

U.S. Senate Committee on Armed Services

Carl Levin, Chairman
John McCain, Ranking Member

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SENATE ARMED SERVICES COMMITTEE COMPLETES CONFERENCE OF NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2013

WASHINGTON -- Senator Carl Levin (D-MI), Chairman of the Armed Services Committee, announced today that the committee has completed its conference of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013. The bill authorizes funding for the Department of Defense (DOD) and the national security programs of the Department of Energy (DOE).

Senator Levin said, "The conference report on the National Defense Authorization Act for Fiscal Year 2013, which was adopted today by the conference committee, provides well-deserved support for the men and women of the armed forces and their families and provides them with the means to accomplish their missions." Senator Levin continued, "I am particularly pleased that we were able to reach agreement on important provisions dealing with the pay and benefits of our troops and retirees, the required reporting by cleared defense contractors of cyber intrusions, and investments in the technologies our men and women in uniform will need in the future, while ensuring appropriate stewardship of taxpayer dollars."

Senator McCain said, in expressing support for the bill, "I thank Chairmen Levin and McKeon and Ranking Member Smith for their hard work. This Conference Report demonstrates that when it comes to addressing the issues of our men and women in uniform, Congress can work together in a bipartisan and bicameral way. The bill contains many vital provisions that will help the Department of Defense meet the Nation's security objectives around the world, provide for the continued readiness of our armed forces, support military families, and improve defense acquisition and contracting."

Senator Levin added, "As Senator McCain leaves his position as Ranking Member of the Committee, I want to thank him for his dedication and hard work as my partner in moving the annual NDAA through the legislative process these last few years. I know he will continue to be a leading member of our committee and I look forward to continuing to work with him to address issues of importance to our military men and women and their families."

MAJOR HIGHLIGHTS

Note: This section describes major provisions contained in the markup agreement. Some items are repeated in the Detailed Description section following these major highlights.

- 1. Improve the quality of life of the men and women of the all-volunteer force (active**

duty, National Guard, and reserves) and their families, as well as Department of Defense civilian personnel, through fair pay, policies and benefits, and address the needs of the wounded, ill, and injured service members and their families.

- Authorizes fiscal year 2013 active-duty end strengths for the Army of 552,100; the Navy, 322,700; the Marine Corps, 197,300; and the Air Force, 329,460.
- Authorizes additional active-duty and reserve end strengths for the Air Force to support changes to the revised Air Force force structure proposal.
- Authorizes or extends various force shaping authorities to allow the Department to draw down forces in a measured and equitable manner.
- Authorizes a 1.7 percent across-the-board pay raise for all members of the uniformed services, consistent with the President's request.
- Establishes the Military Compensation and Retirement Modernization Commission to review elements of military compensation and retirement benefits to ensure the long-term viability of the all-volunteer force, enable a high quality of life for military families, and to modernize and achieve sustainability of the compensation and retirement systems, while grandfathering the retired pay of current service members and retirees.
- Enhances programs and authorities to prevent and respond to sexual assault in the military.
- Enhances suicide prevention programs.
- Establishes cost-sharing rates under the TRICARE pharmacy benefits program for fiscal year 2013 in statute, and in fiscal years 2014 through 2022 limits any annual increases in pharmacy copayments to increases in retiree cost of living adjustments.
- Requires the Secretary of Defense to conduct a 5-year pilot program to refill prescription maintenance medications for TRICARE for Life beneficiaries through TRICARE's national mail-order pharmacy program.
- Requires the Secretary of Defense to conduct a 1-year pilot program to provide for the treatment of autism spectrum disorders, including applied behavior analysis, for all TRICARE beneficiaries under the basic program.
- Authorizes DOD to pay for abortions in cases of rape or incest.
- Clarifies that the maximum award under the combat-related special compensation (CRSC) statute may not, when combined with the amount of retired pay payable to a retiree after mandatory reductions are taken relative to VA disability compensation, cause the total of such combined payments to exceed the amount of retired pay the member would have been entitled to based solely on years of service.
- Requires the armed forces to accommodate the beliefs of a service member reflecting the conscience, moral principles, or religious beliefs of the member and, in so far as

practicable, would prohibit use of such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment. Preserves the authority to take disciplinary or administrative action for speech or conduct that violates the Uniform Code of Military Justice (UCMJ), including action and speech that threatens good order and discipline.

2. Provide our service men and women with the resources, training, technology, equipment (especially force protection), and authorities they need to succeed in combat, counterinsurgency, and stability operations.

- Authorizes \$1.5 billion to support the ongoing activities of the Joint Improvised Explosive Device Defeat Organization (JIEDDO).
- Extends a number of authorities that our military commanders continue to need in Afghanistan, including:
 - Reauthorizes the use of funds to support the reintegration of insurgent fighters back into Afghan society.
 - Provides \$200.0 million for the Commanders' Emergency Response Program (CERP) to enable military commanders to fund small-scale humanitarian projects that help secure the support of the Afghan people.
 - Provides \$350.0 million for the Afghanistan Infrastructure Fund to support infrastructure projects that are high-priority for the civil-military campaign, particularly the electrification of the Kandahar area.
- Ground Soldier System (GSS) Nett Warrior — fully supports the budget request of \$103.3 million for GSS/Nett Warrior procurement.

3. Enhance the capability of the U.S. Armed Forces to support the Afghanistan National Security Forces (ANSF) and Afghan Local Police as the lead responsibility for security throughout Afghanistan transitions to the ANSF.

- Fully funds the \$5.7 billion requested for the Afghanistan Security Forces Fund to build the capacity of the Afghan Army and Police so those forces can transition to taking the security lead throughout Afghanistan by 2014.
- Provides for using the Afghanistan Security Forces Fund to build the capacity of the Afghan government guard force responsible for replacing private security contractors in protecting development projects and convoys across Afghanistan.
- Authorizes the limited transfer to the Afghan Security Forces of U.S. military equipment that otherwise would be withdrawn from Afghanistan to build the capacity of those forces to provide for Afghanistan's security during the transition to an Afghan security lead in 2014.

- Calls for an independent assessment of the size and structure of the ANSF necessary for those forces to be able to ensure that Afghanistan never again serves as a safe haven for terrorists that threaten Afghanistan, the region, and the world.
 - Requires that following a decision by the President to change U.S. force levels in Afghanistan, the Chairman of the Joint Chiefs of Staff, through the Secretary of Defense, shall provide to Congress an assessment of risk to the U.S. mission and security interests associated with such a change in force levels.
- 4. Address the threats from nuclear weapons and materials by strengthening nonproliferation programs, maintaining a credible nuclear deterrent, reducing the size of the nuclear weapons stockpile, and ensuring the safety, security and reliability of the stockpile, the delivery systems and the nuclear infrastructure.**
- Authorizes \$2.5 billion for nuclear non-proliferation at the DOE and \$519 million at the DOD for nuclear, chemical and biological non-proliferation activities, while funding nuclear modernization activities at the DOE at \$7.6 billion.
 - Includes language reaffirming that the Committee is committed to honoring the nuclear modernization commitments made under the New START Treaty, and provides funding and authorities to restore key facilities and programs. Provides the Department of Defense a limited transfer authority to the DOE for fulfilling this important commitment.
- 5. Improve the ability of the armed forces to counter nontraditional threats, focusing on terrorism, cyber warfare, and the proliferation of weapons of mass destruction and their means of delivery.**
- Includes a provision requiring the Secretary of Defense to create a process for designated defense contractors to report to DOD when their networks containing DOD information are successfully penetrated.
 - Authorizes an increase of \$143.0 million to fulfill the unfunded requirement identified by the Commander of U.S. Special Operations Command (USSOCOM) for additional high-definition intelligence, surveillance, and reconnaissance capabilities.
 - Authorizes \$9.8 billion for missile defense, an increase of \$152.0 million above the overall level requested in the budget, including an increase of \$211.0 million to help Israel procure additional Iron Dome short-range rocket defense systems.
- 6. Enhance the capability of the security forces of allied and friendly nations to defeat al Qaeda, its affiliates, and other violent extremist organizations.**
- Extends DOD's authority to train and equip certain security forces in Yemen to counter al Qaeda in the Arabian Peninsula and certain security forces in East Africa to counter al Qaeda affiliates and elements of al Shabaab. \$75.0 million is available to the Department for capacity building efforts in Yemen and East Africa, respectively.

- Provides \$50.0 million to enhance and expand intelligence, surveillance, and reconnaissance support to Operation Observant Compass – DOD’s ongoing operation to support central African forces conducting operations against the Lord’s Resistance Army.
- Extends, through fiscal year 2015, the authority of the Secretary of Defense to provide up to \$50.0 million per year to support the North Atlantic Treaty Organization Special Operations Headquarters.

7. Seek to reduce our Nation’s strategic risk by taking action aimed at restoring, as soon as possible, the readiness of the military services to conduct the full range of their assigned missions.

