



December 20, 2005

## **Highlights of the Conference Report to Accompany H.R. 1815, National Defense Authorization Bill for FY 2006**

*The House passed this Conference report, H. Rept. 109-360, by a vote of 374-41 on December 19, 2005. Cloture on the bill was filed in the Senate that evening.*

### **Noteworthy**

- The final defense authorization bill authorizes \$491.5 billion for national security programs at the Defense and Energy departments, namely \$441.5 billion in regular budget authority, and \$50 billion in supplemental funds for operations in Iraq, Afghanistan, and the global war on terror.
- The bill authorizes a 3.1-percent across-the-board pay raise for service members.
- The bill authorizes funds for force protection needs, including \$440 million for additional up-armored, high-mobility multipurpose wheeled vehicles (HMMWV) for the Army and Marine Corps, \$333.4 million to facilitate the Army's recapitalization and modernization program for tactical wheeled vehicles, \$170 million for tactical wheeled vehicle add-on armor programs, \$114.7 million for enhanced body armor, certain jammer initiatives to counter the ongoing threat from improvised explosive devices (IED) in Iraq and Afghanistan, \$229 million for the procurement of Marine Corps night vision equipment, and \$93.9 million for the procurement of Army night vision equipment.
- This bill contains the Detainee Treatment Act of 2005, which 1) provides for uniform standards for the interrogation of persons under the detention of the Department of Defense; 2) prohibits cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the U.S. Government, and 3) provides procedures for the legal review of detainees held by the Department of Defense at Guantanamo Bay.

## Highlights

### **Division A – Department of Defense Authorizations**

#### **Title I – Procurement**

For procurement, the conferees authorized \$76.9 billion.

- The bill authorizes \$8.9 billion for shipbuilding and conversion.
- Section 254 of the bill requires the Secretary of Defense to conduct an assessment of the U.S. naval shipbuilding industry to determine how worldwide shipbuilding industry best practices for innovation, design, production technologies, processes, and infrastructure could be adopted.
- The bill limits the cost of the fifth vessel in the next-generation destroyer program to \$2.3 billion; and limits the cost of the fifth and sixth vessels of the littoral combat system (LCS) class to \$220 million, excluding amounts for elements the Secretary of the Navy designates as a mission package.
- The bill authorizes an additional \$86.7 million to advance by one year the delivery of the first ship of a new class of aircraft carriers, the CVN-78, for a delivery in fiscal year 2014. It further authorizes the ship to be split-funded from FY07 through FY09.
- The bill authorizes an additional \$25 million for the modernization of DDG-51 *Arleigh Burke*-class destroyers.
- The bill defines the next-generation destroyer program as that program that will acquire and deploy a new class of destroyers as the follow-on to the *Arleigh Burke*-class of destroyers. The bill prohibits acquisition of the next-generation destroyer program through a single shipyard.
- The bill establishes cost caps on *Virginia* class submarines at the current contract ceilings, namely:
  - \$2.33 billion for SSN-779;
  - \$2.47 billion for SSN-780;
  - \$2.55 billion for SSN-781;
  - \$2.67 billion for SSN-782; and
  - \$2.72 billion for SSN-783.
- The bill authorizes \$1.5 billion for the first increment of funding for the nuclear refueling and complex overhaul of the U.S.S. *Carl Vinson*. It clarifies that the \$89 million made available by Public Law 109-104 is part of the \$1.5 billion authorized for FY06.

