for female members in each grade and for male members in each grade during that fiscal year.

''(5) Selection rates for female members and for male members for assignment to grade O–6 and grade O–5 command positions in reports of command selection boards that were submitted during that fiscal year.

''(6) Selection rates for female members and for male members for attendance at intermediate service schools (ISS) and, separately, for attendance at senior service schools (SSS) in reports of selection boards that were submitted during that fiscal year.

''(7) The extent of assignments of female members during that fiscal year in each field in which at least 80 percent of the Armed Forces personnel assigned in the field are men.

''(8) The incidence of sexual harassment complaints made during that fiscal year, stated as the number of cases in which complaints of sexual harassment were filed under procedures of military departments that are applicable to the submission of sexual harassment complaints, together with the number and percent of the complaints that were substantiated.

''(9) Satisfaction (based on surveys) of female active-duty members, female dependents of active-duty members, and female dependents of nonactive duty members entitled to health care provided by the Department of Defense with access to, and quality of, women's health care benefits provided by the Department of Defense.

''(c) TIME FOR REPORT.—The report for a fiscal year under this section shall be submitted not later than 120 days after the end of that fiscal year.''

FIRST REPORT REQUIRED UNDER SUBSECTION (c)

Section 554(b) of Pub. L. 103–337 required Secretary of Defense to submit first report under former subsec. (c) of this section not later than May 1, 1995.

§ 482. Quarterly reports: personnel and unit readiness

(a) QUARTERLY REPORTS REQUIRED.—Not later than 45 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to Congress a report regarding military readiness. The report for a quarter shall contain the information required by subsections (b), (d), (e), and (f).

(b) READINESS PROBLEMS AND REMEDIAL ACTIONS.—Each report shall specifically describe—

(1) each readiness problem and deficiency identified using the assessments considered under subsection (c);

(2) planned remedial actions; and

(3) the key indicators and other relevant information related to each identified problem and deficiency.

(c) CONSIDERATION OF READINESS ASSESSMENTS.—The information required under subsection (b) to be included in the report for a quarter shall be based on readiness assessments that are provided during that quarter—

(1) to any council, committee, or other body of the Department of Defense—

(A) that has responsibility for readiness oversight; and

(B) whose membership includes at least one civilian officer in the Office of the Secretary of Defense at the level of Assistant Secretary of Defense or higher;

(2) by senior civilian and military officers of the military departments and the commanders of the unified and specified commands; and

(3) as part of any regularly established process of periodic readiness reviews for the Department of Defense as a whole.

(d) COMPREHENSIVE READINESS INDICATORS FOR ACTIVE COMPONENTS.—Each report shall also include information regarding each of the active components of the armed forces (and an evaluation of such information) with respect to each of the following readiness indicators:

(1) PERSONNEL STRENGTH.—

(A) Personnel status, including the extent to which members of the armed forces are serving in positions outside of their military occupational specialty, serving in grades other than the grades for which they are qualified, or both.

(B) Historical data and projected trends in personnel strength and status.

(2) PERSONNEL TURBULENCE.—

(A) Recruit quality.

(B) Borrowed manpower.

(C) Personnel stability.

(3) OTHER PERSONNEL MATTERS.—

(A) Personnel morale.

(B) Recruiting status.

(4) TRAINING.—

(A) Training unit readiness and proficiency.

(B) Operations tempo.

(C) Training funding.

(D) Training commitments and deployments.

(5) LOGISTICS—EQUIPMENT FILL.—

(A) Deployed equipment.

(B) Equipment availability.

(C) Equipment that is not mission capable.

(D) Age of equipment.

(E) Condition of nonpacing items.

(6) LOGISTICS—EQUIPMENT MAINTENANCE.—

(A) Maintenance backlog.

(7) LOGISTICS—SUPPLY.—

(A) Availability of ordnance and spares.

(B) Status of prepositioned equipment.

(e) UNIT READINESS INDICATORS.—Each report shall also include information regarding the readiness of each active component unit of the armed forces at the battalion, squadron, or an equivalent level (or a higher level) that received a readiness rating of C–3 (or below) for any month of the calendar-year quarter covered by the report. With respect to each such unit, the report shall separately provide the following information:

(1) The unit designation and level of organization.

(2) The overall readiness rating for the unit for the quarter and each month of the quarter.

(3) The resource area or areas (personnel, equipment and supplies on hand, equipment condition, or training) that adversely affected the unit's readiness rating for the quarter.

(4) The reasons why the unit received a readiness rating of C–3 (or below).

(f) READINESS OF NATIONAL GUARD TO PERFORM CIVIL SUPPORT MISSIONS.—(1) Each report shall also include an assessment of the readiness of the National Guard to perform tasks required to support the National Response Plan for support to civil authorities.

(2) Any information in an assessment under this subsection that is relevant to the National Guard of a particular State shall also be made available to the Governor of that State.

(3) The Secretary shall ensure that each State Governor has an opportunity to provide to the

Secretary an independent evaluation of that State's National Guard, which the Secretary shall include with each assessment submitted under this subsection.

(g) CLASSIFICATION OF REPORTS.—A report under this section shall be submitted in unclassified form. To the extent the Secretary of Defense determines necessary, the report may also be submitted in classified form.

