



# Defense: FY2012 Budget Request, Authorization and Appropriations

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## Summary

President Obama's FY2012 budget request, sent to Congress on February 14, 2011, included \$670.9 billion in discretionary budget authority for the Department of Defense (DOD), of which \$553.1 billion was for the so-called "base budget" of the department (that is, the cost of routine, peacetime operations excluding the cost of ongoing operations in Iraq and Afghanistan). The remaining \$117.8 billion in the DOD budget request was to cover the cost of so-called "overseas contingency operations (OCO)," including operations in those two countries.

However, the Budget Control Act (BCA) enacted in early August 2011 set ceilings on FY2012 discretionary budget authority that required a reduction of \$35.7 billion from the total requested for so-called "security agencies"—a category that includes the DOD base budget, the Departments of Veterans Affairs, Homeland Security, and State as well as the Energy Department's Nuclear National Security Agency and the international activities of other agencies.

Before the BCA was enacted, the House had passed its version of the FY2012 National Defense Authorization Act (H.R. 1540), which would have authorized \$1.8 billion more than was requested for DOD in February. The bill was passed on May 26, 2011 by a vote of 322-96. Also prior to the enactment of the BCA, the Senate Armed Services Committee reported on June 22, 2011 an initial version of the authorization act (S. 1253) which would have authorized \$6.4 billion less than the Administration requested for FY2012.

To take account of the BCA-mandated reduction, the Senate Armed Services Committee approved on November 15, 2011 a second version of the FY2012 authorization bill (S. 1867) that would have reduced the FY2012 national defense authorization by a total of \$27.3 billion. After debating that bill, the Senate passed the text of it on December 1, 2011 as an amended version of the House-passed H.R. 1540. The conference report on the FY2012 authorization bill, which cut the President's request by \$26.6 billion, was adopted by the House on December 14 and the by Senate on December 15. The President signed H.R. 1540 on December 31, 2011 (P.L. 112-81).

The version of the FY2012 Defense appropriations act (H.R. 2219) passed by the House on June 14, 2011, would have reduced the President's requested base budget by \$8.9 billion. However, the bill would have provided \$842 million more than the President's \$117.8 billion OCO request, resulting in an overall net reduction of \$8.1 billion to the President's request.

The first legislative action during the year that applied the BCA-mandated spending reduction to FY2012 defense budget was taken by the Senate Appropriations Committee on September 7, 2011, when it adopted discretionary spending ceilings for each of its 12 subcommittees that required the defense subcommittee to cut \$25.9 billion from the President's request for programs funded by the defense appropriations bill. On September 15, the Senate Appropriations Committee reported a version of the House-passed defense appropriations bill (H.R. 2219) that would have cut \$29.3 billion from the administration request.

The Senate never acted on H.R. 2219, but a House-Senate compromise on DOD funding, which largely tracked the Senate committee-reported bill, was enacted as Division A of the Consolidated Appropriations Act for FY2012 (H.R. 2055). The House agreed to the conference report on December 16 by a vote of 296-121. The Senate approved it December 17 by a vote of 67-32. The bill was signed by the President on December 23, 2011 (P.L. 112-74).

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## **Most Recent Developments**

On December 23, 2011, President Obama signed H.R. 2055, the Consolidated Appropriations Act for 2012 (P.L. 112-74), providing for the Department of Defense (DOD) \$646.3 billion in new discretionary budget authority, which is \$25.3 billion less than the administration requested. Of that overall reduction, \$22.5 billion is taken from DOD's so-called "base budget," which pays for all DOD operations other than military operations in Iraq and Afghanistan and associated activities. (See **Table 1**)

This 3.8% reduction imposed on the base budget request is intended to meet the caps on non-emergency discretionary spending in FY2012 set by the Budget Control Act (BCA), which was enacted on August 2, 2011 (P.L. 112-25). The BCA required an overall reduction of \$35.7 billion from the total amount the administration had requested for FY2012 to fund the government's so-called "security agencies." That category was defined to include the DOD base budget (i.e., non-war costs), the Departments of Veterans Affairs and Homeland Security, and the Energy Department's National Nuclear Security Agency, as well as the Department of State and various international activities funded by other federal agencies.

The BCA did not specify how much of the required reduction in the security agencies' budget requests should come from DOD. The first formal legislative action taken to comply with the BCA was the Senate Appropriations Committee's adoption, on September 7, 2011, of discretionary spending ceilings for each of its 12 subcommittees. This action required the panels to cut \$25.9 billion from the President's request for programs funded by the defense appropriations bill and an additional \$1.3 billion from the request for the bill that funds military construction programs as well as the Department of Veterans Affairs and other agencies. Although Congress had begun action on the FY2012 defense authorization and appropriations bills before the Senate Appropriations Committee acted, Congress treated that committee's response to the BCA requirement as the de facto FY2012 spending ceiling on DOD funding.

### **Authorization Bill (H.R. 1540, S. 1253, S. 1867)**

The administration requested a total authorization of \$689.0 billion for programs covered by the annual national defense authorization act, which includes DOD military activities plus defense-related nuclear activities conducted by the Energy Department. A version of the FY2012 authorization passed by the House on May 26, 2011 (H.R. 1540) would have added \$1.1 billion to the administration's request for the authorization bill. On June 22, the Senate Armed Services Committee reported its version of the bill (S. 1253), which would have cut the request by \$6.4 billion.

Following enactment of the BCA, the Senate Armed Services Committee reported on November 15 a new defense authorization bill (S. 1867) cutting \$25.4 billion from the administration's request, thus coming roughly into line with the reductions made by the Senate Appropriations Committee. The Senate debated and amended S. 1857 over the span of several days before substituting its text for the text of the House-passed bill and then passing the amended H.R. 1540 on December 1 by a vote of 93-7.

The conference report on H.R. 1540 (H.Rept. 112-329) authorized FY2012 appropriations for DOD totaling \$645.4 billion, \$25.4 billion less than the President's request. Of that total, \$530.0 million is for DOD's "base budget," which includes all DOD spending except the cost of

operations in Afghanistan and Iraq (and certain supporting activities elsewhere) - \$23.1 billion less than the President's request. The bill also authorized \$115.5 billion for "overseas contingency operations (OCO)," i.e., war costs, and \$16.9 billion for defense-related nuclear activities conducted mostly by the Energy Department (see **Table 4**).

The House approved the conference report on December 14, 2011, and the Senate did the same on the following day. The President signed the bill on December 23, 2011 (P.L. 112-74).

### **A Note on the Budget Control Act of 2012**

The FY2012 appropriations bills are the first that are affected by the Budget Control Act of 2011 (P.L. 112-25), which established discretionary security and non-security spending caps for FY2012 and FY2013, and overall caps that will govern the actions of appropriations committees in both houses. For FY2012, the BCA sets a separate cap of \$684 billion for security spending, defined to include the Departments of Defense and Veterans Affairs, Budget Function 150 for all international affairs programs, the National Nuclear Security Administration, and the Intelligence Community Management Account that funds the offices of the Director of National Intelligence. All other spending is capped at \$359 billion out of the total of \$1.043 trillion. In addition, the BCA allows for adjustments that would raise the statutory caps to cover funding for overseas contingency operations/Global War on Terror, emergency spending, and, to a limited extent, disaster relief and appropriations for continuing disability reviews and for controlling health care fraud and abuse.<sup>1</sup>

In FY2013, these initial discretionary caps would be superseded by new caps specified in Section 302 of the Budget Control Act that would set budget totals for National Defense, or budget function 050, and all other funding. If Congress does not enact funding that matches these caps, the Administration would implement a sequestration, or cancellation of budget authority, to meet the levels specified in the act on January 2, 2013.

This report does not reflect the scorekeeping adjustments that may bring the total budget authority provided in the appropriations proposals in line with the BCA caps and the 302(a) and 302(b) allocations.

### ***Detainee Issues***

One set of issues on which the defense authorization conferees had to reconcile the positions of the Senate, the House, and the administration comprised various provisions in the House and Senate versions of the bill relating to detainees held in military custody, including those held at the U.S. Navy base at Guantanamo Bay, Cuba. The Senate Armed Services Committee's initial version of the FY2012 defense authorization bill (S. 1253), reported on June 22, like the authorization bill passed by the House on May 26, 2011 (H.R. 1540), included several provisions regulating the treatment of detainees. After the White House and the chairs of other Senate committees objected to some of the provisions in the Senate committee's bill, Senate Majority Leader Harry Reid (NV) delayed Senate floor debate on S. 1253 pending a resolution of the disputed language.

The Senate Armed Services Committee's second version of the defense bill (S. 1867) included revised provisions relating to detainees that addressed some of the objections that had been raised to the committee's earlier version. However, the administration opposed the revised detainee provisions in the official Statement of Administration Position (SAP) on the bill, issued November 17, 2011 by the Office of Management and Budget.<sup>2</sup> Using the standard language to

<sup>1</sup> For more information on the Budget Control Act of 2011, see CRS Report R41965, *The Budget Control Act of 2011*, by Bill Heniff Jr., Elizabeth Rybicki, and Shannon M. Mahan.

<sup>2</sup> See Office of Management and Budget, Statement of Administration Policy on S. 1867, November 17, 2011, at [http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saps1867s\\_20111117.pdf](http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saps1867s_20111117.pdf).

issue a veto threat, the SAP said that the President's senior advisors would recommend a veto of, "any bill that challenges or constrains the President's critical authorities to collect intelligence, incapacitate dangerous terrorists, and protect the Nation."

