

No. 22

September 20, 2001

## **S. 1438 – The National Defense Authorization Act for FY 2002**

Read the first time on September 19, 2001. No report filed.

### **NOTEWORTHY**

- The Senate could begin consideration of S. 1438, the FY 2002 National Defense Authorization Act, tomorrow.
- S. 1438 is identical to the bill reported by the Senate Armed Services Committee on September 12, 2001, (S. 1416) but without four legislative provisions on ballistic missile defense that were objected to by all Republican members of the Committee. These provisions would have greatly undermined the Administration's ability to rapidly develop and test technologies for ballistic missile defense and would have tied the hands of the President in unprecedented ways.
- S. 1438, however, like its predecessor S. 1416, includes a \$1.3 billion reduction from the President's missile defense request, including a cut of over half a billion dollars in theater missile defense programs. Senator Warner is expected to offer an amendment to restore this funding.
- S. 1438 authorizes \$343.5 billion for national defense programs, the amount requested by the Administration. This funding level includes the \$18.4 billion requested by the President in his amended budget request.
- The bill contains the following provisions, which were requested by the Administration: a substantial military pay raise (of at least 5 percent), and other quality of life initiatives; a significant increase in funding for the defense health program; a significant funding increase for readiness; and authorization for one additional round of base closures in 2003.

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## BACKGROUND

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The original FY 2002 Department of Defense Authorization bill, S. 1416, was reported out of Senate Armed Services Committee on September 12 by a vote of 13-12. This vote of a minority unanimous in its opposition to final passage of the annual defense authorization appears to be the first time this has occurred in the history of the Senate Armed Services Committee. The reason for this party-line division: the missile defense provisions included in the bill by the Democrat majority.

The most egregious provision included legislative language (Section 221) that would have required Congress to enact a joint resolution specifically authorizing the obligation or expenditure of funds authorized for ballistic missile defense for any activity that would be inconsistent with the ABM Treaty. This provision would have undermined the President's authority — under Article XV of the ABM Treaty — to exercise the right to withdraw from that Treaty. The bill also contained language that constrained the Ballistic Missile Defense programmatic flexibility and subverted that Organization's proposed approach to develop and deploy ballistic missile defense systems efficiently and effectively.

These provisions have been excluded from S. 1438, the bill to be considered on the Senate floor, which was read the first time on September 19, 2001. This bill, however, contains a \$1.3 billion cut to ballistic missile programs that was also in S. 1416. Senator Warner will offer an amendment to restore that funding.

As for the objectionable missile defense legislative provisions, these are contained in S. 1439, a bill also introduced by Senator Levin on September 19, 2001.

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## BILL PROVISIONS

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### **Title I — Procurement**

- Overall, the Committee recommends adding \$897 million (a net increase of \$668 million) to the Department's procurement request. Details follow:
- The Committee recommends an additional \$102.5 million to procure 10 **UH-60 Black Hawk helicopters**, for a total authorization of \$277 million.