(Added Pub. L. 104–106, div. A, title III, § 361(a)(1), Feb. 10, 1996, 110 Stat. 272, § 452; renumbered § 482, Pub. L. 104–201, div. A, title XI, § 1121(a), Sept. 23, 1996, 110 Stat. 2687; amended Pub. L. 105–85, div. A, title III, § 322(a)(1), Nov. 18, 1997, 111 Stat. 1673; Pub. L. 106–65, div. A, title III, § 361(d)(3), (e), Oct. 5, 1999, 113 Stat. 575; Pub. L. 110–181, div. A, title III, § 351(b), Jan. 28, 2008, 122 Stat. 70.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–181, § 351(b)(1), substituted ''(e), and (f)'' for ''and (e)''.

Subsecs. (f), (g). Pub. L. 110–181, § 351(b)(2), (3), added subsec. (f) and redesignated former subsec. (f) as (g).

1999—Pub. L. 106–65, § 361(d)(3), repealed Pub. L. 105–261, § 373(d)(2). See 1998 Amendment note below.

Subsec. (a). Pub. L. 106–65, § 361(e), substituted ''45 days'' for ''30 days''.

1998—Pub. L. 105–261, § 373(d)(2), which directed the repeal of this section effective June 1, 2001, was repealed by Pub. L. 106–65, § 361(d)(3).

1997—Pub. L. 105–85 substituted ''Quarterly reports: personnel and unit readiness'' for ''Quarterly readiness reports'' in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (c) relating to requirement for submission of quarterly readiness reports, matters to be included in reports, and form of reports.

1996—Pub. L. 104–201 renumbered section 452 of this title as this section.

EFFECTIVE DATE OF PUB. L. 105–261

Pub. L. 105–261, div. A, title III, § 373(d)(2), Oct. 17, 1998, 112 Stat. 1992, which provided that the repeal of this section was to be effective June 1, 2001, was repealed by Pub. L. 106–65, div. A, title III, § 361(d)(3), Oct. 5, 1999, 113 Stat. 575.

EFFECTIVE DATE

Section 361(b) of Pub. L. 104–106 provided that: ''Section 452 [now 482] of title 10, United States Code, as added by subsection (a), shall take effect with the calendar-year quarter during which this Act is enacted [enacted Feb. 10, 1996].''

QUARTERLY REPORTS ON PERSONNEL AND UNIT READINESS

Pub. L. 110–181, div. A, title III, § 351(c)(2), Jan. 28, 2008, 122 Stat. 71, provided that: ''The amendment made by subsection (b) [amending this section] shall apply with respect to the quarterly report required under section 482 of title 10, United States Code, for the second quarter of fiscal year 2009 and each subsequent report required under that section.''

QUARTERLY READINESS REPORT REQUIREMENT

Pub. L. 105–261, div. A, title III, § 373(d)(1), Oct. 17, 1998, 112 Stat. 1992, which provided that effective Jan. 15, 2000, or the date on which the first report of the Secretary of Defense is submitted under section 117(e) of this title, whichever is later, the Secretary of Defense was to cease to submit reports under this section, was repealed by Pub. L. 106–65, div. A, title III, § 361(d)(3), Oct. 5, 1999, 113 Stat. 575.

IMPLEMENTATION PLAN TO EXAMINE READINESS INDICATORS

Pub. L. 105–85, div. A, title III, § 322(b), Nov. 18, 1997, 111 Stat. 1675, directed the Secretary of Defense, not later than Jan. 15, 1998, to submit to the congressional defense committees a plan specifying the manner in which the additional reporting requirement of subsec. (d) of this section would be implemented and the criteria proposed to be used to evaluate the readiness indicators identified in subsec. (d).

TRANSITION TO COMPLETE REPORT

Pub. L. 105–85, div. A, title III, § 322(d), Nov. 18, 1997, 111 Stat. 1675, provided that until the report under this section for the third quarter of 1998 was submitted, the Secretary of Defense was authorized to omit the information required by subsec. (d) of this section if the Secretary determined that it was impracticable to comply.

§ 483. Reports on transfers from high-priority readiness appropriations

(a) ANNUAL REPORTS.—Not later than the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on transfers during the preceding fiscal year from funds available for each covered budget activity.

(b) MIDYEAR REPORTS.—Not later than June 1 of each fiscal year, the Secretary of Defense shall submit to the congressional committees specified in subsection (a) a report on transfers, during the first six months of that fiscal year, from funds available for each covered budget activity.

(c) MATTERS TO BE INCLUDED.—In each report under subsection (a) or (b), the Secretary of Defense shall include for each covered budget activity the following:

(1) A statement, for the period covered by the report, of—

(A) the total amount of transfers into funds available for that activity;

(B) the total amount of transfers from funds available for that activity; and

(C) the net amount of transfers into, or out of, funds available for that activity.

(2) A detailed explanation of the transfers into, and out of, funds available for that activity during the period covered by the report, including identification of the sources from which funds were transferred into that activity and identification of the recipients of the funds transferred out of that activity.

(d) COVERED BUDGET ACTIVITY DEFINED.—In this section, the term ''covered budget activity'' means each of the following:

(1) The budget activity groups (known as ''subactivities'') within the Operating Forces budget activity of the annual Operation and Maintenance, Army, appropriation that are designated as follows:

(A) All subactivities under the category of Land Forces.

