



SENATE REPUBLICAN

POLICY COMMITTEE

Conference Report Highlights

December 13, 2007

Highlights of the Conference Report to Accompany H.R. 1585 – FY 2008 National Defense Authorization Bill

On December 6, 2007, the Armed Services Committee filed Conference Report H.R. 110-477.

Noteworthy

- The conference report authorizes the \$696.4 billion requested by the president¹ for fiscal year 2008 for national defense, including all war-related funding.
- It authorizes a 3.5 percent across-the-board pay raise for all uniformed service personnel.
- It significantly expands funding for the National Guard and Reserve.
- It makes security contractors operating in combat zones subject to limited military command and to the Uniform Code of Military Justice.
- The conference report authorizes significant increases in the size of the Army (by 13,000) and Marine Corps (by 9,000).
- It supports most missile-defense programs.
- It enhances military health-benefits, with particular emphases on treatment for traumatic brain-injury and other sorts of serious battlefield injuries.
- The House passed the conference report by a vote of 370-49 on December 12, 2007.

¹ As calculated by the Congressional Budget Office.

Bill Provisions

The conference report authorizes the \$696.4 billion requested by the president² for fiscal year 2008 for national defense. This authorization includes both the base budget of the Department of Defense (\$507.0 billion) and war-related funding (\$141.8 billion) in the president's February budget request, plus an additional \$5.3 billion for Mine-Resistant Ambush Protected vehicles (MRAPs) requested in July, and an additional \$42.3 billion for war-related funding requested in October, for a total of \$189.4 billion total war-related funding.

Division A – Department of Defense Authorizations

Title I – Procurement

The conference report authorizes \$99.3 billion in procurement funding, \$935 million less than the president's request.

- It authorizes \$14 billion for the procurement of Mine-Resistant Armor Protected (MRAP) vehicles.
- It authorizes multi-year contracts for upgrades of Abrams tanks, Bradley fighting vehicles, and CH-47E helicopters, as well as for procurement of CH-47F helicopters.
- It requires maintenance (and limits retirement) of certain aircraft, including:
 - transport aircraft: C-130E/H, KC-135E, and C-5 transport;
 - reconnaissance planes: U-2 “spy” plane; and
 - strategic bombers: B-52.
- It authorizes construction for one Army High Speed Vessel and five Navy Battle Force ships, including the first ship of the CVN-21 aircraft carrier class.
- It provides multi-year procurement authority for Virginia class submarines for fiscal years 2009-2013.
- It adds \$588 million in advance procurement funding to support buying an additional Virginia class submarine in 2010. Funds may be transferred to procure materials in FY08, which could yield additional savings for the multi-year procurement and reduce pressure on the outyear shipbuilding budget.
- It directs the Secretary of the Air Force to maintain 76 B-52 bomber aircraft to ensure a total of 56 combat-coded aircraft and further directs the Secretary to maintain all 76 B-52s in a non-storage state.

² As calculated by the Congressional Budget Office.

- It establishes a policy that future warships of the strike forces of the United States Navy be nuclear powered.
- It authorizes the following for specific weapons systems:
 - \$3.7 billion for 20 F-22A Raptors, the next generation air-superiority strike-fighter designed to incorporate next-generation stealth technology and replace the F-15;
 - \$2.6 billion for 12 F-35 Joint Strike Fighters (JSF). The JSF is the all-purpose strike-fighter designed to replace the F-16. It comes in Air Force, Navy, and Marine Corps variants, as well as variants for foreign sales;
 - \$2.7 billion for 33 next-generation F/A-18 E/Fs, the Navy's upgrade of the current F/A-18 C/D aircraft;
 - \$2.5 billion for 8 unrequested C-17 cargo aircraft;
 - \$2.1 billion for 23 V-22 aircraft, planned as the next generation air-mobility air-assault helicopter. The services hope to purchase 458 aircraft over the life of the program, which is expected to cost over \$50 billion;
 - \$2.8 billion in advance procurement for the Navy's next-generation surface combat ship, the DD(X);
 - Advance procurement funding for 3 T-AKE class supply ships;
 - \$1.7 billion for one LPD-17 San Antonio-class amphibious ship;
 - Littoral Combat Ship — \$340 million for one Littoral (coastal) Combat Ship (LCS), \$571 million less than the budget request. The LCS is a small, specialized variant of the DD(X) family of future surface-combat ships;
 - Language in the conference report points to the more than doubling of the price of these ships, schedule delays, and delays in promulgating an acquisition strategy as reason for the 63 percent reduction from the budget request.
 - \$3.1 billion for procurement of the next Virginia-class new attack submarine, which will replace retiring Los Angeles-class submarines and will constitute the bulk of the future attack submarine force.
- It authorizes \$980 million for National Guard and Reserve equipment not requested by the president.
- A \$100 million Rapid Acquisition Fund requested by the president and approved in the Senate bill was not included in the conference report.

