

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR
FISCAL YEAR 1999

Public Law 105-261, 105th Congress

KYL AMENDMENT

An Act

To authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

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

SECTION 1. SHORT TITLE; FINDINGS.

- (a) Short Title—This Act may be cited as the “Strom Thurmond National Defense Authorization Act for Fiscal Year 1999”
- (b) Findings—Congress makes the following findings:
 - (1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. Senator Thurmond’s continuous service on that committee covers more than 75 percent of the period of the existence of the committee which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committee of Congress, the original bodies of which were formed in 1816.
 - (2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.
 - (3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

SECTION 3161. PROTECTION AGAINST INADVERTENT RELEASE OF
RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

- (a) Plan for Protection Against Release—The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the

National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a plan to prevent the inadvertent release of records containing Restricted Data or Formerly Restricted Data during the automatic declassification of records under Executive Order No. 12958 (50 U.S.C. 435 note).

- (b) Plan Elements—The plan under subsection (a) shall include the following:
- (1) The actions to be taken in order to ensure that records subject to Executive Order No. 12958 are reviewed on a page-by-page basis for Restricted Data and Formerly Restricted Data unless they have been determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.
 - (2) The criteria and process by which documents are determined to be highly unlikely to contain Restricted Data or Formerly Restricted Data.
 - (3) The actions to be taken in order to ensure proper training, supervision, and evaluation of personnel engaged in declassification under that Executive Order so that such personnel recognize Restricted Data and Formerly Restricted Data.
 - (4) The extent to which automated declassification technologies will be used under that Executive Order to protect Restricted Data and Formerly Restricted Data from inadvertent release.
 - (5) Procedures for periodic review and evaluation by the Secretary of Energy, in consultation with the Director of the Information Security Oversight Office of the National Archives and Records Administration, of compliance by Federal agencies with the plan.
 - (6) Procedures for resolving disagreements among Federal agencies regarding declassification procedures and decisions under the plan.
 - (7) The funding, personnel, and other resources required to carry out the plan.
 - (8) A timetable for implementation of the plan.
- (c) Limitation on Declassification of Certain Records—
- (1) Effective on the date of the enactment of this Act and except as provided in paragraph (3), a record referred to in subsection (a) may not be declassified unless the agency having custody of the record reviews the record on a page-by-page basis to ensure that the record does not contain Restricted Data or Formerly Restricted Data.
 - (2) Any record determined as a result of a review under paragraph (1) to contain Restricted Data or Formerly Restricted Data may not be declassified until the Secretary of Energy, in conjunction with the head of the agency having custody of the record, determines that the document is suitable for declassification.
 - (3) After the date occurring 60 days after the submission of the plan required by subsection (a) to the committees referred to in paragraphs (1) and (2) of subsection (d), the requirement under paragraph (1) to review a record on a page-by-page basis shall not appear in the case of a record determined, under the actions specifically in the plan pursuant

to subsection (b)(1), to be a record that is highly unlikely to contain Restricted Data or Formerly Restricted Data.

- (d) Submission of Plan—The Secretary of Energy shall submit the plan required under subsection (a) to the following:
 - (1) The Committee on Armed Services of the Senate.
 - (2) The Committee on National Security of the House of Representatives.
 - (3) The Assistant to the President for National Security Affairs.
- (e) Submission of Reviews—The Secretary of Energy shall, on a periodic basis, submit a summary of the results of the periodic reviews and evaluations specified in the plan pursuant to subsection (b)(4) to the committees and Assistant to the President specified in subsection (d)
- (f) Report and Notification Regarding Inadvertent Releases—
 - (1) The Secretary of Energy shall submit to the committees and Assistant to the President specified in subsection (d) a report on inadvertent releases of Restricted Data or Formerly Restricted Data under Executive Order No. 12958 that occurred before the date of the enactment of this Act.
 - (2) Not later than 30 days after any such inadvertent release occurring after the date of the enactment of this Act, the Secretary of Energy shall notify the committees and Assistant to the President specified in subsection (d) of such releases.
- (g) Definition—In this section, the term “Restricted Data” has the meaning given that term in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Public Law 106-65
106th Congress

LOTT AMENDMENT

An Act

To authorize appropriations for fiscal year 2000 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for such fiscal year for the Armed Forces, and for other purposes.

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 2000.”

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

(a) Divisions.—This Act is organized into three divisions as follows:

- (1) Division A—Department of Defense Authorizations.
- (2) Division B—Military Construction Authorizations.
- (3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees defined.

Subtitle E—Information Security

SEC. 1041. IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES.

- (a) IN GENERAL—(1) chapter 9 of title 10, United States Code, is amended by adding after section 229, as added by section 932(b), the following new section:

'Sec. 230. Amounts for declassification of records

'The Secretary of Defense shall include in the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order No. 12958 (50 U.S.C. 435 note) or any successor Executive order or to comply with any statutory requirement, or any request, to declassify Government records.'

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 229, as added by section 932(b), the following new item:

'230. Amounts for declassification of records.'

- (b) **LIMITATION ON EXPENDITURES-** The total amount expended by the Department of Defense during fiscal year 2000 to carry out declassification activities under the provisions of section 3.4 of Executive Order No. 12958 (50 U.S.C. 435 note) may not exceed the Department's planned expenditure level of \$51,000,000.
- (c) **CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS-** No records of the Department of Defense that have not been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Defense certifies to Congress that such declassification would not harm the national security.
- (d) **REPORT ON AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF DEFENSE RECORDS-** Not later than February 1, 2001, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report on the efforts of the Department of Defense relating to the declassification of classified records under the control of the Department of Defense. Such report shall include the following:
 - (1) An assessment of whether the Department will be able to review all relevant records for declassification before any date established for automatic declassification.
 - (2) An estimate of the cost of reviewing records to meet any requirement to review all relevant records for declassification by a date established for automatic declassification.
 - (3) An estimate of the number of records, if any, that the Department will be unable to review for declassification before any such date and the affect on national security of the automatic declassification of those records.