(B) Land Forces Depot Maintenance.

(C) Base Support.

(D) Maintenance of Real Property.

(2) The Air Operations budget activity groups (known as ''subactivities'') within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:

(A) Mission and Other Flight Operations.

(B) Fleet Air Training.

(C) Aircraft Depot Maintenance.

(D) Base Support.

(E) Maintenance of Real Property.

(3) The Ship Operations budget activity groups (known as ''subactivities'') within the Operating Forces budget activity of the annual Operation and Maintenance, Navy, appropriation that are designated as follows:

(A) Mission and Other Ship Operations.

(B) Ship Operational Support and Training.

(C) Ship Depot Maintenance.

(D) Base Support.

(E) Maintenance of Real Property.

(4) The Expeditionary Forces budget activity groups (known as ''subactivities'') within the Operating Forces budget activity of the annual Operation and Maintenance, Marine Corps, appropriation that are designated as follows:

(A) Operational Forces.

(B) Depot Maintenance.

(C) Base Support.

(D) Maintenance of Real Property.

(5) The Air Operations and Combat Related Operations budget activity groups (known as ''subactivities'') within the Operating Forces budget activity of the annual Operation and Maintenance, Air Force, appropriation that are designated as follows:

(A) Primary Combat Forces.

(B) Primary Combat Weapons.

(C) Air Operations Training.

(D) Depot Maintenance.

(E) Base Support.

(F) Maintenance of Real Property.

(G) Combat Enhancement Forces.

(H) Combat Communications.

(6) The Mobility Operations budget activity group (known as a ''subactivity'') within the Mobilization budget activity of the annual Operation and Maintenance, Air Force, appropriation that is designated as Airlift Operations.

(Added Pub. L. 105–85, div. A, title III, §323(a), Nov. 18, 1997, 111 Stat. 1675; amended Pub. L. 106–65, div. A, title X, §1067(1), Oct. 5, 1999, 113 Stat. 774; Pub. L. 106–398, §1 [[div. A], title III, §372], Oct. 30, 2000, 114 Stat. 1654, 1654A–80.)

AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title III, §372(b)], inserted before period '', including identification of the sources from which funds were transferred into that activity and identification of the recipients of the funds transferred out of that activity''.

Subsec. (d)(5)(G), (H). Pub. L. 106–398, §1 [[div. A], title III, §372(c)], added subpars. (G) and (H).

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title III, §372(a)], struck out heading and text of subsec. (e). Text read as follows: ''The requirements specified in subsections (a) and (b) shall terminate upon the submission of the annual report under subsection (a) covering fiscal year 2000.''

1999—Subsec. (a). Pub. L. 106–65 substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

§484. Annual report on aircraft inventory

(a) ANNUAL REPORT.—The Under Secretary of Defense (Comptroller) shall submit to Congress each year a report on the aircraft in the inventory of the Department of Defense. The Under Secretary shall submit the report when the President submits the budget to Congress under section 1105(a) of title 31.

(b) CONTENT.—The report shall set forth, in accordance with subsection (c), the following information:

(1) The total number of aircraft in the inventory.

(2) The total number of the aircraft in the inventory that are active, stated in the following categories (with appropriate subcategories for mission aircraft, training aircraft, dedicated test aircraft, and other aircraft):

(A) Primary aircraft.

(B) Backup aircraft.

(C) Attrition and reconstitution reserve aircraft.

(3) The total number of the aircraft in the inventory that are inactive, stated in the following categories:

(A) Bailment aircraft.

(B) Drone aircraft.

(C) Aircraft for sale or other transfer to foreign governments.

(D) Leased or loaned aircraft.

(E) Aircraft for maintenance training.

(F) Aircraft for reclamation.

(G) Aircraft in storage.

(4) The aircraft inventory requirements approved by the Joint Chiefs of Staff.

(c) DISPLAY OF INFORMATION.—The report shall specify the information required by subsection (b) separately for the active component of each armed force and for each reserve component of each armed force and, within the information set forth for each such component, shall specify the information separately for each type, model, and series of aircraft provided for in the future-years defense program submitted to Congress.

(Added Pub. L. 105–85, div. A, title III, §324(a)(1), Nov. 18, 1997, 111 Stat. 1677.)

FIRST REPORT

Pub. L. 105–85, div. A, title III, §324(b), Nov. 18, 1997, 111 Stat. 1677, directed the Under Secretary of Defense (Comptroller) to submit the first report required under this section not later than Jan. 30, 1998.

§485. Joint and service concept development and experimentation

(a) BIENNIAL REPORTS REQUIRED.—Not later than January 1 of each even numbered-year, the Secretary of Defense or the Secretary's designee shall submit to the congressional defense committees a report on the conduct and outcomes of joint and service concept development and experimentation.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall include the following:

(1) A description of any changes since the latest report submitted under this section to each of the following:

(A) The organization of the Department of Defense responsible for executing the mission of joint concept development and experimentation, or its specific authorities related to that mission.

(B) The process for tasking forces (including forces designated as joint experimentation forces) to participate in joint concept development and experimentation, and the specific authority of the organization responsible for executing the mission of joint concept development and experimentation over those forces.

(C) The resources provided for initial implementation of joint concept development and experimentation, the process for providing such resources to the organization responsible for executing the mission of joint concept development and experimentation, the categories of funding for joint concept development and experimentation, and the authority of the organization responsible for executing the mission of joint concept development and experimentation for budget execution for such activities.

