SEC. 809. EXTENSION OF AVAILABILITY OF FUNDS IN THE DEFENSE ACQUISITION WORKFORCE DEVELOPMENT FUND.

(a) AVAILABILITY.—Section 1705(e)(6) of title 10, United States Code, is amended by striking "under subsection (d)(2)" and inserting "(whether by credit in accordance with subsection (d)(2), by transfer pursuant to subsection (d)(3), by direct appropriation, or by deposit)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to funds in the Department of Defense Acquisition Workforce Development Fund as of the date of the enactment of this Act.

(c) CLARIFYING AMENDMENT.—Such section is further amended by striking "expenditure" and inserting "obligation".

Section-by-Section Analysis

This proposal would enable, beginning in fiscal year 2012, the consistent availability of any funds deposited to the Department of Defense Acquisition Workforce Development Fund (DAWDF) under section 1705 of title 10, United States Code, whether by credit under subsection (d)(2) of that section, by transfer, by direct appropriation, or otherwise. Currently, under 10 U.S.C. 1705(e)(6), "Duration of Availability," only credits from amounts available for contract services for operation and maintenance remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years. Mixing funds with different availability periods (e.g., one year and three years) adds significant complexity to management and execution of the fund. For example, FY2010 appropriations for the DAWDF ($100 million) were deposited to the fund in April 2010, which left 5 months for obligation. This proposal would enable all funds credited, transferred, appropriated and deposited to the DAWDF to remain available for expenditure in the fiscal year for which credited and the two succeeding fiscal years.

Budget Implications: There are no budgetary implications. This proposal would enable improved program planning and execution and reduce the risk of replacing expired funds through additional unplanned taxing of the Components. This proposal requires no additional funding.

Changes to Existing Law: This proposal would make the following changes to 10 U.S.C. §1705:

§ 1705. Department of Defense Acquisition Workforce Development Fund

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a fund to be known as the "Department of Defense Acquisition Workforce Development Fund" (in this section referred to as the “Fund”) to provide funds, in addition to other funds that may be available, for the recruitment, training, and retention of acquisition personnel of the Department of Defense.

(b) PURPOSE.—***

(c) MANAGEMENT.—***

(d) ELEMENTS.—

(1) IN GENERAL.—The Fund shall consist of amounts as follows:

(A) Amounts credited to the Fund under paragraph (2).

(B) Amounts transferred to the Fund pursuant to paragraph (3).

(C) Any other amounts appropriated to, credited to, or deposited into the Fund by law.

(2) CREDITS TO THE FUND.—(A) There shall be credited to the Fund an amount equal to the applicable percentage for a fiscal year of all amounts expended by the Department of Defense in such fiscal year for contract services from amounts available for contract services for operation and maintenance.

(B) Subject to paragraph (4), not later than 30 days after the end of the first quarter of each fiscal year, the head of each military department and Defense Agency shall remit to the Secretary of Defense, from amounts available to such military department or Defense Agency, as the case may be, for contract services for operation and maintenance, an amount equal to the applicable percentage for such fiscal year of the amount expended by such military department or Defense Agency, as the case may be, during such fiscal year for services covered by subparagraph (A). Any amount so remitted shall be credited to the Fund under subparagraph (A).

(C) For purposes of this paragraph, the applicable percentage for a fiscal year is the percentage that results in the credit to the Fund in such fiscal year of an amount as follows:

(i) For fiscal year 2010, $100,000,000.

(ii) For fiscal year 2011, $770,000,000.

(iii) For fiscal year 2012, $900,000,000.

(iv) For fiscal year 2013, $1,180,000,000.

(v) For fiscal year 2014, $1,330,000,000.

(vi) For fiscal year 2015, $1,470,000,000.

(D) The Secretary of Defense may reduce an amount specified in subparagraph (C) for a fiscal year if the Secretary determines that the amount is greater than is reasonably needed for purposes of the Fund for such fiscal year. The Secretary may not reduce the amount for a fiscal year to an amount that is less than 80 percent of the amount otherwise specified in subparagraph (C) for such fiscal year.

(3) TRANSFER OF CERTAIN UNOBLIGATED BALANCES.—To the extent provided in appropriations Acts, the Secretary of Defense may, during the 24-month period following the expiration of availability for obligation of any appropriations made to the Department of Defense for procurement, research, development, test, and evaluation, or operation and maintenance, transfer to the Fund any unobligated balance of such appropriations. Any amount so transferred shall be credited to the Fund.

(4) ADDITIONAL REQUIREMENTS AND LIMITATIONS ON REMITTANCES.—(A) In the event amounts are transferred to the Fund during a fiscal year pursuant to paragraph (1)(B) or appropriated to the Fund for a fiscal year pursuant to paragraph (1)(C), the aggregate amount otherwise required to be remitted to the Fund for that fiscal year pursuant to paragraph (2)(B) shall be reduced by the amount equal to the amounts so transferred or appropriated to the Fund during or for that fiscal year. Any reduction in the aggregate amount required to be remitted to the Fund for a fiscal year under this subparagraph shall be allocated as provided in applicable provisions of appropriations Acts or, absent such provisions, on a pro rata basis among the military departments and Defense Agencies required to make remittances to the Fund for that fiscal year under paragraph (2)(B), subject to any exclusions the Secretary of Defense determines to be necessary in the best interests of the Department of Defense.

(B) Any remittance of amounts to the Fund for a fiscal year under paragraph (2) shall be subject to the availability of appropriations for that purpose.

(e) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Subject to the provisions of this subsection, amounts in the Fund shall be available to the Secretary of Defense for expenditure, or for transfer to a military department or Defense Agency, for the recruitment, training, and retention of acquisition personnel of the Department of Defense for the purpose of the Fund, including for the provision of training and retention incentives to the acquisition workforce of the Department.

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(6) DURATION OF AVAILABILITY.—Amounts credited to the Fund ~~under subsection (d)(2)~~ <u>(whether by credit in accordance with subsection (d)(2), by transfer pursuant to subsection (d)(3), by direct appropriation, or by deposit)</u> shall remain available for ~~expenditure~~ <u>obligation</u> in the fiscal year for which credited and the two succeeding fiscal years.

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