

nancial assistance to terrorist countries”, 2249c “Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials”, 2249d “Distribution to certain foreign personnel of education and training materials and information technology to enhance military interoperability with the armed forces”, and 2249e “Prohibition on use of funds for assistance to units of foreign security forces that have committed a gross violation of human rights”.

2015—Pub. L. 114-92, div. A, title III, §341(b), title V, §573(b)(2), Nov. 25, 2015, 129 Stat. 793, 831, added item 2241b and substituted “Authority to use appropriated funds to support student meal programs in overseas defense dependents’ schools” for “Authority to use appropriated funds to support student meal programs in overseas dependents’ schools” in item 2243.

2014—Pub. L. 113-291, div. A, title XII, §1204(a)(2), Dec. 19, 2014, 128 Stat. 3533, added item 2249e.

2013—Pub. L. 112-239, div. A, title V, §588(b)(2), Jan. 2, 2013, 126 Stat. 1769, substituted “Display of State, District of Columbia, commonwealth, and territorial flags by the armed forces.” for “Display of State flags: prohibition on use of funds to arbitrarily exclude flag; position and manner of display.” in item 2249b.

2011—Pub. L. 111-383, div. A, title X, §1075(b)(30), Jan. 7, 2011, 124 Stat. 4370, transferred item 2241a “Prohibition on use of funds for publicity or propaganda purposes within the United States” to appear after item 2241.

2009—Pub. L. 111-84, div. A, title X, §1031(a)(2), Oct. 28, 2009, 123 Stat. 2448, added item 2241a at the end.

2008—Pub. L. 110-417, [div. A], title XII, §1205(a)(2), Oct. 14, 2008, 122 Stat. 4624, added item 2249d.

2006—Pub. L. 109-364, div. A, title XII, §1204(d)(3), Oct. 17, 2006, 120 Stat. 2416, substituted “Regional Defense Combating Terrorism Fellowship Program: authority to use appropriated funds for costs associated with education and training of foreign officials” for “Authority to use appropriated funds for costs of attendance of foreign visitors under Regional Defense Counterterrorism Fellowship Program” in item 2249c.

Pub. L. 109-163, div. A, title III, §§372(b), 373(b), Jan. 6, 2006, 119 Stat. 3210, 3211, added items 2244a and 2245a.

2004—Pub. L. 108-375, div. A, title VI, §651(f)(3), Oct. 28, 2004, 118 Stat. 1972, struck out items 2246 “Department of Defense golf courses: limitation on use of appropriated funds” and 2247 “Use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation”.

2003—Pub. L. 108-136, div. A, title X, §1045(a)(5)(B), title XII, §1221(a)(2), Nov. 24, 2003, 117 Stat. 1612, 1651, struck out item 2248 “Purchase of surety bonds: prohibition” and added item 2249c.

1996—Pub. L. 104-201, div. A, title X, §1071(b), Sept. 23, 1996, 110 Stat. 2657, added item 2249b.

Pub. L. 104-106, div. A, title XIII, §1341(b), div. D, title XLIII, §4321(b)(2)(B), Feb. 10, 1996, 110 Stat. 485, 672, redesignated item 2247, relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs, as 2249 and added item 2249a.

1994—Pub. L. 103-355, title VII, §7202(a)(2), Oct. 13, 1994, 108 Stat. 3379, added item 2247 relating to prohibition on use of funds for documenting economic or employment impact of certain acquisition programs.

Pub. L. 103-337, div. A, title III, §372(b), title X, §1063(b), Oct. 5, 1994, 108 Stat. 2736, 2848, added item 2247 relating to use of appropriated funds for operation of Armed Forces Recreation Center, Europe: limitation and item 2248.

1993—Pub. L. 103-160, div. A, title III, §312(b), Nov. 30, 1993, 107 Stat. 1618, added item 2246.

1991—Pub. L. 102-190, div. A, title X, §1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, made technical correction to directory language of Pub. L. 101-510, div. A, title XIV, §1481(e)(2), Nov. 5, 1990, 104 Stat. 1706. See 1990 amendment note below.

1990—Pub. L. 101-510, div. A, title XIV, §1481(e)(2), Nov. 5, 1990, 104 Stat. 1706, as amended by Pub. L.

102-190, div. A, title X, §1062(a)(3), Dec. 5, 1991, 105 Stat. 1475, added item 2245.

Pub. L. 101-510, div. A, title IX, §904(b), Nov. 5, 1990, 104 Stat. 1621, added item 2244.

1989—Pub. L. 101-189, div. A, title III, §326(b), Nov. 29, 1989, 103 Stat. 1416, added item 2243.

§ 2241. Availability of appropriations for certain purposes

(a) OPERATION AND MAINTENANCE APPROPRIATIONS.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

- (1) Morale, welfare, and recreation.
- (2) Modification of personal property.
- (3) Design of vessels.
- (4) Industrial mobilization.
- (5) Military communications facilities on merchant vessels.

