

**AMENDMENT TO H.R. 5136, AS REPORTED
OFFERED BY MR. FLAKE OF ARIZONA**

At the end of subtitle C of title VIII, add the following new section:

**1 SEC. 826. COMPTROLLER GENERAL REPORT ON DEFENSE-
2 RELATED CONGRESSIONAL EARMARKS.**

3 (a) REPORT REQUIREMENT.—The Comptroller Gen-
4 eral of the United States shall submit to Congress, not
5 later than 120 days after the date of the enactment of
6 this Act, a report that examines the relationships, as they
7 pertain to congressional earmarking, that exist between
8 program officers at the Department of Defense (those who
9 are responsible for managing programs or projects which
10 result from congressional earmarks), contract officers at
11 the Department of Defense (those who are responsible for
12 awarding contracts that result from congressional ear-
13 marks), defense contractors (those who perform the work
14 for contracts that result from congressional earmarks) and
15 their lobbyists, and Members of Congress and their per-
16 sonal office staff and staff of relevant congressional com-
17 mittees.

1 (b) SPECIFIC MATTERS COVERED.—In developing
2 the report under subsection (a), the Comptroller General
3 shall include the following:

4 (1) An examination of the potential for and if
5 applicable the nature and extent—

6 (A) of program officers—

7 (i) using the earmarking process and
8 relationships with defense contractors and
9 their lobbyists in a cooperative manner to-
10 ward the goal of making certain congres-
11 sional earmarks are requested and awarded
12 that would provide funding for programs
13 and projects viewed favorably by the pro-
14 gram officer but for which funding was not
15 included in the President's budget and for
16 which funding would not otherwise be
17 available without congressional ear-
18 marking, including an identification of the
19 potential pitfalls of a close relationship be-
20 tween program officers and defense con-
21 tractors and their lobbyists; and

22 (ii) being inhibited or otherwise hesi-
23 tant to indicate upon request that a spe-
24 cific congressional earmark that has been
25 requested and awarded by Members of

1 Congress and their personal staff or staff
2 of relevant congressional committees, in co-
3 operation with defense contractors and
4 their lobbyists, is viewed less than favor-
5 ably, including in the context of the rela-
6 tionships described in subsection (a), an
7 identification of the potential factors that
8 could cause a program officer to resist pro-
9 viding upon request a review that is critical
10 of a congressional earmark; and

11 (B) to which contracting officers are influ-
12 enced by program officers, defense contractors
13 and their lobbyists, or Members of Congress
14 and their personal office staff and staff of rel-
15 evant congressional committees to award re-
16 quested congressional earmarks to the par-
17 ticular intended recipient specifically named in
18 a House-required earmark certification letter, in
19 conjunction with or in spite of the competitive
20 process the Department uses to award re-
21 quested congressional earmarks, including an
22 identification of the procedures the Department
23 uses to document communications between De-
24 partment of Defense employees and Members of

1 Congress and their personal office staff and
2 staff of relevant congressional committees.

3 (2) A report on the steps the Department has
4 taken to implement section 8121 of the Department
5 of Defense Appropriations Act, 2010 (Public Law
6 111-118; 123 Stat. 3456), including a detailed de-
7 scription of any changes that have or will occur in
8 the competitive process the Department has histori-
9 cally used to award requested congressional ear-
10 marks due to the implementation of such section.