- Amends the Strategic and Critical Materials Stock Piling Act to include language taking into account single points of failure.
- Streamlines the National Defense Stockpile by authorizing the President to delegate release authority to the Undersecretary of Defense for Acquisition, Technology, and Logistics.
- Cuts \$175.0 million from excess unobligated balances to encourage better stewardship of taxpayer dollars, based on analysis from the Government Accountability Office (GAO).
- Includes energy security as a component of DOD energy savings contracts for buildings, facilities, installations, vehicles, and equipment.

8. Terminate troubled or unnecessary programs and activities, identify efficiencies, and reduce defense expenditures in light of the Nation’s budget deficit problems. Ensure the future capability, viability, and fiscal sustainability of the all-volunteer force.

- Establishes the Military Compensation and Retirement Modernization Commission to review elements of military compensation and retirement benefits to ensure the long-term viability of the All-Volunteer Force, enable a high quality of life for military families, and to modernize and achieve sustainability of the compensation and retirement systems, while grandfathering current service members and retirees.
- Cuts more than \$660.0 million from the President’s budget for military construction and family housing projects.
 - More than \$200.0 million in incrementally funded projects to improve efficiency and prevent waste through more efficient cash flow of large projects.
- Declines to authorize the requested additional rounds of Base Realignment and Closure (BRAC).
- Continues the prohibition on military construction on Guam until certain conditions are met.
- Requires DOD to keep committees apprised of progress on the realignment in the Asia Pacific, urges DOD to expedite required environmental studies, and directs the GAO to

assess cost associated with the recently announced U.S.-Japan joint plan for Okinawa realignment.

- Prohibits the obligation or expenditure of fiscal year 2013 funds for the Medium Extended Air Defense System (MEADS).
- Adds \$20.75 million for the DOD Corrosion Prevention and Control shortfall in funding requirements identified by the Department of Defense. DOD estimates that corrosion in military equipment costs the Services over \$22.0 billion per year; expenditures in this area have yielded an estimated 14:1 return on investment by reducing the bill for repair and replacement of corroded systems and parts.
- Adds \$59.1 million for the DOD Inspector General (IG), to enable the IG to continue growth designed to provide more effective oversight and help identify waste, fraud, and abuse in DOD programs, especially in the area of procurement. DOD IG reviews resulted in an estimated \$2.6 billion savings in FY11 – a return on investment of \$8.79 for every \$1 spent.
- Cuts \$190.0 million for the Joint Tactical Radio System due to manpack radio contract delays.

9. Emphasize the reduction of dependency on fossil fuels and seek greater energy security and independence, and pursue technological advances in traditional and alternative energy storage, power systems, operational energy tactical advantages, renewable energy production, and more energy efficient ground, air, and naval systems.

- Does not include a provision of the House-passed bill that would have prohibited fiscal year 2013 funding for the production or purchase of an alternative fuel if the cost of producing or purchasing the alternative fuel exceeds the cost of traditional fossil fuel, with limited exceptions.
- Requires DOD to issue guidance for financing renewable energy projects.
- Authorizes \$150.0 million for the Energy Conservation Investment Program.
- Authorizes \$200.0 million in funding for the Defense Research and Development (R&D) Rapid Innovation Program to aid in technology transition across a broad spectrum of technologies, including those which will improve energy efficiency, enhance energy security, and reduce the Department's dependence on fossil fuels.

10. Promote aggressive and thorough oversight of the Department's programs and activities to ensure proper stewardship of taxpayer dollars and compliance with relevant laws and regulations.

- Requires the Secretary of Defense to implement a plan to rebalance and reduce the DOD civilian employee workforce and service contractor workforce, achieving a savings of 5 percent in each workforce over a 5-year period while providing the Secretary flexibility to exclude critical elements of the workforce and to phase in reductions.

- Codifies the 2014 goal for the Department of Defense to achieve an auditable statement of budgetary resources.
- Implements the recommendations of the Commission on Wartime Contracting in Iraq and Afghanistan to provide for better management and oversight of contracting on the battlefield by requiring DOD and other agencies to conduct risk assessments and mitigate risks associated with contractor performance of critical functions and establishing IG oversight-responsibilities for future overseas contingency operations.
- Repeals provisions of last year's NDAA that threatened to upset the delicate balance between the public sector and the private sector in the maintenance and repair of military systems.
- Improves the cost-effectiveness of DOD contracting by strictly limiting the use of cost-type contracts for the production of major weapon systems; enhancing protections for contractor employee whistleblowers; restricting the use of "pass-through" contracts; and clarifying DOD access to contractor cost- and price- information.
- Strengthens protections against human trafficking by contractors and subcontractors supporting the overseas operations of DOD and other federal agencies.
- Strengthens and enhance legislative requirements to ensure appropriate consideration of small business in federal contracting.

DETAILED DESCRIPTION BY SUBCOMMITTEE

FUNDING LEVELS

The President's budget request for national defense discretionary programs within the jurisdiction of the Committee on Armed Services for fiscal year 2013 was \$631.6 billion and was in three parts:

- \$525.3 billion for the base budget of the DOD;
- \$88.5 billion for overseas contingency operations (OCO), which funds the war in Afghanistan; and
- \$17.8 billion for national security programs in the DOE and the Defense Nuclear Facilities Safety Board.

The conference report authorizes \$633.3 billion for national defense programs. The conference report authorizes \$2.1 billion more than was requested for the base budget of DOD and the amount requested (\$88.5 billion) for OCO. The conference report authorizes \$395.0 million less than the requested level of funding for national security programs of the DOE.

SUBCOMMITTEE ON PERSONNEL

Within the jurisdiction of the Senate Subcommittee on Personnel and the House Subcommittee on Military Personnel, the conferees gave particular attention to improving the quality of life of the men and women of the armed forces and their families, as well as

Department of Defense civilian personnel, through fair pay, policies, and benefits, including first rate health care, while addressing the needs of wounded, ill, and injured service members and their families. Specifically, the conferees included the following budget recommendations and legislative provisions:

End Strength

- Authorizes fiscal year 2013 active-duty end strengths for the Army of 552,100; the Navy, 322,700; the Marine Corps, 197,300; and the Air Force, 329,460.
- Authorizes additional active-duty and reserve end strengths for the Air Force to support changes to the revised Air Force force structure proposal.
- Requires the Secretary of Defense, in consultation with the Secretary of State, to develop a plan to provide the end strength and resources necessary to increase the number of marines in the Marine Corps security guard program to provide diplomatic security by up to 1,000 marines, without degrading the readiness of the Marine Corps.

Military Personnel Policy

- Directs the Secretary of Defense to designate assignments of military officers as instructors on the faculty of military academies as the equivalent of joint duty assignment.
- Extends until December 31, 2018, the authority for enhanced selective early retirement boards and early discharges.
- Increases from 30 to 33 years the total active military service a Navy warrant officer may serve before being statutorily retired for length of service.
- Extends to September 30, 2018, temporary authority to reduce minimum length of active service as a commissioned officer required for voluntary retirement as an officer.
- Temporarily increases the maximum number of time-in-grade waivers for retirement of officers in the grades of lieutenant colonel/commander through major general/rear admiral.
- Codifies the position of the Chief of the Chaplains of the Air Force in the grade of major general and requires that the officer selected be recommended by a selection board.
- Codifies the positions of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard Matters and the Assistant to the Chairman of the Joint Chiefs of Staff for Reserve Matters, and requires that each Assistant have significant joint duty experience.
- Extends automatic federal recognition to members of the National Guard who are promoted from the grade of warrant officer W-1 to chief warrant officer W-2 to fill a vacancy in a federally recognized unit in the National Guard.
- Authorizes the Chief of the National Guard Bureau to establish a program to provide Transition Assistance Advisors in each State to serve as points of contact to assist eligible

members of the reserve components in accessing certain benefits and health care.

- Authorizes licensed clinical social workers and psychiatric advance practice registered nurses to conduct pre-separation medical exams for post-traumatic stress disorder.
- Requires the Secretary of Defense, and the Secretary of Homeland Security in the case of the Coast Guard, to develop and implement a plan to accurately measure the efforts of the armed forces to achieve diversity goals, and to report annually through 2017 to the congressional defense committees on these efforts.
- Extends through September 30, 2015, the authority for certain service members to carry over 75 days of leave from one fiscal year to the next.
- Requires quarterly reports in calendar years 2013 and 2014 from the service secretaries on members of the regular components who were involuntarily separated from active duty.
- Requires the service secretaries to provide with the President's budget submission for fiscal years 2014 through 2018 a statement concerning the degree to which the disability population within that service impacts readiness and time at home between deployments, and to provide a plan to mitigate any adverse impacts.
- Clarifies and enhances the role of the Staff Judge Advocate to the Commandant of the Marine Corps.
- Requires the UCMJ Code Committee to provide certain additional information in its annual report.
- Requires the armed forces to accommodate the beliefs of a service member reflecting the conscience, moral principles, or religious beliefs of the member and, in so far as practicable, would prohibit use of such beliefs as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment. Preserves the authority to take disciplinary or administrative action for speech or conduct that violates the UCMJ, including action and speech that threatens good order and discipline.
- Transfers Troops-to-Teachers Program from Department of Education to Department of Defense.
- Authorizes the Secretary of the Navy to enter into contracts, cooperative agreements, and leases with the Naval Academy Athletic Association for the purpose of supporting the athletic and physical fitness programs of the Naval Academy.
- Expands Department of Defense pilot program on civilian credentialing for military occupational specialty skills.
- Authorizes the Secretary of Veterans Affairs to require the consideration of military training and experience when granting State certifications and licenses for nonemergency medical professionals, emergency medical professionals, and commercial driver's licenses.