(D) The assigned role of the organization responsible for executing the mission of joint concept development and experimentation for—

(i) integrating and testing in joint concept development and experimentation the systems that emerge from warfighting experimentation by the armed forces and the Defense Agencies;

(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies relating to joint concept development and experimentation; and

(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in setting priorities for requirements or acquisition programs in light of joint concept development and experimentation.

(2) A description of the conduct of joint concept development and experimentation activities, and of concept development and experimentation activities of each of the military departments, during the two-year period ending on the date of such report, including—

(A) the funding involved;

(B) the number of activities engaged in;

(C) the forces involved;

(D) the national and homeland security challenges addressed;

(E) the operational concepts assessed;

(F) the technologies assessed;

(G) the scenarios and measures of effectiveness utilized; and

(H) specific interactions under such activities with the commanders of the combatant commands and with other organizations and entities inside and outside the Department.

(3) A description of the conduct of joint concept development and experimentation, and of the conduct of concept development and experimentation by each of the military departments, during the two-year period ending on the date of such report with respect to the development of warfighting concepts for operational scenarios more than 10 years in the future, including—

(A) the funding involved;

(B) the number of activities engaged in;

(C) the forces involved;

(D) the challenges addressed;

(E) the operational concepts assessed;

(F) the technologies assessed;

(G) the scenarios and measures of effectiveness utilized; and

(H) specific interactions with the commanders of the combatant commands and with other organizations and entities inside and outside the Department.

(4) A description of the mechanisms used to coordinate joint, service, interagency, Coalition, and other appropriate concept development and experimentation activities.

(5) An assessment of the return on investment in concept development and experimentation activities, including a description of the following:

(A) Specific outcomes and impacts within the Department of the results of past joint and service concept development and experimentation in terms of new doctrine, operational concepts, organization, training, materiel, leadership, personnel, or the allocation of resources, or in activities that terminated support for legacy concepts, programs, or systems.

(B) Specific actions taken to implement the recommendations of the Commander of United States Joint Forces Command based on joint concept development and experimentation activities.

(6) Such recommendations (based primarily on the results of joint and service concept development and experimentation) as the Secretary considers appropriate for enhancing the development of joint warfighting capabilities by modifying activities throughout the Department relating to—

(A) the development or acquisition of specific advanced technologies, systems, or weapons or systems platforms;

(B) key systems attributes and key performance parameters for the development or acquisition of advanced technologies and systems;

(C) joint or service doctrine, organization, training, materiel, leadership development, personnel, or facilities;

(D) the reduction or elimination of redundant equipment and forces, including the synchronization of the development and fielding of advanced technologies among the armed forces to enable the development and execution of joint operational concepts; and

(E) the development or modification of initial capabilities documents, operational requirements, and relative priorities for acquisition programs to meet joint requirements.

(7) With respect to improving the effectiveness of joint concept development and experimentation capabilities, such recommendations (based primarily on the results of joint warfighting experimentation) as the Secretary considers appropriate regarding—

(A) the conduct of, adequacy of resources for, or development of technologies to support such capabilities; and

(B) changes in support from other elements of the Department responsible for concept development and experimentation by joint or service organizations.

(8) The coordination of the concept development and experimentation activities of the Commander of the United States Joint Forces Command with the activities of the Commander of the North Atlantic Treaty Organization Supreme Allied Command Transformation.

(9) Any other matters that the Secretary consider appropriate.

(c) COORDINATION AND SUPPORT.—The Secretary of Defense shall ensure that the Secretaries of the military departments and the heads of other appropriate elements of the Department of Defense provide such information and support as is required for the preparation of the reports required by this section.

(Added Pub. L. 105–261, div. A, title IX, §923(b)(1), Oct. 17, 1998, 112 Stat. 2105; amended Pub. L. 106–65, div. A, title IX, §931, title X, §1067(1), Oct. 5, 1999, 113 Stat. 726, 774; Pub. L. 107–107, div. A, title IX, §922, Dec. 28, 2001, 115 Stat. 1198; Pub. L. 110–417, [div. A], title II, §241(a), Oct. 14, 2008, 122 Stat. 4395.)

AMENDMENTS

2008—Pub. L. 110–417 amended section generally. Prior to amendment, section related to annual reports on the conduct of joint experimentation activities and contents of each report.

2001—Subsec. (b)(4)(E). Pub. L. 107–107, §922(1), inserted ''(by lease or by purchase)'' after ''acquire'' and ''(including any prototype)'' after ''or equipment''.

Subsec. (b)(6). Pub. L. 107–107, §922(2), added par. (6).

1999—Subsec. (a). Pub. L. 106–65, §1067(1), substituted ''and the Committee on Armed Services'' for ''and the Committee on National Security''.

Subsec. (b)(5). Pub. L. 106–65, §931, added par. (5).

JOINT WARFIGHTING EXPERIMENTATION

Pub. L. 105–261, div. A, title IX, subtitle C, Oct. 17, 1998, 112 Stat. 2102, provided that:

''SEC. 921. FINDINGS CONCERNING JOINT WARFIGHTING EXPERIMENTATION.