(6) Acquisition of services, special clothing, supplies, and equipment.

(7) Expenses for the Reserve Officers’ Training Corps and other units at educational institutions.

(b) NECESSARY EXPENSES.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

(c) ACTIVITIES OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.—Amounts appropriated for operation and maintenance may, under regulations prescribed by the Secretary of Defense, be used by the Secretary for official reception, representation, and advertising activities and materials of the National Committee for Employer Support of the Guard and Reserve to further employer commitments to their employees who are members of a reserve component.

(Added Pub. L. 100-370, §1(e)(1), July 19, 1988, 102 Stat. 844; amended Pub. L. 108-136, div. A, title V, §518, Nov. 24, 2003, 117 Stat. 1462.)

HISTORICAL AND REVISION NOTES

Subsection (a) of this section and sections 2253(b) and 2661(a) of this title are based on Pub. L. 98-212, title VII, §735, Dec. 8, 1983, 97 Stat. 1444, as amended by Pub. L. 98-525, title XIV, §§1403(a)(2), 1404, Oct. 19, 1984, 98 Stat. 2621.

In two instances, the source section for provisions to be codified provides that defense appropriations may be used for “welfare and recreation” or “welfare and recreational” purposes. (Section 735 of Public Law 98-212 and section 8006(b) of Public Law 99-190, to be codified as 10 U.S.C. 2241(a)(1) and 2490(2), respectively). The committee added the term “morale” in both of these two instances to conform to the usual “MWR” usage for morale, welfare, and recreation activities.

Subsection (b) of this section and sections 2242(1), (4) and 2253(a)(1) of this title are based on Pub. L. 98-212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Section 705 of Public Law 98-212, to be codified as 10 U.S.C. 2241(b), provides that defense appropriations may be used in connection with certain services and supplies “as may be necessary to carry out the purposes of this Act”. The reference to “this Act” means Public Law 98-212, the FY84 Defense Appropriations Act. Language similar to section 705 had been enacted as part of the annual defense appropriation Act for

many years. In the FY84 Act, section 705 was enacted as a permanent provision. The quoted phrase above was not, however, revised from the traditional annual wording as the provision had appeared in annual appropriations Acts in order to give it effect beyond the fiscal year concerned. Since the general purpose of a defense appropriations Act is to provide funds for national defense purposes, the committee, in codifying this provision, revised the quoted phrase so as to read “that may be necessary for the national defense”. No change in meaning is intended.

Editorial Notes

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–136 added subsec. (c).

Statutory Notes and Related Subsidiaries

PROHIBITION ON TRANSFER OF DEPARTMENT OF DEFENSE FUNDS OR RESOURCES TO THE TALIBAN

Pub. L. 117–81, div. A, title XII, §1213, Dec. 27, 2021, 135 Stat. 1963, provided that:

“(a) PROHIBITION.—None of the funds authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available—

“(1) to provide any funds or resources to the Taliban; or

“(2) to conduct any military cooperation or sharing of military intelligence with the Taliban, unless the Secretary of Defense determines that such cooperation or sharing advances the national security interests of the United States.

“(b) NOTIFICATION.—[SIC]

“(1) SUBMISSION REQUIRED.—If the Secretary makes an affirmative determination described in subsection (1)(a) [probably should be subsection (a)(2)], the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written description of the military cooperation or military intelligence that was shared with the Taliban pursuant to such determination, not later than 5 days after the date of such cooperation or sharing. The Secretary shall include with such description any other matter the Secretary determines relevant.

“(2) FORM.—The information described in paragraph (1) shall be submitted in an unclassified format and may include a classified annex.”

PROHIBITION ON TRANSPORTING CURRENCY TO THE TALIBAN OR THE ISLAMIC EMIRATE OF AFGHANISTAN

Pub. L. 117–81, div. A, title XII, §1214, Dec. 27, 2021, 135 Stat. 1963, provided that: “None of the amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available for the operation of any aircraft of the Department of Defense to transport currency or other items of value to the Taliban, the Islamic Emirate of Afghanistan, or any subsidiary, agent, or instrumentality of either the Taliban or the Islamic Emirate of Afghanistan.”

RESTRICTION ON COUNTER-ISIS TRAIN AND EQUIP FUND

Pub. L. 117–81, div. A, title XII, §1223(e), Dec. 27, 2021, 135 Stat. 1971, provided that: “Amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or the amendments made by this Act or otherwise made available for any fiscal year to the Counter-Islamic State of Iraq and Syria Train and Equip Fund are authorized to be made available only in support of partner forces eligible to receive assistance under section 1209(a) of the Carl Levin and Howard P. ‘Buck’ McKeon National Defense Authorization Act for Fiscal Year 2015 (Public Law 113–291; 128 Stat. 3541) or subsection (a) of section 1236 of such Act [128 Stat. 3558], as amended by subsection (a) of this section.”