- An increase of \$47 million is authorized for upgrades to the **AH-64 Apache Longbow helicopter**, for a total authorization of \$965.1 million.
- The budget request included \$45.9 million for **Stinger missiles**, an increase of nearly \$23 million. The Committee does not believe that such a large increase is warranted and cuts the program by \$22.5 million, for a total authorization of \$23.4 million.
- The Committee recommends an additional \$16.2 million to upgrade the **tactical unmanned aerial vehicles (TUAV)** systems, including their sensor payloads and avionics suites, for a total authorization of \$100.5 million.
- The Committee recommends a provision that would provide authority for the Secretary of the Navy to enter into a multiyear contract for the procurement of **F/A-18E/F engines**.
- Because of continuing concerns about the ability of the Marine Corps and the Air Force to meet the requirements established for the program, the Committee approved a reduction of \$562 million of procurement and research and development funding for the **V-22 tilt-rotor Osprey aircraft** program. [Some of this funding reduction is in Title II.]
- The budget request included no funding for continued Navy procurement of the **joint primary aircraft training system (JPATS)**, the training aircraft used by the Air Force and Navy. The Committee, however, recommends an increase of \$44.6 million to buy 10 JPATS aircraft for the Navy, stating that continued purchases by the Navy would mean fielding a more efficient and safer primary aircraft training system.
- The budget request included \$113.2 million for modifications to the **P-3 aircraft**. The Committee recommends an increase of \$96 million for P-3 modifications, for a total authorization of \$209.2 million.
- The Committee adds \$324 million to support conversion of four excess **Trident strategic missile submarines (SSBNs)** to carry Tomahawk cruise missiles. The budget request included a proposal to continue design and to procure long-lead materials for conversion of two Trident submarines that would otherwise be retired.
- The Committee recommends a provision that would provide authority for the Air Force Secretary to enter into a multiyear contract for the procurement of up to 60 **C-17 aircraft**.
- The budget request included \$221.8 million for the procurement of two **C-130J-30 combat delivery aircraft**, and included \$13.6 million for the procurement of a fuselage training device. The Committee recommends an increase of \$81 million for the procurement of one C-130J, and \$18 million for a maintenance trainer, for a total authorization of \$320.8 million.

- The budget request included \$212.2 million for modifications to the **F-15 aircraft**. The Committee recommends an increase of \$25 million for additional F-15 engine upgrades, for a total authorization of \$237.2 million for F-15 aircraft modifications.
- The budget request included \$139.3 million for modifications to the **C-17 aircraft**, but included no funding for a maintenance trainer for which the Committee recommends an increase of \$21.1 million, for a total authorization of \$160.4 million.
- The budget request included \$552.7 million in missile procurement Air Force for modifications to the **Minuteman III Intercontinental Ballistic Missile**. The Committee recommends an additional \$4.2 million for replacement emergency batteries.
- Three **Arleigh Burke-class destroyers** were requested in the budget. The Committee recommends authorization of the \$2.9 billion requested for this program.

## **Title II — Research, Development, Test, And Evaluation**

- The Committee recommends a provision that would eliminate the legislative cost cap for engineering and manufacturing development (EMD) for the **F-22 program**. The Committee believes that it would be irresponsible to ignore the possibility that, just short of completing development on an important and expensive program, the pressures of a legislative cost cap would eliminate or truncate rigorous testing, the very activity needed to ensure that the program is ready to be fielded.
- The Administration requested \$8.3 billion for **ballistic missile defense programs**. The Committee bill cuts \$1.3 billion from the requested authorization, including \$651 million in **cuts to theater missile defense programs**, including:
  - A reduction of \$210 million to the **Theater High-Altitude Area Defense (THAAD)** program;
  - **Navy mid-course** is cut by \$347 million;
  - The **airborne laser (ABL)** program is cut by \$80 million;
  - Program operations for **terminal defense** is cut \$14 million.
- The Committee cuts \$15 million from the \$20 million request for the **Space-Based Kinetic Kill (SBKK)** program, thereby authorizing only \$5 million for SBKK.