- The bill authorizes the first increments of full funding for the LHA(R) amphibious ship. It withholds 30 percent of the funding authorized in FY06 until 1) a detailed operational requirements document has been approved by the Department of Defense and 2) the Secretary of the Navy certifies that there exists a stable design for the LHA(R).
- The bill includes an additional \$19.3 million for upgrades to Marine Corps helicopters.
- With respect to the C-17 aircraft program, section 131 of the bill authorizes the administration's request of \$3.3 billion for procurement of 15 C-17 aircraft. The bill also requires the Secretary of Defense to provide an additional explanation on how the future airlift force structure requirements outlined in the Quadrennial Defense Review (QDR) takes into account the capability of the Civil Reserve Air Fleet to provide adequate augmentation in meeting global mobility requirements.
- The bill contains provisions to prohibit the Secretary of the Air Force from retiring any KC-135E aircraft or any F-117 Nighthawk stealth attack aircraft in FY06.
- The bill authorizes \$2.8 billion for the procurement of Army aviation assets, including the following:
  - \$602.8 million for 45 UH-60 Black Hawk helicopters;
  - \$33.3 million for UH-60 Black Hawk modifications;
  - \$580.4 million for the conversion of 96 Apache AH-64 to the Longbow configuration;
  - \$675.1 million for CH-47 cargo helicopters; and
  - \$211.2 million for aircraft survivability equipment.
- The bill authorizes \$3.7 billion for 24 F/A-22 (Raptor) fighters.
- The bill authorizes the budget request of \$2.8 billion for 38 F/A-18 Super Hornet aircraft.
- The bill authorizes \$5 billion for research and development of the Joint Strike Fighter (JSF), a next-generation multi-role fighter aircraft.
- The bill authorizes an increase of \$65 million for the F-15E Strike Eagle program.
- The bill authorizes funding of \$918.4 million for 248 Stryker vehicles.

## **Title II – Research, Development, Test, and Evaluation**

For research, development, test, and evaluation, the bill authorizes \$70.2 billion, which is \$843 million greater than the FY06 budget request.

- The bill authorizes \$7.8 billion for the Missile Defense Agency (MDA) for ballistic missile defense research, development, and procurement. This fully funds the budget request, but reallocates funds from longer-term efforts to enhance the testing, fielding, and improvement of the current generation of missile defense capabilities. This

specifically includes an increase of \$100 million to the ground-based midcourse defense (GMD) system, an additional \$75 million to improve the Aegis Ballistic Missile Defense (BMD) system; and a decrease of \$50 million for the Kinetic Energy Interceptor.

- The bill authorizes \$100 million for the Space Radar Surveillance system, while the budget request was for \$225.8 million.
- The bill reduces funding for the Transformational Communications Satellite (TSAT) by authorizing \$435.8 million, which is a decrease of \$400 million for the TSAT program.
- The bill provides \$3.2 billion for the Future Combat System.
  - The bill requires the Army to use a traditional contract, rather than using “other transaction authority,” for the Future Combat System program.
  - It further requires the Secretary of Defense to convert the current projects in the FCS program element to individual program elements, beginning with the fiscal year 2008 budget request.
- The bill directs the Secretary of Defense to appoint an executive agent to manage and coordinate blast injury prevention, mitigation, and treatment activities.
- The bill authorized an increase of over \$835 million for defense science and technology (S&T) programs, for a total authorization of \$11.4 billion.
- The bill contains a provision that would make permanent and expand participation in the Science, Mathematics, and Research for Transformation (SMART) scholarship program, which was established as a pilot program in the Ronald W. Reagan National Defense Authorization Act of Fiscal Year 2005. It authorizes an increase of \$10 million, for a total of \$20.3 million, for the program in fiscal year 2006.

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

The bill authorizes \$125.7 billion in the O&M title.

- The bill requires the Navy to retain no less than 12 operational aircraft carriers. It further authorizes up to \$288 million in the Operations and Maintenance, Navy account, to perform the necessary maintenance and repair on the U.S.S. *John F. Kennedy* to extend the life of the ship.
- The bill authorizes \$19.8 million to sustain the 12 existing National Guard Chemical, Biological, Radiological, Nuclear, and High-yield Explosive Enhanced Response Force Package (NG CERFP) teams. It also recommended establishing five additional teams. These teams provide enhanced incident response capabilities to the Weapons of Mass Destruction-Civil Support Teams (WMD-CSTs), as well as additional consequence management support to civil or military authorities in the event of a chemical, biological, radiological, nuclear, or high-explosive attack or event.

- The bill authorizes \$10 million to begin to develop a system, and to procure equipment to screen military mail for the presence of biological, chemical, or radiological weapons or agents, or explosive devices.
- The bill authorizes \$130 million for U.S. Special Operations Command to enhance special operations capabilities in the global war on terrorism.