PROHIBITION ON TRANSFERS TO BADR ORGANIZATION

Pub. L. 117–81, div. A, title XII, §1225, Dec. 27, 2021, 135 Stat. 1972, provided that: “None of the amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available, directly or indirectly, to the Badr Organization.”

PROHIBITION ON TRANSFERS TO IRAN

Pub. L. 117–81, div. A, title XII, §1226, Dec. 27, 2021, 135 Stat. 1972, provided that: “None of the amounts authorized to be appropriated by this Act [Pub. L. 117–81, see Tables for classification] or otherwise made available to the Department of Defense may be made available to transfer or facilitate a transfer of pallets of currency, currency, or other items of value to the Government of Iran, any subsidiary of such Government, or any agent or instrumentality of Iran.”

LIMITATION ON PROVISION OF FUNDS TO INSTITUTIONS OF HIGHER EDUCATION HOSTING CONFUCIUS INSTITUTES

Pub. L. 116–283, div. A, title X, §1062, Jan. 1, 2021, 134 Stat. 3859, provided that:

“(a) LIMITATION.—Except as provided in subsection (b), none of the funds authorized to be appropriated or otherwise made available for any fiscal year for the Department of Defense may be provided to an institution of higher education that hosts a Confucius Institute, other than amounts provided directly to students as educational assistance.

“(b) WAIVER.—

“(1) IN GENERAL.—The Secretary of Defense may waive the limitation under subsection (a) with respect to an institution of higher education if the Secretary, after consultation with the National Academies of Sciences, Engineering, and Medicine, determines such a waiver is appropriate.

“(2) MANAGEMENT PROCESS.—If the Secretary issues a waiver under paragraph (1), the academic liaison designated pursuant to subsection (g) of section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 [Pub. L. 115–232] ([former] 10 U.S.C. 2358 note) [now 10 U.S.C. 4001 note], as amended by section 1299C of this Act, shall manage the waiver process on behalf of the Secretary.

“(c) EFFECTIVE DATE.—The limitation under subsection (a) shall apply with respect to the first fiscal year that begins after the date that is 24 months after the date of the enactment of this Act [Jan. 1, 2021] and to any subsequent fiscal year.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘Confucius Institute’ means a cultural institute directly or indirectly funded by the Government of the People’s Republic of China.

“(2) The term ‘institution of higher education’ has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).”

OBLIGATION OF FUNDS FOR SPACE FORCE PROCUREMENT

Pub. L. 116–260, div. C, title VIII, §8089, Dec. 27, 2020, 134 Stat. 1326, provided that: “In this fiscal year and each fiscal year thereafter, funds appropriated under the heading ‘Procurement, Space Force’ may be obligated for payment of satellite on-orbit incentives in the fiscal year in which an incentive payment is earned: *Provided*, That any obligation made pursuant to this section may not be entered into until 30 calendar days in session after the congressional defense committees [see section 8028 of Pub. L. 116–260, set out below] have been notified that an on-orbit incentive payment has been earned.”

[Pub. L. 116–260, div. C, title VIII, §8028, Dec. 27, 2020, 134 Stat. 1310, provided that: “For the purposes of this Act [div. C of 116–260, see Tables for classification], 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 Appro-

priations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.”]

PROHIBITION ON USE OF FUNDS FOR CERTAIN PROGRAMS AND PROJECTS OF THE DEPARTMENT OF DEFENSE IN AFGHANISTAN THAT CANNOT BE SAFELY ACCESSED BY UNITED STATES GOVERNMENT PERSONNEL

Pub. L. 114-328, div. A, title XII, §1216, Dec. 23, 2016, 130 Stat. 2480, provided that:

“(a) PROHIBITION.—

“(1) IN GENERAL.—Amounts available to the Department of Defense may not be obligated or expended for a construction or other infrastructure program or project of the Department in Afghanistan if military or civilian personnel of the United States Government or their representatives with authority to conduct oversight of such program or project cannot safely access such program or project.

“(2) APPLICABILITY.—Paragraph (1) shall apply only with respect to a program or project that is initiated on or after the date of the enactment of this Act [Dec. 23, 2016].

“(b) WAIVER.—

“(1) IN GENERAL.—The prohibition in subsection (a) may be waived with respect to a program or project otherwise covered by that subsection if a determination described in paragraph (2) is made as follows:

“(A) In the case of a program or project with an estimated lifecycle cost of less than \$1,000,000, by the contracting officer assigned to oversee the program or project.

“(B) In the case of a program or project with an estimated lifecycle cost of \$1,000,000 or more, but less than \$20,000,000, by the Commander of the Combined Security Transition Command-Afghanistan.