Title II – Research, Development, Test and Evaluation (RDT&E)

The bill approves \$73.7 billion for RDT&E, \$1.4 billion less than the budget request, including:

- \$10.9 billion for the Army, \$251 million more than the president's request;
- \$17.0 billion for the Navy, \$95 million less than the president's request;
- \$25.7 billion for the Air Force, \$1.0 billion less than the president's request;
- \$20.0 billion for Defense-wide; and
- \$180.3 million for Defense Operational Test and Evaluation.

- It requires the continued development and procurement of two options for the propulsion system for the Joint Strike Fighter (JSF). But only \$197 million is authorized for this requirement, significantly less than in either the House or Senate bills.
- It accelerates the development, integration, and fielding of appropriate nanotechnology-based capabilities in defense systems.
- It increases investments in defense science and technology (S&T) programs, for a total authorization of nearly \$11 billion.
- It increases funding over the budget request for space-situational awareness capabilities to address concerns raised as a result of the recent Chinese kinetic anti-satellite weapons test.
- It increases funding over the budget request for:
 - Advanced manufacturing research and processes to reduce the production costs of weapons systems, to improve the Department's ability to surge production of critical items;
 - Research and technologies to enhance the force protection of deployed units;
 - Advanced energy and power technologies, including programs to develop fuel cells, hybrid engines, and biofuels for military systems;
 - Defense-related research performed at national universities; and
 - Research on combat casualty care and military medical technologies, including work to address blast injuries and brain trauma.

Missile Defense Programs

This title supports missile defense programs, but favors deployable near-term capabilities over long-range development, with significantly reduced funding for European missile defense sites.

- It authorizes \$10.1 billion for ballistic missile defense, \$331 million below the budget request.
 - This is a net increase of \$120 million for more immediately-deployable projects.
- It cuts \$85 million from the budget request of \$310.4 million for the proposed European missile defense deployment for site activation and construction work, pending host-nation agreements.
- It provides more than the budget request for the Aegis Ballistic Missile Defense (BMD) program to upgrade Standard Missile-3 (SM-3) interceptors, and accelerate work on the Aegis BMD Signal Processor and Open Architecture program.
- It provides more than the budget request for co-production of the Arrow missile, and to study a follow-on to Israel's Arrow system, including whether an existing U.S. system would be a suitable option.

- It adds to the budget request for accelerated joint development of a short-range ballistic missile (SRBM) defense system for Israel.
- It cuts \$35 million from the budget request of \$548.8 million for the Airborne Laser program, which would develop a 747 capable of destroying ballistic missiles in boost phase.
 - Because of various delays and cost increases since the program's inception, both the House and Senate bills cut significantly more from this request, authorizing only \$298.9 million and \$348.8 million, respectively. The program's more recent positive performance may have swayed the conferees to allocate greater funds for this promising program.
- It cuts \$65 million from the budget request for BMD Special Programs and Systems Core.
- It cuts from the budget request for the Space Tracking and Surveillance System, and authorized no funds for the proposed space test-bed.

Title III – Operation & Maintenance (O&M)

For O&M, this title authorizes \$142.8 billion, \$59 million less than the budget request:

- \$28.8 billion for the Army;
- \$33.4 billion for the Navy;
- \$33.1 billion for the Air Force;
- \$5 billion for the Marine Corps;
- \$22.5 billion for Defense-wide;
- \$2.5 billion for the Army Reserve;
- \$1.2 billion for the Navy Reserve;
- \$2.8 billion for the Air Force Reserve;
- \$209 million for the Marine Corps Reserve;
- \$5.9 billion for the Army National Guard;
- \$5.5 billion for the Air National Guard; and
- \$428 million for Former Soviet Union Threat Reduction programs.

Title IV – Military Personnel

This title provides \$119.8 billion for personnel, in addition to the war-related funds provided in Title XV. It also provides for a significant increase in the size of the Army and Marine Corps.

