

United State Code

TITLE 10 - ARMED FORCES

Subtitle A - General Military Law

PART I - ORGANIZATION AND GENERAL MILITARY POWERS

CHAPTER 2 - DEPARTMENT OF DEFENSE

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*U.S. Code as of: 01/26/1998*

## **Sec. 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 National Security and the Committee on Appropriations, and the National Security Subcommittee of the Committee on Appropriations, of the House of Representatives.

## Source

(Added Pub. L. 100-180, div. A, title XI, Sec. 1132(a)(1), Dec. 4, 1987, 101 Stat. 1151; amended Pub. L. 101-510, div. A, title XIV, Sec. 1461, 1482(a), Nov. 5, 1990, 104 Stat. 1698, 1709; Pub. L. 104-106, div. A, title X, Sec. 1055, title XV, Sec. 1502(a)(4), Feb. 10, 1996, 110 Stat. 442, 502.)

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## AMENDMENTS

1996 - Subsec. (a)(1). Pub. L. 104-106, Sec. 1055, substituted ''March 1'' for ''February 1''.

Subsec. (g). Pub. L. 104-106, Sec. 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, Sec. 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, Sec. 1482(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Pub. L. 101-510, Sec. 1461(b), inserted ''and Appropriations'' after ''Armed Services'' in par. (1).

Subsec. (g). Pub. L. 101-510, Sec. 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

Section 1132(b), (c) of Pub. L. 100-180 provided that:

''(b) Five-Year Reference Amounts. - The first report under subsection (a) of [section 119 of title 10](#), United States Code (as added by subsection (a)), shall set forth -

''(1) the total amount requested in the President's budget for each of the five previous fiscal years for special access programs of the Department of Defense that were included in the budget; and

''(2) the total amount appropriated for each such year for such programs.

''(c) Initial Report on Special Access Program Designations. - The first report under subsection (b) of [section 119 of title 10](#), United States Code (as added by subsection (a)), shall cover each existing special access program.''