“(C) In the case of a program or project with an estimated lifecycle cost of \$20,000,000 or more, but less than \$40,000,000, by the Commander of United States Forces-Afghanistan.

“(D) In the case of a program or project with an estimated lifecycle cost of \$40,000,000 or more, by the Secretary of Defense.

“(2) DETERMINATION.—A determination described in this paragraph with respect to a program or project is a determination of each of the following:

“(A) That the program or project clearly contributes to United States national interests or strategic objectives.

“(B) That the Government of Afghanistan has requested or expressed a need for the program or project.

“(C) That the program or project has been coordinated with the Government of Afghanistan, and with any other implementing agencies or international donors.

“(D) That security conditions permit effective implementation and oversight of the program or project.

“(E) That the program or project includes safeguards to detect, deter, and mitigate corruption and waste, fraud, and abuse of funds.

“(F) That adequate arrangements have been made for the sustainment of the program or project following its completion, including arrangements with respect to funding and technical capacity for sustainment.

“(G) That meaningful metrics have been established to measure the progress and effectiveness of the program or project in meeting its objectives.

“(3) NOTICE ON CERTAIN WAIVERS.—In the event a waiver is issued under paragraph (1) for a program or project described in subparagraph (D) of that paragraph, the Secretary of Defense shall notify Congress of the waiver not later than 15 days after the issuance of the waiver.”

FUNDS PROHIBITED FOR SUPPORT OF DEPARTMENT OR AGENCY IN ARREARS IN MAKING PAYMENT TO DEPARTMENT OF DEFENSE

Pub. L. 113-235, div. C, title VIII, §8063, Dec. 16, 2014, 128 Stat. 2268, provided that: “During the current fiscal

year and hereafter, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.”

PUBLIC FINANCIAL DISCLOSURE REQUIRED BY SENIOR MENTOR ADVISING DEPARTMENT OF DEFENSE

Pub. L. 113-235, div. C, title VIII, §8104, Dec. 16, 2014, 128 Stat. 2278, provided that: “None of the funds appropriated or otherwise made available by this Act [div. C of Pub. L. 113-235, see Tables for classification] and hereafter may be obligated or expended to pay a retired general or flag officer to serve as a senior mentor advising the Department of Defense unless such retired officer files a Standard Form 278 (or successor form concerning public financial disclosure under part 2634 of title 5, Code of Federal Regulations) to the Office of Government Ethics.”

LIMITATION ON SOURCE OF FUNDS FOR CERTAIN JOINT CARGO AIRCRAFT EXPENDITURES

Pub. L. 110-417, [div. A], title II, §216, Oct. 14, 2008, 122 Stat. 4387, provided that:

“(a) LIMITATION.—Of the amounts appropriated pursuant to an authorization of appropriations in this Act [see Tables for classification] or otherwise made available for fiscal year 2009 or any fiscal year thereafter for the Army or the Air Force, the Secretary of the Army and the Secretary of the Air Force may fund relevant expenditures for the Joint Cargo Aircraft only through amounts made available for procurement or for research, development, test, and evaluation.

“(b) RELEVANT EXPENDITURES FOR THE JOINT CARGO AIRCRAFT DEFINED.—In this section, the term ‘relevant expenditures for the Joint Cargo Aircraft’ means expenditures relating to—

“(1) support equipment;

“(2) initial spares;

“(3) training simulators;

“(4) systems engineering and management; and

“(5) post-production modifications.”

PROHIBITIONS RELATING TO PROPAGANDA

Pub. L. 110-417, [div. A], title X, §1056, Oct. 14, 2008, 122 Stat. 4610, provided that:

“(a) PROHIBITION.—No part of any funds authorized to be appropriated in this or any other Act shall be used by the Department of Defense for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

“(b) REPORT.—Not later than 90 days after the date of the enactment of this Act [Oct. 14, 2008], the Inspector General of the Department of Defense shall submit to Congress a report on the findings of their project number D2008-DIPOEF-0209.000, entitled ‘Examination of Allegations Involving DoD Office of Public Affairs Outreach Program’.

“(c) LEGAL OPINION.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall issue a legal opinion to Congress on whether the Department of Defense violated appropriations prohibitions on publicity or propaganda activities established in Public Laws 107-117, 107-248, 108-87, 108-287, 109-148, 109-289, and 110-116, the Department of Defense Appropriations Acts for fiscal years 2002 through 2008, respectively, by offering special

access to prominent persons in the private sector who serve as media analysts, including briefings and information on war efforts, meetings with high level government officials, and trips to Iraq and Guantanamo Bay, Cuba.

“(d) RULE OF CONSTRUCTION RELATED TO INTELLIGENCE ACTIVITIES.—Nothing in this section shall be construed to apply to any lawful and authorized intelligence activity of the United States Government.”