The conference report for H.R. 1540 largely adopts the Senate version of the detainee provisions. The bill reaffirms the authority of the armed forces to detain certain individuals in connection with hostilities authorized in response to the 2001 terrorist attacks, leaving unclear the extent to which such authority may be exercised with respect to U.S. citizens. The final bill also prohibits the use of DOD funds to bring Guantanamo detainees to the United States and places stringent conditions on the use of such funds to transfer or release any Guantanamo detainee to a foreign country.

#### **Detainee-Related Provisions in the Defense Authorization Bill**

For a summary of detainee-related provisions in the House and Senate versions of the defense bill and of related amendments considered by each chamber, see below "Detainee Provisions" (pp. 58-59). For more detailed analysis of the provisions of H.R. 1540 and S. 1867 relating to detainees, see CRS Report R41920, *Detainee Provisions in the National Defense Authorization Bills*, by Jennifer K. Elsea and Michael John Garcia.

#### **Defense Appropriations Bill (H.R. 2219, H.R. 2055)**

On June 14, 2012, the House passed a FY2012 defense appropriations act (H.R. 2219), that would have reduced the President's requested base budget by \$8.9 billion. However, the bill would have provided \$842 million more than the President's \$117.8 billion OCO request, resulting in an overall net reduction of \$8.1 billion to the President's request.

The first legislative action during the year that applied the BCA-mandated spending reduction to FY2012 defense budget was taken by the Senate Appropriations Committee on September 7, 2011, when it adopted discretionary spending ceilings for each of its 12 subcommittees that required the defense subcommittee to cut \$25.9 billion from the President's request for programs funded by the defense appropriations bill. On September 15, the Senate Appropriations Committee reported a version H.R. 2219 that would have cut \$29.3 billion from the Administration request.

The Senate never acted on that bill, but a House-Senate compromise on DOD funding, which largely tracked the Senate committee-reported bill, was enacted as Division A of the Consolidated Appropriations Act for FY2012 (H.R. 2055). The House agreed to the conference report on December 16 by a vote of 296-121. The Senate approved it December 17 by a vote of 67-32. The bill was signed by the President on December 23, 2011 (P.L. 112-74).

**Table I. Total FY2012 DOD Discretionary Appropriations (H.R. 2055)**

(amounts in billions of dollars)

	FY2011 Enacted	FY2012 Request	FY2012 Enacted	FY2012 Enacted vs. Request	FY2012 Enacted vs. FY2011
Military Personnel	126.74	132.10	131.09	-1.01	4.35
Operation and Maintenance	165.56	170.76	163.07	-7.69	-2.49
Procurement	102.12	114.37	104.58	-9.79	2.46
Research, Development Test and Evaluation	74.96	75.33	72.42	-2.90	-2.54
Revolving and Management Funds	2.91	2.70	2.68	-0.03	-0.23
DOD Health Care and Other DOD Programs	34.31	35.52	35.59	0.07	1.28
Related Agencies	0.94	1.11	1.06	-0.04	0.12
General Provisions (net)	-5.12	0.03	-2.60	-2.63	2.52
Scorekeeping adjustments <sup>a</sup>	11.03	10.88	10.88	0.00	-0.15
Less appropriations requested for subsequent years <sup>b</sup>	0.00	-3.21	0.00	3.21	0.00
Less Mandatory Spending	-0.29	-0.51	-0.51	0.00	-0.22
Total FY2012 DOD Base Budget (Discretionary)	513.17	539.06	518.26	-20.79	5.10
Title IX - Overseas Contingency Operations (OCO)	157.68	117.73	114.97	-2.76	-42.71
Total DOD Discretionary in Defense appropriations Bill	670.85	656.78	633.23 <sup>c</sup>	-23.55	-37.62
Base Budget, MilCon	16.59	14.77	13.05	-1.72	-3.54
OCO Budget, MilCon	1.22	0.00	0.00	0.00	-1.22
Total DOD Discretionary in Military Construction Appropriations Bill	17.81	14.77	13.05 <sup>d</sup>	-1.72	-4.76
Grand Total, FY2012 Discretionary Appropriations	688.66	671.55	646.28	-25.27	-42.38

**Source:** H.Rept. 112-74, Conference report on H.R. 2219, Consolidated Appropriations for FY2012

- a. Scorekeeping adjustments reflect chiefly permanent appropriations such as the TRICARE for Life accrual payment to the military retirement fund.
- b. The administration's FY2012 budget request included \$3.2 billion in budget authority for communication satellites that would be spent in FY2013-27. Neither the Armed Services nor Appropriations Committees of the Senate or House accepted this proposal.
- c. H.R. 2055, Consolidated Appropriations Bill, FY2012, Division A.
- d. H.R. 2055, Consolidated Appropriations Bill, FY2012, Division H.

## Status of Legislation

**Table 2. FY2012 National Defense Authorization Act: H.R. 1540, S. 1253, S. 1867**

House Report	House Passage	Senate Reports		Senate Passage	Conf. Report	Conference Report Approval		Public Law
		S. 1253	S. 1867			House	Senate	
H.Rept. 112-78 5/17/2011	Agreed to 322-96 5/26/2011	S.Rept. 112-26 6/22/2011	Committee approved 11/15/11 (no report)	Agreed to (as amdt. to H.R. 1540) 93-7 12/1/2011	H.Rept. 112-329 12/12/2011	Adopted 12/14/2011 283-136	Adopted 12/15/2012 86-13	P.L. 112-81 12/31/2011

**Table 3. FY2012 Defense Appropriations Act: H.R. 2219, H.R. 2055**

House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval (H.R. 2055, Div. A)		Public Law
					House	Senate	
H.Rept. 112-110 6/16/2011	Agreed to 336-87 7/8/2011	S.Rept. 112-77 9/15/2011	no action	H.Rept. 112-331 12/15/2011	12/16/2011 296-121	12/17/2011 67-32	P.L. 112-74 12/23/2011

## FY2012 DOD Budget Request

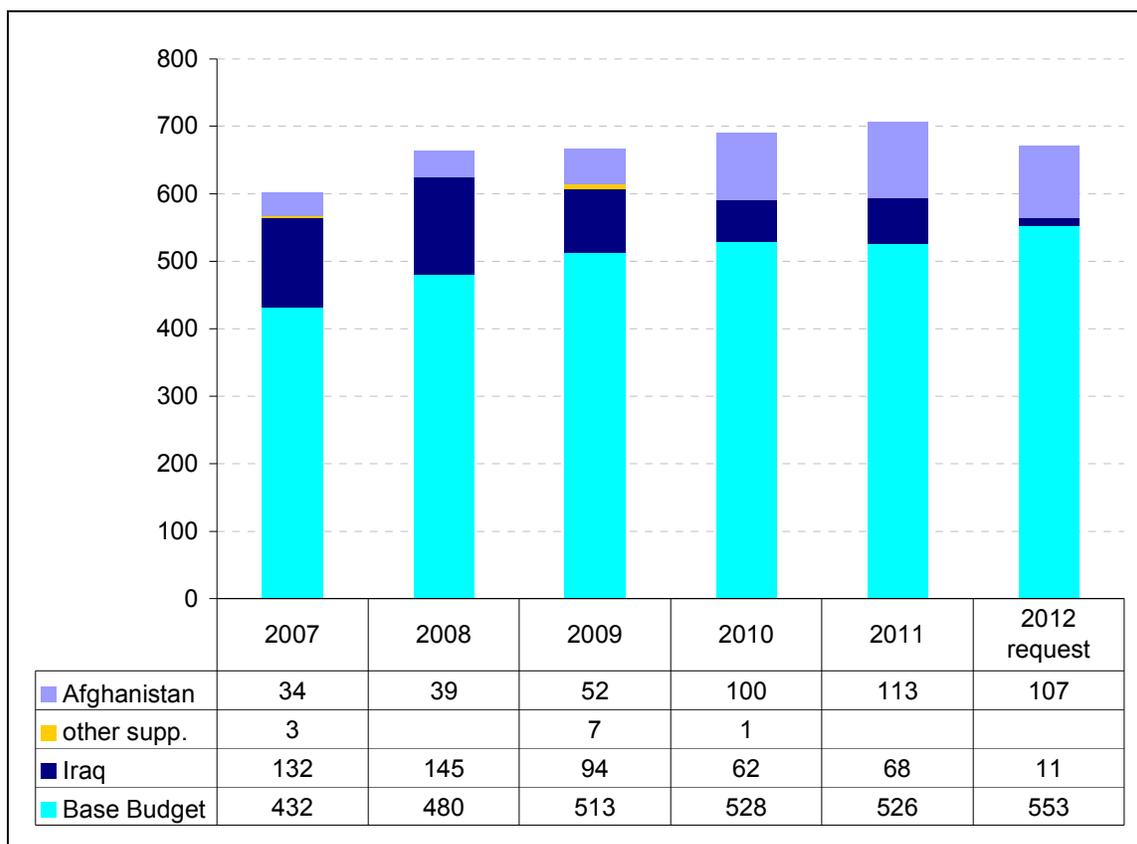
President Obama's FY2012 budget request for the Department of Defense (DOD), which totaled \$670.9 billion, was nearly 5.3% less than the amount he had requested for DOD in FY2011 and nearly 2.5% lower than the amount Congress approved for that year, after cutting more than \$20 billion from the FY2011 DOD request. The bulk of the reduction in the FY2012 request reflected the Administration's plan to reduce DOD funding for combat operations in Iraq and Afghanistan by 26% as the tempo of U.S. military activity in Iraq continues to decline and the planned drawdown of U.S. troops in Afghanistan gets underway. The Administration's FY2012 request assumes that all U.S. troops will be out of Iraq by the end of the first quarter of FY2012 and that the average number in Afghanistan will decline from 102,000 during FY2011 to 98,000, as the Administration begins its planned drawdown in U.S. troop levels.