- It adds 13,000 active-duty soldiers to the Army, for a total of 525,400.
- It adds 9,000 active-duty Marines, for a total of 189,000.
- It reduces number of sailors (by 11,602) and Air Force personnel (by 4,637).
- It provides a slight increase in the National Guard, to 351,300.

- It caps the number of selected reserve at 847,900 in FY 2008. (This includes National Guard, reserves, and the Coast Guard).
- It limits the number of reserve personnel able to be placed on active duty to 75,571.

Title V – Military Personnel Policy

This title enhances the active-duty positions available to Reserve officers, former enlisted service-members, and health-care professions; increases the number of students and professors at West Point; and provides a number of other enhancements in the reserves, National Guard and education.

It expands the Family and Medical Leave Act to allow 12 weeks of leave to employees when certain of their close family members are mobilized in support of military operations. Additionally, the spouse, son, daughter, parent or next of kin of a combat-wounded service member are eligible for up to 26 weeks of leave during a 12-month period to care for the service member.

Title VI – Compensation and Other Personnel Benefits

This title authorizes pay increases and various other bonuses and special pay authorities aimed at encouraging enlistment, reenlistment, and continued service by active-duty and reserve military personnel.

- It authorizes a 3.5 percent across-the-board pay raise for all uniformed service personnel – the ninth year in a row that military pay increases have exceeded those of the private sector.
- It increases the maximum monthly rate of hardship duty pay from \$750 to \$1500.
- Authorizes payment of combat-related special compensation to service members medically retired for a combat-related disability.
- It expands GI Bill reserve education assistance benefits, and allows service members eligible for education benefits under the Reserve Education Assistance Program to use those benefits for 10 years after separation. Separated service members will be able to regain eligibility by rejoining a reserve component.
- It authorizes eligibility for increased benefits by aggregating three years of qualifying service or more.
- It allows service members to designate in writing any individuals to be the beneficiary for the death gratuity benefit.
- It authorizes an increase in previously-approved back pay for certain WWII POWs to account for rises in the Consumer Price Index.

Title VII – Health Care

This title contains several provisions meant to improve medical benefits and service, for service members.

- It prohibits increases in certain health care costs and insurance copayments, expands health coverage, and brings mental health within the definition of health care for certain purposes.
- It establishes a pilot program on assisted living for service members who have suffered traumatic brain injuries.
- It authorizes the Department of Defense to use federal pricing limits for pharmaceuticals dispensed through the TRICARE retail program.
- It restores higher funding levels to major military health care facilities such as Walter Reed Army Medical Center and Bethesda Naval Medical Center.

Title VIII – Acquisition Policy and Management

- It requires private security contractors operating in combat situations in Iraq and Afghanistan to comply with Department regulations and rules on the use of force, as well as orders and directives from combatant commanders regarding force protection, security, health, safety, and interaction with local nationals.
- It establishes a Commission on Wartime Contracting in Iraq and Afghanistan to study and investigate federal agency contracting for reconstruction, logistics support, and security functions in those countries, and makes recommendations as to how contracting processes could be improved in the future.
- It authorizes \$300 million in 2008, increasing thereafter, for a defense acquisition workforce to ensure that DOD has the people and the skills needed to effectively manage DOD's contracts.
- It creates a private right of action in federal court for contractor employees who are subject to reprisal for whistle-blowing in cases related to waste, fraud, and abuse on Defense Department contracts.
- It tightens the rules for acquisition of major weapon systems and subsystems, components, and spare parts to reduce the risk of contract overpricing, cost overruns, and failure to meet contract schedules and performance requirements.
 - It provides enhanced certification requirements for contracts of \$500 million or more.

Title IX – Department Policy and Management

- This title designates the Deputy Secretary of Defense as the Chief Management Officer (CMO) of the Department of Defense, and establishes a new Deputy CMO with the rank of under secretary.
- It requires each service acquisition executive to have a three-star principal military deputy to help oversee major acquisition programs.
- It requires a joint, comprehensive review of U.S. space posture.

Title X – General Provisions

- This title repeals the requirement that the Department submit a biennial budget as part of the budget request for even-numbered fiscal years.
- It expands authorization for foreign train-and-equip support for counter-narcotics operations to Mexico and the Dominican Republic.
- It prohibits the Department from selling any parts for the F-14 fighter aircraft, with an exception for the sale of parts to a museum or similar organization located in the United States involved in the preservation of F-14 fighter aircraft for historical purposes.
- It authorizes \$3 million for an independent report on the national security interagency system by September 2008.
- It requires a review of the U.S. nuclear posture for the next 5 to 10 years by December 2009.
- It purports to regulate how the intelligence community responds to requests from Congress. Requires a response within 45 days to any congressional request for documents or information, unless a constitutional privilege is asserted, in which case the White House Counsel must submit the assertion in writing.
 - The Senate bill provided only 15 days.
- It modifies and streamlines regulations on security clearances.