FUNDS MADE AVAILABLE FOR TRANSPORTATION OF MEDICAL SUPPLIES TO AMERICAN SAMOA AND INDIAN HEALTH SERVICE

Pub. L. 110-329, div. C, title VIII, §8058, Sept. 30, 2008, 122 Stat. 3634, provided that: “Notwithstanding any other provision of law, funds available to the Department of Defense in this Act [div. C of Pub. L. 110-329, see Tables for classification], and hereafter, shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.”

OBLIGATION OF FUNDS FOR INSTALLATION SUPPORT FUNCTIONS

Pub. L. 108-287, title VIII, §8070, Aug. 5, 2004, 118 Stat. 987, provided that: “Hereafter, funds appropriated for Operation and maintenance and for the Defense Health Program in this Act [see Tables for classification], and in future appropriations acts for the Department of Defense, for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects, or any planning studies, environmental assessments, or similar activities related to installation support functions, may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 108-87, title VIII, §8071, Sept. 30, 2003, 117 Stat. 1088.

Pub. L. 107-248, title VIII, §8072, Oct. 23, 2002, 116 Stat. 1553.

Pub. L. 107-117, div. A, title VIII, §8080, Jan. 10, 2002, 115 Stat. 2265.

Pub. L. 106-259, title VIII, §8079, Aug. 9, 2000, 114 Stat. 691.

Pub. L. 106-79, title VIII, §8084, Oct. 25, 1999, 113 Stat. 1251.

Pub. L. 105-262, title VIII, §8085, Oct. 17, 1998, 112 Stat. 2318.

Pub. L. 105-56, title VIII, §8093, Oct. 8, 1997, 111 Stat. 1241.

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8119], Sept. 30, 1996, 110 Stat. 3009-71, 3009-114.

LIMITATION ON PAYMENT OF FACILITIES CHARGES ASSESSED BY DEPARTMENT OF STATE

Pub. L. 108-136, div. A, title X, §1007, Nov. 24, 2003, 117 Stat. 1585, provided that:

“(a) COSTS OF GOODS AND SERVICES PROVIDED TO DEPARTMENT OF STATE.—Funds appropriated for the Department of Defense may be transferred to the Department of State as remittance for a fee charged to the Department of Defense by the Department of State for any year for the maintenance, upgrade, or construction of United States diplomatic facilities only to the extent that the amount charged (when added to other amounts previously so charged for that fiscal year) exceeds the total amount of the unreimbursed costs incurred by the Department of Defense during that year in providing goods and services to the Department of State.

“(b) EFFECTIVE DATE.—Subsection (a) shall take effect as of October 1, 2003.”

TOTAL INFORMATION AWARENESS PROGRAM

Pub. L. 108-7, div. M, §111, Feb. 20, 2003, 117 Stat. 534, provided that:

“(a) LIMITATION ON USE OF FUNDS FOR RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION AWARENESS PROGRAM.—Notwithstanding any other provision of law, commencing 90 days after the date of the enactment of this Act [Feb. 20, 2003], no funds appropriated or otherwise made available to the Department of Defense, whether to an element of the Defense Advanced Research Projects Agency or any other element, or to any other department, agency, or element of the Federal Government, may be obligated or expended on research and development on the Total Information Awareness program unless—

“(1) the report described in subsection (b) is submitted to Congress not later than 90 days after the date of the enactment of this Act; or

“(2) the President certifies to Congress in writing, that—

“(A) the submittal of the report to Congress within 90 days after the date of the enactment of this Act is not practicable; and

“(B) the cessation of research and development on the Total Information Awareness program would endanger the national security of the United States.

“(b) REPORT.—The report described in this subsection is a report, in writing, of the Secretary of Defense, the Attorney General, and the Director of Central Intelligence, acting jointly, that—

“(1) contains—

“(A) a detailed explanation of the actual and intended use of funds for each project and activity of the Total Information Awareness program, including an expenditure plan for the use of such funds;

“(B) the schedule for proposed research and development on each project and activity of the Total Information Awareness program; and

“(C) target dates for the deployment of each project and activity of the Total Information Awareness program;

“(2) assesses the likely efficacy of systems such as the Total Information Awareness program in providing practically valuable predictive assessments of the plans, intentions, or capabilities of terrorists or terrorist groups;

“(3) assesses the likely impact of the implementation of a system such as the Total Information Awareness program on privacy and civil liberties;

“(4) sets forth a list of the laws and regulations that govern the information to be collected by the Total Information Awareness program, and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program; and

“(5) includes recommendations, endorsed by the Attorney General, for practices, procedures, regulations, or legislation on the deployment, implementation, or use of the Total Information Awareness program to eliminate or minimize adverse effects of such program on privacy and other civil liberties.