- Requires the Secretary of Defense to conduct a review to assess the extent of access that representatives of institutions of higher education have to military installations and to submit a report on the results of this review to the Committees on Armed Services of the Senate and the House within 270 days of enactment.
- Requires the Secretary of Defense to submit a report on Department efforts to standardize educational transcripts issued to separating members of the armed forces.
- Repeals the requirement that at least 50 percent of Reserve Officers' Training Corps cadets and midshipmen qualify for in-State tuition rates.
- Modifies the requirement that the Secretary of Defense develop and implement a plan to establish and support not less than 3,700 Junior Reserve Officers' Training Corps (JROTC) units by September 20, 2020, to a requirement for not less than 3,000, and not more than 3,700, JROTC units.
- Authorizes \$25.0 million in supplemental impact aid to local educational agencies (LEA) with military dependent children, \$5.0 million for assistance to LEAs with significant changes in enrollment of school-age dependents due to base closures, force structure changes, or force relocations, \$5.0 for schools with military dependent children with severe disabilities, and extends for 2 years the authority to provide such assistance.
- Makes various statutory amendments to the underlying Impact Aid program to simplify the calculation that determines the payment owed to eligible school districts.
- Authorizes a dependent of an active duty service member or federal civilian employee who had been enrolled in the overseas defense dependents' education school system and was evacuated to enroll in a DOD domestic elementary and secondary education school near the safe haven where they were evacuated.
- Codifies and expands existing authority for noncompetitive hiring in the federal civilian workforce of certain military spouses.
- Authorizes the service secretaries, under uniform guidance from the Secretary of Defense, to issue a prisoner-of-war medal to any person serving with the armed forces under circumstances which the service secretary finds to have been comparable to those under which persons have generally been held captive by enemy armed forces during periods of armed conflict.
- Repeals the requirement that the Secretary of Defense publish in the Federal Register every 6 months a list of each institution of higher education that is ineligible for contracts and grants because of that institution's policies or practices relative to the establishment of Reserve Officers' Training Corps programs, retaining the requirement to publish notice of any determination that results in a denial of federal funding.
- Expands certain Department of Defense authorities to accept gifts and services.
- Requires the Secretary of Defense to ensure that whenever the official flag of all 50 States are displayed by the armed forces, such display shall include the flags of the District of Columbia, Commonwealth of Puerto Rico, United States Virgin Islands,

Guam, American Samoa, and Commonwealth of the Northern Mariana Islands.

- Requires the Secretary of Defense to extend the lease for the commercial office space in the District of Columbia currently occupied by the editorial staff and management operations of the *Stars and Stripes* until the Secretary can provide space in a Government-owned facility located within the National Capital Region that is geographically remote from the Defense Media Activity's facilities at Fort Meade, Maryland.
- Authorizes transportation and veterinary care for retired military working dogs.
- Requires the Secretary of Defense to report on the future of DOD and service family support programs.

Sexual Assault and Prevention

- Requires workplace and gender relation surveys.
- Authorizes retention of victims of sexual assault on active duty, or recall to active duty, to complete a line of duty determination.
- Requires additional elements be included in the DOD comprehensive sexual assault and prevention policy.
- Requires regulations establishing special victim capabilities.
- Enhances training and education for sexual assault and prevention.
- Modifies annual reporting requirements on sexual assault in the military.
- Requires two independent panels to review and assess systems used to investigate, prosecute, and adjudicate sexual assaults, and to review and assess judicial proceedings under the UCMJ involving sexual assaults.
- Requires the retention of certain records pertaining to a restricted report of a sexual assault for 50 years at the request of the service member filing the report.
- Requires the Secretary of Defense to develop a policy to require a general or flag officer to review the circumstances of, and grounds for, the proposed involuntary separation of any service member who makes an unrestricted report of sexual assault, and to concur in any such separation.
- Requires the Secretary of Defense to develop a comprehensive policy to prevent and respond to sexual harassment in the armed forces.

Suicide Prevention

- Codifies the Suicide Prevention and Community Health and response Program for National Guard and reserve component members, and requires the Secretary of Defense to provide suicide prevention and response training at Yellow Ribbon events.

- Requires the Secretary of Defense to establish a position with responsibility for oversight of all suicide prevention and resilience programs of DOD and each of the services.
- Requires the Secretary of Defense to develop a comprehensive policy on the prevention of suicide among service members.
- Authorizes the Secretary of Defense to authorize a military or DOD civilian health professional or commanding officer to inquire if a service member plans to acquire or already possesses a weapon if the health professional or commanding officer has reasonable grounds to believe that the service member is at risk for suicide or causing harm to others.
- Requires the Secretary of the Army to study resilience programs of the Army.

Military Pay and Compensation

- Authorizes \$135.8 billion for military personnel, including costs of pay, allowances, bonuses, death benefits, and permanent change of station moves.
- Authorizes a 1.7 percent across-the-board pay raise for all members of the uniformed services, consistent with the President's request.
- Reauthorizes over 30 types of bonuses and special pays aimed at encouraging enlistment, reenlistment, and continued service by active-duty and reserve component military personnel.
- Establishes the Military Compensation and Retirement Modernization Commission to review elements of military compensation and retirement benefits to ensure the long-term viability of the All-Volunteer Force, enable a high quality of life for military families, and to modernize and achieve sustainability of the compensation and retirement systems, while grandfathering the retired pay of current service members and retirees.
- Extends authority to provide temporary increases in the rate of basic allowance for housing in areas impacted by natural disasters or experiencing a sudden influx of personnel.
- Authorizes certain uniformed service members in a pay grade below E-6, who are assigned to sea duty, and who are married to another uniformed service member, to receive a basic allowance for housing (BAH) in circumstances where they currently do not qualify.
- Clarifies that the BAH for a member of a reserve component performing active guard and reserve duty shall be based on their permanent duty station even when they are deployed, and that such members retain BAH rate protection so long as the member remains on active duty without a break in active service.
- Requires the Secretary of Defense to pay eligible individuals \$200 per day for days earned under the Post-Deployment/Mobilization Respite Absence (PDMRA) program, when the individuals were unable to use those days due to government error, as determined by a board for the correction of military records or other process determined

by the Secretary concerned.

- Authorizes the payment of travel and transportation allowances for certain members of the Selected Reserve, their dependents, and household effects when the member is involuntarily separated due to force structure reductions between October 1, 2012, and December 31, 2018, and fills a critical vacancy in another unit of the Selected Reserve that is at least 150 miles from the member's residence.
- Codifies the authority of the Secretary of Defense to establish a program to provide transportation to active and reserve component members, retirees, and dependents on Department of Defense aircraft on a space-available basis beginning January 1, 2014 or such earlier date as the Secretary determines pursuant to regulation.
- Extends through December 31, 2018, the authority for service members involuntarily separated from military service to continue to use commissary and exchange stores during the 2 year period following separation.
- Reinstates authority to permit service members who are involuntarily separated from military service to continue to reside, along with their families, in military family housing provided or leased by the Department of Defense for up to 180 days following the date of such separation.
- Amends the authority to pay transitional compensation to victims of dependent abuse to include children who were carried during pregnancy at the time of a dependent abuse offense within the program and to clarify that spouses and dependents who are not residing with the service member at the time of such abuse offenses are eligible for the compensation.
- Increases the maximum annual amount of the officer affiliation bonus for officers in the Selected Reserve from \$10,000 to \$20,000.
- Increases the maximum amount of the incentive bonus to convert military occupational specialty to ease personnel shortages from \$2,000 to \$4,000 for reserve component members.
- Repeals the automatic enrollment of service members as a dependent under the Family Servicemembers' Group Life Insurance program when they are insured on their own behalf under the Servicemembers' Group Life Insurance program.
- Clarifies that military retirees who have elected to participate in the Survivor Benefit Plan (SBP) and who subsequently elect to waive their military retired pay in favor of a survivor annuity under the Federal Employees Retirement System do not have to continue paying premiums under SBP.
- Clarifies that the maximum award under the combat-related special compensation (CRSC) statute may not, when combined with the amount of retired pay payable to a retiree after mandatory reductions are taken relative to VA disability compensation, cause the total of such combined payments to exceed the amount of retired pay the member would have been entitled to based solely on years of service.
- Authorizes the treatment of the Fisher House for the Families of the Fallen and

Meditation Pavilion at Dover Air Force Base, Delaware, as a Fisher House.