The FY2012 request, sent to Congress on February 7, 2011, included \$553.7 billion for DOD's base budget, which includes all routine activities other than ongoing war costs. Compared with the FY2011 DOD base budget set by the FY2011 Department of Defense and Full-Year Continuing Appropriations Act (H.R. 1473, P.L. 112-10), this amounts to a 3% real increase in purchasing power, taking account of inflation.

On the other hand, the FY2012 request for so-called Overseas Contingency Operations (OCO, i.e., operations in Iraq and Afghanistan), which is \$117.8 billion, would have amounted to an inflation-adjusted decrease of 27%.

**Figure I. DOD Discretionary Budget Authority, FY2007-FY2012**

(amounts in billions of dollars)



**Source:** DOD FY2012 Budget Briefing.

Of the FY2012 base budget request, \$528.7 billion is for programs funded by the annual Defense appropriations bill; \$14.8 billion is for military construction and family housing programs funded by the annual appropriations bill for those activities, the Department of Veterans Affairs and other agencies. The remaining \$10.7 billion requested in the FY2012 base budget funds the so-called Tricare-for-Life program, which provides medical benefits to Medicare-eligible military retirees. Funding for Tricare-for-Life is a permanent appropriation made automatically under a provision of standing law.<sup>3</sup>

The FY2012 budget request would have reduced military construction funding for the third year in a row, largely for three reasons:

- The budget to build facilities for units that are moving to new sites as a result of the FY2005 Base Realignment and Closure (BRAC) process is down sharply because most BRAC-related construction was funded in earlier budgets, in order to meet a September 15, 2011 deadline for completing the moves;

<sup>3</sup> House and Senate Appropriations Committee tables generally show the amount for Tricare-for-Life as a “scorekeeping adjustment.” DOD tables generally show the amount as part of the annual request for military personnel.

- The budget for construction projects in Iraq and Afghanistan, which was \$1.3 billion in FY2011, is \$80 million in FY2012; and
- The request for family housing-related accounts continues to decline as a result of a policy, begun in the late 1990s, of privatizing military housing.

### **Military Construction Funding**

For analysis of the FY2012 military construction budget request and funding legislation, see CRS Report R41653, *Military Construction: Analysis of the President's FY2012 Appropriations Request*, by Daniel H. Else.

## **Base Budget Highlights**

Compared with the Obama Administration's prior DOD budget requests, the FY2012 proposal incorporates fewer cuts to major weapons programs. However, the Administration's proposal canceled the Marine Corps's effort to develop the Expeditionary Fighting Vehicle (EFV) as a replacement for its current fleet of amphibious troop carriers. It also restructured the F-35 Joint Strike Fighter program, slowing a projected increase in production, increasing the plane's development budget, and putting on probation for two years the effort to develop a vertical takeoff version of that plane for use by the Marines.

To replace some aging Navy fighters that had been slated for replacement by now-delayed F-35s, the budget proposed to continue longer than had been planned—through FY2014—the purchase of F/A-18E/F carrier-based jets. It also funded efforts to develop a new generation of long-range bombers and missile-launching submarines and mid-air refueling tankers.

The budget continued the Administration's avowed emphasis on acquiring equipment that would enhance the ability of U.S. forces to conduct the types of operations which the Administration deems most likely in the near term: relatively limited, if prolonged and complex operations such as the current campaigns in Iraq and Afghanistan, rather than large-scale, conventional wars with a potential peer competitor, such as China or a militarily resurgent Russia. For example, the budget requests more than \$10 billion to develop and acquire various types of helicopters and \$4.8 billion for an array of unmanned aerial systems (UASs) that range in size and price from the airliner-sized Global Hawk to hand-launched reconnaissance drones the size of a toy.

The FY2012 budget request also incorporates some early results of the Administration's pledge to achieve a total of \$178 billion in efficiency savings in the DOD budgets for FY2012-FY2016.

To reach that \$178 billion goal, the armed services and the Special Operations Command are to identify a total of \$100 billion in savings over the five-year period of which \$28 billion is to be used to cover higher-than-anticipated operating costs while the remaining \$72 billion is to be reinvested over the five year period in high priority weapons programs, such as development of the Air Force's new long-range bomber, procurement of additional F/A-18E/F fighters and the addition of six ships to the Navy's acquisition plan.

Over the same five-year period (FY2012-FY2016), DOD officials are committed to reduce the cumulative DOD budget request by a total of \$78 billion through such factors as DOD's share of the two-year, government-wide freeze on federal civilian pay (\$12 billion), a freeze on the size of

the DOD civilian workforce (\$13 billion), and a reduction in service support contracts (\$6 billion).

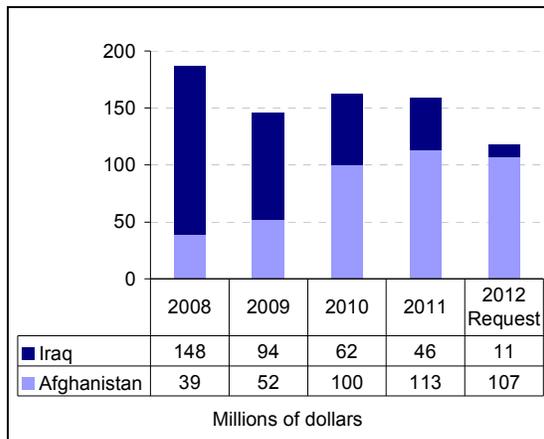
The FY2012 budget reflects an initial installment of \$10.7 billion toward a projected total savings by the services and Special Operations Command of \$100.2 billion through FY2016. Of the FY2012 total, \$3.3 billion comes from reducing or terminating acquisition programs, \$3.5 billion is attributed to organizational streamlining, and \$3.9 billion is to come from more efficient business practices.

## War Cost Highlights

The Administration’s FY2012 budget request for war costs reflects its plan to wrap up by the end of calendar year 2011 the U.S. combat role in Iraq and to begin drawing down the U.S. military effort in Afghanistan (see **Figure 2** and **Figure 3**).

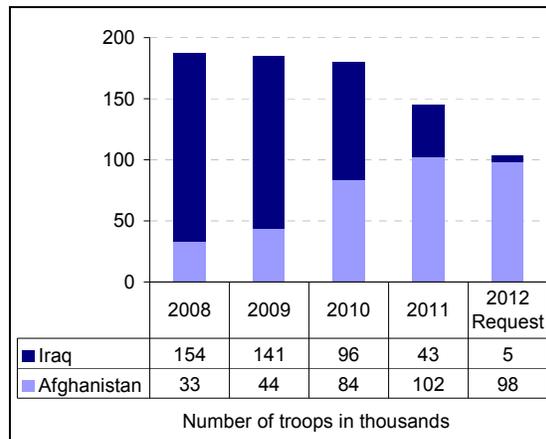
Under an agreement with the Government of Iraq, U.S. military forces are slated to withdraw by December 31, 2011, by which time Iraqi forces will be responsible for providing internal security. In contrast with the FY2011 DOD budget, in which Congress appropriated \$1.5 billion of the \$2.0 billion requested for funds to train and equip Iraqi forces, the FY2012 DOD budget requests no funds for those purposes.

