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Legislative Notice

No. 24

September 24, 2009

H.R. 3326 – FY10 Defense Appropriations Bill

Calendar No. 159

Reported by the Committee on Appropriations with an amendment in the nature of a substitute on September 10, 2009 by a vote of 30-0; S. Rpt. 111-74.

Noteworthy

- This Notice pertains to the Senate Appropriations Committee-reported substitute amendment to H.R. 3326.
- The Senate version of H.R. 3326 provides \$625.82 billion in funding for the Department of Defense, which is \$3.9 billion less than the President's request and \$532.8 million more than the fiscal year (FY) 2009 amount. The Congressional Budget Office (CBO) scores the bill at \$636.3 billion, with the bulk of the adjustment increase related to previously authorized Tricare spending.
- The bill provides \$128.2 billion in additional appropriations to fund military operations in FY10 for what the Administration labels "Overseas Contingency Operations," formerly known as the War on Terror. These amounts are designated as being for overseas deployments under the Budget Resolution.
- The bill provides no funding to support the relocation and disposition of individuals detained at the Guantanamo Bay detention facility. Section 9010 prohibits the use of funds to transfer or release any Guantanamo detainee to the United States.
- The bill provides \$95.2 million to complete production on the 187 planned F-22s and then terminate the production line. It applies the Administration's request to terminate the VH-71 Presidential Helicopter. It provides \$2.04 billion in the F-35 account, along with \$278.6 million for advance procurement for that aircraft, while remaining silent on funding for the alternate engine. It provides an additional \$2.5 billion to purchase 10 additional C-17 aircraft.
- The bill provides \$7.7 billion for the Missile Defense Agency, which is equal to the budget request, and represents a \$1.4 billion cut in the agency's funding.

Highlights

The committee recommended \$625.8 billion in funding for defense appropriations, which is \$3.9 billion less than the President's request and \$532 million more than FY09. CBO scores the bill at \$636.3 billion, with the bulk of the adjustment increase related to previously authorized Tricare spending. (Amounts in chart in thousands.)

| | Budget Request | FY09 | Bill | Change from 09 | |
|--|---------------------------|--------------------|--------------------|-----------------------|-------------------|
| | | | | Amount | Percentage |
| Title I - Military personnel | 125,264,942 | 114,443,890 | 124,817,192 | 10,373,302 | 9% |
| Title II – O&M | 156,444,204 | 152,949,705 | 154,005,801 | 1,056,096 | 1% |
| Title III - Procurement | 105,213,426 | 101,051,708 | 108,016,143 | 6,964,435 | 7% |
| Title IV - Research, Development, Test and Evaluation | 78,634,289 | 80,520,837 | 78,450,388 | (2,070,449) | -3% |
| Title V - Revolving and management funds | 3,119,762 | 3,155,806 | 2,697,762 | (458,044) | -15% |
| Title VI - Other Department of Defense Programs | 31,439,501 | 27,400,054 | 31,242,168 | 3,842,114 | 14% |
| <i>Note: Defense Health Program</i> | | 25,825,832 | 28,311,119 | 2,485,287 | 10% |
| Title VII - Related agencies | 963,712 | 989,242 | 1,041,712 | 52,470 | 5% |
| Title VIII - General Provisions | 11,000 | (2,866,353) | (2,677,201) | 189,152 | -7% |
| Total, base appropriations | 501,090,836 | 477,644,889 | 497,593,965 | 19,949,076 | 4% |
| Title IX - Overseas Contingency Operations* | | | | | |
| Military personnel | 14,146,341 | 19,920,150 | 14,105,341 | (5,814,809) | -29% |
| Operation and maintenance | 89,272,766 | 87,463,123 | 86,902,228 | (560,895) | -1% |
| Procurement | 21,343,586 | 30,282,038 | 22,219,245 | (8,062,793) | -27% |
| Research, Development, Test and Evaluation | 310,254 | 1,221,327 | 293,624 | (927,703) | -76% |
| Revolving and management funds | 396,915 | 861,726 | 412,215 | (449,511) | -52% |
| Other Department of Defense Programs | 3,125,154 | 5,589,992 | 3,959,714 | (1,630,278) | -29% |
| General provisions | - | (2,255,760) | 329,000 | 2,584,760 | -115% |
| Total, Title IX | 128,595,016 | 143,082,596 | 128,221,367 | (14,861,229) | -10% |
| ARRA | | 4,555,000 | | | |
| Total for the bill | 629,685,852 | 625,282,485 | 625,815,332 | 532,847 | 0.1% |
| <i>Change from '09, w/o ARRA</i> | | 620,727,485 | | 5,087,847 | 0.8% |
| <i>Change from '09, w/o supps or ARRA**</i> | | 477,644,889 | | 148,170,443 | 31% |