- Clarifies that States may not waive the application of consumer protections enacted for the benefit of state residents on the basis of nonresident or military status of an individual covered by the Military Lending Act, requires the Secretary of Defense to consult with federal regulators at least once every 2 years in carrying out the duties required under the Act, and replaces the Office of Thrift Supervision with the Bureau of Consumer Financial Protection from the list of federal regulators with whom the Secretary is required to consult.
- Provides for civil liability in United States district court for violations of consumer protections for service members and dependents under the Military Lending Act, and requires that the protections afforded by that section be enforced by the agencies specified in section 108 of the Truth in Lending Act in the manner set forth in that section or as set forth under any other applicable authorities available to such agencies by law.
- Provides equality for certain benefits for certain Coast Guard Reserve duty performed after December 31, 2011.

Health Care

- Authorizes \$32.6 billion for the Defense Health Program.
- Establishes cost-sharing rates under the TRICARE pharmacy benefits program for fiscal year 2013 in statute, and in fiscal years 2014 through 2022 limits any annual increases in pharmacy copayments to increases in retiree cost of living adjustments.
- Requires the Secretary of Defense to conduct a 5-year pilot program to refill prescription maintenance medications for TRICARE for Life beneficiaries through TRICARE's national mail-order pharmacy program.
- Authorizes TRICARE Standard and dental coverage for up to 180 days for members of the Selected Reserve who are involuntarily separated without cause under other than adverse conditions.
- Modifies the requirements concerning mental health assessments for members of the armed forces deploying in support of a contingency operation.
- Authorizes the Department of Defense to place select over-the-counter drugs on the uniform formulary, to make such drugs available to eligible beneficiaries, and to establish a copayment for these drugs.
- Requires the Secretary of Defense to conduct a 1-year pilot program to provide for the treatment of autism spectrum disorders, including applied behavior analysis, for all TRICARE beneficiaries under the basic program.
- Authorizes the Secretary of Defense to carry out a pilot program with community partners to enhance DOD efforts in research, treatment, education, and outreach on mental health, substance use disorders, and traumatic brain injury in Guard and reserve members, their families, and their caregivers.

- Clarifies that subcontractors providing health care under personal services contracts are covered for medical malpractice purposes under the Federal Tort Claims Act in the same manner as government employees providing the same services.
- Amends an existing annual reporting requirement on evaluation of the TRICARE program to include reporting on access, cost, and quality for military dependent children and military dependents with disabilities and special needs.
- Requires the Secretary of Defense to report on a plan to improve the coordination and integration of DOD programs that address psychological health and traumatic brain injury.
- Requires planning and a report on savings resulting from the establishment of a defense health agency.
- Requires service secretaries to report on performance data on warriors in transition programs.
- Authorizes DOD to pay for abortions in cases of rape or incest.
- Requires dependents of members in pay grade E-4 or below to be automatically enrolled in TRICARE Prime, and authorizes the automatic enrollment of dependents of members in pay grade E-5 or higher in TRICARE Prime.
- Requires a report by DOD on the future availability of TRICARE Prime.
- Requires the Secretary of Defense to report on a strategy to refine and, when appropriate, transition to using human-based training methods to train service members in the treatment of combat trauma injuries.
- Requires the Secretary of Defense to conduct a study on the health care and related support provided by DOD to military dependent children.
- Expresses the sense of Congress that career members of the uniformed services and those who are medically retired, and their families, endure unique and extraordinary demands and make extraordinary sacrifices and that access to quality health care services is an earned benefit during retirement in acknowledgement of their contributions of service and sacrifice.
- Improves access to mental health care for service members, veterans, and their families at Vet Centers, other facilities, the Readjustment Counseling Program, and peer support counseling programs.
- Requires the Secretary of Defense and the Secretary of Veterans Affairs to enter into a memorandum of understanding to provide for improved information sharing between the DOD and VA for service members deployed overseas.
- Directs the National Cancer Institute to develop scientific frameworks for the conduct or support of research efforts on recalcitrant cancers.

Civilian Personnel

- Extends for 1 year temporary discretionary authority for federal agencies to grant allowances, benefits, and gratuities comparable to those provided to members of the Foreign Service to an agency's civilian employees on official duty in a combat zone.
- Authorizes the transport at government expense of family household pets of government employees during evacuations from permanent stations in foreign locations.
- Directs the Under Secretary of Defense for Personnel and Readiness to review the requirements for the strategic workforce plan and the process used to develop and implement the plan and to identify steps, including any recommended legislative changes, that may be needed to streamline the planning process, enhance the utility of the plan, and ensure that it is implemented by the military departments and defense agencies in an operationally effective manner.
- Codifies and expands authority for non-competitive hiring in the civilian workforce of certain military spouses.
- Increases the number of personnel at the Defense Advanced Research Projects Agency that can be hired with certain flexible hiring authorities.
- Extends for 1 year the authority of the head of an executive agency to waive limitations on the aggregate of basic and premium pay to employees who perform work in the United States Central Command.

Armed Forces Retirement Home

- Authorizes \$67.6 million to be appropriated for the Armed Forces Retirement Home.

SUBCOMMITTEE ON AIRLAND

Within the jurisdiction of the Senate Subcommittee on Airland and the House Subcommittee on Tactical Air and Land Forces, the conferees gave particular attention to those items needed to succeed in combat and stability operations, to restore the readiness of Army ground forces, and Air Force and Navy tactical air systems, to enhance the capability of the armed forces to conduct operations across the spectrum of peace and conflict, and to improve efficiency of programs and apply the savings toward high-priority programs. Specifically, the conferees included the following budget recommendations and legislative provisions:

National Guard & Reserves

The conferees adopted language that would establish a National Commission on the Structure of the Air Force. The Commission would consist of eight members, four appointed by the President and four appointed by the leadership of the Committees on Armed Services of the Senate and the House of Representatives. The Commission would be required to report to the Congress by February 1, 2014, in time to inform congressional action on the fiscal year 2015 budget request.

The Commission would be required to base their recommendations on objective criteria and give particular consideration to identifying a structure that:

- (A) meets current and anticipated requirements of the combatant commands;
- (B) achieves an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each;
- (C) ensures that the regular and reserve components of the Air Force have the capacity needed to support current and anticipated homeland defense and disaster assistance missions in the United States;
- (D) provides for sufficient numbers of regular members of the Air Force to provide a base of trained personnel from which the personnel of the reserve components of the Air Force could be recruited;
- (E) maintains a peacetime rotation force to support operational tempo goals of 1:2 for regular members of the Air Forces and 1:5 for members of the reserve components of the Air Force; and
- (F) maximizes and appropriately balances affordability, efficiency, effectiveness, capability, and readiness.

In the meantime, the conference report acknowledges an alternative force structure proposed by the Air Force on November 2, 2012, but requires the Air Force to add 32 fixed-wing, intra-theater airlift aircraft beyond the number proposed by the Secretary of the Air Force to provide sufficient aircraft to meet Army's fixed-wing, direct support/time sensitive airlift mission requirements

The conferees agreed to allow the Air Force to proceed with force structure divestments, retirements, and transfers approved in requests prior to the fiscal year 2013 budget request, but directed the Secretary of the Air Force to: (1) develop a strategy to ensure that personnel readiness, training, and retention for units transitioning to new or different missions would remain at the highest level practicable during ongoing force structure retirements, divestments, and transfers; and (2) minimize, to the maximum extent practical, time-related gaps for units transitioning to new or different missions.

The conferees added additional resources in individual authorization accounts to sustain the Air Force force structure, in order to avoid creating a hollow Air Force resulting from a restoration of Air Force personnel and aircraft without sufficient money in the Air Force budget to pay the additional personnel and aircraft.

For the longer term, and to cover other potential situations beyond the current Air Force proposal, the conferees also included language requiring the GAO to submit a report including objective criteria to be used by DOD to make decisions relating to realignments of units employed at military installations that are not covered by the requirements of the BRAC legislation.

The conferees also included language permitting the Secretary of Defense to transfer, from excess aircraft inventory, up to seven aircraft each to the Secretary of Agriculture and the Secretary of Homeland Security for use by the Forest Service and the United States Coast Guard, respectively, to help resolve pressing concerns regarding aviation forces within the Forest Service and the Coast Guard.