**Figure 2. Funding by Country  
FY2008-FY2012**



**Source:** DOD Comptroller, FY2012 DOD Budget Request Overview, p. 6-4.

**Figure 3. Troop Level by Country  
FY2008-FY2012**

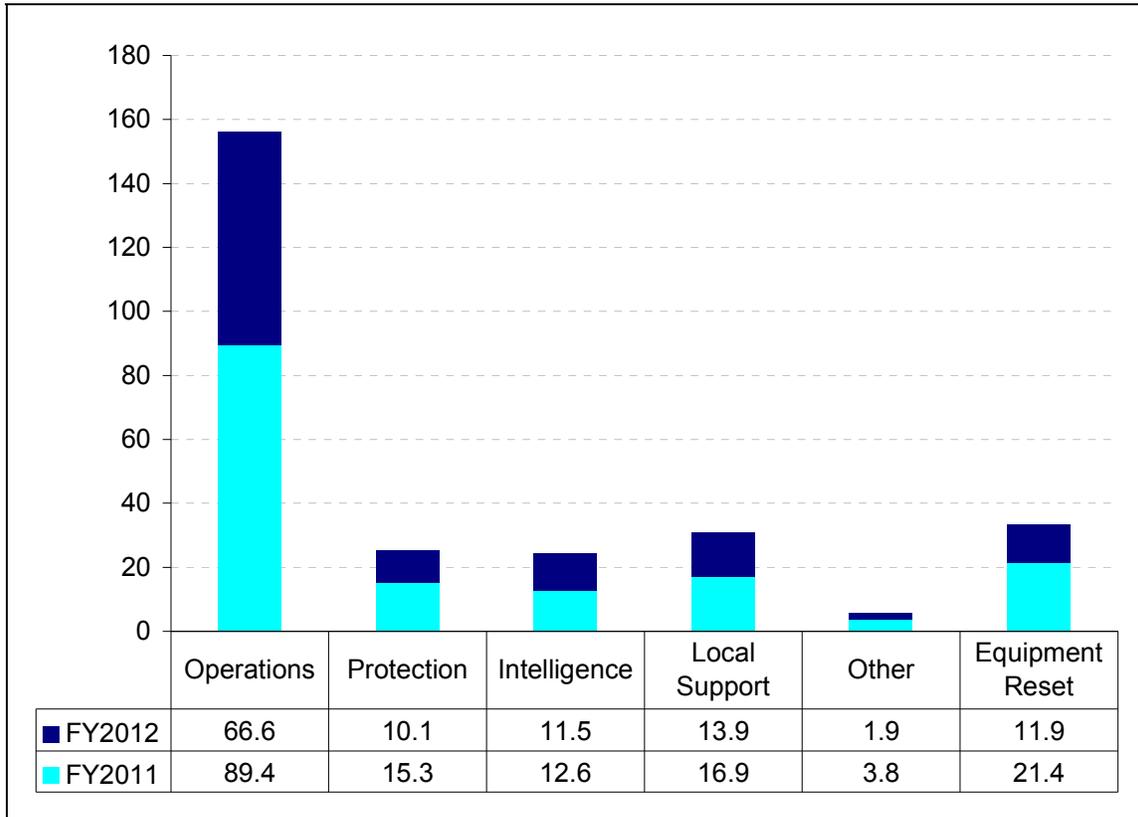


**Source:** DOD Comptroller, FY2012 DOD Budget Request Overview, p. 6-4.

In December 2009, President Obama announced decisions to (1) “surge” the number of U.S. military and civilian personnel in Afghanistan, with the aim of disrupting and defeating al-Qaeda and (2) begin a “conditions-based” withdrawal of U.S. troops from the country in July 2011. In December 2010, announcing the results of the Administration’s Afghanistan-Pakistan Annual Review, President Obama said the United States was committed to handing over to the Afghan

government lead responsibility that country's security by 2012.<sup>4</sup> Consistent with that policy, the DOD budget for funds to train and equip Afghan Security forces, for which Congress approved (as requested) \$11.6 billion in FY2011, increased to \$12.8 billion in FY2012 under the Administration's budget.

**Figure 4. OCO Funding Requests by Function, FY2011-12**  
(amounts in billions of dollars)



**Source:** DOD Comptroller, FY2012 DOD Budget Request Overview, p. 6-5.

**Notes:** "Local Support" includes funding to support Iraqi and Afghan security forces and other countries assisting the U.S. effort as well as the Commanders' Emergency Response Program (CERP). "Intelligence" includes military intelligence and support from national intelligence agencies.

### War Funding

This report summarizes highlights of the budget request and legislative actions relating to operations in Iraq and Afghanistan. For a comprehensive analysis of issues related to the funding of U.S. military operations in Iraq and Afghanistan see CRS Report RL33110, *The Cost of Iraq, Afghanistan, and Other Global War on Terror Operations Since 9/11*, by Amy Belasco.

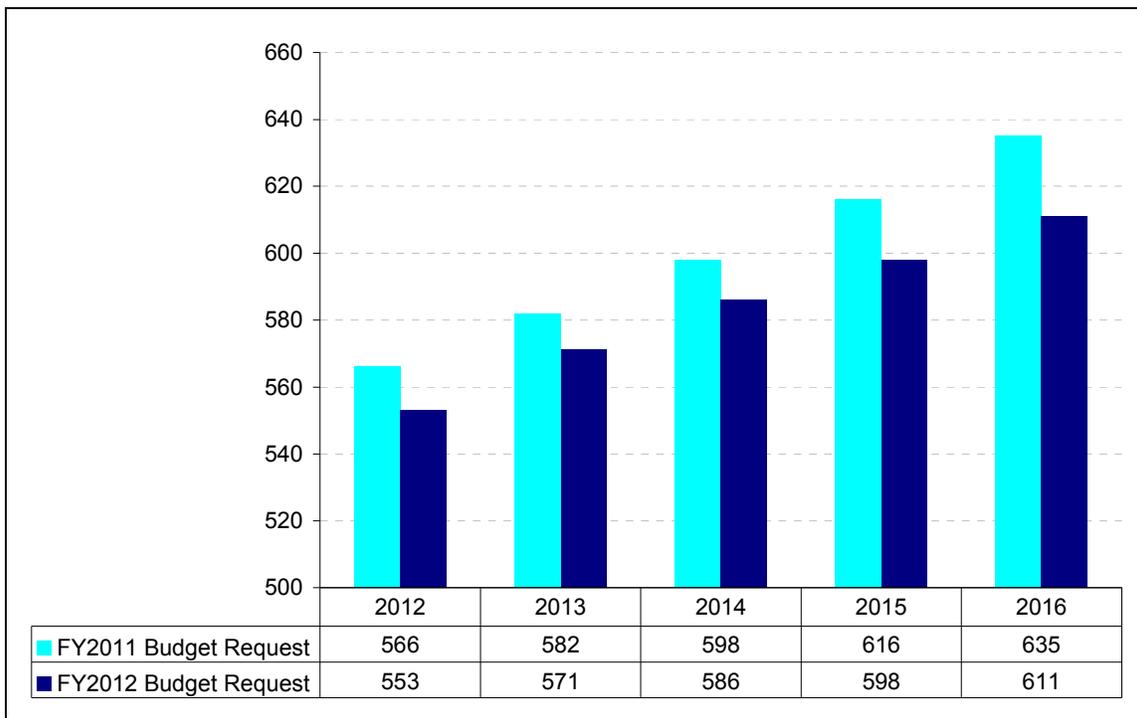
<sup>4</sup> For background and analysis, see CRS Report R40156, *War in Afghanistan: Strategy, Operations, and Issues for Congress*, by Catherine Dale.

## Budgetary Impact and Deficits

Congress weighed the FY2012 DOD budget request in the context of intense pressure across a wide band of the political spectrum to reduce the federal budget deficit.

In January 2011, a few weeks before DOD published its FY2012 request, the Defense Department announced \$78 billion of savings in the FY2012-FY2016 five-year defense plan that was submitted with the FY2012 budget request, compared with the spending plan for the same period that accompanied the FY2011 DOD budget request (see **Figure 5**).

**Figure 5. Projected Future Defense Budgets, FY2012-16**  
(amounts in billions of dollars)



**Source:** DOD Comptroller, FY2012 DOD Budget Request Overview, p, 1-2.

But even before the President released his FY2012 proposal, there had been calls for more substantial retrenchment in DOD spending. In December, 2010, former Senator Alan Simpson and former White House staff director Erskine Bowles, the co-chairs of the Presidentially appointed National Commission on Fiscal Responsibility and Reform (generally referred to as the “Fiscal Commission”) recommended cuts in security-related spending that, if applied proportionally to defense, would have entailed a reduction of as much as \$100 billion a year in national defense funding by the middle of the decade compared to Administration projections at the time of the Commission report.<sup>5</sup> The Fiscal Commission plan also contemplated substantial

<sup>5</sup> *The Moment of Truth: Report of the National Commission on Fiscal Responsibility and Reform*, December 2010, at [http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12\\_1\\_2010.pdf](http://www.fiscalcommission.gov/sites/fiscalcommission.gov/files/documents/TheMomentofTruth12_1_2010.pdf). It is important to note that the Fiscal Commission did not reach a consensus. Eleven of the eighteen members of the Commission endorsed the plan by Co-Chairs Alan Simpson and Erskine Bowles, but the proposal did not receive the (continued...)

additional cuts in later years. In November 2010, the independent, bipartisan Domenici-Rivlin Debt Reduction Task Force recommended a comparable cut in defense by the middle of the decade, though it would have allowed growth in spending to resume thereafter.<sup>6</sup>

On April 13, 2011, the President outlined a long-term budget proposal that would reduce funding for security-related programs, of which defense is the largest part,<sup>7</sup> by an additional \$400 billion (beyond the reductions embodied in the FY2012 DOD request) over the 12 years from FY2012-FY2023.<sup>8</sup> The Defense Department is now working on adjusting its long-term plans to absorb an as-yet-undetermined share of the cuts (see **Figure 6**).