*FY09 Overseas Contingency appropriations were in the FY08 (\$65.9 billion) and FY09 (\$77.2 billion) supplementals

**committee report indicates bill is \$19,949,076,000 above FY09

Bill Provisions

Title I – Military Personnel

Title I provides \$124.8 billion for the Department’s Military Personnel, which is \$447.8 million less than the Administration’s request and \$10.37 billion more than the FY09 enacted level. This funding provides basic pay and allowances, clothing, subsistence, other personnel costs for the uniformed members of the armed forces, and the Department of Defense Military Retirement Fund. The bill fully funds the president’s end strength requests. (Amounts in chart in thousands.)

| Title I - Military Personnel | FY09 | Bill | Change from 09 | |
|------------------------------|--------------------|--------------------|-------------------|--------------|
| | | | Amount | Percentage |
| Military personnel | | | | |
| Army | 36,382,736 | 41,267,448 | 4,884,712 | 11.82% |
| Navy | 24,037,553 | 25,440,472 | 1,402,919 | 5.50% |
| Marine Corps | 11,792,974 | 12,883,790 | 1,090,816 | 8.45% |
| Air Force | 25,103,789 | 26,378,761 | 1,274,972 | 4.82% |
| Reserve personnel | | | | |
| Army | 3,904,296 | 4,286,656 | 382,360 | 8.82% |
| Navy | 1,855,968 | 1,905,166 | 49,198 | 2.54% |
| Marine Corps | 584,910 | 611,500 | 26,590 | 4.31% |
| Air Force | 1,423,676 | 1,584,712 | 161,036 | 10.02% |
| National Guard Personnel | | | | |
| Army | 6,616,220 | 7,535,088 | 918,868 | 12.06% |
| Air Force | 2,741,768 | 2,923,599 | 181,831 | 6.12% |
| Total | 114,443,890 | 124,817,192 | 10,373,302 | 8.28% |

Title II – Operation and Maintenance

Title II provides \$154 billion for Operation and Maintenance, which is \$2.44 billion less than the Administration’s request but \$1.06 billion more than the FY09 enacted level. Most of this increase is in Operation and Maintenance, Defense-Wide. Significant spending accounts include (amounts in thousands):

| Title II - Operation and Maintenance | FY09 | Bill | Change from 09 | |
|--------------------------------------|------------|------------|----------------|------------|
| | | | Amount | Percentage |
| Operation and Maintenance | | | | |
| Army | 31,207,243 | 30,667,886 | -539,357 | -1.73% |
| Navy | 34,410,773 | 34,773,497 | 362,724 | 1.05% |
| Marine Corps | 5,519,232 | 5,435,923 | -83,309 | -1.51% |
| Air Force | 34,865,964 | 33,739,447 | -1,126,517 | -3.23% |
| Defense-wide | 25,939,466 | 28,205,050 | 2,265,584 | 8.73% |
| Army Reserve | 2,628,896 | 2,582,624 | -46,272 | -1.76% |