''Congress makes the following findings:

''(1) The assessments of the Quadrennial Defense Review and the National Defense Panel provide a compelling argument—

''(A) that the security environment in the early 21st century will include fundamentally different military challenges than the security environment in the late 20th century; and

''(B) reinforce the premise of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 [Pub. L. 99–433, see Tables for classification] that future warfare will require more effective joint operational concepts.

''(2) Joint experimentation is necessary for—

''(A) integrating advances in technology with changes in organizational structure and joint operational concepts; and

''(B) determining the interdependent aspects of joint warfare that are key for transforming the conduct of military operations to meet future challenges successfully.

''(3) It is essential that an energetic and innovative organization be established in the Department of Defense with the authority (subject to the authority and guidance of the Secretary of Defense and Chairman of the Joint Chiefs of Staff) to design and implement a process of joint experimentation to investigate and test technologies and alternative forces and concepts in field environments under realistic conditions against the full range of future challenges to assist in developing and validating new joint warfighting concepts and transforming the Armed Forces to meet the threats to national security anticipated for the early 21st century.

''SEC. 922. SENSE OF CONGRESS CONCERNING JOINT WARFIGHTING EXPERIMENTATION.

''(a) DESIGNATION OF COMMANDER TO HAVE JOINT WARFIGHTING EXPERIMENTATION MISSION.—It is the sense of Congress that the initiative of the Secretary of Defense to designate the commander of a combatant command to have the mission of joint warfighting experimentation is a key step in exploiting the potential of advanced technologies, new organizational structures, and new joint operational concepts to transform the conduct of military operations by the Armed Forces.

''(b) RESOURCES AND AUTHORITY OF COMMANDER.—It is, further, the sense of Congress that the commander of the combatant command referred to in subsection (a) should be provided with appropriate and sufficient resources for joint warfighting experimentation and with the appropriate authority to execute the commander's assigned responsibilities and that such authority should include the following:

''(1) Planning, preparing, and conducting the program of joint warfighting experimentation, which program should include analyses, simulations, wargames, experiments, advanced concept technology demonstrations, joint exercises conducted in virtual and field environments, and, as a particularly critical aspect, assessments of 'red team' vulnerability.

''(2) Developing scenarios and measures of effectiveness to meet the operational challenges expected to be encountered in the early 21st century and assessing the effectiveness of current and new organizational structures, operational concepts, and technologies in addressing those challenges.

''(3) Integrating and testing in joint experimentation the systems and concepts that result from warfighting experimentation conducted by the Armed Forces and the Defense Agencies.

''(4) Coordinating with each of the Armed Forces and Defense Agencies regarding the development and acquisition of equipment (including surrogate or real technologies, platforms, and systems), supplies, and services necessary for joint experimentation.

''(5) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with recommendations, based on the conduct of joint warfighting experimentation, for—

''(A) improving interoperability;

''(B) reducing unnecessary redundancy;

''(C) synchronizing technology fielding;

''(D) developing joint operational concepts;

''(E) prioritizing the most promising joint capabilities for future experimentation; and

''(F) prioritizing joint requirements and acquisition programs.

''(6) Making recommendations to the Chairman of the Joint Chiefs of Staff on mission needs statements and operational requirements documents.

''(c) CONGRESSIONAL REVIEW.—It is, further, the sense of Congress that Congress—

''(1) should review the adequacy of the process of transformation to meet future challenges to the national security; and

''(2) if progress is determined inadequate, should consider legislation to—

''(A) establish an appropriate organization to conduct the mission described in subsection (a); and

''(B) provide to the commander given the responsibility for that mission appropriate and sufficient resources for joint warfighting experimentation and

the appropriate authority to execute that commander's assigned responsibilities for that mission, including the authorities specified in subsection (b).

''SEC. 923. REPORTS ON JOINT WARFIGHTING EXPERIMENTATION.

''(a) INITIAL REPORT.—(1) The commander of the combatant command assigned by the Secretary of Defense to have the mission for joint warfighting experimentation shall submit to the Secretary an initial report on the implementation of joint experimentation. Not later than April 1, 1999, the Secretary shall submit that report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

''(2) The report of the commander under paragraph (1) shall include the commander's assessment of the following:

''(A) The authority and responsibilities of the commander as described in section 922(b).

''(B) The organization of the commander's combatant command, and of its staff, for carrying out the joint warfighting experimentation mission.

''(C) The process established for tasking forces to participate in experimentation and the commander's specific authority over those forces, including forces designated as joint experimentation forces.

''(D) The resources provided for initial implementation of joint warfighting experimentation, the process for providing those resources to the commander, the categories of the funding, and the authority of the commander for budget execution.

''(E) The process established for the development and acquisition of the materiel, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation.

''(F) The process established for designing, preparing, and conducting joint experiments.

''(G) The role assigned the commander for—

''(i) integrating and testing in joint warfighting experimentation the systems that emerge from warfighting experimentation by the Armed Forces or the Defense Agencies;

''(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies; and

''(iii) assisting the Secretary of Defense and Chairman of the Joint Chiefs of Staff to prioritize requirements or acquisition programs.

''(b) ANNUAL REPORT.—(1) [Enacted this section.]

''(2) [Amended analysis of this chapter.]