#### **Title IV – Military Personnel Authorizations**

- The bill authorizes an active duty end strength, as of September 30, 2006, of 512,400 for the Army and 179,000 for the Marine Corps. This is subject to the condition that the costs for end strength in excess of 482,400 for the Army, and in excess of 175,000 for the Marine Corps, shall be paid out of funds authorized to be appropriated for FY06 for a contingent emergency reserve fund or as an emergency supplemental appropriation. The authorized end strength of the Navy is 352,700, and is 357,400 for the Air Force.
- The bill authorizes the following end strengths for the reserves, as of September 30, 2006:
  - Army National Guard, 350,000;
  - Army Reserve, 205,000;
  - Naval Reserve, 73,100;
  - Marine Corps Reserve, 39,600;
  - Air National Guard, 106,800
  - Air Force Reserve, 74,000; and
  - Coast Guard Reserve, 10,000.
- The bill authorizes \$108.9 billion for military personnel in FY06.

#### **Title V – Military Personnel Policy**

- Section 598 of the bill authorizes the superintendent of a service academy to have in effect a policy with respect to the offering of a voluntary, nondenominational prayer at an authorized activity of the academy, subject to the U.S. Constitution and such limitations as the Secretary of Defense may prescribe.

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

- Section 601 authorizes an increase in basic pay for members of the Armed Forces by 3.1 percent, effective January 1, 2006.
- The bill authorizes payment of many bonuses and special payments directed at encouraging enlistment, reenlistment, and continued service. For example, the conferees authorized increases in:
  - reenlistment bonuses for active duty members from \$60,000 to \$90,000;
  - enlistment bonuses for new recruits from \$20,000 to \$40,000; and

- the maximum amounts paid for reserve enlistments and decisions by reservists to affiliate with Selected Reserve units from \$10,000 to \$20,000.
- The bill authorizes the Army (active duty, reserve, and National Guard) to pay \$1,000 to service members who refer recruit candidates for enlistment, if those candidates complete technical training.
- The bill authorizes an increase in the maximum enlistment age from 35 years of age to 42.
- The bill authorizes an increase in the maximum Servicemembers' Group Life Insurance (SGLI) benefit from \$250,000 up to \$400,000.
- The bill also includes a provision to authorize an increase in the death gratuity payable to survivors of military decedents to \$100,000 when the death occurs under combat-related conditions or in designated combat operations or areas.
  - Taken together with the increase in the SGLI benefit, the bill provides that an additional \$150,000 be retroactively paid to survivors of all military deaths that occurred on or after October 7, 2001. This compensates for the increase in SGLI coverage that became effective for all military members on May 11, 2005.
- The bill authorizes \$30 million in supplemental educational aid to local school districts affected by the assignment or location of military families. This includes \$5 million for educational services to severely disabled children, and an additional \$10 million for districts experiencing a change in the number of students due to rebasing, activation of new military units, or base realignment and closure.

## **Title VII – Health Care**

- The bill expands and improves health care coverage for members of the Selected Reserve who commit to continued service in the Selected Reserve, as well as for the member's family.
- The bill extends health care coverage under TRICARE Prime for the children of an active-duty service member who dies while on active duty. It would authorize any dependent child of a deceased service member to continue to receive benefits under TRICARE Prime as if the service member parent were still alive, and without annual premiums, until the age of 21, or 23 if enrolled in an educational program.
- Section 722 authorizes the Secretary of Defense to complete two pilot projects related to clinical diagnosis and treatment of Post-Traumatic Stress Disorder and other mental health conditions of active and reserve members.
- Section 723 authorizes the Secretary of Defense to establish a task force to examine mental health issues in the Armed Forces.

- Section 732 authorizes expanded medical and dental readiness assessments for members of the Selected Reserve.

### **Title VIII – Acquisition Policy, Acquisition Management, and Related Matters**

- The bill contains a provision that requires a specific congressional notification for any purchase of major weapon systems under procedures established for the procurement of commercial items.
- Sections 801 and 802 take steps to require the Department of Defense to monitor its original baseline cost estimates for major defense acquisition programs more critically, and manage major defense acquisition programs more aggressively.
- The bill requires the Department’s Inspector General to conduct joint reviews, with the Inspectors General of other relevant agencies, of all major inter-agency contracts used by the Department.
- The bill directs the Secretary to revise various relevant policy, guidance, and instructions to address security issues raised by contractors not accompanying the force.