Title XI – DOD Civilian Personnel Policy

This title restricts the Department's flexibility in implementing the new National Security Personnel System (NSPS) for civilian employees in a variety of ways. Among other things, it guarantees collective-bargaining and appeals rights, prohibits the Secretary of Defense from adding more than 100,000 civilian employees to the system in any calendar year, and establishes extensive oversight in the implementation phase.

Title XII – Matters Relating to Other Nations

This title has a number of provisions related to international security affairs, including international assistance and training, Iraq and Afghanistan, particular focus on Iraqi refugees, and a variety of reports.

- It authorizes \$977 million for the Commanders' Emergency Response Program.
- It authorizes \$75 million of Title III O&M funds for training and equipping the Pakistan Frontier Corps for operations along the Afghan border.
 - It also requires a report on Pakistan's efforts to eliminate safe havens for violent extremists on its territory and to prevent cross-border incursions by those extremists into Afghanistan.
- It renews authority for the Special Operations Command to provide support to foreign forces, groups, or individuals who are supporting or facilitating ongoing military operations by U.S. special operations forces.
- It establishes an Iraqi Special Immigrant Visa (SIV) program, creating a Priority 2 refugee category for those Iraqis who have provided assistance to the United States.
- It expresses the sense of Congress that a failed state in Iraq will have a negative impact on the Middle East and American interests in the region, and that the United States should pursue strategies to prevent a failed state in Iraq or contain the negative effects of a failed state in Iraq.
- It expresses the sense of Congress that the United States should actively support a political settlement in Iraq based on the final provisions of the Constitution of Iraq that create a federal system of government and allow for the creation of federal regions, consistent with the wishes of the Iraqi people and their elected leaders.
- It requires a report on the implementation of the Joint Campaign Plan³ for Iraq, and efforts to achieve political reform in Iraq. The provision amends the United States Policy in Iraq Act, section 1227(c) of the National Defense Authorization Act for FY06 (Public Law 109-163), requiring a detailed description of the Joint Campaign Plan, including those conditions which could prompt changes to levels of United States armed forces or missions, and the status of planning for those changes.
- It amends the quarterly *Measuring Stability and Progress in Iraq* report⁴ by requiring additional information on the Iraqi Security Forces in the report.
- It requires the president to implement a policy to track and monitor the defense articles provided to the government of Iraq and other individuals and groups in Iraq.

³ Classified plan of campaign coordinated by Multi-National Force – Iraq and U.S. Embassy Baghdad.

⁴ Required by Section 9010 of the Defense Appropriations Act for FY07.

- It raises the reward for the capture or death or information leading to the capture or death of Osama bin Laden to \$50 million.
- It requires an annual report on the progress being made to bring Osama bin Laden and other Al Qaeda leaders to justice.
- It requires a report on the threats posed to the United States by ungoverned areas, especially as they relate to terrorist groups and individuals targeting the United States and its allies.
- It repeals a measure that would have prohibited military assistance to any state party to the International Criminal Court (ICC) treaty other than NATO allies, major Non-NATO Allies, and countries that have signed agreements with the United States under Article 98 of the ICC treaty exempting U.S. service members from its reach.

Title XIII – Cooperative Threat Reduction With States of the Former Soviet Union

This title authorizes \$428 million for Cooperative Threat Reduction (CTR) programs, \$80 million more than the budget request, including \$10 million authorized for new CTR initiatives outside the former Soviet Union. The title also repeals annual certifications related to the CTR program.

Title XIV – Other Authorizations

This title authorizes \$28.5 billion for other military programs, including \$23.1 billion for the Defense Health Program.

Title XV – Authorization for Supplemental Appropriation for Iraq, Afghanistan, and the Global War on Terrorism

This title fully funds the president's request for operations in Iraq and Afghanistan, for significantly expanding the active duty Army and Marine Corps, and for other purposes. In addition to funding authorized in other titles, this title authorizes \$187.2 billion, \$280 million more than the budget request, including:

- \$71 billion for procurement;
 - \$3.7 billion for research and development;
 - \$4.5 billion for the Joint Improvised Explosive Device Defeat Fund;
 - \$84.3 billion for operations and maintenance; and
 - \$17.9 billion for personnel costs.
- It authorizes \$3 billion for the Iraqi Security Forces and \$2.7 billion for the Afghan Security Forces.