“(c) LIMITATION ON DEPLOYMENT OF TOTAL INFORMATION AWARENESS PROGRAM.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), if and when research and development on the Total Information Awareness program, or any component of such program, permits the deployment or implementation of such program or component, no department, agency, or element of the Federal Government may deploy or implement such program or component, or transfer such program or component to another department, agency, or element of the Federal Government, until the Secretary of Defense—

“(A) notifies Congress of that development, including a specific and detailed description of—

“(i) each element of such program or component intended to be deployed or implemented; and

“(ii) the method and scope of the intended deployment or implementation of such program or component

ment (including the data or information to be accessed or used); and

“(B) has received specific authorization by law from Congress for the deployment or implementation of such program or component, including—

“(i) a specific authorization by law for the deployment or implementation of such program or component; and

“(ii) a specific appropriation by law of funds for the deployment or implementation of such program or component.

“(2) The limitation in paragraph (1) shall not apply with respect to the deployment or implementation of the Total Information Awareness program, or a component of such program, in support of the following:

“(A) Lawful military operations of the United States conducted outside the United States.

“(B) Lawful foreign intelligence activities conducted wholly against non-United States persons.

“(d) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the Total Information Awareness program should not be used to develop technologies for use in conducting intelligence activities or law enforcement activities against United States persons without appropriate consultation with Congress or without clear adherence to principles to protect civil liberties and privacy; and

“(2) the primary purpose of the Defense Advanced Research Projects Agency is to support the lawful activities of the Department of Defense and the national security programs conducted pursuant to the laws assembled for codification purposes in title 50, United States Code.

“(e) DEFINITIONS.—In this section:

“(1) TOTAL INFORMATION AWARENESS PROGRAM.—The term ‘Total Information Awareness program’—

“(A) means the computer hardware and software components of the program known as Total Information Awareness, any related information awareness program, or any successor program under the Defense Advanced Research Projects Agency or another element of the Department of Defense; and

“(B) includes a program referred to in subparagraph (1), or a component of such program, that has been transferred from the Defense Advanced Research Projects Agency or another element of the Department of Defense to any other department, agency, or element of the Federal Government.

“(2) NON-UNITED STATES PERSON.—The term ‘non-United States person’ means any person other than a United States person.

“(3) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(i)).”

[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 3001 of Title 50, War and National Defense.]

FUNDS PROHIBITED FOR CONTRACTS WITH PERSONS CONVICTED OF UNLAWFUL MANUFACTURE OR SALE OF CONGRESSIONAL MEDALS OF HONOR

Pub. L. 105-262, title VIII, §8118, Oct. 17, 1998, 112 Stat. 2331, provided that: “During the current fiscal year and hereafter, no funds appropriated or otherwise available to the Department of Defense may be used to award a contract to, extend a contract with, or approve the award of a subcontract to any person who within the preceding 15 years has been convicted under section 704

of title 18, United States Code, of the unlawful manufacture or sale of the Congressional Medal of Honor.”

USE OF FUNDS FOR MODIFICATION OF RETIRED AIRCRAFT, WEAPON, SHIP OR OTHER ITEM OF EQUIPMENT

Pub. L. 105-56, title VIII, §8053, Oct. 8, 1997, 111 Stat. 1232, which provided that none of the funds provided in the Act and hereafter would be available for use by a military department to modify an aircraft, weapon, ship or other item of equipment, that the military department concerned planned to retire or otherwise dispose of within 5 years after completion of the modification, was repealed and restated in section 2244a of this title by Pub. L. 109-163, div. A, title III, §372(a), (c), 119 Stat. 3209, 3210.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8055], Sept. 30, 1996, 110 Stat. 3009-71, 3009-99.

Pub. L. 104-61, title VIII, §8068, Dec. 1, 1995, 109 Stat. 664.

Pub. L. 103-335, title VIII, §8079, Sept. 30, 1994, 108 Stat. 2636.

Pub. L. 103-139, title VIII, §8098, Nov. 11, 1993, 107 Stat. 1462.

Pub. L. 102-396, title IX, §9034, Oct. 6, 1992, 106 Stat. 1908.

Pub. L. 102-172, title VIII, §8034, Nov. 26, 1991, 105 Stat. 1178.

Pub. L. 101-511, title VIII, §8035, Nov. 5, 1990, 104 Stat. 1882.

DEMONSTRATION PROJECT FOR UNIFORM FUNDING OF MORALE, WELFARE, AND RECREATION ACTIVITIES AT CERTAIN MILITARY INSTALLATIONS

Pub. L. 104-106, div. A, title III, §335, Feb. 10, 1996, 110 Stat. 262, directed the Secretary of Defense to conduct a demonstration project to evaluate the feasibility of using only nonappropriated funds to support morale, welfare, and recreation programs at military installations in order to facilitate the procurement of property and services for those programs and the management of employees used to carry out those programs, directed the Secretary to submit to Congress a final report on the results of the project not later than Dec. 31, 1998, and provided that the project would terminate not later than Sept. 30, 1998.