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(...continued)

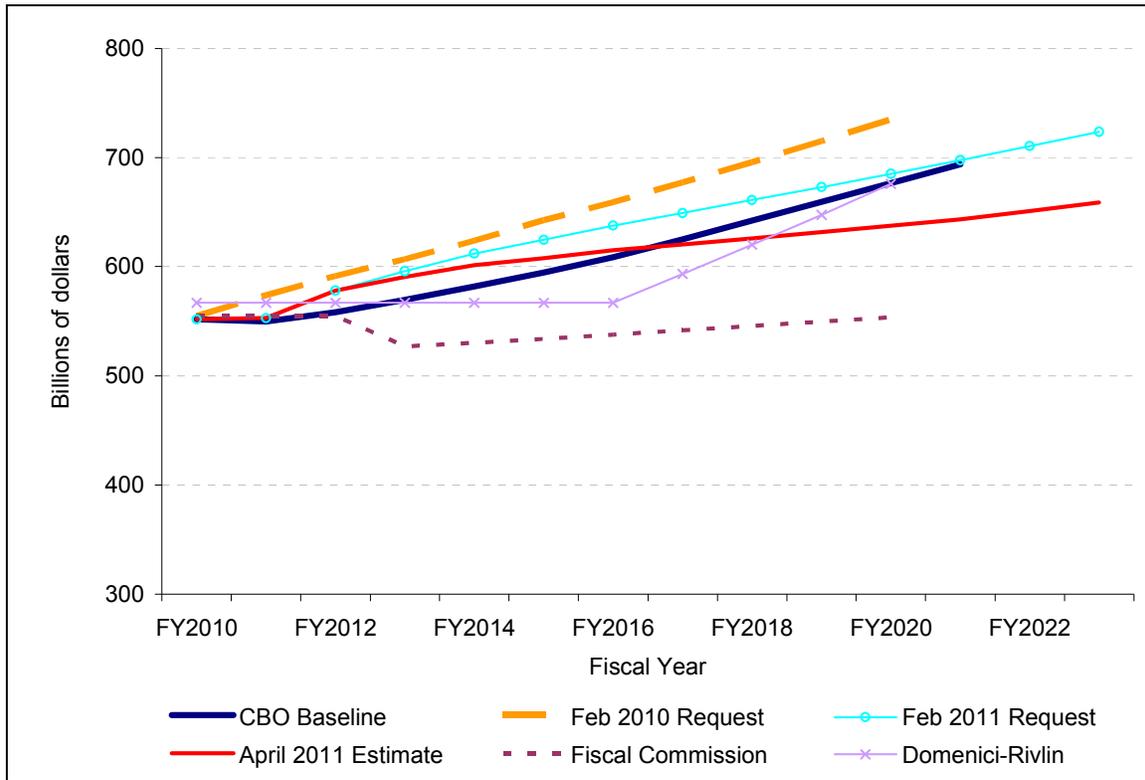
14 votes needed for formal approval.

<sup>6</sup> *Restoring America's Future*, Debt Reduction Task Force, Bipartisan Policy Center, November 2010.

<sup>7</sup> The Administration defines security-related discretionary spending to include Department of Defense military activities, Department of Energy nuclear weapons development and production, Department of Veterans' Affairs health programs, international affairs, and Department of Homeland Security spending. See Office of Management and Budget, *Fiscal Year 2012 Budget of the U.S. Government*, Table S-11, "Funding Levels for Appropriated ("Discretionary") Funds by Agency," pp. 199-200, on line at <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2012/assets/budget.pdf>.

<sup>8</sup> The White House, Office of the Press Secretary, "Remarks by the President on Fiscal Policy," George Washington University, April 13, 2011, on line at <http://www.whitehouse.gov/the-press-office/2011/04/13/remarks-president-fiscal-policy>.

**Figure 6. Alternative National Defense Budget Trends, FY2010-FY2023**  
(billions of dollars)



**Sources:** CBO baseline from Congressional Budget Office; February 2010 and 2011 requests from Office of Management and Budget; estimates of Fiscal Commission, Domenici-Rivlin, and April 2011 Administration plans by Congressional Research Service.

**Note:** Amounts are for discretionary budget authority for the national defense budget function, excluding funding for overseas contingency operations.

Some defense advocates have opposed the President’s plan for additional reductions in projected DOD budgets, including the House Armed Services Committee Chairman, Representative Howard P. “Buck” McKeon, who called the proposal to take \$400 billion from security-related budgets “jawdropping.... There appears to have been no consideration of threats, of deterrence, of logistics, or capabilities—or even the effect such cuts would have on our three wars, our troops, or our national security,” he said in an op-ed column published in *USA Today*.<sup>9</sup>

However, in April 2011 the House incorporated the Administration’s February 2011 defense projections, extended through FY2021, in its FY2012 budget resolution. The House Appropriations Committee went further, setting a funding target for the Defense Subcommittee requiring Congress to cut \$8.9 billion from the President’s FY2012 request for DOD base budget<sup>10</sup>, as the subcommittee subsequently did in a draft FY2012 Defense appropriations bill it marked up June 1.

<sup>9</sup> Rep. Howard P. “Buck” McKeon, “Obama Cuts Would Gut U.S. Defense,” *USA Today*, April 28, 2011, [http://www.usatoday.com/news/opinion/forum/2011-04-28-McKeon-blasts-Obama-defense-cuts\\_n.htm#uslPageReturn](http://www.usatoday.com/news/opinion/forum/2011-04-28-McKeon-blasts-Obama-defense-cuts_n.htm#uslPageReturn).

<sup>10</sup> See House Appropriations Committee press release, “Chairman Rogers Announces Schedule and Subcommittee (continued...)”

In a speech to the American Enterprise Institute on May 24<sup>11</sup> Defense Secretary Robert Gates said that, as a practical matter, it was inevitable that projected future defense budgets would be scaled back as part of the deficit reduction effort. He said that the President's proposed reductions were not unprecedented:

What's being proposed by the President is nothing close to the dramatic cuts of the past. For example, defense spending in constant dollars declined by roughly a third between 1985 and 1998. What's being considered today, assuming all \$400 billion comes from DOD over 12 years, corresponds to a projected reduction of about 5% in constant dollars—or slightly less than keeping pace with inflation.

However, Secretary Gates also emphasized that the proposed reductions would require tough decisions about such hitherto untouchable issues as the pay, pensions, and medical care of military personnel and their families, and the type and number of missions U.S. forces could be ready to handle.

If we are going to reduce the resources and the size of the U.S. military, people need to make conscious choices about what the implications are for the security of the country, as well as for the variety of military operations we have around the world if lower priority missions are scaled back or eliminated.

## **Changing the Baseline**

Negotiations surrounding legislation to increase the national debt ceiling resulted in enactment on August 2, 2011, of the Budget Control Act of 2011 (BCA) which, among other things, set new caps on discretionary spending in FY2012. While the law does not specifically mandate a reduction in Defense appropriations below the President's initial request, as a practical matter such reductions may result.

One of BCA's provisions sets a cap on discretionary appropriations for so-called "security agencies"—a category that includes the DOD base budget, the Departments of Veterans Affairs and Homeland Security, and the Energy Department's National Nuclear Security Agency, as well as the Department of State and various international activities funded by other federal agencies. The cap required a reduction of \$35.7 billion from the total amount the Administration had requested for that category of agencies.

The DOD base budget accounts for 76.9% of the discretionary budget request for security agencies' funding. Thus, if the base budget had absorbed that share of the security agencies' reduction (which was not required by the BCA), appropriations for the FY2012 DOD base budget would have been \$27.2 billion below the amount requested. In fact, the total appropriated for DOD's base budget by H.R. 2055, the Consolidated Appropriations Act for 2012, is \$519.7 billion, a reduction of \$23.7 billion from the request.

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Spending Limits to Complete Appropriations Bills 'On Time and On Budget', May 11, 2011, [http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease\\_id=298&Month=5&Year=2011](http://appropriations.house.gov/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=298&Month=5&Year=2011).

<sup>11</sup> Defense Secretary Robert Gates, Speech to the American Enterprise Institute, May 24, 2011, <http://www.defense.gov//speeches/speech.aspx?speechid=1570>.

## **FY2012 National Defense Authorization Act (H.R. 1540; S. 1253; S. 1867)**

On May 26, 2011, by a vote of 322-96, the House passed its version of the FY2012 National Defense Authorization Act, H.R. 1540. Earlier, the House Armed Services Committee completed its markup of the bill on May 11 and issued a report on May 17 (H.Rept. 112-78).

Overall, the House bill would have authorized \$690.1 billion in discretionary budget authority for programs covered by that bill. This includes \$553.0 billion for DOD's base budget and an additional \$118.9 billion for OCO. The remaining \$18.1 billion the bill would have authorized is for defense-related nuclear activities carried out by the Department of Energy.

Viewed in the aggregate, the House version of the bill would have made only minor changes to President Obama's funding request for programs covered by the authorization bill: The DOD base budget request would have been trimmed by \$1.7 million, while the \$1.1 billion the bill would have added to the request for war costs was accounted for almost entirely by the House committee's addition to the DOD budget of \$1.1 billion for the Pakistan Counterinsurgency Fund, a program which the administration's budget had funded through the State Department.<sup>12</sup>

The Senate Armed Services Committee's initial version of the FY2012 authorization bill (S. 1253), reported on June 22, 2011, would have authorized \$6.4 billion less than the administration requested for FY2012, of which \$5.9 billion would have been cut from the base budget. On November 15, 2011, to match the BCA-mandated FY2012 spending cuts for DOD and other security agencies, the committee reported a second version of the bill, S. 1867, that would have cut \$27.3 billion from the President's request, and would have authorized \$28.4 billion less than the House-passed bill (see **Table 4**). After debating and amending S. 1867 over the course of several days, the Senate substituted the text of that bill for the House-passed text of H.R. 1540, and passed the amended version of H.R. 1540 on December 1, 2011 by a vote of 93-7.

The conference report on H.R. 1540, which cuts the administration's authorization request by a total of \$26.6 billion, was adopted by the House December 14, 2011 by a vote of 283-136. The part of the compromise bill that covers the DOD base budget would cut \$23.1 billion from the administration's \$553.0 request. However, that reduction includes \$6.9 billion requested for activities which the conferees authorized, instead, in the part of the bill that authorizes costs associated with operations in Iraq and Afghanistan (including \$1.4 billion for procurement of Predator and Reaper drone aircraft).