''(c) FIRST ANNUAL REPORT.—The first report under section 485 of title 10, United States Code, as added by subsection (b), shall be made with respect to fiscal year 1999. In the case of the report under that section for fiscal year 1999, the reference in subsection (b)(1) of that section to the most recent report under that section shall be treated as referring to the report under subsection (a) of this section.''

§ 486. Quadrennial report on emerging operational concepts

(a) QUADRENNIAL REPORT REQUIRED.—Not later than March 1 of each year evenly divisible by four, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on emerging operational concepts. Each such report shall be prepared by the Secretary in consultation with the Chairman of the Joint Chiefs of Staff.

(b) CONTENT OF REPORT RELATING TO DOD PROCESSES.—Each such report shall contain a description, for the four years preceding the year in which the report is submitted, of the following:

(1) The process undertaken in the Department of Defense, and in each of the Army, Navy, Air Force, and Marine Corps, to define and develop doctrine, operational concepts, organizational concepts, and acquisition strategies to address—

(A) the potential of emerging technologies for significantly improving the operational effectiveness of the armed forces;

(B) changes in the international order that may necessitate changes in the operational capabilities of the armed forces;

(C) emerging capabilities of potential adversary states; and

(D) changes in defense budget projections.

(2) The manner in which the processes described in paragraph (1) are harmonized to ensure that there is a sufficient consideration of the development of joint doctrine, operational concepts, and acquisition strategies.

(3) The manner in which the processes described in paragraph (1) are coordinated through the Joint Requirements Oversight Council and reflected in the planning, programming, and budgeting process of the Department of Defense.

(c) CONTENT OF REPORT RELATING TO IDENTIFICATION OF TECHNOLOGICAL OBJECTIVES FOR RESEARCH AND DEVELOPMENT.—Each report under this section shall set forth the military capabilities that are necessary for meeting national security requirements over the next two to three decades, including—

(1) the most significant strategic and operational capabilities (including both armed force-specific and joint capabilities) that are necessary for the armed forces to prevail against the most dangerous threats, including asymmetrical threats, that could be posed to the national security interests of the United States by potential adversaries from 20 to 30 years in the future;

(2) the key characteristics and capabilities of future military systems (including both armed force-specific and joint systems) that will be needed to meet each such threat; and

(3) the most significant research and development challenges that must be met, and the technological breakthroughs that must be made, to develop and field such systems.

(Added Pub. L. 106–65, div. A, title II, § 241(a)(1), Oct. 5, 1999, 113 Stat. 549.)

§ 487. Unit operations tempo and personnel tempo: annual report

(a) INCLUSION IN ANNUAL REPORT.—The Secretary of Defense shall include in the annual report required by section 113(c) of this title a description of the operations tempo and personnel tempo of the armed forces.

(b) SPECIFIC REQUIREMENTS.—(1) Until such time as the Secretary of Defense develops a common method to measure operations tempo and personnel tempo for the armed forces, the description required under subsection (a) shall include the methods by which each of the armed

forces measures operations tempo and personnel tempo.

(2) The description shall include the personnel tempo policies of each of the armed forces and any changes to these policies since the preceding report.

(3) The description shall include a table depicting the active duty end strength for each of the armed forces for each of the preceding five years and also depicting the number of members of each of the armed forces deployed over the same period, as determined by the Secretary concerned.

(4) The description shall identify the active and reserve component units of the armed forces participating at the battalion, squadron, or an equivalent level (or a higher level) in contingency operations, major training events, and other exercises and contingencies of such a scale that the exercises and contingencies receive an official designation, that were conducted during the period covered by the report and the duration of their participation.

(5) For each of the armed forces, the description shall indicate, for the period covered by the report—

(A) the number of members who received the high-deployment allowance under section 436 of title 37;

(B) the number of members who received each rate of allowance paid;

(C) the number of members who received the allowance for one month, for two months, for three months, for four months, for five months, for six months, and for more than six months; and

(D) the total amount spent on the allowance.

(6) For each of the armed forces, the description shall indicate the number of days that high demand, low density units (as defined by the Chairman of the Joint Chiefs of Staff) were deployed during the period covered by the report, and whether these units met the force goals for limiting deployments, as described in the personnel tempo policies applicable to that armed force.

(c) OPERATIONS TEMPO AND PERSONNEL TEMPO DEFINED.—Until such time as the Secretary of Defense establishes definitions of operations tempo and personnel tempo applicable to all of the armed forces, the following definitions shall apply for purposes of the preparation of the description required under subsection (a):

(1) The term ''operations tempo'' means the rate at which units of the armed forces are involved in all military activities, including contingency operations, exercises, and training deployments.

(2) The term ''personnel tempo'' means the amount of time members of the armed forces are engaged in their official duties, including official duties at a location or under circumstances that make it infeasible for a member to spend off-duty time in the housing in which the member resides when on garrison duty at the member's permanent duty station.

(d) INAPPLICABILITY TO COAST GUARD.—In this section, the term ''armed forces'' does not include the Coast Guard when it is not operating as a service in the Department of the Navy.

(Added Pub. L. 106–65, div. A, title IX, § 923(b)(1), Oct. 5, 1999, 113 Stat. 724; amended Pub. L. 108–136, div. A, title V, § 541(c), Nov. 24, 2003, 117 Stat. 1477; Pub. L. 108–375, div. A, title X, § 1084(d)(4), Oct. 28, 2004, 118 Stat. 2061.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–375 substituted ''Inapplicability to Coast Guard'' for ''Other Definitions'' in heading.