Army

- Authorizes a 5-year multiyear procurement contract for the Army CH-47 Chinook helicopter beginning in FY 2013. The Army projects that a multiyear procurement contract will save 10 percent of cost compared to annual contracts. The committee also recommends fully supporting the budget request of \$1.4 billion for CH-47 Chinook procurement.
- Ground Combat Vehicle (GCV) — fully supports the budget request of \$639.9 million for the GCV development.
- Paladin Integrated Management program — fully supports the budget request of \$373.9 million (research and procurement) for continued development and prototyping of the next generation Paladin self-propelled artillery system.
- Stryker – fully supports the budget request of \$318.0 million to procure 58 Stryker vehicles specially designed and built for the detection of nuclear, chemical, and biological agents.
- UH-60 Black Hawk – fully supports the budget request of \$1.3 billion for UH-60 Blackhawk procurement. There are no funds requested or recommended in the OCO account for UH-60 Black Hawk helicopters. Authority for Multiyear Procurement (fiscal year 2012-2016) was provided in the FY2012 NDAA.
- UH-72A Light Utility Helicopter (LUH) – fully supports the budget request of \$272.0 million for LUH procurement. Army production and purchase of LUH helicopters ends in fiscal year 2015.
- AH-64 Apache Block III – fully supports base budget request of \$984.9 million for remanufactured and new production Apache Block III attack helicopters.
- M1 Abrams tank upgrade program – adds \$136.0 million for tank upgrades and to mitigate risk in the armored vehicle industrial base.
- M2 Bradley upgrade and modification program—adds \$140.0 million to accelerate Bradley modifications included in the approved engineering change proposal and to assist with the mitigation of risk in the armored vehicle industrial base.
- M88A2 Advanced Recovery Vehicle - adds \$62.0 million for additional M88A2 advanced recovery vehicles to mitigate the risk of the suspension of armored vehicle production through fiscal year 2013.
- Joint Tactical Radio System (JTRS) – authorizes the budget request of \$116.0 million for research, development, test, and evaluation (RDT&E) but only \$366.3 million of \$556.3

million requested for procurement (a reduction of \$190.0 million) for JTRS radios. The reduction is based on manpack radio contract delays.

- Ground Soldier System (GSS) Nett Warrior — fully supports the budget request of \$103.3 million for GSS/Nett Warrior procurement.

Air Force and Naval Aviation

- F-18 – Adds \$45.0 million to the request for advance procurement for holding open the option of buying more aircraft in fiscal year 2014. The budget request included \$3.1 billion to purchase 26 F/A-18E/F aircraft and 12 EA-18G aircraft.
- Joint Strike Fighter (JSF) – supports the budget request for procurement of Navy (\$3.2 billion) and Air Force (\$3.7 billion) JSF aircraft.
- F-15 and F-22 modifications – fully supports the budget request for modifications of F-15 (\$148.4 million) and F-22 (\$283.9 million) fighter aircraft.
- C-130J – fully supports the budget request of \$527.1 million for C/HC/MC-130J cargo aircraft.
- HH-60M – fully supports the budget request of \$60.6 million for HH-60M helicopters.
- KC-46A tanker – cuts \$77.1 million of \$1,815.6 million requested to continue development of the KC-46A, the next-generation aerial refueling aircraft.

SUBCOMMITTEE ON EMERGING THREATS AND CAPABILITIES

Within the jurisdiction of the Senate and House Subcommittees on Emerging Threats and Capabilities, the conferees gave particular attention to improving DOD capabilities to protect the Nation against emerging threats, including terrorism and the proliferation of weapons of mass destruction, and helping to transform U.S. forces to meet future threats. The subcommittee authorized increased investments in cutting-edge science and technology programs, and for unfunded requirements identified by special operations forces, and recommended improvements in programs to combat terrorism and violent extremism. Specifically, the conferees included the following budget recommendations and legislative provisions:

Special Operations

- Authorizes \$10.5 billion for USSOCOM.
- Authorizes an increase of \$143.0 million to fulfill the unfunded requirement identified by the Commander of USSOCOM for additional high-definition intelligence, surveillance, and reconnaissance capabilities.
- Authorizes an increase of \$6.0 million for improved sensors for AC-130U Gunships.

- Requires the Secretary of Defense to provide a plan for transitioning appropriate funds from the OCO budget to the base budget to preserve enduring special operations capabilities.
- Requires a report and quarterly updates on the Shallow Water Combat Submersible program due to cost and schedule overruns associated with the program.

Nonproliferation and Threat Reduction Programs

- Authorizes funding for U.S. scientists to work with scientists in countries of proliferation concern, to gain transparency and insight in these countries as well as to share best practices on non-proliferation. Requires a review of funding, threat assessments of countries of concern, and metrics to measure success and to ensure that programs close down in such countries when their work is complete.
- Extends by 2 years the date by which the Mixed Oxide Fuel Facility at the Savannah River Nuclear Site in South Carolina must be achieving target levels of plutonium disposition.
- Authorizes \$519.0 million for the DOD Cooperative Threat Reduction Program and \$2.5 billion for DOE nonproliferation programs, the amount requested in the budget.
- Requires a report on operational capabilities, limitations, and shortfalls within the Department of Defense with respect to counterproliferation and combating weapons of mass destruction involving special operations forces and key enabling forces.

Assistance and Training

- Extends DOD's authority for 2 fiscal years to train and equip certain security forces in Yemen to counter al Qaeda in the Arabian Peninsula and certain security forces in East Africa to counter al Qaeda affiliates and elements of al Shabaab. \$75.0 million is available to the Department for capacity building efforts in Yemen and East Africa, respectively.
- Authorizes the "Section 1206" Global Train and Equip program for 1 additional year.
- Authorizes the establishment of a \$50.0 million Special Defense Repair Fund, to support a program to repair, overhaul and refurbish high-demand defense articles in anticipation of their sale under the Foreign Military Sales program.
- Requires the Defense Policy Board (DPB) to review DOD's efforts to build the capacity of and partner with foreign security forces. Also requires the Secretary of Defense, in coordination with the Chairman of the Joint Chiefs of Staff, to report to Congress on the DOD's strategic guidance, taking into account the DPB findings, for the Department's partnering and capacity-building efforts in support of national defense and security strategies.
- Requires a report by the GAO on the Department's plan for building and sustaining security force assistance within the general purpose and special operations forces.

- Requires a report on the deficiencies and limitations of the Joint Combined Exchange Training authority, as currently written.
- Makes permanent the authority of the Secretary of Defense to provide up to \$50.0 million per year to support the North Atlantic Treaty Organization Special Operations Headquarters.
- Fences 50 percent of the fiscal year 2013 funds authorized for the State Partnership Program until an Anti-Deficiency Act investigation is completed and the Secretary of Defense makes any necessary modification to the program as a result of the findings of the investigation.

Improvised Explosive Device Defeat

- Authorizes \$1.7 billion to support the ongoing activities of the JIEDDO.
- Authorizes the Secretary of Defense to support efforts in Pakistan to counter the flow of improvised explosive device chemical precursors.
- Requires a report on any duplication of efforts on counter-improvised explosive device (IED) and other activities between the Joint IED Defeat Organization, USSOCOM, and the Combatting Terrorism Technology Support (CTTS) and Special Operations/Low Intensity Conflict Advanced Development programs. Reduces CTTS funding by \$11.0 million due to duplicative counter-IED efforts.

Research, Development, Test, & Evaluation (including Science & Technology)

- Provides \$200.0 million in funding for the Defense Research & Development Rapid Innovation Program, a competitive, merit-based program designed to fund innovative technologies, reduce acquisition or life cycle costs, address technical risks, improve the timeliness of test and evaluation outcomes, and rapidly insert technologies needed to meet critical national security needs. Recommended focus areas include:
 - Enhancing energy security and independence;
 - Developing, utilizing, and maintaining advanced materials;
 - Improving manufacturing technologies and capabilities;
 - Advancing microelectronics; and
 - Developing cybersecurity tools.
- Expresses the sense of Congress that: 1) the DOD should make every reasonable and practical effort to increase the number of U.S. citizens who pursue advanced degrees in science, technology, engineering, and mathematics; and 2) DOD should investigate innovative mechanisms to access the pool of talent of non-U.S. citizens with advanced scientific and technical degrees from U.S. institutions of higher learning.

- Establishes an Advanced Rotorcraft Initiative and directs DOD to develop a strategy on the use of integrated platform design teams and agile prototyping approaches for the development of advanced rotorcraft capabilities.
- Directs the DOD Chief Information Officer to conduct a Department-wide inventory of software licenses and determine license utilization rates and current and future license needs in order to avoid unnecessary duplication and inefficiencies.
- Prohibits DOD from spending any funds on the Next Generation Foundry of the Defense Microelectronics Activity until DOD develops and delivers to Congress a microelectronics strategy.
- Requires the Department to assess its testing infrastructure and workforce requirements to support hypersonics RDT&E.
- Calls for the Department to determine which entity will have oversight of cyber test and evaluation range infrastructure, funding, and personnel.
- Provides guidance to the DOD to improve the performance or clarify the objectives of efforts in areas such as defense microelectronics, advanced manufacturing, anti-corrosion coatings, advanced aircraft engines, robotics, infrared sensor technologies, training technologies, and applied mathematics and computational sciences.

DOD Counternarcotics Program

- Renews two longstanding counternarcotics train and equip programs, including:
 - Authority for a joint task force conducting counternarcotics training and assistance to a foreign government to also provide counterterrorism training and assistance; and
 - Authority to provide support to the Colombia unified counterterrorism and counternarcotics program.
- Authorizes approximately \$1.5 billion for the DOD counternarcotics program across the base budget and OCO budget.

Chemical and Biological Matters

- Authorizes \$1.4 billion for the Chemical and Biological Defense Program, the amount requested in the budget.
- Authorizes \$1.5 billion for chemical demilitarization programs, the amount requested in the budget.
- Authorizes DOD to consider the use of supplemental technologies for chemical demilitarization at the Pueblo, Colorado and Blue Grass, Kentucky facilities, to permit safe destruction of problematic munitions.