| | | | | |
|--|--------------------|--------------------|------------------|--------------|
| Navy Reserve | 1,308,141 | 1,272,501 | -35,640 | -2.72% |
| Marine Corps Reserve | 212,487 | 219,425 | 6,938 | 3.27% |
| Air Force Reserve | 3,018,151 | 3,085,700 | 67,549 | 2.24% |
| Army National Guard | 5,858,303 | 5,989,034 | 130,731 | 2.23% |
| Air National Guard | 5,901,044 | 5,857,011 | -44,033 | -0.75% |
| Overseas Contingency Operations Transfer Account | 0 | 0 | - | - |
| US Court of Appeals for the Armed Services | 13,254 | 13,932 | 678 | 5.12% |
| Environmental Restoration | | | | |
| Army | 457,776 | 430,864 | -26,912 | -5.88% |
| Navy | 290,819 | 285,869 | -4,950 | -1.70% |
| Air Force | 496,277 | 494,276 | -2,001 | -0.40% |
| Defense-wide | 13,175 | 11,100 | -2,075 | -15.75% |
| Formerly Used Defense Sites | 291,296 | 307,700 | 16,404 | 5.63% |
| Overseas Humanitarian Disaster and Civic Aid | 83,273 | 109,869 | 26,596 | 31.94% |
| Cooperative Threat Reduction Account | 434,135 | 424,093 | -10,042 | -2.31% |
| DOD Acquisition Workforce Development Fund | 0 | 100,000 | - | - |
| Total, Title II | 152,949,705 | 154,005,801 | 1,056,096 | 0.69% |

Operation and Maintenance (O&M): In Defense-wide O&M, the committee recommended \$97 million for the Security and Stabilization Assistance Program under the Department of Defense, referred to also in the committee report as Section 1207 authority, which supports efforts to train and equip foreign police forces. This amount is \$100 million less than the budget request, which the committee states is equal to the amount recommended for the Emergency Crisis Fund in the State/Foreign Operations Appropriations bill (S. 1434). The committee stated that it does not anticipate providing additional resources to this program in the future, finding that future Security and Stabilization Assistance projects should be funded in Department of State budget requests.

In criticizing information operations activities at the Department, the committee recommended the following reductions from the base budget and Overseas Contingency Operations requests:

- \$7.9 million for AFRICOM,
- \$10.9 million for EUCOM,
- \$20 million for SOCOM, and
- \$20 million for CENTCOM.

Overseas Contingency Operations Transfer Account: The Committee did not include funding for the Administration's \$5.0 million request for an Overseas Contingency Operations Transfer Account, noting that supplemental funding provides sufficient flexibility to meet contingency requirements.

U.S. Court of Appeals for the Armed Forces: Provides \$13.93 million for salaries and expenses for the U.S. Court of Appeals for the Armed Forces, which fully funds the Administration's request and is \$678,000 more than the FY09 enacted level.

Environmental Restoration: Provides \$1.52 billion for environmental restoration. The funds specifically are provided to Army, Navy, Air Force, Defense-Wide, and formerly used defense sites.

Overseas Humanitarian, Disaster, and Civic Aid: Provides \$109.9 million for Overseas Humanitarian, Disaster, and Civic Aid, which is equal to the Administration’s request and \$26.6 million more than the FY09 enacted level.

Cooperative Threat Reduction: Provides \$424 million for this account, which is \$20 million more than the budget request.

Title III – Procurement

Title III provides \$108.0 billion for Procurement, which is \$2.80 billion more than the Administration’s request and \$6.96 billion more than the FY09 enacted level. The largest increase is in Navy aircraft procurement. Significant spending accounts include (amounts in thousands):

