

115TH CONGRESS  
1ST SESSION

# H. R. 3079

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2017

Ms. LEE (for herself, Mr. BURGESS, Ms. CLARKE of New York, Mr. CONYERS, Mr. ELLISON, Mr. EVANS, Mr. GRIJALVA, Ms. NORTON, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Ms. KELLY of Illinois, Mr. MCGOVERN, Ms. MOORE, Mr. MOULTON, Mr. NOLAN, Mr. POCAN, Mr. POLIS, Mr. RASKIN, Ms. SCHAKOWSKY, Mr. BIGGS, Mr. BLUMENAUER, Mr. GOSAR, Mr. LANCE, Mr. LABRADOR, Mr. MASSIE, Mr. JONES, Mr. STIVERS, Mrs. WATSON COLEMAN, Mr. WELCH, Mr. COHEN, Mr. KHANNA, Mr. DESAULNIER, and Mr. AMASH) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To reduce by one-half of one percent the discretionary budget authority of the Department of Defense for a fiscal year if the financial statement of the Department of Defense 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 2017”.

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 civilian employees of the Department who want  
17 to ensure proper accounting and prevent waste,  
18 fraud, and abuse.

19 **SEC. 3. FINDINGS.**

20 Congress finds the following:

21 (1) The 2016 Financial Report of the United  
22 States Government found that, the Department of  
23 Defense again had a disclaimer because it lacked  
24 any auditable reporting or accounting available for  
25 independent review. The Department of Defense is

1 the only covered major agency that has always had  
2 such disclaimers and has never had a clean audit.

3 (2) The financial management of the Depart-  
4 ment of Defense has been on the “High-Risk” list  
5 of the Government Accountability Office (GAO)  
6 since 1995 because it has never achieved an unquali-  
7 fied audit opinion. The GAO’s 2015 High-Risk Re-  
8 port found that “The Department of Defense  
9 (DOD) is responsible for more than half of the Fed-  
10 eral Government’s discretionary spending. Signifi-  
11 cant financial and related business management sys-  
12 tems and control weaknesses have adversely affected  
13 DOD’s ability to control costs; ensure basic account-  
14 ability; anticipate future costs and claims on the  
15 budget; measure performance; maintain funds con-  
16 trol; prevent and detect fraud, waste, and abuse; ad-  
17 dress pressing management issues; and prepare  
18 auditable financial statements. Without accurate,  
19 timely, and useful financial information, DOD is se-  
20 verely hampered in making sound decisions affecting  
21 the department’s operations.”.

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

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

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

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

20 (6) Section 3515 of title 31, United States  
21 Code, originally required the agencies of the Federal  
22 Government, including the Department of Defense,  
23 to present auditable financial statements beginning  
24 not later than March 1, 1997. The Department of  
25 Defense has not 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 De-  
7           partment 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.

16          (9) Then Secretary of Defense Ashton Carter  
17          said in a statement to the Defense Subcommittee of  
18          the Committee on Appropriations of the House of  
19          Representatives on February 25, 2016, “I cannot  
20          ask for more taxpayer dollars for defense without  
21          being candid about the fact that not every defense  
22          dollar is spent as wisely or responsibly as it could be,  
23          and also being determined to change that and make  
24          our department more accountable.”.

1           (10) Then Secretary of Defense Robert M.  
 2           Gates said in a speech on May 24, 2011: “The cur-  
 3           rent apparatus for managing people and money  
 4           across the DoD enterprise is woefully inadequate.  
 5           The agencies, field activities, joint headquarters, and  
 6           support staff functions of the department operate as  
 7           a semi-feudal system—an amalgam of fiefdoms with-  
 8           out centralized mechanisms to allocate resources,  
 9           track expenditures, and measure results relative to  
 10          the department’s overall priorities.”.

11          (11) The accounting problems of the Depart-  
 12          ment of Defense result in widespread errors in pay  
 13          that can be difficult to correct. Such payroll errors  
 14          can impose hardship on members of the Armed  
 15          Forces and their families.

16 **SEC. 4. DEPARTMENT OF DEFENSE SPENDING REDUC-**  
 17 **TIONS IN ABSENCE OF SUBMITTED FINAN-**  
 18 **CIAL STATEMENTS OR FAILURE TO ACHIEVE**  
 19 **UNQUALIFIED OR QUALIFIED INDEPENDENT**  
 20 **AUDIT OPINION.**

21          (a) DEFINITIONS.—In this section:

22           (1) The terms “financial statement” and “ex-  
 23           ternal independent auditor” have the meanings given  
 24           those terms in section 3521(e) of title 31, United  
 25           States Code.

1           (2) The term “qualified”, with respect to the  
2           audit status of a financial statement, includes the  
3           characterization modified.

4           (3) The term “unqualified”, with respect to the  
5           audit status of a financial statement, includes the  
6           characterizations clean and unmodified.

7           (b) REDUCTION TO ENCOURAGE FINANCIAL AC-  
8           COUNTABILITY.—If, by March 2 of a fiscal year, the De-  
9           partment of Defense has not submitted a financial state-  
10          ment for the previous fiscal year, or if, by such date, such  
11          financial statement has been submitted but has not re-  
12          ceived either an unqualified or a qualified audit opinion  
13          by an independent external auditor, the discretionary  
14          budget authority available for the Department of Defense  
15          shall be reduced by .5 percent.

16          (c) APPLICATION OF REDUCTION.—Consistent with  
17          applicable laws, the Secretary of Defense shall apply any  
18          reduction under subsection (b)—

19                 (1) proportionately to each Department of De-  
20                 fense account (other than an account listed in sub-  
21                 section (e) or an account for which a waiver is made  
22                 under subsection (f)); and

23                 (2) in a manner that minimizes any adverse ef-  
24                 fect on national security.

1 (d) DEFICIT REDUCTION.—An amount equal to the  
2 total amount of any reduction under subsection (b) shall  
3 be retained in the general fund of the Treasury for the  
4 purposes of deficit reduction.

5 (e) ACCOUNTS EXCLUDED.—The following accounts  
6 are excluded from any reductions under subsection (b):

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

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

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

17 (g) REPORT.—Not later than 60 days after a reduc-  
18 tion takes effect under subsection (c), the Director of the  
19 Office of Management and Budget shall submit to Con-  
20 gress a report specifying each Department of Defense sub-  
21 ject to reduction and the amount of the reduction.

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

24 Not later than 180 days after the date of the enact-  
25 ment of this Act, the Under Secretary of Defense (Comp-



1 troller) shall submit to Congress a report setting forth a  
2 list of each report of the Department of Defense required  
3 by law to be submitted to Congress which, in the opinion  
4 of the Under Secretary, interferes with the capacity of the  
5 Department to achieve an audit of the financial state-  
6 ments of the Department with an unqualified opinion.

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

8 It is the sense of Congress that—

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

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

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

- 1 proven practices, including using auditors with secu-
- 2 rity clearances.