SUBCOMMITTEE ON STRATEGIC FORCES

Within the jurisdiction of the Senate and House Subcommittees on Strategic Forces, the conferees gave particular attention to DOD programs for national security space, strategic forces, ballistic missile defenses, intelligence, security, and reconnaissance, and cyber security, as well as DOE nuclear and environmental management programs. Specifically, the conferees included the following budget recommendations and legislative provisions:

Ballistic Missile Defense

- Authorizes an overall level of \$9.8 billion for missile defense, an increase of \$152.0 million above the budget request, including \$8.3 billion for the Missile Defense Agency (MDA) and \$1.5 billion for Army and related missile defense programs.
- Authorizes an increase of \$168.0 million to accelerate and enhance joint U.S.-Israeli cooperative missile defense programs, including for improving the Arrow Weapon System; development of the Arrow-3 upper-tier interceptor; and development of the “David’s Sling” short-range missile defense system.
- Authorizes \$211.0 million of fiscal year 2013 funding to provide to the Government of Israel to procure additional “Iron Dome” short-range rocket defense systems.
- Prohibits the obligation or expenditure of fiscal year 2013 funds for the MEADS, and authorizes no funds for MEADS, a reduction of \$400.9 million.
- Provides authority to exchange AEGIS weapons system equipment between the Missile Defense Agency’s European Phased Adaptive Approach program and the AEGIS destroyer program to help MDA meet its Aegis Ashore deployment schedule in Romania, without delaying the AEGIS destroyer schedule.
- Requires the DOD Director of Cost Assessment and Program Evaluation to conduct an independent cost estimate and evaluation of alternatives for the Precision Tracking Space System, and would limit 25 percent of fiscal year 2013 funds until the evaluation is completed.
- Requires the Secretary of Defense to evaluate at least three possible future missile defense interceptor deployment locations in the United States (at least two of which would be on the East Coast), and to prepare an environmental impact statement for the locations evaluated. Also requires the Director of the MDA to prepare a contingency plan for deployment of an additional interceptor site in case the President decides to proceed with such a deployment.
- Expresses the sense of Congress regarding the policies and programs of the Department of Defense for homeland ballistic missile defense, including improvements to the Ground-based Midcourse Defense system and to the homeland defense hedging posture. Requires a report on the status of efforts to improve the U.S. homeland missile defense capability.
- Expresses the sense of Congress regarding the policies and programs of the Department of Defense for regional ballistic missile defense and requires a report on the status and progress of regional missile defense programs, including the European Phased Adaptive

Approach and other U.S. regional efforts.

Strategic Systems

- Includes a provision that requires the Nuclear Weapons Council (NWC) to report to Congress on the definition of a common W88 / W78 warhead that will be used for phase 6.1 and 6.2A studies.
- Requires the Director of the Congressional Budget Office (CBO) to estimate over a 10 year window the costs at the DOE and the DOD on maintaining and modernizing nuclear warheads and their delivery systems as well as provides enhanced reporting requirements by the Department of Defense on Nuclear Modernization.
- Requires the Nuclear Weapons Council (NWC) to oversee the Nuclear Command, Control and Communications System, certify the budget of the National Nuclear Security Administration (NNSA) to meet stockpile and stockpile stewardship requirements and report to Congress whenever an authorization or appropriation bill reported out of Committee falls below the President's budget request level on any significant impacts.
- Requires the NWC to determine the feasibility of further consolidations to the NNSA complex and, if feasible, requires in its report a proposed process. The provision requires the report to be submitted before construction begins on the Uranium Processing Building and Chemistry and Metallurgy Research building (phase CD-3).
- Requires the Department of Defense to reconsider its decision to restructure the B-52 Combat Communications System and report back to the congressional defense committee within 180 days after enactment on options to keep the original implementation plan intact.

Space Programs

- Moves the Operationally Responsive Space (ORS) Office from reporting to the Executive Agent for Space to the Commander of Air Force Space and Missile Center; requires the Office to be geographically separate from the headquarters Space and Missile Center; has the Program Element Officer for Space as the acquisition executive for ORS; establishes an Executive Committee of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Commander of U.S. Strategic Command, Commander of Air Force Space Command and the Executive Agent for Space and authorizes a transfer up to \$60.0 million in FY 2012 funds (subject to appropriation acts) from the Weather Satellite Follow on program for the ORS Office to build a low cost high technology readiness level weather satellite.
- Authorizes private entities using DOD ranges or launch facilities to contribute up-keep and maintenance of the ranges and facilities.
- Authorizes the Air Force to procure block buys of Space-Based Infrared System satellites 5 and 6 over 6 years, including advanced procurement of \$3.9 billion.
- Authorizes the Air Force to procure block buys of satellites 5 and 6 over 6 years,

including advanced procurement of \$3.9 billion.

- Restores certain classes of satellites from the Munitions List to the Commerce Control List.
- Restores \$10.0 million proposed by the DOD to be taken from the ORS program, adds \$35.0 million to restore funding at \$45.0 million to continue working with the combatant commands, and U.S. Pacific Command in particular, on low cost responsive satellites similar to ORS-1.
- Increases the funding by \$35.0 million to \$45.0 million for the Space Test Program, to the level of effort in past years to continue providing access to space for innovative new satellites.
- Requires a report on overhead persistent imaging technology used by the Department of Defense.
- Ensures that before any major satellite acquisition program is undertaken schedules are developed that integrate the satellite and its ground systems.
- Strikes redundant report on global positioning systems already accomplished in other interagency documents.

Cyber Security

- Includes a provision requiring the Secretary of Defense to create a process for designated defense contractors to report to DOD when their networks containing DOD information are successfully penetrated.
- Includes a provision requiring the Secretary of Defense to develop (1) a strategy for implementing the Joint Information Environment (JIE), an initiative to consolidate and rationalize DOD information networks, and (2) a personnel plan for the JIE and for the offensive mission requirements of U.S. Cyber Command.
- Includes a provision requiring DOD officials to improve security, quality, and competition in the acquisition of software.
- Includes a provision requiring DOD officials to develop a strategy to acquire next-generation host-based cybersecurity tools and capabilities.

Intelligence

- Global Hawk – prevents the Department of Defense from expending any funds to retire, prepare to retire, or place in storage RQ-4 Block 30 Global Hawk unmanned aircraft systems. The conference agreement would also require that the Secretary of the Air Force maintain the operational capability of each RQ-4 Block 30 Global Hawk unmanned aircraft system belonging to the Air Force or delivered to the Air Force until the end of calendar year 2014.

- Commercial Electro-Optical Imagery – includes a provision that mandates studies by the Joint Staff and CBO on the requirements for, and the role of, commercial imagery.
- Provides \$50.0 million to enhance and expand intelligence, surveillance, and reconnaissance support to Operation Observant Compass – DOD’s ongoing operation to support central African forces conducting operations against the Lord’s Resistance Army.
- Includes a provision to promote greater interagency collaboration on integrating unmanned aerial vehicles into the National Airspace System.
- Includes a provision that would constrain growth in human intelligence personnel, require an independent cost estimate of the Defense Clandestine Service, and require a report on human intelligence management improvements.
- Includes a provision requiring the leadership of the Air Force to correct adverse trends in the promotion and education rates of unmanned aerial vehicle pilots.
- Establishes a requirement for competition in the development, maintenance, upgrade, and new procurement of data links employed across the Department.

Department of Energy Programs

- Restores to fiscal year 2013, the proposed deferral by “at least 5 years” of the Chemistry and Materials Research Replacement (CMRR-NF) building, requiring the NNSA to use \$70.0 million from funds authorized and appropriated for fiscal year 2013, requires the facility to be operational by the end of 2026.
- Puts legislative cost caps on the CMRR-NF building at \$3.7 billion and the first phase of the Uranium Processing Facility project for building 9212 at \$4.2 billion.
- Repeals an annual workforce restructuring report. The DOE has not requested funds associated with this report since 2007.
- Includes a provision that, under existing hiring caps, gives the Administrator of the NNSA an increase in the number of hires from 300 to 600 akin to authorities used by the Nuclear Regulatory Commission for contracting, scientific, engineering and technical personnel.
- Requires the NNSA to publish to the greatest extent practicable, in a common format, the performance evaluations of the Management and Operations Contractors at NNSA facilities.
- Amends section 142 of the Atomic Energy Act to restore some data that was classified as formerly restricted data to restricted data.
- Requires the Secretary of Energy to submit Selected Acquisition Reports based on DOD requirements in 10 U.S.C. 2432 and Independent Cost Estimate of nuclear weapon life extension programs before entering phase 6.2A (design engineering) and 6.4 (production).