| Title III Procurement | FY09 | Bill | Change from 09 | |
|----------------------------------|--------------------|--------------------|-----------------------|-------------------|
| | | | Amount | Percentage |
| Army | | | | |
| Aircraft Procurement | 4,900,835 | 5,244,252 | 343,417 | 7.01% |
| Missile Procurement | 2,185,060 | 1,257,053 | -928,007 | -42.47% |
| WTCV Procurement | 3,169,128 | 2,310,007 | -859,121 | -27.11% |
| Ammunition Procurement | 2,287,398 | 2,049,995 | -237,403 | -10.38% |
| Other Procurement | 10,684,014 | 9,395,444 | -1,288,570 | -12.06% |
| Navy | | | | |
| Aircraft Procurement | 14,141,318 | 18,079,312 | 3,937,994 | 27.85% |
| Weapons Procurement | 3,292,972 | 3,446,419 | 153,447 | 4.66% |
| Ammunition Procurement | 1,085,158 | 814,015 | -271,143 | -24.99% |
| Shipbuilding and Conversion | 13,054,367 | 15,384,600 | 2,330,233 | 17.85% |
| Other Procurement | 5,250,627 | 5,499,413 | 248,786 | 4.74% |
| Procurement, Marine Corps | 1,376,917 | 1,550,080 | 173,163 | 12.58% |
| Air Force | | | | |
| Aircraft Procurement | 13,112,617 | 13,148,720 | 36,103 | 0.28% |
| Missile Procurement | 5,442,428 | 6,070,344 | 627,916 | 11.54% |
| Ammunition Procurement | 859,466 | 815,246 | -44,220 | -5.15% |
| Other Procurement | 16,052,569 | 17,283,800 | 1,231,231 | 7.67% |
| Procurement, Defense-Wide | 3,306,269 | 4,017,697 | 711,428 | 21.52% |
| National Guard and Reserve | | | | |
| Equipment | 750,000 | 1,500,000 | 750,000 | 100.00% |
| Defense Production Act Purchases | 100,565 | 149,746 | 49,181 | 48.90% |
| Total | 101,051,708 | 108,016,143 | 6,964,435 | 6.89% |

Aircraft: Provides \$5.2 billion for **Army** procurement, which is \$71.7 million less than the Administration's request and is \$343.4 million more than the FY09 enacted level. Included in these funds is \$882.0 million for the CH-47 helicopter, which is \$22 million more than the Administration's request. Provides \$18.08 billion for **Navy** procurement, which is \$299 million less than the Administration's request but \$3.94 billion more than the FY09 enacted level. Provides \$13.15 billion for **Air Force** procurement, which is \$1.18 billion more than the Administration's request and \$36.1 million more than the FY09 enacted level. Included in this funding is \$95.2 million to complete production on the 187 planned F-22s and terminate the production line, thereby concurring with the Administration's request to terminate any funding to purchase more than 187 aircraft. The committee recommended \$2.04 billion in the F-35 account, along with \$278.6 million for advance procurement for that aircraft. The bill is silent on funding for the alternate engine. The bill recommended an additional \$2.5 billion to purchase 10 additional C-17 aircraft.

Weapons/Missiles: Provides \$3.6 billion for **Army** procurement, which is \$255.0 million less than the Administration's request and \$1.8 billion less than the FY09 enacted level. Provides \$4.3 billion for Navy and Marine Corps procurement, which is \$336.9 million less than the Administration's request and \$117.6 million less than the FY09 enacted level. Provides \$6.07 billion for **Air Force** procurement, which is \$230.3 million less than the Administration's request but \$627.9 million more than the FY09 enacted level.

Ammunition: Provides \$2 billion for **Army** procurement, which is \$1.9 million less than the Administration's request and \$237.4 million less than the FY09 enacted level. Provides \$815.24 million for **Air Force** procurement, which is \$7.21 million less than the Administration's request and \$44.2 million less than the FY09 enacted level.

Shipbuilding: Provides \$15.4 billion for Navy shipbuilding, which is \$1.6 billion more than the Administration's request and \$2.33 billion more than the FY09 enacted level. This includes \$3.65 billion for two DDG-51 class destroyers, which is one more than the Administration's request; and \$1.08 billion for two Littoral Combat Ships where the Administration had requested three.

National Guard and Reserve Equipment: Provides \$1.5 billion, which is \$1.5 billion more than the Administration's request.

Other: Provides \$9.4 billion for other **Army** procurement. Provides \$5.5 billion for other **Navy** procurement. Provides \$17.3 billion for other **Air Force** Procurement. Provides \$4 billion for **Defense-Wide** procurement.

Defense Production Act Purchases: Provides slightly less than \$150 million for Defense Production Act Purchases, which is \$111.5 million more than the Administration's request and \$49.2 million more than the FY09 enacted level.