- (4) An estimate of the length of time by which any such date would need to be extended to avoid the automatic declassification of records that have not yet been reviewed as of such date.

SEC. 1044. NONDISCLOSURE OF INFORMATION ON PERSONNEL OF OVERSEAS, SENSITIVE, OR ROUTINELY DEPLOYABLE UNITS.

- (a) IN GENERAL- Chapter 3 of title 10, United States Code, is amended by inserting after section 130a the following new section:

-‘Sec. 130b. Personnel in overseas, sensitive, or routinely deployable units:
nondisclosure of personally identifying information

‘(a) EXEMPTION FROM DISCLOSURE- The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation may, notwithstanding section 552 of title 5, authorize to be withheld from disclosure to the public personally identifying information regarding—

- (1) any member of the armed forces assigned to an overseas unit, a sensitive unit, or a routinely deployable unit; and
- (2) any employee of the Department of Defense or of the Coast Guard whose duty station is with any such unit.

- (b) EXCEPTIONS- (1) The authority in subsection (a) is subject to such exceptions as the President may direct.

‘(2) Subsection (a) does not authorize any official to withhold, or to authorize the withholding of, information from Congress.

- (c) DEFINITIONS- In this section:

- (1) The term ‘personally identifying information’, with respect to any person, means the person’s name, rank, duty address, and official title and information regarding the person’s pay.
- (2) The term ‘unit’ means a military organization of the armed forces designated as a unit by competent authority.
- (3) The term ‘overseas unit’ means a unit that is located outside the United States and its territories.
- (4) The term ‘sensitive unit’ means a unit that is primarily involved in training for the conduct of, or conducting, special activities or classified missions, including—
 - (A) a unit involved in collecting, handling, disposing, or storing of classified information and material;
 - (B) a unit engaged in training—
 - (i) special operations units;
 - (ii) security group commands weapons stations; or

(iii) communications stations; and

(C) any other unit that is designated as a sensitive unit by the Secretary of Defense or, in the case of the Coast Guard when it is not operating as a service in the Navy, by the Secretary of Transportation.

(5) The term 'routinely deployable unit' means a unit that normally deploys from its permanent home station on a periodic or rotating basis to meet peacetime operational requirements that, or to participate in scheduled training exercises that, routinely require deployments outside the United States and its territories. Such term includes a unit that is alerted for deployment outside the United States and its territories during an actual execution of a contingency plan or in support of a crisis operation.

(c) CLERICAL AMENDMENT- The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

130b. Personnel in overseas, sensitive, or routinely deployable units: nondisclosure of personally identifying information.

SEC. 3149. SUPPLEMENT TO PLAN FOR DECLASSIFICATION OF RESTRICTED DATA AND FORMERLY RESTRICTED DATA.

- (a) SUPPLEMENT TO PLAN- The Secretary of Energy and the Archivist of the United States shall, after consultation with the members of the National Security Council and in consultation with the Secretary of Defense and the heads of other appropriate Federal agencies, develop a supplement to the plan required under subsection (a) of section 3161 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2260; 50 U.S.C. 435 note).
- (b) CONTENTS OF SUPPLEMENT- The supplement shall provide for the application of that plan (including in particular the element of the plan required by section 3161(b)(1) of that Act) to all records subject to Executive Order No. 12958 that were determined before the date of the enactment of that Act to be suitable for declassification.
- (c) LIMITATION ON DECLASSIFICATION OF RECORDS- All records referred to in subsection (b) shall be treated, for purposes of section 3161(c) of that Act, in the same manner as records referred to in section 3161(a) of that Act.
- (d) SUBMISSION OF SUPPLEMENT- The Secretary of Energy shall submit the supplement required under subsection (a) to the recipients of the plan referred to in section 3161(d) of that Act.

SECTION 3173. IDENTIFICATION IN BUDGET MATERIALS OF AMOUNTS FOR DECLASSIFICATION ACTIVITIES AND LIMITATION ON EXPENDITURES FOR SUCH ACTIVITIES.

- (a) AMOUNTS FOR DECLASSIFICATION OF RECORDS- The Secretary of Energy shall include in the budget justification materials submitted to congress in support of the Department of Energy budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) specific identification, as a budgetary line item, of the amounts required to carry out programmed activities during that fiscal year to declassify records pursuant to Executive Order 12958 (50 U.S.C. 435 note), or any successor Executive order, or to comply with any statutory requirement to declassify Government records.
- (b) CERTIFICATION REQUIRED WITH RESPECT TO AUTOMATIC DECLASSIFICATION OF RECORDS- No records of the Department of Energy that have not as of the date of the enactment of this Act been reviewed for declassification shall be subject to automatic declassification unless the Secretary of Energy certifies to Congress that such declassification would not harm the national security.
- (c) REPORT ON AUTOMATIC DECLASSIFICATION OF DEPARTMENT OF ENERGY RECORDS- Not later than February 1, 2001, the Secretary of Energy shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report on the efforts of the Department of Energy relating to the declassification of classified records under the control of the Department of Energy. Such report shall include the following:
 - (1) An Assessment of whether the Department will be able to review all relevant records for declassification before any date established for automatic declassification.
 - (2) An estimate of the number of records, if any, that the Department will be unable to review for declassification before any such date and the effect on national security of the automatic declassification of those records.
 - (3) An estimate of the length of time by which any such date would need to be extended to avoid the automatic declassification of records that have not yet been reviewed as of such date.