- Requires quarterly reporting of obligation, unexpended and expended balances of the NNSA and the DOE Office of Environmental Management.
- Requires the NWC to report to the congressional defense committees on the feasibility of consolidation in the NNSA complex. No funds may be spent on phase CD-3 (start of construction) of the Chemistry and Metallurgy Research Replacement building, DOE Project 04-D-125 until such report is transmitted to the congressional defense committees
- Authorizes Atomic Energy Defense Activities at the President's request of \$17.4 billion.
- Requires a Congressional Commission to study the governance and management of the NNSA.
- Authorizes a program to develop a domestic source of the medical isotope molybdenum-99, which is one of the most widely used diagnostic isotopes in the United States and in chronic short supply.
- Requires a report on abandoned uranium mines used in the atomic weapons program.

Defense Nuclear Facilities Safety Board

- Authorizes funding at \$29.4 million.

SUBCOMMITTEE ON SEAPOWER

Within the jurisdiction of the Senate Subcommittee on Seapower and the House Subcommittee on Seapower and Projection Forces, the conferees focused on the needs of the Navy, Marine Corps, and strategic mobility forces. The conferees put particular emphasis on supporting marine and naval forces engaged in combat operations, improving efficiencies, and applying the savings to higher-priority programs. Specifically, the conferees included the following budget recommendations and legislative provisions:

- Approves multiyear procurement authority for the following weapons systems:
 - V-22 tilt-rotor aircraft;
 - *Virginia*-class submarines; and
 - *Arleigh Burke*-class destroyers.
- Adds \$777.7 million for advance procurement for attack submarines and authorizes the Navy to employ incremental funding to buy an additional submarine in fiscal year 2014.
- Allows the Navy to incrementally fund *Ford*-class aircraft carriers over 6 years, rather than the currently allowed 5-year period.
- Fences one-half of the funding to the second *Ford*-class aircraft carrier, pending a report on how the Navy and the contractor are going to apply lessons learned from the first ship in the class on building the second ship, and how the Navy and contractor will use better construction management to reduce the cost of the ship. In addition, requires the Secretary of the Navy to recertify the statutory cost-cap for the second *Ford*-class aircraft

carrier to help ensure that the Navy and the contractor will build CVN-79 within the amount permitted by law.

- Allows the Navy to fund the costs of the refueling complex overhaul for the aircraft carrier USS *Abraham Lincoln* incrementally over a 2-year period.
- Incorporates two legislative provisions regarding mission modules for the Littoral Combat Ship:
 - Require the Navy to submit a report describing plans to develop and test mission modules in the proper sequence, to demonstrate that modules will achieve specified capabilities, and to demonstrate survivability soon enough to minimize cost of concurrency.
 - Designate the mission module program as a major defense acquisition program (MDAP) to help improve Congress' ability to subject the overall effort to strong oversight. In addition, directs the Secretary of the Navy to provide quarterly estimates as to the cost, schedule and performance of completing the development and production of each mission module variant.
- Allows the Air Force to retire all C-5A aircraft, but only after the Department of Defense conducts a comprehensive study that assesses the end-to-end, full-spectrum mobility requirements for all aspects of the National Military Strategy derived from the National Defense Strategy.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Within the jurisdiction of the Senate Subcommittee on Readiness and Management Support and the House Subcommittee on Readiness, the conferees focused on: (1) improving the readiness of our armed forces; (2) ensuring that members of the armed forces and their families have access to appropriate facilities, including family housing; and (3) addressing problems in the management and efficiency of DOD. Specifically, the conferees included the following budget recommendations and legislative provisions:

Operation & Maintenance and Procurement Funding Items

- Cuts \$200.0 million from the CERP for use in Afghanistan based on reduced requirements in connection with the U.S. force drawdown.
- Cuts \$197.0 million from Army and Marine Corps' ammunition procurement accounts, based on analysis from the GAO, which it judges to be excess of need.
- Cuts \$175.0 million from excess unobligated balances to encourage better stewardship of taxpayer dollars, based on analysis from the GAO.
- Cuts \$146.6 million from the Army working capital fund for excess cash carryover.
- Cuts \$3.0 million from Army Operation & Maintenance (O&M), because funding was requested in anticipation of building museum exhibits, which appear to be ahead of need.

- Adds \$532.9 million to fulfill 90 percent of the Services' requirements for facilities sustainment, restoration, and modernization accounts.
- Adds \$59.1 million for the DOD IG, to enable the IG to continue growth designed to provide more effective oversight and help identify waste, fraud, and abuse in DOD programs, especially in the area of procurement. DOD IG reviews resulted in an estimated \$2.6 billion savings in FY 2011 – a return on investment of \$8.79 for every \$1 spent.
- Adds \$30.8 million for the DOD Corrosion Prevention and Control shortfall in funding requirements identified by the Department of Defense. DOD estimates that corrosion in military equipment costs the services over \$22.0 billion per year; expenditures in this area have yielded an estimated 14:1 return on investment by reducing the bill for repair and replacement of corroded systems and parts.

Military Construction and Basing Issues

- Cuts more than \$660.0 million from the President's budget for military construction and family housing projects.
 - More than \$200.0 million in incrementally funded projects to improve efficiency and prevent waste through more efficient cash flow of large projects.
- Extends the prohibition on funds for the realignment of Marine Corps' forces from Okinawa to Guam or other Pacific locations until the Commander of U.S. Pacific Command provides an assessment of the strategic and logistical resources the distributed laydown requires to meet contingency operations plans. The Secretary of Defense must also submit a master plan to Congress detailing construction costs and schedule of all projects necessary to realize the Commandant's distributed force lay-down, and the Secretary of the Navy must provide a plan detailing necessary repairs and restorations to Marine Corps Air Station Futemna.
- Continues the committee's focus on the U.S. force posture in the Asia-Pacific region, including the realignment of Marines from Okinawa to other locations, by including report language that requires DOD to keep committees apprised of progress on the realignment, urges DOD to expedite required environmental studies, and directs GAO to assess costs associated with the recently announced U.S.-Japan joint plan for Okinawa realignment.
- Declines to authorize additional rounds of BRAC but does require the GAO to review the systems and processes by which the DOD determines that infrastructure is excess to needs.
- Reauthorizes Contingency Construction Authority that allows the Department to reprogram O&M funds for military construction to meet temporary operational requirements during a time of declared war, national emergency or contingency operation until September 2013.

- Requires a GAO report on the objective criteria to be used by DOD to make decisions relating to realignments of units at military installations that are not covered by the BRAC statute.
- Provides a 1-year moratorium on force structure changes that would alter a military installations status in regards to the BRAC statute thresholds.
- Requires a GAO report on the construction or renovation of DOD facilities using in-kind payments.
- Requires DOD to issue guidance for financing renewable energy projects.
- Authorizes \$150.0 million for the Energy Conservation Investment Program.

Acquisition Policy Provisions

- Prohibits the use of cost-type contracts for the production of major weapon systems, with very limited exceptions.
- Strengthens the authority of senior DOD official responsible for developmental testing on major defense acquisition programs.
- Restricts the use of “pass-through” contracts by requiring a contracting officer determination to support any contract on which more than 70 percent of the work will be performed by subcontractors.
- Requires a study of contractor compensation in lieu of lowering the cap on contractor pay that is allowable for DOD reimbursement from \$750,000 to \$230,000.
- Requires DOD to review its existing profit guidelines and revise them as necessary to ensure an appropriate link between contractor profits and contractor performance.
- Includes a series of wartime contracting provisions drawn from the McCaskill-Webb bill implementing the recommendations of the Commission on Wartime Contracting in Iraq and Afghanistan.
 - Requires DOD and other agencies to conduct risk assessments and take steps to mitigate significant risks associated with contractor performance of critical functions in support of overseas contingency operations.
 - Requires DOD and other agencies to establish clear chains of responsibility for key acquisition functions in support of overseas contingency operations.
 - Establishes IG responsibilities for oversight of future overseas contingency operations.
- Enhances protections for contractor-employee whistleblowers who blow the whistle on waste, fraud, and abuse on DOD contracts and the contracts of civilian agencies.

- Clarifies DOD authority to require contractors to provide additional cost data on spare and repair parts for weapon systems, where needed, to ensure reasonable pricing.
- Clarifies access of DOD auditors to contractor internal audit reports for the purpose of evaluating the efficacy of contractor internal controls.
- Extends the availability of the DOD acquisition workforce development fund and aligns funding level with DOD requirements.
- Extends to civilian agencies, requirements already applicable to DOD with regard to past performance determinations and price-trend analyses.
- Includes a series of provisions strengthening and enhancing role of small business in DOD contracts and contracts of other federal agencies.
- Includes a series of provisions strengthening protections against human trafficking by contractors and subcontractors supporting the overseas operations of DOD and other federal agencies.

Defense Management Provisions

- Requires DOD to develop and implement a plan to reduce and rebalance the DOD civilian employee workforce and the DOD service contractor workforce, achieving a savings of 5 percent in each workforce over a 5-year period.
- Repeals provisions of last year's NDAA that threatened to upset the delicate balance between the public sector and the private sector in the maintenance and repair of military systems.
- Codifies the 2014 deadline for DOD to achieve an auditable statement of budgetary resources.
- Clarifies duties and responsibilities of senior DOD official responsible for manufacturing and industrial base policy.
- Includes provision establishing executive branch program of interagency personnel rotations to promote government-wide cooperation and coordination on critical national security and international affairs issues.