- The budget request included \$50 million for an initiative intended to develop and test a new, faster booster design and conduct concept development and assessment of **sea-based boost-phase intercept alternatives**. The Committee cut \$40 million from this program, recommending a maximum authorization of \$10 million.
- The Committee recommends a reduction of \$28 million for the **space-based laser** program.
- A reduction of \$90 million is recommended for what the Committee identified as a **Block I test program**, leaving \$8.5 million for program planning.
- The budget request included \$384.8 million for the **Space-based infra-red system, low component (SBIRS-Low)**, with the funding request accelerating deployment of the full constellation of SBIRS-Low satellites to FY 2001. The Committee recommends a \$96.6 million reduction from this request.
- The Committee recommends an increase of \$76 million over the Administration's request of \$65.7 million to continue the **Arrow System** Improvement Program and for further joint interoperability efforts.
- The Committee increases funding by \$28.3 million for a communications suite for the **Comanche helicopter**, for a total authorization of \$816.2 million.
- The Committee adds \$11 million for the vertical takeoff and landing **tactical unmanned aerial vehicle (TUAV)** development program to enable the Navy to complete the additional software tasks and conduct risk-reduction testing. The budget request included \$66.3 million for this program.
- The budget request included \$155 million for the **B-2 bomber** in this title. The Committee recommends an additional \$74 million in upgrades for the B-2 bomber.
- For a variety of reasons, the Committee believes that the Defense Department is not likely to make a decision on the **Joint Strike Fighter (JSF)** program or its future in accordance with the current schedule. Therefore, the Committee recommends a net reduction of \$247.2 million, evenly divided between the Navy and Air Force accounts. The Committee, however, recommends adding \$60 million to keep the two platform contractor teams, an engine contractor team, and the program office together pending a transition to engineering, manufacturing, and development (EMD).
- The budget request included \$101.4 million for continued operational systems development of the F-15, but no funds for replacing the current friend-or-foe (IFF) identification equipment. The Committee recommends an increase of \$8.4 million for integration tasks that would lead to replace the aging (IFF) equipment on **F-15E fighter aircraft**.

- The budget included \$7.9 million for **information system security**. The Committee recommends an increase of \$5 million for research on computer system vulnerabilities and threats.
- Included in the budget request was \$190.2 million for operational systems development of endurance unmanned aerial vehicle (EUAV) systems, of which \$184.2 million is for EMD of the **Global Hawk** high-altitude endurance unmanned aerial vehicle (HAE UAV). The Committee recommends an increase of \$16 million to test the potential contributions of a Global Hawk carrying a SIGINT payload. If the demonstrations prove successful, the Committee expects that the results would serve as the basis for developing a validated requirement for a SIGINT payload for Global Hawk.
- The Committee recommends an increase of \$69.7 million in investments in the science and technology necessary to support DoD activities in **combating non-traditional and asymmetric threats** in the future.
- In commending the efforts of the **Combating Terrorism Technology Support Working Group**, the Committee recommends an increase of \$25 million to fund its activities. The Administration requested \$42.2 million for this program.
- The budget request included \$125.5 million for applied research in **chemical and biological defense**. The Committee recommends an increase of \$7.5 million for applied research in protecting military personnel and civilians in the presence of chemical or biological agents.
- The budget request included \$90 million for future combat systems. The Committee recommends an increase of \$11 million for research and development of **Unmanned Ground Combat Vehicles** as part of the DARPA/Army Future Combat Systems program.

### **Title III — Operation and Maintenance (O&M)**

- The Committee recommends a provision that would authorize \$35 million for continuation of the DoD assistance program to **local educational agencies** that benefit dependents of service members and DoD civilian employees.
- The budget request included funding for **counterterrorism training**, but did not include full funding for enhanced counterterrorism training, a crucial readiness requirement ensuring that U.S. Special Operations Forces are prepared to counter terrorist threats and/or rescue hostages during terrorist attacks. The Committee recommends an increase of \$14.3 million for

U.S. Special Operations Command operation and maintenance account for combating terrorism training activities.

- The Committee recommends an increase of \$164.8 million in **Air National Guard operation and maintenance for the B-1B Lancer bomber** and a decrease of \$64.8 million in Air Force operations and maintenance.
- The Committee approves the budget of \$820.4 million for **DoD Counter-drug programs** and adds \$40 million for National Guard counter-drug activities.