Despite that shift of funds from the base budget to the war budget, the conference report authorizes a total of \$2.3 billion less than was requested for war costs because the conferees' additions to the war costs section are more than offset by large reductions to the administration's war cost request. For example, the conferees cut \$4.0 billion from the war cost request on the grounds that, after the budget request was submitted, the President announced a more rapid reduction in the number of U.S. troops deployed in Afghanistan than the budget had assumed.

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<sup>12</sup> Echoing action that Congress incorporated into the FY2011 funding bills, H.R. 1540 defers for one additional year (in this case, through FY2012) the transfer from DOD to the State Department of the Pakistan Counterinsurgency Fund.

**Table 4. FY2012 National Defense Authorization Act Summary (H.R. 1540, S. 1253, and S. 1867)**

(amounts in millions of dollars)

	<b>FY2011 Authorization H.R. 6523 (P.L. 111-383)</b>	<b>FY2012 Administration Request</b>	<b>FY2012 House-Passed H.R. 1540</b>	<b>FY2012 SASC-reported S. 1253</b>	<b>FY2012 Senate-Passed H.R. 1540 (debated as S. 1867)</b>	<b>FY2012 Conference Report H.R. 1540</b>
Procurement	110,433	111,454	111,386	109,539	101,633	103,579
Research and Development	76,587	75,325	75,580	74,859	71,841	71,571
Operations and Maintenance	168,151	170,759	171,120	168,683	160,847	162,188
Military Personnel	138,541	142,829	142,164	142,448	142,348	141,992
Other Authorizations	36,274	37,900	38,016	37,892	37,411	37,565
Military Construction and Family Housing	18,191	14,766	14,766	13,717	13,190	13,069
<b>Subtotal: DOD Base Budget</b>	<b>548,176</b>	<b>553,033</b>	<b>553,032</b>	<b>547,139</b>	<b>527,270</b>	<b>529,964</b>
<b>Subtotal: Atomic Energy Defense Activities (Energy Dept.)</b>	<b>17,716</b>	<b>18,085</b>	<b>18,085</b>	<b>18,089</b>	<b>17,520</b>	<b>16,946</b>
<b>TOTAL: FY2012 Base Budget</b>	<b>565,891</b>	<b>571,118</b>	<b>571,117</b>	<b>565,228</b>	<b>544,790</b>	<b>546,910</b>
<b>Subtotal: Overseas Contingency Operations</b>	<b>158,750</b>	<b>117,843</b>	<b>118,940</b>	<b>117,306</b>	<b>116,847</b>	<b>115,480</b>
<b>GRAND TOTAL: FY2012 National Defense Authorization</b>	<b>724,642</b>	<b>688,961</b>	<b>688,961</b>	<b>682,534</b>	<b>661,636</b>	<b>662,390</b>

**Source:** H.Rept. 112-78, House Armed Services Committee, "Report on H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012;" S.Rept. 112-26, Senate Armed Services Committee, "Report to accompany S. 1253, the National Defense Authorization Act for Fiscal Year 2012;" Senate Armed Services Committee summary of S. 1867 as reported, "Summary of National Defense Authorizations for FY2012," November 17, 2011; funding tables in the text of S. 1867; H.Rept. 112-329, Conference Report to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012.

## Authorization Bill Overview

### **Relationship of S. 1253, S. 1867, and Senate-passed H.R. 1540**

Unless otherwise specified, all references in the balance of this report to “the Senate bill,” “the Senate version of the FY2012 national defense authorization act,” or “S. 1867” all refer to the legislation that Senate passed on December 1, 2011 as an amended version of the House-passed H.R. 1540.

The text of this version of the bill was reported by the Senate Armed Services Committee on November 15, 2011 as S. 1867, and it was debated by the Senate, and amended, as S. 1867 over a period of several days in late November. On December 1, 2011, the amended text of S. 1867 was substituted for the text of the House-passed H.R. 1540 which the Senate then passed by a vote of 93-7.

Unless otherwise specified, S. Rept. 112-26, the Senate Armed Services Committee’s report on S. 1253 which was its first version of the FY2012 authorization bill, applies to S. 1867, for which no committee report was prepared. By the same token, it also applies to the Senate-passed version of H.R. 1540.

### **House-passed Bill (H.R. 1540)**

The House bill’s total authorization was the net result of dozens of additions and subtractions to various components of the President’s request. In its report accompanying the bill (H.Rept. 112-78), the House Armed Services Committee cited a variety of policy and management justifications for these proposed changes. Among the most costly of the policy-based increases proposed by the committee were the following:

- \$1.31 billion to increase funding for maintenance, repair and upgrades to facilities;
- \$375 million to continue production of M-1 tanks and Bradley troop carriers, contrary to DOD’s proposal to shut down those production lines;
- \$310 million to accelerate development and production of various anti-missile defense systems, including \$110 million for systems designed and manufactured in Israel, intended for that country’s defense; and
- \$325 for equipment for the National Guard and the other reserve components of the armed services.

The House bill also incorporated recommended cuts to the DOD budget request. Among the largest of the proposed reductions aimed at specific weapons programs were cuts of:

- \$523.9 million—all but \$15.7 million of the amount requested—from an Army airborne electronic eavesdropping system designated the Enhanced, Medium-Altitude Reconnaissance and Surveillance System (EMARSS), a package of cameras and electronic eavesdropping gear installed in a small, twin-engine Beechcraft commercial plane. The committee said delays in the program justified the reduction;
- \$148.7 million from the amount requested for the Army’s Early Infantry Brigade Combat Team (E-IBCT), an effort to equip infantry units with a digital network that DOD cancelled in February 2011. The committee said that, at the Army’s request, it was eliminating this amount and shifting the remainder of the funds requested for E-IBCT (\$89.9 million) to other purposes;

- \$149.5 million from the MEADS anti-missile system, which is being jointly developed by the United States, German, and Italy, but which the Pentagon has decided not to purchase.

The largest single group of budget cuts the House committee incorporated into H.R. 1540 reflected its judgment that many DOD budget accounts held funds, appropriated in prior years, which would not be obligated by the end of FY2011. On grounds that these “unobligated balances” could be used in lieu of new budget authority to cover some of the cost of DOD’s FY2012 program, the committee cut a total of \$2.66 billion from the amount of new budget authority requested for various accounts.

The House committee also incorporated into H.R. 1540 across-the-board cuts in the operations and maintenance accounts totaling \$59.7 million to reflect 10% reductions in the amounts requested for printing (a cut of \$35.7 million) and for the performance of studies and analysis by outside think-tanks (a \$24.0 million reduction).

### **Senate Committee-reported Bills (S. 1253, S. 1867)**

The Senate Armed Services Committee’s net reduction of \$6.43 billion to the President’s request in its initial version of the FY2012 NDAA (S. 1253) resulted from dozens of specific reductions, many of which were relatively small. To achieve the additional reduction in S. 1867, the committee retained the earlier cuts and added hundreds more.

The committee insisted in its report on S. 1253 (S.Rept. 112-26) that many of its cuts in that bill would have no adverse impact on Pentagon operations because they involved funds that would not be needed during FY2012 due, for example, to program delays, the inclusion in the request of funding for overhead costs that the committee deemed excessive, or what the committee described as lackluster performance. Although the committee did not issue a report to accompany S. 1867, the summary funding tables incorporated in that bill included brief characterizations consisting of no more than a few words each—justifying those cuts in terms that were generally similar to the rationales cited in S.Rept. 112-26 for the cuts in S. 1253.

The largest single cuts in S. 1867 related to U.S. operations in Afghanistan. The committee cut \$5 billion from the \$117.8 billion request for war costs on the grounds that, in June, 2011, President Obama announced a decision to reduce U.S. troop strength in that country. The bill also cut \$1.6 billion from the \$12.8 billion requested for training, equipping and sustaining the Afghan Army and National Police.

Some of the other major reductions incorporated in S. 1867 included

- A total of \$1.1 billion, distributed across several operation and maintenance (O&M) accounts to reduce what the committee called in its report a “bloated” budget request for contract services;<sup>13</sup>
- A total of \$684 million from the O&M accounts in anticipation that, as historically has been the case, DOD agencies asked for more money in these

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<sup>13</sup> S.Rept. 112-26, pp. 86-87. According to the committee report on S. 1253, DOD’s base budget for FY2012 included \$150 billion for contract services, more than double the amount DOD spent for that purpose in FY2000.

accounts than they could spend in the course of the fiscal year, leaving them with excessively large “unobligated balances” at year’s end;

- \$350 million, about one-eighth of the \$2.80 billion requested, for the Joint Improvised Explosive Device Defeat Organization (JIEDDO), an umbrella organization that was created to coordinate DOD efforts to neutralize the roadside bombs widely used against U.S. troops in Iraq and Afghanistan. The committee said the organization had not done enough to eliminate duplicative efforts and was too dependent on contractor personnel;
- \$752 million requested for aircraft that were included in the FY2012 budget sent to Congress in February, but which, subsequently, had been funded in the FY2011 Defense appropriations bill, enacted April 15 as part of the FY2011 omnibus spending bill (P.L. 112-10). The items eliminated from the bill included nine F/A18E/F Navy fighters (\$495 million), one E-2D Hawkeye radar surveillance plane (\$164 million), two HH-60M Blackhawk helicopters modified for combat search and rescue (\$70 million), one Apache attack helicopter (\$36 million) and upgrades for various helicopters used by special forces (\$151 million); and
- \$200 million from the \$2.98 billion requested for the Defense Advanced Research Projects Agency (DARPA) for a combination of reasons including concern about the agency’s history of excessive unobligated balances and the committee’s doubts about the feasibility of some projects the agency is funding. The panel was skeptical of an effort to develop a Transformer Vehicle that would combine attributes of a vertical take-off aircraft and a HMMWV (Humvee).