Title IV – Research, Development, Test and Evaluation

Title IV provides \$78.5 billion for Research, Development, Test and Evaluation (RDT&E), which is almost \$184 million less than the Administration’s request and \$2.07 billion less than the FY09 enacted level. Significant spending accounts include (amounts in thousands):

| Title IV – RDT&E | FY09 | Bill | Change from 09 | |
|---|-------------------|-------------------|-------------------|---------------|
| | | | Amount | Percentage |
| Research, Development, Test, and Evaluation | | | | |
| Army | 12,060,111 | 10,653,126 | -1,406,985 | -11.67% |
| Navy | 19,764,276 | 19,148,509 | -615,767 | -3.12% |
| Air Force | 27,084,340 | 28,049,015 | 964,675 | 3.56% |
| Defense-Wide | 21,423,338 | 20,408,968 | -1,014,370 | -4.73% |
| Operational Test and Evaluation | 188,772 | 190,770 | 1,998 | 1.06% |
| Total, Title IV | 80,520,837 | 78,450,388 | -2,070,449 | -2.57% |

Army RDT&E: Provides \$10.7 billion for Army RDT&E, which is \$214.90 million more than the Administration’s request but \$1.40 billion less than the FY09 enacted level. The Administration requested \$328 million in procurement funds for the Future Combat System (FCS) and \$2.6 billion in RDT&E monies; and this bill fully funds the procurement account, while only providing \$2.2 billion for RDT&E, compared with \$3.2 billion in RDT&E monies for FCS in FY09.

Navy RDT&E: Provides \$19.14 billion for Navy RDT&E, which is \$122.4 million less than the Administration’s request. This includes \$30 million for the Presidential Helicopter (VH-71) replacement program to conduct an Analysis of Alternatives for a future Presidential Helicopter replacement program and restart a new competition. This is \$55 million less than the Administration’s original request for reduced funding because previously appropriated amounts are sufficient to terminate the program.

Air Force RDT&E: Provides \$28.04 billion for Air Force RDT&E, which is \$56.2 million more than the Administration’s request. In report language, the committee recommended the Department of Defense develop an export version of the F-22 aircraft, using funds appropriated in the Air Force RDT&E account for the F-22.

Defense-Wide RDT&E: Provides \$20.40 billion for Defense-Wide RDT&E, which is \$332.5 million less than the Administration’s request.

Missile Defense

The committee recommended \$7.7 billion for the Missile Defense Agency (MDA), which is equal to the budget request and represents a \$1.4 billion cut. This is at a time when North Korea and Iran continue to develop their missile capabilities. In report language, the committee

expressed its position that near-term missile defense programs should be the priority, namely the Aegis Ballistic Missile Defense (BMD); Theater High Area Altitude Defense (THAAD) and accompanying TPY-2 radars; and the Ground-based Midcourse Defense (GMD) programs.

For *Aegis BMD programs*, the committee recommends adding \$57.6 million in the Defense-Wide Procurement account to procure an additional six SM-3 Block 1A interceptors. In addition, the committee added \$35 million in Defense-Wide RDT&E funding for increased development of the future variants of the SM-3 interceptor.

For THAAD, the committee recommends \$41 million in Defense-Wide Procurement funding to begin long-lead procurement of TPY-2 radars that accompany the THAAD batteries, which is \$41 million more than the budget request.

For GMD, the committee “supports the administration’s proposal to reduce the number of emplaced ground-based interceptors [GBIs] to a total of 30,” and recommends an additional \$50 million to maintain production capacity for seven additional GBIs beyond those in the planned program.

The committee eliminated \$151 million for missile defense tests, and \$37 million from the request to support the development of targets to be used in testing the Space Tracking and Surveillance System satellites.

For the Airborne Laser program, the committee took note of the budget request cancelling that program, as well as the upcoming test for that program, and concluded that “in the event of a successful demonstration of the Airborne Laser during this test, the Committee believes that MDA should explore future funding for the program.”

Operational Test and Evaluation, Defense: Provides \$190.7 million for independent activities of the Director of Operational Test and Evaluation, which is equal to the Administration’s request but is \$1.99 million more than the FY09 level.

