

113TH CONGRESS
2D SESSION

H. R. 5126

To reduce by one-half of one percent the discretionary budget authority of any Federal agency for a fiscal year if the financial statement of the agency for the previous fiscal year does not receive a qualified or unqualified audit opinion by an external independent auditor, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2014

Ms. LEE of California (for herself, Mr. BURGESS, Ms. SCHAKOWSKY, and Mr. BENISHEK) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce by one-half of one percent the discretionary budget authority of any Federal agency for a fiscal year if the financial statement of the agency for the previous fiscal year does not receive a qualified or unqualified audit opinion by an external independent auditor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Audit the Pentagon
3 Act of 2014”.

4 **SEC. 2. PURPOSES.**

5 The purposes of this Act are as follows:

6 (1) To strengthen American national security
7 by ensuring that—

8 (A) military planning, operations, weapons
9 development, and a long-term national security
10 strategy are connected to sound financial con-
11 trols; and

12 (B) defense dollars are spent efficiently.

13 (2) To instill a culture of accountability at the
14 Department of Defense that supports the vast ma-
15 jority of dedicated members of the Armed Forces
16 and civilians who want to ensure proper accounting
17 and prevent waste, fraud, and abuse.

18 **SEC. 3. FINDINGS.**

19 Congress finds the following:

20 (1) The 2013 Financial Report of the United
21 States Government found that, of major agencies,
22 only the Department of Defense had a “disclaimer”
23 because it lacked any auditable reporting or account-
24 ing available for independent review. In the Finan-
25 cial Report, the Treasury Department summarized:
26 “Since the passage of the CFO Act of 1990, the fed-

1 eral financial community has made important strides
2 in instilling strong accounting and financial report-
3 ing practices. This year, 23 of the 24 CFO Act
4 agencies obtained an opinion from the independent
5 auditors on their financial statements. Out of the 24
6 major ‘CFO Act’ agencies, there were 22 clean opin-
7 ions, 1 qualified opinion, and only one remaining
8 disclaimer in FY 2013. . . . However, weaknesses
9 in basic financial management practices and other
10 limitations continue to prevent one major agency,
11 and the Government as a whole, from achieving an
12 audit opinion.”.

13 (2) The financial management of the Depart-
14 ment of Defense has been on the “High-Risk” list
15 of the Government Accountability Office (GAO). The
16 GAO found that the Department is not consistently
17 able to “control costs; ensure basic accountability;
18 anticipate future costs and claims on the budget;
19 measure performance; maintain funds control; and
20 prevent and detect fraud, waste, and abuse”.

21 (3) At a September 2010 hearing of the Senate,
22 the Government Accountability Office stated that
23 past expenditures by the Department of Defense of
24 \$5,800,000,000 to improve financial information,
25 and billions of dollars more of anticipated expendi-

1 tures on new information technology systems for
2 that purpose, may not suffice to achieve full audit
3 readiness of the financial statement of the Depart-
4 ment.

5 (4) Section 9 of article 1 of the Constitution of
6 the United States requires all agencies of the Fed-
7 eral Government, including the Department of De-
8 fense, to publish “a regular statement and account
9 of the receipts and expenditures of all public
10 money”.

11 (5) Section 303(d) of the Chief Financial Offi-
12 cers Act of 1990 (Public Law 101–576) required
13 that financial statements be prepared and independ-
14 ently audited for the Department of the Army by
15 March 31, 1992, and for the Department of the Air
16 Force by March 31, 1993. Neither the Department
17 of the Army nor the Department of the Air Force
18 has complied.

19 (6) Section 3515 of title 31, United States
20 Code, requires the agencies of the Federal Govern-
21 ment, including the Department of Defense, to
22 present auditable financial statements beginning not
23 later than March 1, 1997. The Department has not
24 complied with this law.

1 (7) The Federal Financial Management Im-
2 provement Act of 1996 (31 U.S.C. 3512 note) re-
3 quires financial systems acquired by the Federal
4 Government, including the Department of Defense,
5 to be able to provide information to leaders to man-
6 age and control the cost of government. The Depart-
7 ment has not complied with this law.

8 (8) In 2005, the Department of Defense cre-
9 ated a Financial Improvement and Audit Readiness
10 (FIAR) Plan, overseen by a directorate within the
11 office of the Under Secretary of Defense (Comp-
12 troller), to improve Department business processes
13 with the goal of producing timely, reliable, and accu-
14 rate financial information that could generate an
15 audit-ready annual financial statement. In December
16 2005, that directorate, known as the FIAR Direc-
17 torate, issued the first of a series of semiannual re-
18 ports on the status of the Financial Improvement
19 and Audit Readiness Plan.

