

PUBLIC LAW 111-84—OCT. 28, 2009

NATIONAL DEFENSE AUTHORIZATION ACT
FOR FISCAL YEAR 2010

Public Law 111-84
111th Congress

An Act

Oct. 28, 2009
[H.R. 2647]

To authorize appropriations for fiscal year 2010 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

National Defense
Authorization
Act for Fiscal
Year 2010.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Defense Authorization Act for Fiscal Year 2010”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) **DIVISIONS.**—This Act is organized into five divisions as follows:

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- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.
- (4) Division D—Funding tables.
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(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

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- Sec. 2822. Report on global defense posture realignment and interagency review.
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- Sec. 3201. Authorization.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

- Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

- Sec. 3501. Authorization of appropriations for fiscal year 2010.
- Sec. 3502. Unused leave balances.
- Sec. 3503. Temporary program authorizing contracts with adjunct professors at the United States Merchant Marine Academy.
- Sec. 3504. Maritime loan guarantee program.
- Sec. 3505. Defense measures against unauthorized seizures of Maritime Security Fleet vessels.
- Sec. 3506. Report on restrictions on United States-flagged commercial vessel security.
- Sec. 3507. Technical corrections to State maritime academies student incentive program.
- Sec. 3508. Cooperative agreements, administrative expenses, and contracting authority.
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- Sec. 3510. Use of midshipman fees.
- Sec. 3511. Construction of vessels in the United States policy.
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Sec. 4402. Other authorizations for overseas contingency operations.

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Sec. 4503. Military construction for overseas contingency operations.

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Sec. 4703. Definitions.

Sec. 4704. Support for criminal investigations and prosecutions by State, local, and tribal law enforcement officials.

Sec. 4705. Grant program.

Sec. 4706. Authorization for additional personnel to assist State, local, and tribal law enforcement.

Sec. 4707. Prohibition of certain hate crime acts.

Sec. 4708. Statistics.

Sec. 4709. Severability.

Sec. 4710. Rule of construction.

Sec. 4711. Guidelines for hate-crimes offenses.

Sec. 4712. Attacks on United States servicemen.

Sec. 4713. Report on mandatory minimum sentencing provisions.

10 USC 101 note.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES.

For purposes of this Act, the term “congressional defense committees” has the meaning given that term in section 101(a)(16) of title 10, United States Code.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

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- Sec. 123. Report on strategic plan for homeporting the Littoral Combat Ship.
- Sec. 124. Advance procurement funding.
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- Sec. 126. Ford-class aircraft carrier report.
- Sec. 127. Report on a service life extension program for Oliver Hazard Perry class frigates.
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Subtitle D—Air Force Programs

- Sec. 131. Report on the procurement of 4.5 generation fighter aircraft.
- Sec. 132. Revised availability of certain funds available for the F-22A fighter aircraft.
- Sec. 133. Preservation and storage of unique tooling for F-22 fighter aircraft.
- Sec. 134. AC-130 gunships.
- Sec. 135. Report on E-8C Joint Surveillance and Target Attack Radar System re-engining.
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- Sec. 141. Body armor procurement.
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Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2010 for procurement for the Army as follows:

- (1) For aircraft, \$5,110,352,000.
- (2) For missiles, \$1,368,109,000.
- (3) For weapons and tracked combat vehicles, \$2,439,052,000.
- (4) For ammunition, \$2,058,895,000.
- (5) For other procurement, \$9,450,863,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2010 for procurement for the Navy as follows:

- (1) For aircraft, \$18,842,112,000.
- (2) For weapons, including missiles and torpedoes, \$3,446,019,000.
- (3) For shipbuilding and conversion, \$13,776,867,000.
- (4) For other procurement, \$5,610,581,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2010 for procurement for the Marine Corps in the amount of \$1,603,738,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2010 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$814,015,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2010 for procurement for the Air Force as follows:

- (1) For aircraft, \$11,224,371,000.

(B) methods for the attribution of nuclear or radiological material to the source when such material is intercepted by the United States, foreign governments, or international bodies or is dispersed in the course of a terrorist attack or other nuclear or radiological explosion.

(c) OFFICIALS.—The officials specified in this subsection are the following:

- (1) The Secretary of Homeland Security.
- (2) The Secretary of Defense.
- (3) The Secretary of Energy.
- (4) The Attorney General.
- (5) The Secretary of State.
- (6) The Director of National Intelligence.
- (7) Such other officials as the President considers appropriate.