In addition, S. 1867 would have cut a total of \$1.18 billion from four major weapons programs<sup>14</sup> (including three of which the House bill also would have cut), including

- \$540 million from an Army airborne surveillance system designated the Enhanced Medium-Altitude Reconnaissance and Surveillance System (EMARSS);
- \$407 million from the Army’s effort to develop a new family of digitally-linked combat equipment;
- \$135 million (of the \$877 million total) requested to develop a new mid-air refueling tanker (designated KC-46A), funds that the committee said the program would not need in FY2012; and
- \$407 million for the multinational Medium Extended Air Defense System (MEADS) anti-aircraft and anti-missile defense system.

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<sup>14</sup> At the request of the Marine Corps, the Senate Committee cut \$300 million from the budget request for medium-sized trucks but reallocated the funds to other Marine Corps priorities and thus did not reduce the overall amount authorized by the bill.

## **Conference Report (H.R. 1540)**

Like the Senate-passed version of H.R. 1540, the final version of the bill cut the President's request by nearly 4% using a handful of large reductions – most of them related to war costs – and hundreds of other cuts in specific programs.

Among the major reductions associated with Afghanistan were cuts of:

- \$4.0 billion to take account of the President's plan to reduce the number of troops in Afghanistan;
- \$1.6 billion (from the \$12.8 billion requested) to train, equip and sustain the Afghan Army and National Police; and
- \$75 million (from the \$475 million requested) to develop infrastructure in Afghanistan.

Other reductions in the bill totaling nearly \$3.4 billion would have no impact on DOD operations, the conferees said, including cuts of:

- \$1.5 billion from the Army's operation and maintenance budget which, according to DOD and the Army, would not be needed;
- \$1.3 billion which, the conferees said, could be offset by unnecessarily large cash balances in certain revolving funds and by so-called unobligated balances in certain accounts, which are funds appropriated in prior years but not yet spent; and
- \$330 million from the Tricare medical insurance program which, according to the conferees, was the amount by which the request for that account exceeded average annual outlays;

The conference report also made some cuts that were intended to curtail certain activities, including cuts of:

- \$412.0 million from amounts requested for logistical support of weapons systems by contractors;
- \$150.2 million from the amounts requested for federally-funded research and development centers (FFRDCs) such as the RAND Corporation; and
- \$200.0 million requested for DOD's Acquisition Workforce Development Fund.

Among the largest reductions to specific weapons program made by the conference report were cuts of:

- \$595.0 million (from the \$3.2 billion) requested for Mine-Resistant, Ambush-Protected (MRAP) vehicles, funds which the conferees said had been provided in FY2011;
- \$539.6 million, the full amount requested for the Army's EMARSS airborne surveillance system; and
- \$435.0 million (of the \$884.4 million requested) from the Army's effort to develop a new armored combat vehicle.

Compared with other defense authorization bill in recent years, there were relatively few cases in which the conference report on H.R. 1540 authorized more than was requested for a particular weapons program. Among the larger increases the bill authorized are:

- \$255.0 million to continue upgrading existing M-1 tanks;
- \$325.0 million for equipment to modernize National Guard and reserve forces; and
- \$110.0 million (in addition to the \$106.1 million requested) to collaborate with Israel on the development of certain anti-ballistic missile systems.

## **Earmarks and Add-ons**

Compared with annual defense authorization bills in the recent past, the conference report on H.R. 1540, like both the House and Senate versions of the bill includes fewer Member-sponsored funding initiatives (widely referred to as “earmarks”). Of more than 200 provisions of the House bill that would have increased the authorization for relatively specific purposes, all but one were dropped from the conference report.

## **House Add-ons**

Early in the House committee’s process of addressing the FY2012 DOD budget request, the committee’s chairman, Representative Howard P. “Buck” McKeon, announced that the authorization bill would be marked up in compliance with the policy of the House Republican Conference that bans for the duration of the 112<sup>th</sup> Congress the adoption of “earmarks” defined by the rules of the House. He also announced that any Member-sponsored amendment to the committee’s draft bill would be subject to a vote by the full committee in open session.

Clause 9 of House Rule XXI defines a *congressional earmark* as

a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality, or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.<sup>15</sup>

In the course of a markup session that began on May 11, 2011 and ran into the early hours of May 12, the House committee approved more than 200 amendments, most of them by voice votes on en bloc groupings, that incorporated several amendments that increased the amount authorized for particular purposes. However, compared with similar Member-sponsored additions to earlier defense bills, the purposes of the add-ons to H.R. 1540 were defined in less specific terms than has been typical of similar member initiatives in recent years that clearly identified a specific intended recipient of the added funds.

Compared with the FY2010 authorization bill reported by the House Armed Services Committee in June 2009 (H.R. 2647; H.Rept. 111-166), the committee’s FY2012 defense bill contained

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<sup>15</sup> U.S. Congress, House, *House Rules and Manual*, §1068d.

about one-fourth the number of Member-sponsored add-ons. However, in toto, this smaller number of add-ons would have added roughly the same amount of money.<sup>16</sup> In the titles of the annual authorization bills that authorize Procurement and Research & Development, as reported by the House Armed Services Committee:

- The FY2010 bill included 372 earmarks each with a value of less than \$100 million<sup>17</sup>, providing a total of \$1.37 billion (for an average value per earmark of \$3.7 million); and
- The FY2012 bill included 98 committee additions with a value of less than \$100 million, providing a total of \$1.30 billion (for an average value per addition of \$13.3 million).

The impact of the new approach to Member-sponsored funding initiatives is even more striking in a comparison of portions of the authorization bills for FY2010 and FY2012 that cover military construction projects:

- The FY2010 bill included 110 military construction earmarks for specific projects at specific sites with a total value of \$579 million; and
- The FY2012 bill would have added to the construction request 22 lump-sum amounts—all but two of them in the amount of \$10 million or \$20 million—for general classes of facilities (e.g., maintenance and production facilities, troop housing facilities, operational facilities) with the additional funds available for use at “unspecified worldwide locations.”

### *‘Mission Force Enhancement Transfer Fund’*

In previous defense authorization bills reported by the House Armed Services Committee, additions to the budget request typically have been listed in the funding tables that are part of the committee report on the bill. By contrast, most<sup>18</sup> of the committee’s additions to H.R. 1540 are listed in the text of the bill (Title XVI), each addition being accompanied by the stipulation that the additional funds be allocated to a specific entity only on the basis of “merit-based” or “competitive” procedures.

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<sup>16</sup> Direct comparisons between H.R. 1540 and defense authorization bills reported by the committee in the recent past is complicated by the fact that, because the committee’s procedure precludes the inclusion of “earmarks” in H.R. 1540, there is no “earmark” list appended to its report on the bill, as there were in the committee’s reports on earlier defense bills reported beginning in 2007. This analysis compares the authorization bills for FY2010 and FY2012, as reported by the House Armed Services Committee and focuses on additions to the budget request of less than \$100 million, which encompasses the vast majority of add-ons to each bill and all but one of the earmarks that to the FY2010 bill that are identified by the committee.

In bills for which the House Armed Services Committee prepared “earmark” lists, it did not treat as “earmarks” a relatively small number of large initiatives, which the committee regarded as policy initiatives sponsored by the committee itself, rather than as requests by an individual member. For example, the committee did not list as an earmark its addition to the FY2010 defense bill (H.R. 2647) of \$601 million to continue developing, as an alternative engine for the F-35 Joint Strike Fighter, the F-136 jet being developed by General Electric and Rolls-Royce. Similarly, H.R. 1540 includes a handful of relatively large add-ons which are discussed in the committee report as policy issues.

<sup>17</sup> The committee report lists only one earmark in the bill worth more than \$100 million, which is the addition of \$105 million for procurement of a C-40 executive jet.

<sup>18</sup> The relatively few exceptions to this generalization involve large sums (more than \$100 million each) and high profile issues of defense policy (e.g., whether or not to continue the production line for M-1 tanks and Bradley troop carriers).

The committee covered the cost of most, though not all, of those add-ons costing less than \$100 million each by drawing down funds in a new account, called the Mission Force Enhancement Transfer (MFET) Fund, which it had funded with \$1 billion that had been cut from various parts of the DOD budget request. Program add-ons adopted by the committee during the markup of H.R. 1540 absorbed \$651.7 million of the \$1 billion, leaving a balance in the MFET Fund of \$348.3 million.

As reported, the bill would have authorized the Secretary of Defense to draw money from the fund balance to meet unfunded requirements in any of seven areas: missile defense; shipbuilding; shortages in the number of strike fighters; mine warfare; intelligence, surveillance and reconnaissance; basic research; and the ability to defeat precision-guided ballistic missile and other weapons intended to bar access of U.S. forces to certain areas. However, by a vote of 269-151, the House adopted an amendment eliminating from the bill the \$348.5 million that remained in the MFET fund (see **Table 5**).