Title V – Revolving and Management Funds

Title V provides \$2.7 billion for Revolving and Management Funds, which is \$422.0 million less than the Administration’s request and \$458 million less than the FY09 enacted level. This funding includes \$1.45 billion for Defense Working Capital Funds and \$1.24 billion for the National Defense Sealift Fund. Most of the decrease in this title comes from the Sealift Fund, which is reduced by \$423.8 million, a 25 percent decrease.

Title VI – Other Department of Defense Programs

Title VI provides \$31.24 billion for a range of Department programs. This funding includes: \$28.31 billion for the Defense Health Program, which is \$407 million more than the president’s request and \$2.5 billion more than FY09, a 10 percent increase; \$1.53 billion for Army Chemical

Agents and Munitions; \$1.01 billion for Drug Interdiction and Counter-Drug Activities; and \$288.1 million for the Office of the Inspector General.

Section 703 of the FY08 Defense Authorization bill amended 10 U.S.C. § 1074g to authorize the Department of Defense to use federal pricing limits for pharmaceuticals dispensed through the Tricare retail program. The committee noted that the budgetary savings expected to be generated by this provision in 2008 and 2009 have not been realized, yet the Department and OMB assumed more than \$760 million in savings for FY10. The committee expressed concern that these savings too would not be realized and directed the Secretary of Defense to complete a report within 90 days of enactment on the status of implementation of section 703.

Title VII – Related Agencies

Title VII provides \$1.04 billion for several related agencies. This funding includes: \$290.9 million for the Central Intelligence Agency Retirement and Disability System Fund, a 4.2 percent increase over FY09, and \$750.8 million for the Intelligence Community Management Account, a 5.7 percent increase over FY09.

Title VIII – General Provisions

Title VIII includes various provisions:

- Section 8005 provides \$4 billion in general transfer authority.
- Section 8009 provides that no funds may be used to initiate a special access program without 30 days prior notification to the congressional defense committees.
- Section 8013 provides that no funds may be used *to influence congressional action on any legislation or appropriation matters pending before the Congress.*
- Section 8040 provides \$1.278 billion in rescissions.
- Section 8042 prohibits the use of funds for assistance to North Korea unless specifically appropriated for that purpose.
- Section 8056 provides that no funds may be used to license the sale of the F-22A to any foreign government, although the Department may engage in work to define and develop a future export version of the aircraft that protects classified *and sensitive information, technologies, and U.S. warfighting capabilities.*

Title IX – Contingency Emergency Fund

Title IX provides \$128.2 billion in additional appropriations to fund military operations in FY10 for what the Administration labels “Overseas Contingency Operations,” formerly known as the War on Terror. It is designed to provide the necessary resources while enabling the Department to avoid absorbing incremental operational costs from within baseline programs. These amounts are designated as being for overseas deployments under the Budget Resolution. (Amounts in chart in thousands.)

| | Budget Request | FY09 | Bill | Change from 09 | % Change |
|--|--------------------|--------------------|--------------------|--------------------|-------------|
| Title IX - Overseas Contingency Operations | | | | | |
| Military Personnel | 14,146,341 | 19,920,150 | 14,105,341 | -5,814,809 | -29% |
| Operation and Maintenance | 89,272,766 | 87,463,123 | 86,902,228 | -560,895 | -1% |
| Procurement | 21,343,586 | 30,282,038 | 22,219,245 | -8,062,793 | -27% |
| Research, Development, Test and Evaluation | 310,254 | 1,221,327 | 293,624 | -927,703 | -76% |
| Revolving and Management Funds | 396,915 | 861,726 | 412,215 | -449,511 | -52% |
| Other Department of Defense Programs | 3,125,154 | 5,589,992 | 3,959,714 | -1,630,278 | -29% |
| General Provisions | 0 | -2,255,760 | 329,000 | 2,584,760 | -115% |
| Total, Title IX | 128,595,016 | 143,082,596 | 128,221,367 | -14,861,229 | -10% |

Military Personnel: Provides \$14.10 billion for military personnel.

Operation and Maintenance (O&M): Provides \$86.9 billion for O&M accounts.