INTERAGENCY COURIER SERVICE

Pub. L. 103-335, title VIII, §8119, Sept. 30, 1994, 108 Stat. 2649, provided that: “During the current fiscal year and hereafter, the Department of State and the Department of Defense are authorized to provide interagency courier service on a non-reimbursable basis.”

RESTRICTIONS ON PROCUREMENTS FROM OUTSIDE OF UNITED STATES

Pub. L. 104-208, div. A, title I, §101(b) [title VIII, §8109], Sept. 30, 1996, 110 Stat. 3009-71, 3009-111, provided for application of section 9005 of Public Law 102-396 (formerly set out below), prior to repeal by Pub. L. 107-107, div. A, title VIII, §832(b)(2), Dec. 28, 2001, 115 Stat. 1190.

Pub. L. 102-396, title IX, §9005, Oct. 6, 1992, 106 Stat. 1900, as amended by Pub. L. 103-139, title VIII, §8005, Nov. 11, 1993, 107 Stat. 1438; Pub. L. 103-355, title IV, §4401(e), Oct. 13, 1994, 108 Stat. 3348, provided for restrictions on procurements from outside of the United States, prior to repeal by Pub. L. 107-107, div. A, title VIII, §832(b)(1), Dec. 28, 2001, 115 Stat. 1190.

PROHIBITION ON USE OF FUNDS TO PURCHASE DOGS OR CATS FOR MEDICAL TRAINING

Pub. L. 101-511, title VIII, §8019, Nov. 5, 1990, 104 Stat. 1879, provided that: “None of the funds appropriated by this Act [see Tables for classification] or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in sur-

gical or other medical treatment of wounds produced by any type of weapon: *Provided*, That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.”

RESTORATION, CANCELLATION, OR CLOSURE OF CERTAIN DEPARTMENT OF DEFENSE APPROPRIATION ACCOUNT BALANCES

Pub. L. 101-511, title VIII, §8080, Nov. 5, 1990, 104 Stat. 1893, provided that:

“(a) Upon the date of enactment of this Act [Nov. 5, 1990], the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled.

“(b) During the current fiscal year and thereafter—

“(1) on the 3rd September 30th after enactment of this section [Nov. 5, 1990], all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

“(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code; and

“(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out,

any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided*, That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further*, That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further*, That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided further*, That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect

to a program, project or activity would cause the total amount of such obligations to exceed \$4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed \$25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

“(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account.”

AVAILABILITY OF APPROPRIATIONS

The following general provisions, that had been repealed as fiscal year provisions in prior appropriation acts, were enacted as permanent law in the Department of Defense Appropriations Act, 1990, Pub. L. 101-165, title IX, §§9002, 9006, 9020, 9025, 9030, 9079, Nov. 21, 1989, 103 Stat. 1129, 1130, 1133-1135, 1147:

“SEC. 9002. [Authorized Secretaries of Defense, Army, Navy, and Air Force to procure services in accordance with section 3109 of Title 5, Government Organization and Employees, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals while traveling from their homes or places of business to official duty stations and return; and was repealed and restated in section 129b of this title by Pub. L. 101-510, div. A, title XIV, §1481(b)(1), (3), Nov. 5, 1990, 104 Stat. 1704, 1705.]

“SEC. 9006. [Provided that no appropriations available to the Department of Defense could be used for operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense; and was repealed and restated in section 2245 of this title by Pub. L. 101-510, div. A, title XIV, §1481(e)(1), (3), Nov. 5, 1990, 104 Stat. 1706.]

“SEC. 9020. [Provided that no funds available to the Department of Defense could be used to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department is reimbursed for the costs of providing such care; and was repealed and restated in section 2549 of this title by Pub. L. 101-510, div. A, title XIV, §1481(f)(1), (3), Nov. 5, 1990, 104 Stat. 1707.]

“SEC. 9025. [Provided that no funds available to the Department of Defense could be used to lease to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department when suitable aircraft or vehicles are commercially available in the private sector; and was repealed and restated in section 2550 of this title by Pub. L. 101-510, div. A, title XIV, §1481(g)(1), (4), Nov. 5, 1990, 104 Stat. 1707.]

“SEC. 9030. [Provided that funds available to the Department of Defense could be used by the Department for helicopters and motorized equipment at Defense installations for removal of feral burros and horses; and was repealed and restated in section 2678 of this title by Pub. L. 101-510, div. A, title XIV, §1481(h)(1), (3), Nov. 5, 1990, 104 Stat. 1708.]