2003—Subsec. (b)(5). Pub. L. 108–136 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''For each of the armed forces, the description shall indicate the average number of days a member of that armed force was deployed away from the member's home station during the period covered by the report as compared to recent previous years for which such information is available.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 488. Management of electromagnetic spectrum: biennial strategic plan

(a) REQUIREMENT FOR STRATEGIC PLAN.—Every other year, and in time for submission to Congress under subsection (b), the Secretary of Defense shall prepare a strategic plan for the management of the electromagnetic spectrum to ensure the accessibility and efficient use of that spectrum needed to support the mission of the Department of Defense.

(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary of Defense shall submit to Congress the strategic plan most recently prepared under subsection (a) at the same time that the President submits to Congress the budget for an even-numbered fiscal year under section 1105(a) of title 31.

(Added Pub. L. 108–136, div. A, title X, § 1054(a), Nov. 24, 2003, 117 Stat. 1615.)

§ 489. Annual report on Department of Defense operation and financial support for military museums

(a) REPORT REQUIRED.—As part of the budget materials submitted to Congress in connection with the submission of the budget for a fiscal year pursuant to section 1105 of title 31, but in no case later than March 15 of each year, the Secretary of Defense shall submit a report identifying all military museums that, during the most recently completed fiscal year—

(1) were operated by the Secretary of Defense or the Secretary of a military department;

(2) were otherwise supported using funds appropriated to the Department of Defense; or

(3) were located on property under the jurisdiction of the Department of Defense, although neither operated by the Department of Defense nor supported using funds appropriated to the Department of Defense.

(b) INFORMATION ON INDIVIDUAL MUSEUMS.—For each museum identified in a report under this

section, the Secretary of Defense shall include in the report the following:

(1) The purpose and functions of the museum and the justification for the museum.

(2) A description of the facilities dedicated to the museum, including the location, size, and type of facilities and whether the facilities are included or eligible for inclusion on the National Register of Historic Places.

(3) An itemized listing of the funds appropriated to the Department of Defense that were obligated to support the museum during the fiscal year covered by the report and a description of the process used to determine the annual allocation of Department of Defense funds for the museum.

(4) An itemized listing of any other Federal funds, funds from a nonappropriated fund instrumentality account of the Department of Defense, and non-Federal funds obligated to support the museum.

(5) The management structure of the museum, including identification of the persons responsible for preparing the budget for the museum and for making acquisition and management decisions for the museum.

(6) The number of civilian employees of the Department of Defense and members of the armed forces who served full-time or part-time at the museum and their role in the management structure of the museum.

(c) INFORMATION ON SUPPORT PRIORITIES.—Each report under this section shall also include a separate description of the procedures used by the Secretary of Defense, in the case of museums identified in the report that are operated or supported by the Secretary of Defense, and the Secretary of a military department, in the case of museums identified in the report that are operated or supported by that Secretary, to prioritize funding and personnel support to the museums. The Secretary of Defense shall include a description of any such procedures applicable to the entire Department of Defense.

(Added Pub. L. 108–375, div. A, title X, § 1033(a), Oct. 28, 2004, 118 Stat. 2047.)

§ 490. Space cadre management: biennial report

(a) REQUIREMENT.—The Secretary of Defense and each Secretary of a military department shall develop metrics and use these metrics to identify, track, and manage space cadre personnel within the Department of Defense to ensure the Department has sufficient numbers of personnel with the expertise, training, and experience to meet current and future national security space needs.

(b) BIENNIAL REPORT REQUIRED.—

(1) IN GENERAL.—Not later than July 28 of every even-numbered year, the Secretary of Defense shall submit to the congressional defense committees a report on the management of the space cadre.

(2) MATTERS INCLUDED.—The report required by paragraph (1) shall include—

(A) the number of active duty, reserve duty, and government civilian space-coded billets that—

(i) are authorized or permitted to be maintained for each military department and defense agency;

(ii) are needed or required for each military department and defense agency for the year in which the submission of the report is required; and

(iii) are needed or required for each military department and defense agency for each of the five years following the date of the submission of the report;

(B) the actual number of active duty, reserve duty, and government civilian personnel that are coded or classified as space cadre personnel within the Department of Defense, including the military departments and defense agencies;

(C) the number of personnel recruited or hired as accessions to serve in billets coded or classified as space cadre personnel for each military department and defense agency;

(D) the number of personnel serving in billets coded or classified as space cadre personnel that discontinued serving each military department and defense agency during the preceding calendar year;

(E) for each of the reporting requirements in subparagraphs (A) through (D), further classification of the number of personnel by—

(i) space operators, acquisition personnel, engineers, scientists, program managers, and other space-related areas identified by the Department;

(ii) expertise or technical specialization area—

(I) such as communications, missile warning, spacelift, and any other space-related specialties identified by the Department or classifications used by the Department; and

(II) consistent with section 1721 of this title for acquisition personnel;

(iii) rank for active duty and reserve duty personnel and grade for government civilian personnel;

(iv) qualification, expertise, or proficiency level consistent with service and agency-defined qualification, expertise, or proficiency levels; and

(v) any other such space-related classification categories used by the Department or military departments; and

(F) any other metrics identified by the Department to improve the identification, tracking, training, and management of space cadre personnel.