(d) SUBMITTAL TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress the plan required under subsection (a).

Deadline.

SEC. 1037. AUTHORIZATION OF APPROPRIATIONS FOR PAYMENTS TO PORTUGUESE NATIONALS EMPLOYED BY THE DEPARTMENT OF DEFENSE.

(a) AUTHORIZATION FOR PAYMENTS.—Subject to subsection (b), the Secretary of Defense may authorize payments to Portuguese nationals employed by the Department of Defense in Portugal, for the difference between—

(1) the salary increases resulting from section 8002 of the Department of Defense Appropriations Act, 2006 (Public Law 109-148; 119 Stat. 2697; 10 U.S.C. 1584 note) and section 8002 of the Department of Defense Appropriations Act, 2007 (Public Law 109-289; 120 Stat. 1271; 10 U.S.C. 1584 note); and

(2) salary increases supported by the Department of Defense Azores Foreign National wage surveys for survey years 2006 and 2007.

(b) LIMITATION.—The authority provided in subsection (a) may be exercised only if—

(1) the wage survey methodology described in the United States—Portugal Agreement on Cooperation and Defense, with supplemental technical and labor agreements and exchange of notes, signed at Lisbon on June 1, 1995, and entered into force on November 21, 1995, is eliminated; and

(2) the agreements and exchange of notes referred to in paragraph (1) and any implementing regulations thereto are revised to provide that the obligations of the United States regarding annual pay increases are subject to United States appropriation law governing the funding available for such increases.

(c) AUTHORIZATION FOR APPROPRIATION.—Of the amounts authorized to be appropriated under title III, not less than \$240,000 is authorized to be appropriated for fiscal year 2010 for the purpose of the payments authorized by subsection (a).

SEC. 1038. PROHIBITION ON INTERROGATION OF DETAINEES BY CONTRACTOR PERSONNEL.

10 USC 201 note.

(a) PROHIBITION.—Except as provided in subsection (b), effective one year after the date of the enactment of this Act, no enemy prisoner of war, civilian internee, retained personnel, other

Effective date.

detainee, or any other individual who is in the custody or under the effective control of the Department of Defense or otherwise under detention in a Department of Defense facility in connection with hostilities may be interrogated by contractor personnel.

(b) AUTHORIZED FUNCTIONS OF CONTRACTOR PERSONNEL.—Contractor personnel with proper training and security clearances may be used as linguists, interpreters, report writers, information technology technicians, and other employees filling ancillary positions, including as trainers of and advisors to interrogators, in interrogations of persons as described in subsection (a) if—

(1) such personnel are subject to the same rules, procedures, policies, and laws pertaining to detainee operations and interrogations as apply to government personnel in such positions in such interrogations; and

(2) appropriately qualified and trained military or civilian personnel of the Department of Defense are available to oversee the contractor's performance and to ensure that contractor personnel do not perform activities that are prohibited under this section.

Deadline.

(c) DISCHARGE BY GOVERNMENT PERSONNEL.—The Secretary of Defense shall take appropriate actions to ensure that, by not later than one year after the date of the enactment of this Act, the Department of Defense has the resources needed to ensure that interrogations described in subsection (a) are conducted by appropriately qualified government personnel.

(d) WAIVER.—

Time periods.
Determinations.

(1) WAIVERS AUTHORIZED.—The Secretary of Defense may waive the prohibition under subsection (a) for a period of 60 days if the Secretary determines such a waiver is vital to the national security interests of the United States. The Secretary may renew a waiver issued pursuant to this paragraph for an additional 30-day period, if the Secretary determines that such a renewal is vital to the national security interests of the United States.

(2) LIMITATION ON DELEGATION.—

(A) IN GENERAL.—The waiver authority under paragraph (1) may not be delegated to any official below the level of the Deputy Secretary of Defense, except in the case of a waiver for an individual interrogation that is based on military exigencies, in which case the delegation of the waiver authority shall be done pursuant to regulations that the Secretary of Defense shall prescribe but in no instance may the latter delegation be below the level of combatant commander of the theater in which the individual is in the custody or under the effective control of the Department of Defense or otherwise under detention in a Department of Defense facility within that theater.

(B) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe the regulations referred to in subparagraph (A) by not later than 30 days after the date of the enactment of this Act.

Deadline.

(3) CONGRESSIONAL NOTIFICATION.—Not later than five days after the Secretary issues a waiver pursuant to paragraph (1), the Secretary shall submit to Congress written notification of the waiver.

