

was repealed by Pub.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

Pub. L. 99-500, §101(c) [title IX, §9115(h)(2)], Oct. 18, 1986, 100 Stat. 1783-82, 1783-125, Pub. L. 99-591, §101(c) [title IX, §9115(h)(2)], Oct. 30, 1986, 100 Stat. 3341-82, 3341-125, and Pub. L. 99-661, div. A, title XIII, §1311(h)(2), Nov. 14, 1986, 100 Stat. 3986, required President, not later than one year after the date of enactment, 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.

**§ 167b. Unified combatant command for cyber operations**

(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 cyber operations forces (hereinafter in this section referred to as the “cyber command”). The principal function of the command is to prepare cyber operations forces to carry out assigned missions.

(b) ASSIGNMENT OF FORCES.—Unless otherwise directed by the Secretary of Defense, all active and reserve cyber operations forces of the armed forces stationed in the United States shall be assigned to the cyber command.

(c) GRADE OF COMMANDER.—The commander of the cyber 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 that officer’s 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) AUTHORITY OF COMBATANT COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the cyber command shall be responsible for, and shall have the authority to conduct, all affairs of such command relating to cyber operations activities.

(2)(A) Subject to the authority, direction, and control of the Principal Cyber Advisor, the commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to cyber operations activities (whether or not relating to the cyber command):

(i) Developing strategy, doctrine, and tactics.

(ii) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for cyber operations forces and for other forces assigned to the cyber command.

(iii) Exercising authority, direction, and control over the expenditure of funds—

(I) for forces assigned directly to the cyber command; and

(II) for cyber operations forces assigned to unified combatant commands other than the cyber command, with respect to all matters covered by section 807 of the National Defense Authorization Act for Fiscal Year 2016 (Public Law 114-92; 129 Stat. 886; 10 U.S.C. 2224 note) and, with respect to a matter not covered by such section, to the extent directed by the Secretary of Defense.

(iv) Training and certification of assigned joint forces.

(v) Conducting specialized courses of instruction for commissioned and noncommissioned officers.

(vi) Validating requirements.

(vii) Establishing priorities for requirements.

(viii) Ensuring the interoperability of equipment and forces.

(ix) Formulating and submitting requirements for intelligence support.

(x) Monitoring the promotion of cyber operation forces and coordinating with the military departments regarding the assignment, retention, training, professional military education, and special and incentive pays of cyber operation forces.

(B) The authority, direction, and control exercised by the Principal Cyber Advisor for purposes of this section is authority, direction, and control with respect to the administration and support of the cyber command, including readiness and organization of cyber operations forces, cyber operations-peculiar equipment and resources, and civilian personnel.

(C) Nothing in this section shall be construed as providing the Principal Cyber Advisor authority, direction, and control of operational matters that are subject to the operational chain of command of the combatant commands or the exercise of authority, direction, and control of personnel, resources, equipment, and other matters that are not cyber-operations peculiar and that are in the purview of the armed forces.

(3) The commander of the cyber command shall be responsible for—

(A) ensuring the combat readiness of forces assigned to the cyber command; and

(B) monitoring the preparedness to carry out assigned missions of cyber forces assigned to unified combatant commands other than the cyber command.

(C) The staff of the commander shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the cyber operations command and such other inspector general functions as may be assigned.

(e) 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. 3091 et seq.).

(Added Pub. L. 114-328, div. A, title IX, §923(a), Dec. 23, 2016, 130 Stat. 2357; amended Pub. L. 115-91, div. A, title X, §1081(a)(12), title XVI, §1635, Dec. 12, 2017, 131 Stat. 1595, 1741.)

#### REFERENCES IN TEXT

The National Security Act of 1947, referred to in subsec. (e), is act July 26, 1947, ch. 343, 61 Stat. 495, which is classified principally to chapter 44 (§3001 et seq.) of this title. Title V of the Act is classified generally to subchapter III (§3091 et seq.) of chapter 44 of this title. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2017—Subsec. (d). Pub. L. 115-91, §1635, redesignated subsec. (e) as (d) and struck out former subsec. (d) which related to command of activity or mission.

Subsec. (e). Pub. L. 115-91, §1635(2), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (e)(2)(A)(iii)(II). Pub. L. 115-91, §1081(a)(12), substituted “Fiscal Year 2016” for “Fiscal Year 2014”.

Subsec. (f). Pub. L. 115-91, §1635(2), redesignated subsec. (f) as (e).

#### ELEVATION OF U.S. CYBER COMMAND TO A UNIFIED COMBATANT COMMAND

Memorandum of President of the United States, Aug. 15, 2017, 82 F.R. 39953, provided:

Memorandum for the Secretary of Defense

Pursuant to my authority as the Commander in Chief and under sections 161 and 167b of title 10, United States Code, and in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, I direct that U.S. Cyber Command be established as a Unified Combatant Command. I also direct the Secretary of Defense to recommend an officer for my nomination and Senate confirmation as commander in order to establish U.S. Cyber Command as a Unified Combatant Command.

I assign to U.S. Cyber Command: (1) all the general responsibilities of a Unified Combatant Command; (2) the cyberspace-related responsibilities previously assigned to the Commander, U.S. Strategic Command; (3) the responsibilities of Joint Force Provider and Joint Force Trainer; and (4) all other responsibilities identified in section 167b of title 10, United States Code. The comprehensive list of authorities and responsibilities for U.S. Cyber Command will be included in the next update to the Unified Command Plan.

I further direct that the Secretary of Defense, in coordination with the Director of National Intelligence, provide a recommendation and, as appropriate, a plan to me regarding the future command relationship between the U.S. Cyber Command and the National Security Agency.

Consistent with section 161(b)(2) of title 10, United States Code, and section 301 of title 3, United States Code, you are directed to notify the Congress on my behalf.

You are authorized and directed to publish this memorandum in the Federal Register.

DONALD J. TRUMP.

**[§ 168. Repealed. Pub. L. 114-328, div. A, title XII, § 1253(a)(1)(A), Dec. 23, 2016, 130 Stat. 2532]**

Section, added Pub. L. 103-337, div. A, title XIII, §1316(a)(1), Oct. 5, 1994, 108 Stat. 2898; amended Pub. L.