### **Title IX – Department of Defense Organization and Management**

- Section 905 directs the Secretary of Defense to draft a plan to address threats to the homeland from cruise missiles, unmanned aerial vehicles, and other low-altitude air threats. As part of the plan, the Secretary is to identify an official or office within the Department responsible for coordinating the implementation of the plan.
- Section 907 requires the Secretary of Defense to select two Federally Funded Research and Development Centers to conduct independent studies of the feasibility and advisability of establishing a Deputy Secretary of Defense for Management.
- Section 908 designates the Chairman of the Joint Chiefs of Staff as the principal military adviser to the Homeland Security Council.
- Section 911 directs the Secretary of Defense to provide for an independent review and assessment of Department requirements for its space control mission.
- Section 931 directs the Secretary of Defense to create and submit to Congress a strategy for the use of open source intelligence within 180 days of enactment of this bill.
- Section 932 requires the Secretary of Defense to submit a report that would provide a comprehensive inventory of Department of Defense intelligence and intelligence-related programs and projects.

## **Title X – General Provisions**

- Section 1008 authorizes emergency appropriations contained in the two Hurricane Katrina emergency supplemental appropriations. Section 1008 also authorizes the supplemental appropriations for avian flu preparedness, the amounts reallocated from hurricane-related disaster relief, and the amounts for humanitarian assistance for earthquake victims in Pakistan.
- Section 1051 establishes a commission to assess and make recommendations about the implementation of the new strategic posture of the United States, particularly by examining programmatic requirements to achieve the goals outlined in the most recent Nuclear Posture Review (NPR) and conducting periodic assessments of the NPR.
- Section 1052 reestablishes the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) attack, and directs it to complete a final report by June 30, 2007 on the vulnerability of electric-dependent military and non-military systems in the United States to an EMP attack.
- The bill contains a provision to require equal access for youth organizations, including the Boy Scouts of America, to designated open forums, limited public forums, or nonpublic forums of states or units of general local government.

## **Title XI – Civilian Personnel Matters**

- Section 1111 authorizes veterans' preference for civilian federal employment for veterans who have served on active duty for a period of more than 180 consecutive days since September 11, 2001, and ending on the date proclaimed as the last date of Operation Iraqi Freedom.

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

- Section 1206 provides the President with 2-year authority to direct the Secretary of Defense to conduct or support a program to build the capacity of a foreign nation's military forces in order for that nation to conduct counter-terrorist operations and to participate in or support military and stability operations in which the United States is a participant. This provision would also require a report from the President on the strengths and weaknesses of current laws governing and relating to the provision of this type of assistance.
- Section 1207 would provide the Secretary of Defense 2-year authority to use or transfer defense articles, services, training, or other support to the Secretary of State to provide immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country. The aggregate value of assistance provided or funds transferred under this authority cannot exceed \$100 million in a fiscal year.

- Section 1221 directs the Secretary of Defense to submit to the congressional defense committees reports on war-related costs, reconstitution, and military construction for Operation Iraqi Freedom, Operation Enduring Freedom, and Operation Noble Eagle. The report must differentiate costs by operation.
- Section 1222 requires the Secretary of Defense and the CIA to submit quarterly reports on the strategy in Iraq. These briefings are to terminate after 12 of the quarterly briefings have been provided, or December 31, 2008, whichever is later. The portion of the briefing presented by the CIA is to focus on the latest intelligence assessments regarding the war in Iraq.
- Section 1223 requires the Secretary of Defense to submit a report regarding civilian casualties in Afghanistan and Iraq.
- Section 1227 directs the President to submit to Congress a report on U.S. policy and military operations in Iraq. This report is in addition to the various reports, briefings, and updates the President and his other senior officials have provided on a routine basis.