Environmental Provisions

- Fully funds DOD environmental restoration programs to help ensure active and former contaminated sites are restored to acceptable levels in a timely manner.
- Authorizes the Secretary of a military department to enter into cooperative agreements for land management with Indian tribes.

- Requires DOD to issue defense-wide guidance on the tracking and handling of possible environmental contamination exposures on military installations, as recommended by GAO, and requires a briefing on possible material solutions to the problem.
- Does not include the House provisions that would have amended the definition of chemical substance in the Toxic Substances Control Act and that would have created southern sea otter military readiness areas off the coast of California.

Readiness-Related Legislative Provisions

- Does not include a provision of the House-passed bill that would have prohibited fiscal year 2013 funding for the production or purchase of an alternative fuel if the cost of producing or purchasing the alternative fuel exceeds the cost of traditional fossil fuel, with limited exceptions.
- Limits the DOD's fiscal year 2013 Defense Production Act (DPA) funding for the construction of a biofuel refinery only until the DOD receives equivalent contributions from the DOE and Department of Agriculture for the same purpose, but does not limit Phase I of the DPA project in any way, nor does it limit the use of FY12 funds for biofuel refinery construction.
- Includes energy security as a component of DOD energy savings contracts for buildings, facilities, installations, vehicles, and equipment.
- Expresses the sense of Congress regarding the need to protect airfields, airspace, and air training routes from encroachment.
- Requires GAO to review handling, labeling, and packaging procedures for hazardous material shipments.
- Streamlines the National Defense Stockpile by authorizing the President to delegate release authority to the Under Secretary of Defense for Acquisition, Technology, and Logistics.
- Amends the Strategic and Critical Materials Stock Piling Act to include language taking into account single points of failure.
- Modifies the deadline for the annual report on prepositioned materiel and equipment conducted by the GAO.
- Extends through 2018 the DOD requirement to report on its progress to evaluate training constraints caused by limitations on the use of military land, marine areas, and airspace and progress being made in developing a comprehensive plan to address these limitations.
- Requires a cost-benefit analysis on the feasibility and advisability of establishing a program within the DOD to recapture fluorescent lighting waste.

GENERAL PROVISIONS

- Extends for one year existing conditions and limitations on transfer or release of military detainees held at Guantanamo. Adds new language providing for favorable treatment of certain detainees who enter pre-trial agreements.
- Establishes congressional notification requirements, but no conditions or limitations, for military detainees held on naval vessels and for the release of third-country nationals held in military detention at Parwan, Afghanistan.
- Does not include the Feinstein amendment on detention inside the United States. Instead, provides that nothing in the Authorization for Use of Military Force or the FY 2012 NDAA shall be construed to deny the availability of the writ of habeas corpus or to deny any other Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would otherwise be entitled to the availability of such writ or to such rights.
- Requires the Secretary of Defense to submit to the Committees on Armed Services of the Senate and the House a detailed report on the impact on the Department of Defense of the sequestration of funds authorized and appropriated for fiscal year 2013, if sequestration is automatically triggered on January 2, 2013, as required by the Budget Control Act. The report is to include an assessment of the potential impact on readiness; the ability of the Department to carry out the National Military Strategy; and a list of the programs, projects and activities that would be reduced or terminated.
- Prohibits funding in FY 2013 for any contract with Russian arms exporter Rosoboronexport, except in cases where the Secretary of Defense issues a national security waiver.
- Fully funds the President's request of \$5.7 billion request for the Afghanistan Security Forces Fund to build the capacity of the Afghan National Security Forces so those forces can transition to taking the security lead throughout Afghanistan by 2014.
- Extends several authorities that our military commanders continue to need in Afghanistan, including:
 - Reauthorizes the use of DOD funds to support a program to reintegrate insurgent fighters into Afghan society at the requested level of \$35.0 million;
 - Reauthorizes CERP, at \$200.0 million, a reduction of \$200.0 million below the request of \$400.0 million. CERP enables our military commanders to fund small-scale humanitarian projects that directly benefit the Afghan people to help secure their support.
 - Reauthorizes the Afghanistan Infrastructure Fund at \$350.0 million, a reduction of \$50.0 million from the request of \$400.0 million. The Afghanistan Infrastructure Fund supports high-priority, large-scale infrastructure projects that support the civil-military campaign, particularly the Kandahar electrification project.

- Reauthorizes the Task Force on Business and Stability Operations in Afghanistan, at \$93.0 million, to conduct economic development projects that support the counterinsurgency campaign.
- Calls for an independent assessment of the size and structure requirements of the ANSF necessary for those forces to be able to ensure that their country never again serves as a safe haven for terrorists that threaten Afghanistan, the region, and the world.
- Authorizes the limited transfer of both excess and non-excess defense articles being withdrawn from Afghanistan to the Afghan National Security Forces, to build their capacity to provide for their country's security as U.S. and coalition forces draw down during the transition to an Afghan security lead in 2014.
- Requires a report on attacks by Afghan Security Forces or their impersonators on U.S. and coalition forces (the "insider threat"), and on steps being taken by Afghan Government and coalition leaders to address the insider threat.
- Expresses the sense of Congress in support of the transition of lead responsibility for security to the Afghan security forces and the associated draw down of U.S. forces by no later than December 31, 2014.
- Requires that following a decision by the President to change U.S. force levels in Afghanistan, the Chairman of the Joint Chiefs of Staff, through the Secretary of Defense, shall provide to Congress an assessment of risk to the U.S. mission and security interests associated with such a change in force levels.
- Expresses the sense of Congress commending the United States-Afghanistan Enduring Strategic Partnership Agreement, which provides a framework for a longer-term bilateral strategic relationship between the United States and Afghanistan.
- Requires reports on efforts to assist Afghanistan in providing for the security of Afghan women and girls during the transition period and on Afghan Government preparations to secure presidential elections in 2014, including protecting the ability of Afghan women to participate in voting.
- Authorizes \$1.65 billion in Coalition Support Funds to reimburse cooperating nations supporting the effort in Afghanistan, but limits the availability of such funds to reimburse Pakistan until the Secretary of Defense certifies that Pakistan meets certain criteria, including securing the lines of supply through Pakistan to Afghanistan, disrupting cross-border attacks into Afghanistan, and countering the threat from improvised explosive devices. The Secretary of Defense may waive these certification requirements if in the U.S. national security interests.
- Extends funding to support the activities of the Office of Security Cooperation in Iraq, the office within the U.S. Embassy which oversees Foreign Military Sales to Iraq.
- Requires the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, to submit a comprehensive assessment of the limited military activities that could deny or significantly degrade the ability of Bashar Assad and his loyalists to use air

power against civilians and opposition groups in Syria. This provision explicitly notes that it neither authorizes the use of military force nor serves as a declaration of war against Syria.

- Authorizes U.S. participation in the Air Transport and Air Refueling Exchange of Services program with our European allies for the multilateral exchange of air cargo and air refueling services to expand opportunities for efficiencies and increased transportation capacity.
- Requires a report on the military resources necessary to execute the U.S. force posture strategy in the Asia-Pacific region.
- Modifies the requirements of the annual DOD report on China's military and security developments.
- Requires an additional report on the military and security developments in North Korea.
- Expresses the sense of the Congress regarding the situation with the Senkaku islands.
- Requires a review and report regarding the bilateral defense trade relationship with India.
- Expresses the sense of Congress regarding the sale of aircraft to Taiwan.
- Sets forth standards, grounded in historical practice, to guide the Secretary of the Navy's decisions on future vessel naming. The provision requires that the Secretary seek the approval of the Senate and House Committees on Armed Services before announcing or assigning a vessel's name.
- Increases authorizations to certain accounts for critical new combatant commander requirements that were unforeseen and for which reprogrammings were requested by the DOD outside the normal budget cycle.

Iran Sanctions

The conferees adopted Iran sanctions provisions that would:

- designate certain persons and entities in Iran's energy, port, shipping, and ship-building sectors as entities of proliferation concern, subjecting many transactions with such entities to sanction;
- impose sanctions on persons selling or supplying, or diverting to Iran a defined list of materials relevant to the aforementioned sectors, to certain Iranian Specially Designated Nationals and Blocked Persons, or to be used in connection with certain Iranian military programs;
- impose sanctions on non-U.S. businesses and financial institutions dealing with all Iranian persons on the U.S. list of Specially-Designated Nationals and Blocked Persons, except for non-designated Iranian financial institutions; and

- designate the Islamic Republic of Iran Broadcasting and its president as human rights abusers for their broadcasting of forced confessions and show trials, blocking their assets and preventing other entities from doing business with them, and banning any travel to the US.

The conference report includes language to ensure that the new sanctions do not cause the bill to violate the constitutional requirement that revenue measures originate in the House of Representatives. For this reason, the conference report does not include any new authority for the President to impose sanctions on the importation of goods. However, nothing in the conference agreement precludes the President from exercising existing sanctions authorities for this purpose.

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