#### **Title IV — Military Personnel Authorizations**

- The Committee authorizes active duty end strengths for FY 2002 as follows: Army: 480,000; Navy: 376,000; Marines: 172,600; and Air Force: 358,800. These levels are consistent with the Administration's request.
- The Committee supports the requested end strength levels for the **selected reserve**, as follows: Army National Guard: 350,000; Army Reserve: 205,000; Navy Reserve: 87,000; Marine Corps Reserve: 39,558; Air National Guard: 108,400; Air Force Reserve: 74,700; Coast Guard Reserve: 8,000.
- The Committee authorizes increased end strength for the **Army National Guard and Army Reserve full-time manning personnel** by 1,759, recognizing that full-time manning is one of the Reserves' top priority issues.
- The Committee recommends a provision that would authorize a total of \$82.4 billion to be appropriated to the DoD for **military personnel**, \$89.6 million more than the FY 2002 budget request.

#### **Title V — Military Personnel Policy**

- The Committee recommends a provision that would authorize the service secretaries to permit certain service members with critical military skills to transfer up to 18 months of unused basic **Montgomery GI Bill (MGIB) benefits** to family members, and authorizes \$30 million for this purpose.
- The Committee approves some provisions meant to assist **overseas voters and absent military voters** in exercising their voting rights as citizens of the United States.

## **Title VI — Compensation and Other Personnel Benefits**

- As requested by the Administration, the Committee recommends a provision to provide a **pay raise** of at least 5 percent for all military personnel and targeted pay raises between 6 and 10 percent for mid- and senior-level enlisted personnel and junior officers, effective January 1, 2002.
- The Committee adds \$232 million to increase the **Basic Allowance for Housing (BAH)** and eliminate all out-of pocket housing costs for service members and their families by 2003.
- The Committee authorizes retired service members with a **service-connected disability** to receive both military retired pay and veterans' disability compensation without an offset if the President proposes, and Congress enacts, legislation to offset the increased cost of this benefit.
- The Committee also authorizes an **education savings program** using U.S. savings bonds for personnel with critical skills who reenlist for at least six additional years.

## **Title VII — Health Care**

- S. 1438 approves the budget request of \$17.9 billion to fully fund the **Defense Health Program**, including new benefits authorized in FY 2001 and an expansion of long-term benefits, including coverage for comprehensive care in skilled nursing facilities, home health care, and extended benefits for military dependents with certain disabilities.

## **Title X — General Provisions**

- The Committee recommends a provision that would authorize federal employees of the Executive Branch, members of the Foreign Service and their family members, to retain for personal use **frequent flyer miles** earned through official travel.
- The Committee recommends a provision that would codify in title 10, U.S. Code, the authority and specific activities to be funded under the **combating terrorism readiness initiatives**

**fund.** The Committee authorizes \$38 million for the fund, an increase of \$10 million over the requested level.

- A provision requiring the United States to maintain a **Strategic Arms Reduction Treaty (START) I** force structure level until START II enters into force is repealed.
- The Committee recommends a provision that prohibits the use of any funds available to the DoD for FY 2002 from being used to retire, move or dismantle any **B-1B** Lancer bombers until certain specified events occur.
- The Defense Secretary is required to submit a report to Congress on the Department's policies, plans and procedures for **combating terrorism**.

## **Title XII — Matters Relating to Other Nations**

- The **Cooperative Threat Reduction (CTR) programs** are authorized at \$403 million, the requested amount. A provision is included that establishes the funding levels for each of the program elements in the CTR program and provides limited authority to vary the amounts authorized.

## **Military Construction**

- The **Army** requested authorization of \$1.76 billion for military construction and \$1.4 billion for family housing. The Committee recommends authorization of \$1.63 billion for military construction and \$1.43 billion for family housing.
- The Committee agrees to the **Navy** request for authorization of approximately \$1.1 billion for military construction and \$1.2 billion for family housing for FY 2002.
- The **Air Force** requested authorization of approximately \$1.1 billion for military construction and approximately \$1.4 billion for family housing for FY 2002. The committee recommends authorization of approximately \$1.2 billion for military construction and \$1.4 billion for family housing.

## **Title XXIX — Defense Base Closure and Realignment**

- The Committee authorizes one additional round of **base realignment and closure** to take place in 2003.