CERP: Of this amount, \$1.2 billion is provided for the Commanders Emergency Response Program, namely \$1 billion for Afghanistan and \$200 million for Iraq. This is \$300 million less than the budget request, which the committee recommended be transferred to the Mine Resistant Ambush Protected (MRAP) Vehicle Fund in order to address an urgent unfunded theater requirement for additional MRAP-All Terrain Vehicles (M-ATVs).

Iraq Freedom Fund: The committee recommended no appropriation for the Iraq Freedom Fund and does not anticipate providing additional resources to this appropriation in the future.

Afghanistan Security Forces Fund: The committee recommended \$6.6 billion, which is \$900 million less than the budget request, all of which was transferred to the MRAP Vehicle Fund in order to address an urgent unfunded requirement for M-ATVs in Afghanistan. The committee claimed that these funds would not be executed in the Afghanistan Security Forces Fund until fiscal year 2011 and thus were available to be transferred to address this force protection requirement.

Guantanamo: The committee recommended no funding to support the relocation and disposition of individuals detained at the Guantanamo Bay detention facility. The committee noted that the Administration is still reviewing the future of the facility.

Procurement: Provides \$22.2 billion for procurement.

F/A-18: Of this amount, an additional \$512.28 million is provided to procure nine additional F/A-18s, with the committee expressing concern about the shortfall in the Navy's strikefighter inventory created by the aging of the older F/A-18 models and the fact that the F-35 Joint Strike Fighter program will not start delivering carrier aircraft in significant numbers for several years. It noted that the shortfall is currently estimated to be at least 129 aircraft, and it might be well above that level if extending the life of the F/A-18 is cost prohibitive.

Mine Resistant Ambush Protected Vehicle Fund: The committee provides \$5.5 billion for sustaining, upgrading, and procuring MRAPs and M-ATVs. This is \$1.2 billion more than the request, with \$900 million being transferred to this account from the Afghanistan Security Forces Fund and \$300 million from CERP.

Research, Development, Test and Evaluation: Provides \$293.6 million for Research, Development, Test, and Evaluation.

Revolving Management Funds: Provides \$412.2 million for Defense Working Capital Funds to offset the impact of increased fuel costs.

Drug Interdiction and Counter-Drug Activities, Defense (DICDA): Provides \$353.6 million for DICDA, which is \$29 million more than the Administration's request.

JIEDDO: The committee recommended \$2 billion for the Joint Improvised Explosive Device Defeat Fund, which is \$499 million more than the budget request, with the increase funded by transfers from the base account.

Title IX includes various provisions, including:

- Section 9002 provides \$4 billion in special transfer authority.
- Section 9008 prohibits the use of funds to:
 - *establish any permanent military base in Iraq;*
 - exercise U.S. control over any Iraqi oil resources; and
 - *establish any permanent military base in Afghanistan.*
- Section 9010 prohibits the use of funds to transfer or release any Guantanamo detainee to the United States.

Administration Position

A Statement of Administration Policy (SAP) on the bill as reported by the Senate Appropriations Committee was not available at press time.

On July 28, the Administration released a SAP on the House-reported bill, H.R. 3326. The SAP indicated support for House passage of H.R. 3326, but contained one veto threat and two senior advisor veto threats. The veto threat was over \$369 million in unrequested advanced procurement funding for 12 F-22 fighters in FY 2011. The first senior advisor veto threat was over the \$560 million to produce and develop the Joint Strike Fighter F-35 Alternate Engine, which the President proposed eliminating. The second senior advisor veto threat was over the \$400 million for five partially-completed VH-71 Presidential Helicopters. The Administration also objected to \$674 million for three unrequested C-17 airlift aircraft.

Cost

The committee, in consultation with the Congressional Budget Office, estimated the bill provides \$636.27 billion in discretionary budget authority and \$291 million in mandatory budget authority, resulting in \$646.04 billion in discretionary outlays.

H.R. 3326 would result in the following outlays:

| | |
|----------------|--------------------------|
| FY 2010 | \$401.985 billion |
| FY 2011 | \$153.498 billion |
| FY 2012 | \$50.600 billion |
| FY 2013 | \$16.494 billion |
| FY 2014 | \$11.289 billion |

Possible Amendments

As of the publication of this notice, there is no unanimous consent agreement limiting the submission of amendments.

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