“SEC. 9079. None of the funds appropriated by this Act or hereafter shall be obligated for the second career training program authorized by Public Law 96-347 [amending sections 2109, 3307, 3381 to 3385, and 8335 of Title 5, Government Organization and Employees].”

The following general provision, that had been repealed as fiscal year provision in prior appropriation acts, was enacted as permanent law in the Department

of Defense Appropriations Act, 1989, Pub. L. 100-463, title VIII, §8098, Oct. 1, 1988, 102 Stat. 2270-35, which provided that appropriations available to the Department of Defense for operation and maintenance could be used to pay claims authorized by law to be paid by the Department (except for civil functions), was repealed and restated in section 2732 of this title by Pub. L. 101-510, div. A, title XIV, §1481(j)(1), (3), Nov. 5, 1990, 104 Stat. 1708, 1709.

§ 2241a. Prohibition on use of funds for publicity or propaganda purposes within the United States

Funds available to the Department of Defense may not be obligated or expended for publicity or propaganda purposes within the United States not otherwise specifically authorized by law.

(Added Pub. L. 111-84, div. A, title X, §1031(a)(1), Oct. 28, 2009, 123 Stat. 2448.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-84, div. A, title X, §1031(b), Oct. 28, 2009, 123 Stat. 2448, provided that: “Section 2241a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2009, or the date of the enactment of this Act [Oct. 28, 2009], whichever is later.”

§ 2241b. Prohibition on contracts providing payments for activities at sporting events to honor members of the armed forces

(a) **PROHIBITION.**—The Department of Defense may not enter into any contract or other agreement under which payments are to be made in exchange for activities by the contractor intended to honor, or giving the appearance of honoring, members of the armed forces (whether members of the regular components or the reserve components) at any form of sporting event.

(b) **CONSTRUCTION.**—Nothing in subsection (a) shall be construed as prohibiting the Department of Defense from taking actions to facilitate activities intended to honor members of the armed forces at sporting events that are provided on a pro bono basis or otherwise funded with non-Federal funds if such activities are provided and received in accordance with applicable rules and regulations regarding the acceptance of gifts by the military departments, the armed forces, and members of the armed forces.

(Added Pub. L. 114-92, div. A, title III, §341(a), Nov. 25, 2015, 129 Stat. 792.)

§ 2242. Authority to use appropriated funds for certain investigations and security services

The Secretary of Defense and the Secretary of each military department may—

(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;

(2) pay expenses incurred in connection with the administration of occupied areas;

(3) pay expenses of military courts, boards, and commissions; and

(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files.

(Added Pub. L. 100-370, §1(e)(1), July 19, 1988, 102 Stat. 844.)

HISTORICAL AND REVISION NOTES

Paragraphs (1) and (4) of this section and sections 2241(b) and 2253(a)(1) of this title are based on Pub. L. 98-212, title VII, §705, Dec. 8, 1983, 97 Stat. 1437.

Paragraphs (2) and (3) are based on Pub. L. 99-190, §101(b) [title VIII, §§8005(a), 8006(a)], Dec. 19, 1985, 99 Stat. 1185, 1202, 1203.

§ 2243. Authority to use appropriated funds to support student meal programs in overseas defense dependents' schools

(a) **AUTHORITY.**—Subject to subsection (b), amounts appropriated to the Department of Defense for the operation of overseas defense dependents' schools may be used by the Secretary of Defense to enable an overseas meal program to provide students enrolled in such a school with meals at a price equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(b) **LIMITATION.**—The authority provided by subsection (a) may be used only if the Secretary of Defense determines that Federal payments and commodities provided under section 20 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b) and section 20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to provide meals under that program at a price for students equal to the average price paid by students for equivalent meals under a comparable public school meal program in the United States.

(c) **DETERMINING AVERAGE PRICE.**—In determining the average price paid by students in the United States for meals under a school meal program, the Secretary of Defense shall exclude free and reduced price meals provided pursuant to income guidelines.

(d) **OVERSEAS MEAL PROGRAM DEFINED.**—In this section, the term “overseas meal program” means a program administered by the Secretary of Defense to provide breakfasts or lunches to students attending overseas defense dependents' schools.

(e) **OVERSEAS DEFENSE DEPENDENTS' SCHOOL DEFINED.**—In this section, the term “overseas defense dependents' school” means the following:

(1) A school established as part of the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 U.S.C. 921 et seq.).

(2) An elementary or secondary school established pursuant to section 2164 of this title that is located in a territory, commonwealth, or possession of the United States.

(Added Pub. L. 101-189, div. A, title III, §326(a), Nov. 29, 1989, 103 Stat. 1415; amended Pub. L. 106-78, title VII, §752(b)(7), Oct. 22, 1999, 113 Stat. 1169; Pub. L. 114-92, div. A, title V, §573(a), (b)(1), Nov. 25, 2015, 129 Stat. 830, 831.)