## **Title XXXI — Department of Energy National Security Programs**

- The budget request for **atomic energy defense activities** totaled \$13.4 billion. The Committee recommends \$14.3 billion, an increase of \$911 million.
- The Committee recommends \$2.1 billion for the **stockpile stewardship campaigns of the National Nuclear Security Administration (NNSA)**, an increase of \$140.9 million above the budget request.
- The Committee recommends an increase of \$86.2 million to the budget request of \$1.4 billion in **readiness in technical base and facilities**.

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### **COST**

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Unavailable at press time.

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### **OTHER VIEWS**

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## **Minority Views of Senators Warner, Thurmond, Smith, Inhofe, Santorum, Roberts, Allard, Hutchinson, Sessions, Collins, and Bunning**

The Senators' minority views excerpted here were included as part of the report to the original bill (S. 1416) that was voted out of Committee on September 12, 2001 [S. Rept. 107-62, pp. 469-474]. Only those issues relevant to outstanding concerns are included here:

“We are [also] concerned about the extent of the reduction in funding of the ballistic missile defense programs included in this bill. This reduction targets testing, risk reduction and BMD system integration, and the most mature technologies available for defense of the United States against limited missile attack. In addition, a substantial reduction has been taken from theater missile defense programs — programs to meet the most urgent threats facing our deployed troops today. . . .

“Inconsistencies between these reductions and the Majority’s statement priorities abound. The Majority believes that theater missile defenses deserve high priority — but they would reduce theater missile defense programs by \$650 million.

“. . . As this bill moves forward, we will work to . . . restore funding that enables the nation to have the ability to protect itself against weapons of mass destruction and the ballistic missile threat.”

## **Minority Views of Senator Smith**

The Senator states his disappointment with the outcome of the defense authorization mark-up due to the draconian cuts to the Administration’s missile defense budget as well as the Committee’s refusal to agree to include legislation, cosponsored by Senator Allard, which would implement the findings of the Space Commission. Finally, Senator Smith no longer supports the BRAC process which, he states, “unnecessarily puts every facility at risk, and which only rewards the legions of consultants and lobbyists paid to ward off becoming a target of a BRAC round.” Rather, the Senator states his support for “a process in which the Secretary of Defense announces which facilities should be shut down, and presents such a list to the Senate and House.”

## **Minority Views of Senator Allard**

Regarding military voting rights, Senator Allard notes his surprise that the original Chairman’s Mark contained no provisions to improve the overseas and absentee military voting. This prompted Senator Allard to offer an amendment, based on his bill (S. 381), which began the necessary discussion on these issues. However, while some improvements were made regarding the military voting situation, Senator Allard believes “stronger legislative measures are still needed.” For instance, “solutions to critical problems related to recently separated uniformed voters, standards of absentee ballot invalidation (including postmark requirement clarification) and polling place location were rejected by the Majority but still need to be addressed.”

While Senator Allard was pleased with the support for greater DoD involvement in the development of reusable launch vehicles, he notes with disappointment “that the committee has opted not to implement any of the reforms of the Space Commission.”

## **Minority Views of Senator Bunning**

Senator Bunning states his objection to the base closure provision included in the bill. His biggest concern is that “we are proposing to conduct another expensive round of base closures without knowing if the first four rounds have saved us any money.” The Senator lists additional reasons for opposing the base closure provision of the bill, and states that is why he “will support striking this provision when the full Senate considers this legislation.”

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### **ADMINISTRATION POSITION**

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The Statement of Administration Policy was unavailable at press time.

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### **POSSIBLE AMENDMENTS**

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Allard. To strengthen military voting rights by improving military voter absentee ballot and poll access, solidifying ballot acceptance, and encouraging ongoing military voting reform.

Bunning. To strike the Base Closure and Realignment provisions in the bill.

Warner. To restore funding to the missile defense program.

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