(3) ASSESSMENTS.—The report required by paragraph (1) shall also include the Secretary's assessment of the state of the Department's space cadre, the Secretary's assessment of the space cadres of the military departments, and a description of efforts to ensure the Department has a space cadre sufficient to meet current and future national security space needs.

(Added Pub. L. 110–181, div. A, title IX, § 912(a), Jan. 28, 2008, 122 Stat. 280; amended Pub. L. 111–84, div. A, title X, § 1073(a)(6), Oct. 28, 2009, 123 Stat. 2472.)

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111–84, which directed substitution of ''July 28 of every even-numbered year'' for ''180 days after date of the enactment of this section, and every even-numbered year thereafter'', was executed by making the substitution for ''180 days after the date of the enactment of this section, and every even-numbered year thereafter'' to reflect the probable intent of Congress.

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AMENDMENTS

2011—Pub. L. 111–383, div. A, title X, §1075(b)(1), Jan. 7, 2011, 124 Stat. 4368, substituted ''1030'' for ''1031'' in item for chapter 53.

2009—Pub. L. 111–84, div. A, title X, §1073(a)(7), Oct. 28, 2009, 123 Stat. 2472, substituted ''1580'' for ''1581'' in item for chapter 81.

2006—Pub. L. 109–366, §3(a)(2), Oct. 17, 2006, 120 Stat. 2630, added item for chapter 47A.

2001—Pub. L. 107–107, div. A, title X, §1048(a)(1), Dec. 28, 2001, 115 Stat. 1222, struck out period after ''1111'' in item for chapter 56.

2000—Pub. L. 106–398, §1 [[div. A], title VII, §713(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–184, added item for chapter 56.

1999—Pub. L. 106–65, div. A, title V, §586(c)(1), title VII, §721(c)(2), Oct. 5, 1999, 113 Stat. 638, 694, added item for chapter 50 and substituted ''Deceased Personnel'' for ''Death Benefits'' and ''1471'' for ''1475'' in item for chapter 75.

1997—Pub. L. 105–85, div. A, title V, §591(a)(2), Nov. 18, 1997, 111 Stat. 1762, added item for chapter 80.

1996—Pub. L. 104–201, div. A, title XVI, §1633(c)(3), Sept. 23, 1996, 110 Stat. 2751, substituted ''Civilian Defense Intelligence Employees'' for ''Defense Intelligence Agency and Central Imagery Office Civilian Personnel'' in item for chapter 83.

Pub. L. 104–106, div. A, title V, §§568(a)(2), 569(b)(2), title X, §1061(a)(2), Feb. 10, 1996, 110 Stat. 335, 351, 442, added items for chapters 76 and 88 and struck out item for chapter 89 ''Volunteers Investing in Peace and Security''.

1994—Pub. L. 103–359, title V, §501(b)(2), Oct. 14, 1994, 108 Stat. 3429, substituted ''Defense Intelligence Agency and Central Imagery Office Civilian Personnel'' for ''Defense Intelligence Agency Civilian Personnel'' in item for chapter 83.

1992—Pub. L. 102–484, div. A, title XIII, §1322(a)(2), Oct. 23, 1992, 106 Stat. 2553, added item for chapter 89.

1991—Pub. L. 102–190, div. A, title X, §1061(a)(26)(C)(ii), Dec. 5, 1991, 105 Stat. 1474, effective Oct. 1, 1993, struck out item for chapter 85 ''Procurement Management Personnel''.

Pub. L. 102–190, div. A, title XI, §1112(b)(2), Dec. 5, 1991, 105 Stat. 1501, substituted ''Original Appointments of Regular Officers in Grades Above Warrant Officer Grades'' for ''Appointments in Regular Components'' in item for chapter 33 and added item for chapter 33A.

Pub. L. 102–25, title VII, §701(e)(1), Apr. 6, 1991, 105 Stat. 114, added item for chapter 85.

1990—Pub. L. 101–510, div. A, title V, §502(a)(2), title XII, §1202(b), Nov. 5, 1990, 104 Stat. 1557, 1656, added items for chapters 58 and 87 and struck out item for chapter 85 ''Procurement Management Personnel''.

1988—Pub. L. 100–370, §1(c)(3), July 19, 1988, 102 Stat. 841, added item for chapter 54.

1986—Pub. L. 99–433, title IV, §401(b), Oct. 1, 1986, 100 Stat. 1030, added item for chapter 38.

1985—Pub. L. 99–145, title IX, §924(a)(2), Nov. 8, 1985, 99 Stat. 698, added item for chapter 85.

1983—Pub. L. 98–94, title IX, §925(a)(2), title XII, §1268(15), Sept. 24, 1983, 97 Stat. 648, 707, added item for chapter 74, and substituted ''or'' for ''and'' in item for chapter 60.

1981—Pub. L. 97–89, title VII, §701(a)(2), Dec. 4, 1981, 95 Stat. 1160, added item for chapter 83.

1980—Pub. L. 96–513, title V, §§501(1), 511(29), (54)(B), Dec. 12, 1980, 94 Stat. 2907, 2922, 2925, added item for chapter 32, substituted ''531'' for ''541'' as section number in item for chapter 33, substituted ''34'' for ''35'' as chapter number of chapter relating to appointments as