

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6528

To reduce by 5 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 an unqualified audit opinion by an external independent auditor, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2012

Ms. LEE of California (for herself, Mr. STARK, Ms. CLARKE of New York, and Ms. SCHAKOWSKY) 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

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## A BILL

To reduce by 5 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 an 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,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Audit the Pentagon  
5       Act of 2012”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) To strengthen American national security  
4 by ensuring that—

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

9 (B) defense dollars are spent efficiently.

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

15 **SEC. 3. FINDINGS.**

16 Congress finds the following:

17 (1) The 2011 Financial Report of the United  
18 States Government found that 32 of 35 major Fed-  
19 eral agencies received clean audit opinions. Two  
20 more, the Department of Homeland Security and  
21 the Department of State, received “qualified” audit  
22 opinions but are making progress. Only the Depart-  
23 ment of Defense had a “disclaimer” because it  
24 lacked any auditable reporting or accounting avail-  
25 able for independent review.

1           (2) The financial management of the Depart-  
2           ment of Defense has been on the “High-Risk” list  
3           of the Government Accountability Office (GAO). The  
4           GAO found that the Department is not consistently  
5           able to “control costs; ensure basic accountability;  
6           anticipate future costs and claims on the budget;  
7           measure performance; maintain funds control; and  
8           prevent and detect fraud, waste, and abuse”.

9           (3) At a September 2010 hearing of the Senate,  
10          the Government Accountability Office stated that  
11          past expenditures by the Department of Defense of  
12          \$5,800,000,000 to improve financial information,  
13          and billions of dollars more of anticipated expendi-  
14          tures on new information technology systems for  
15          that purpose, may not suffice to achieve full audit  
16          readiness of the financial statement of the Depart-  
17          ment. At that hearing, the Government Account-  
18          ability Office could not predict when the Department  
19          would achieve full audit readiness of such state-  
20          ments.

21          (4) Section 9 of article 1 of the Constitution of  
22          the United States requires all agencies of the Fed-  
23          eral Government, including the Department of De-  
24          fense, to publish “a regular statement and account

1 of the receipts and expenditures of all public  
2 money”.

3 (5) Section 303(d) of the Chief Financial Offi-  
4 cers Act of 1990 (Public Law 101–576) required  
5 that financial statements be prepared and independ-  
6 ently audited for the Department of the Army by  
7 March 31, 1992, and for the Department of the Air  
8 Force by March 31, 1993. Neither the Department  
9 of the Army nor the Department of the Air Force  
10 has complied.

11 (6) Section 3515 of title 31, United States  
12 Code, requires the agencies of the Federal Govern-  
13 ment, including the Department of Defense, to  
14 present auditable financial statements beginning not  
15 later than March 1, 1997. The Department has not  
16 complied with this law.

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

24 (8) The National Defense Authorization Act for  
25 Fiscal Year 2002 (Public Law 107–107) requires

1 the Secretary of Defense to report to Congress an-  
2 nually on the reliability of the financial statements  
3 of the Department of Defense, to minimize resources  
4 spent on producing unreliable financial statements,  
5 and to use resources saved to improve financial man-  
6 agement policies, procedures, and internal controls.

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

19 (10) The National Defense Authorization Act  
20 for Fiscal Year 2010 (Public Law 111–84) requires  
21 regular status reports on the Financial Improvement  
22 and Audit Readiness Plan described in paragraph  
23 (9), and codified as a statutory requirement the goal  
24 of the Plan in ensuring that Department of Defense

1 financial statements are validated as ready for audit  
2 not later than September 30, 2017.

3 **SEC. 4. SPENDING REDUCTIONS FOR AGENCIES WITHOUT**  
4 **CLEAN AUDITS.**

5 (a) APPLICABILITY.—

6 (1) IN GENERAL.—Subject to paragraph (2),  
7 this section applies to each Federal agency identified  
8 by the Director of the Office of Management and  
9 Budget as required to have an audited financial  
10 statement under section 3515 of title 31, United  
11 States Code.

12 (2) APPLICABILITY TO MILITARY DEPARTMENTS  
13 AND DEFENSE AGENCIES.—For purposes of para-  
14 graph (1), in the case of the Department of Defense,  
15 each military department and each Defense Agency  
16 shall be treated as a separate Federal agency.

17 (b) DEFINITIONS.—In this section, the terms “finan-  
18 cial statement” and “external independent auditor” have  
19 the same meanings as those terms have under section  
20 3521(e) of title 31, United States Code.

21 (c) ADJUSTMENTS FOR FINANCIAL ACCOUNT-  
22 ABILITY.—

23 (1) On March 2 of fiscal year 2013 and each  
24 subsequent fiscal year, the discretionary budget au-

1       thority available for each Federal agency for such  
2       fiscal year is adjusted as provided in paragraph (2).

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

13              (3) An amount equal to the total amount of any  
14      reduction under paragraph (2) shall be retained in  
15      the general fund of the Treasury for the purposes of  
16      deficit reduction.

17      (d) ACCOUNTS EXCLUDED.—The following accounts  
18      are excluded from any reductions referred to in subsection  
19      (c)(2):

20              (1) Military personnel, reserve personnel, and  
21      National Guard personnel accounts of the Depart-  
22      ment of Defense.

23              (2) The Defense Health Program account of  
24      the Department of Defense.

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

6 (f) REPORT.—Not later than 60 days after an adjust-  
7 ment under subsection (c), the Director of the Office of  
8 Management and Budget shall submit to Congress a re-  
9 port describing the amount and account of each adjust-  
10 ment.

11 **SEC. 5. REPORT ON DEPARTMENT OF DEFENSE REPORT-**  
12 **ING REQUIREMENTS.**

13 Not later than 180 days after the date of the enact-  
14 ment of this Act, the Under Secretary of Defense (Comp-  
15 troller) shall submit to Congress a report setting forth the  
16 following:

17 (1) A list of each report of the Department of  
18 Defense required by law to be submitted to Congress  
19 which, in the opinion of the Under Secretary, would  
20 no longer be necessary if the financial statements of  
21 the Department of Defense were audited with an un-  
22 qualified opinion.

23 (2) A list of each report of the Department re-  
24 quired by law to be submitted to Congress which, in  
25 the opinion of the Under Secretary, interferes with



1 the capacity of the Department to achieve an audit  
2 of the financial statements of the Department with  
3 an unqualified opinion.

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

5 It is the sense of Congress that—

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

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

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

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