- Defense-wide, it provides:
 - \$1.1 billion for health care;
 - \$258 million for counter-narcotics; and
 - \$17.9 billion for Department of Defense military personnel accounts.

Title XVI – Wounded Warrior Matters

This title reflects a strong desire, in the wake of revelations about failures and inadequacies in the provision of health care to service members wounded in combat, to make system-wide improvements in health care for service members. It combines many of the best aspects of two pieces of legislation – the Wounded Warrior Assistance Act of 2007 and the Dignified Treatment of Wounded Warriors Act of 2007; these acts passed on March 28, 2007 and July 25, 2007, respectively. It makes a number of improvements to the care, management, and transition of service members recovering from illness or injury received during war, and enhances health care and benefits for their families.

- It requires the Department of Defense and Veterans Administration to jointly develop a comprehensive policy on improvements to care, management, and transition of recovering service members in an outpatient status.
- It expands treatment and research for traumatic brain injuries, post-traumatic stress disorder, and traumatic eye injuries.
- It guarantees combat veterans mental health evaluations within 30 days of their request.
- It requires the Department of Defense to use the Veterans Administration Schedule for Rating Disabilities in determining service member disabilities.
- It increases from two to five years the period during which recently separated combat veterans may seek care from the VA.
- It requires the Department of Defense to use the Veterans Administration’s presumption-of-sound-condition standard in establishing eligibility of service members for disability retirement.

Title XVII – Veterans Matters

This title provides, among other things, several benefits and programs for veterans who have suffered traumatic brain injuries.

Title XVIII – National Guard Bureau and Related Matters

The conference report makes several important changes in the administration of the National Guard.

- It increases the grade of the Chief of the National Guard Bureau from lieutenant general to general and designates him as a principal advisor to the Secretary of Defense, through the Chairman of the Joint Chiefs of Staff.
- It enhances the authority for National Guard and Reserve general and flag officers to serve on active duty and provides other benefits.

Division B – Military Construction and Family Housing Activities

The conference report authorizes \$23.9 billion for the military construction and housing programs of the Department of Defense, \$85.5 million more than the budget request.

- It authorizes \$2.1 billion for war-related construction, \$280 million less than the budget request.
- It authorizes \$2.9 billion for family housing, \$46 million less than the budget request.
- It adds about \$370 million, or about 33 percent, to the budget request for National Guard and Reserve construction.
- It authorizes \$8.4 billion to carry out base closure activities, including those to implement the 2005 Defense Base Realignment and Closure (BRAC) round, an amount equal to the budget request.

Division C – Department of Energy National Security Authorizations and Other Authorizations

Title XXXI – Department of Energy National Security Programs

The conference report authorizes \$16.1 billion in FY08 for Department of Energy's energy security and energy supply assurance programs, \$193.3 million more than the president's request.

- It authorizes \$9.6 billion for the National Nuclear Security Administration (NNSA), including:
 - \$6.5 billion for weapons activities, \$45.7 million less than the president's request; and
 - \$2.0 billion for defense nuclear nonproliferation, \$230.0 million above the president's request.
- It authorizes \$5.4 billion for defense environmental cleanup activities, \$4.0 million more than the budget request.
- It authorizes \$292.0 million for defense nuclear waste disposal.
- It authorizes \$5.9 million for energy security and assurance.

- Section 3111 reduces funding for the Reliable Replacement Warhead (RRW) program and prohibits funds being used for steps beyond definition and cost study, thus requiring that no funds be spent on full-scale engineering development.
- Section 3126 expresses the sense of Congress on U.S. nuclear nonproliferation policy and the RRW. It eliminates a provision contained in the Senate bill urging ratification of the Comprehensive Test Ban Treaty before any decision to manufacture or deploy the RRW.
- Section 3133 states that “It is the policy of the United States to work with the international community to take all possible steps to ensure that all nuclear weapons around the world are secure and accounted for and that all formula quantities of strategic special nuclear material are eliminated, removed, or secure and accounted for to a level sufficient to defeat the threats posed by terrorists and criminals.”

Administration Position

A Statement of Administration Policy (SAP) for the Conference Report to accompany H.R. 1585 was not available at press time.