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

- The bill authorizes \$415.5 million, the amount included in the budget request, for the Cooperative Threat Reduction (CTR) program. It also provides the President permanent authority to waive, on an annual basis, the conditions that must be met before CTR funding can be provided to a state of the former Soviet Union. Finally, Section 1304 requires the President to submit to the Congress a report on impediments to the effective execution of threat reduction programs in the states of the former Soviet Union.

### **Title XIV – Detainee Treatment Act of 2005**

- Sections 1401-06, the Detainee Treatment Act of 2005, 1) provide for uniform standards for the interrogation of persons under the detention of the Department of Defense; 2) prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the U.S. Government, and 3) provide procedures for the legal review of detainees held by the Department of Defense at Guantanamo Bay, Cuba.

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

- The bill authorizes supplemental funds of \$50 billion to be appropriated for FY06 to support operations in Iraq, Afghanistan, and the global war on terrorism. In establishing the congressional budget for the government for FY06 and setting forth budgetary levels for FY07 through FY10, H. Con. Res. 95 of the 109th Congress included \$50.0 billion for FY06 in anticipation of additional needs in Iraq, Afghanistan, and the global war on terrorism.

- Section 1502 recommends an authorization of \$2.3 billion in FY06 for Army Procurement. This provision would also provide the Secretary of the Army with the flexibility to procure up-armored, high-mobility multipurpose wheeled vehicles (HMMWV) and add-on armor for tactical wheeled vehicles.
- Section 1503 provides an additional authorization of \$864 million in FY06 for Navy and Marine Corps Procurement. Similarly, the provision provides the Secretary of the Navy with the flexibility to procure up-armored HMMWVs and add-on armor for tactical wheeled vehicles.
- Sections 1504-07 provide respectively the following:
  - \$214 million for additional Air Force procurement;
  - an additional \$103.9 million for Defense-wide procurement;
  - \$75 million for Research, Development, Test, and Evaluation, Defense-wide Activities, and an additional authorization of \$8.7 million for Research, Development, Test, and Evaluation, Army; and
  - \$27.5 billion in FY06 for operation and maintenance programs.
- Section 1512 authorizes an additional \$5.2 billion in FY06 for an Iraq Freedom Fund transfer account. Of those funds, no less than \$2.5 billion shall be made available for classified programs, and no less than \$1 billion shall be made available to the joint improvised explosive device (IED) Task Force.

### **Division B – Military Construction Authorizations**

- Division B of this Act authorizes funding for military construction projects of the Department of Defense. It includes funding authorizations for the construction and operation of military family housing and military construction for the Reserve components, the defense agencies, and the North Atlantic Treaty Organization Security Investment program. It also provides authorization for the base closure account that funds environmental cleanup and other activities associated with the implementation of base closure rounds.
- The bill authorizes appropriations totaling \$12.42 billion for the military construction and family housing accounts of the Department of Defense for fiscal year 2006.
- The bill authorizes \$1.5 billion for 2005 BRAC round activities for FY06.

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

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

- Title XXXI authorizes appropriations totaling \$16.4 billion for atomic energy defense activities of the Department of Energy for FY06, including nuclear weapons activities, defense nuclear nonproliferation, naval nuclear propulsion, and environmental restoration, and waste management.
- The bill authorizes a total of \$9.2 billion in FY06 for the National Nuclear Security Administration (NNSA) to carry out programs necessary to national security. Of this amount, the bill authorizes the following:
  - \$6.4 billion for weapons activities;
  - \$1.6 billion for defense nuclear nonproliferation activities; and
  - \$789.5 million for naval reactors.
- The bill authorizes \$6.2 billion for defense environmental cleanup (formerly defense environmental management), an increase of \$177.3 million above the budget request.
- The bill authorizes \$642 million for other defense activities, which is \$6 million greater than the budget request.
- The bill authorizes \$25 million to continue the reliable replacement warhead (RRW), which is \$15.6 million greater than the amount of the budget request.
- The bill authorizes \$20 million for enhanced test readiness.
- The bill does not authorize funding for the robust nuclear earth penetrator (RNEP) with the Department of Energy; although it does authorize within DOD \$4 million for a sled test in support of a penetrator study to explore options to address hard and deeply buried targets.