20 (9) Secretary of Defense Robert M. Gates said
21 in a speech on May 24, 2011: “The current appa-
22 ratus for managing people and money across the
23 DoD enterprise is woefully inadequate. The agencies,
24 field activities, joint headquarters, and support staff
25 functions of the department operate as a semi-feudal

1 system—an amalgam of fiefdoms without centralized
2 mechanisms to allocate resources, track expendi-
3 tures, and measure results relative to the depart-
4 ment’s overall priorities.”.

5 (10) The accounting problems of the Depart-
6 ment of Defense result in widespread errors in pay
7 that can be difficult to correct. Such payroll errors
8 can impose hardship on members of the Armed
9 Forces and their families.

10 **SEC. 4. SPENDING REDUCTIONS FOR AGENCIES WITHOUT**
11 **CLEAN AUDITS.**

12 (a) **APPLICABILITY.**—

13 (1) **IN GENERAL.**—Subject to paragraph (2),
14 this section applies to each Federal agency identified
15 by the Director of the Office of Management and
16 Budget as required to have an audited financial
17 statement under section 3515 of title 31, United
18 States Code.

19 (2) **APPLICABILITY TO MILITARY DEPARTMENTS**
20 **AND DEFENSE AGENCIES.**—For purposes of para-
21 graph (1), in the case of the Department of Defense,
22 each military department and each Defense Agency
23 shall be treated as a separate Federal agency.

24 (b) **DEFINITIONS.**—In this section, the terms “finan-
25 cial statement” and “external independent auditor” have

1 the same meanings as those terms have under section
2 3521(e) of title 31, United States Code.

3 (c) ADJUSTMENTS FOR FINANCIAL ACCOUNT-
4 ABILITY.—

5 (1) On March 2 of fiscal year 2015 and each
6 subsequent fiscal year, the discretionary budget au-
7 thority available for each Federal agency for such
8 fiscal year is adjusted as provided in paragraph (2).

9 (2) If a Federal agency has not submitted a fi-
10 nancial statement for the previous fiscal year, or if
11 such financial statement has not received either an
12 unqualified or a qualified audit opinion by an inde-
13 pendent external auditor, the discretionary budget
14 authority available for the Federal agency is reduced
15 by .5 percent, with the reduction applied proportion-
16 ately to each account (other than an account listed
17 in subsection (d) or an account for which a waiver
18 is made under subsection (e)).

19 (3) Consistent with applicable laws, the Sec-
20 retary of Defense may make any reduction under
21 paragraph (2) in a manner that minimizes any effect
22 on national security.

23 (4) An amount equal to the total amount of any
24 reduction under paragraph (2) shall be retained in

1 the general fund of the Treasury for the purposes of
2 deficit reduction.

3 (d) ACCOUNTS EXCLUDED.—The following accounts
4 are excluded from any reductions referred to in subsection
5 (c)(2):

6 (1) Military personnel, reserve personnel, and
7 National Guard personnel accounts of the Depart-
8 ment of Defense.

9 (2) The Defense Health Program account of
10 the Department of Defense.

11 (e) WAIVER.—The President may waive subsection
12 (c)(2) with respect to an account if the President certifies
13 that applying the subsection to that account would harm
14 national security or members of the Armed Forces who
15 are in combat.

16 (f) REPORT.—Not later than 60 days after an adjust-
17 ment under subsection (c), the Director of the Office of
18 Management and Budget shall submit to Congress a re-
19 port describing the amount and account of each adjust-
20 ment.

21 **SEC. 5. REPORT ON DEPARTMENT OF DEFENSE REPORT-**
22 **ING REQUIREMENTS.**

23 Not later than 180 days after the date of the enact-
24 ment of this Act, the Under Secretary of Defense (Comp-
25 troller) shall submit to Congress a report setting forth a

1 list of each report of the Department required by law to
2 be submitted to Congress which, in the opinion of the
3 Under Secretary, interferes with the capacity of the De-
4 partment to achieve an audit of the financial statements
5 of the Department with an unqualified opinion.

6 **SEC. 6. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) as the overall defense budget is cut, con-
9 gressional defense committees and the Department
10 of Defense should not endanger the Nation's troops
11 by reducing wounded warrior accounts or vital pro-
12 tection (such as body armor) for members of the
13 Armed Forces in harm's way;

14 (2) the valuation of legacy assets by the De-
15 partment of Defense should be simplified without
16 compromising essential controls or generally accept-
17 ed government auditing standards; and

18 (3) nothing in this Act should be construed to
19 require or permit the declassification of accounting
20 details about classified defense programs, and, as re-
21 quired by law, the Department of Defense should en-
22 sure financial accountability in such programs using
23 proven practices, including using auditors with secu-
24 rity clearances.

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