### **Senate Add-ons**

In the Senate, the “no earmark” rule had an even more dramatic impact on the FY2012 defense authorization bills reported by the Armed Services Committee. The committee’s initial bill (S. 1253), which was reported several weeks before the enactment of the substantial, BCA-mandated additional reductions, included only 37 instances in which the committee added funding to the budget request, with a total budget increase of \$1.64 billion.<sup>19</sup> In writing a second version of the defense bill (S. 1867) to meet the spending limits set by the Budget Control Act, the committee made hundreds of additional cuts to the budget request, no further additions, and reduced the amount of some of the additions it had made in S. 1253.

The largest single amount the committee added to the budget request was \$405 million added to Operations and Maintenance funds intended, the committee said in its report on S. 1253, “to reimburse expenses deferred to fund foreign operations.” The report does not elaborate on that statement.

By way of comparison, the version of the FY2010 defense authorization bill that the Senate Armed Services Committee reported on July 2, 2009 (S. 1390) included 336 additions (excluding military construction) with a total budgetary increase of \$5.17 billion—nearly nine times as many additions and more than three times the total cost of the additions in S. 1253.

### **Military Personnel Issues**

For military personnel costs in the base budget, the House-passed version of H.R. 1549 would have authorized \$142.2 billion of the \$142.8 billion requested, with a few minor increases more than offset by a proposed reduction of \$664.7 million to be made up for by unobligated balances in the military personnel accounts, left over from prior fiscal years.

As passed by the Senate, the bill would have authorized \$142.4 billion for military personnel costs in the base budget, which is \$481.2 million less than was requested. The Senate committee

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<sup>19</sup> This comparison excludes funding increases that were, in effect, amendments to the budget request made at the request of DOD or one of the armed services.

justified the bulk of the reduction (\$325.6 million) on the basis of unobligated balances in appropriations accounts that could be used to offset those cuts.

The final version of H.R. 1540 authorizes \$142.0 billion for military personnel costs in the base budget, a reduction of \$837.0 million from the request. That reduction includes \$448.0 million the bill shifted from the base budget to the military personnel authorization in the section of the bill authorizing war costs.

#### **Additional Detail on Selected FY2012 Military Personnel Issues**

For a more detailed analysis of military personnel issues in the FY2012 budget see CRS Report R41874, *FY2012 National Defense Authorization Act: Selected Military Personnel Policy Issues*, coordinated by David F. Burrelli.

### **Pay Raise**

Like the Senate-passed bill, the final version of H.R. 1540 includes no provision specifically authorizing the 1.6% military pay raise requested by the administration. However, the House and Senate Armed Services Committees each supported that request and the practical effect of the bill is to allow it to take effect. By law, military personnel and federal civilian employees receive annual pay raises at a rate that matches the Labor Department's Employment Cost Index (ECI) – a survey-based estimate of the past year's increase in private sector pay -- unless a different pay rate is established by statute. The Congressional Budget Office (CBO) estimates the cost of a 1.6% increase in military basic pay for FY2012 to be \$1.2 billion.

The House-passed bill includes a provision (Section 601) that would have authorized a 1.6% raise in service members' basic pay, as requested. However the absence of such a provision in the final bill has no practical effect.

### **End Strength and 'Dwell Time'**

The conference report on H.R. 1540, like the Senate-passed version, authorizes the Administration's proposal to reduce the active-duty force by 9,800, setting the end-strength of the force (i.e., the number of troops on the rolls on the last day of FY2012) at 1.42 million personnel.<sup>20</sup> However, in their respective reports on the bills, both Armed Services Committees expressed concern that the planned reduction in forces might allow individuals less "dwell time" between deployments than the Army aims to provide.

DOD's goal is for active-personnel to spend three years at their home station for every year deployed, to allow rest, retraining in missions other than the particular mission on which they were deployed, and renewal of family ties. Despite that goal of achieving a dwell time ratio (time deployed to time at home) of one-to-three, current operations require deployments at such a pace that the ratio is much lower, and DOD hopes to improve the dwell time ratio to one-to-two by the end of FY2012.

The House committee questioned the wisdom of the administration's plan to reduce active-duty Army end-strength by 22,000 in FY2013 and to further reduce the size of the active-duty Army

<sup>20</sup> The House bill would have increased the Navy's end-strength ceiling by 39 above the number requested.

and Marine Corps by a total of 42,300 personnel in FY2015-16, assuming that the commitment of combat forces in Afghanistan would be substantially reduced by the end of FY2014.

It remains unclear to the committee what the level of forces in Afghanistan would need to be reduced [to] in order to allow the force reduction to begin without an adverse impact on troops and their families. More importantly, the anticipated reductions appear to have no relationship to the requirements of overall national strategy or to future warfighting requirements.<sup>21</sup>

Similarly, the Senate committee expressed concern that, if the drawdown were carried out too quickly, while large U.S. forces remain deployed in Afghanistan and Iraq, troops would have too little time at home between deployments abroad.

The final version of H.R. 1540 includes a House-passed provision (Section 522) requiring the Secretary of Defense to establish a policy on dwell time and to establish a data base that would monitor service member's actual ratio of time deployed to time at home.

### *Shaping the Drawdown*

In its report, the Senate committee urged DOD, in deciding where to make further cuts in the force, to be mindful of service members who have served during a decade of combat operations, but have not yet completed the 20 years of service required to qualify for military retired pay:

...[F]uture reductions in force, while necessary, must be accomplished in a responsible manner, taking into account the wartime service and contribution of service members, particularly those with over 15 years of service. The nation owes it to our service members and their families, especially after enduring the challenges of 10 years of war, to carefully balance many factors in deciding how to draw down responsibly and fairly.<sup>22</sup>

### **National Guard, the JCS, and Other Reserve Component Issues<sup>23</sup>**

The final version of H.R. 1540, like both the House and Senate versions of the authorization bill, contains a provision making the Chief of the National Guard Bureau a member of the Joint Chiefs of Staff (JCS). The conference provision (Section 512) also provides that, as a JCS member, the Guard chief "has the specific responsibility of addressing matters involving non-Federalized National Guard forces in support of homeland defense and civil support missions."

### *Vice Chief of the National Guard Bureau*

In 1994, Congress established the position of Vice Chief of the National Guard Bureau, with the grade of major general (two-star rank).<sup>24</sup> The position was redesignated as the Director of the National Guard Bureau Joint Staff ten years later to reflect the duties of the position in light of the

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<sup>21</sup> H.Rept. 112-78, Report on the National Defense Authorization Act for FY2012, pp. 127-28.

<sup>22</sup> H.Rept. 112-26, p. 105.

<sup>23</sup> This section was prepared by Lawrence Kapp, Specialist in Military Manpower Policy.

<sup>24</sup> P.L. 103-337, section 904(a).

Bureau's reorganization, which included a joint staff drawn from both Army and Air National Guards.<sup>25</sup>

The conference version of H.R. 1540, like the versions passed by the Senate and House, includes a provision that reestablishes the position of Vice Chief with the grade of lieutenant general (three-star rank). Like Section 511 in the final bill, the corresponding provisions in the bills passed by the House (Section 511) and the Senate (Section 1602) specify that the Vice Chief is to be nominated by the President subject to Senate confirmation.

### ***National Guard Relationship with U.S. Northern and Pacific Commands***

The conference report on H.R. 1540 dropped from the bill a provision in the Senate version (Section 1607) which would have specified that United States Northern Command (NORTHCOM) and United States Pacific Command (PACOM) are the combatant commands primarily responsible for defense support of civil authorities in the United States. The Senate provision also would have required the NORTHCOM and PACOM commanders, in the discharge of this responsibility, to:

- Assist States in the employment of National Guard forces under state control, in consultation with and acting through the Chief of the National Guard Bureau and state National Guard headquarters;
- Facilitate the deployment of active duty forces to augment and support National Guard forces under state control; and
- Develop a memorandum of understanding with the Chief of the National Guard Bureau setting forth operational relationships and individual roles and responsibilities during responses to domestic emergencies.

The conference report includes a modified version of another provision of the Senate bill (Section 1608) that would have stipulated that the commander of Army North Command (a subordinate command of NORTHCOM) shall be an Army National Guard officer and the commander of Air Force North Command (another subordinate command of NORTHCOM) shall be an Air National Guard officer. In the final version of the bill, that provision was modified to require that fully qualified officers of the Army and Air National Guard be considered for appointment to those positions (Section 518).

### ***Reserve Activation Authorities***

The final version of H.R. 1540 includes two provisions that give executive branch officials more flexibility to activate units and individuals in the reserve components.

Section 516 in the conference version of the bill, which is very similar to Section 511 in the Senate bill, adds a new authority to involuntarily call up individuals and units of the Selected Reserve, and the Individual Ready Reserve's "mobilization category,"<sup>26</sup> for up to 365 days of

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<sup>25</sup> P.L. 108-375, section 508.

<sup>26</sup> 10 USC 10144(b) specifies that individuals may not be placed in the Individual Ready Reserve mobilization category unless "(A) the member volunteers for that category; and (B) the member is selected for that category by the Secretary concerned, based upon the needs of the service and the grade and military skills of that member." DOD has not made it (continued...)

active duty. No more than 60,000 members of the National Guard and Reserves may be serving on active duty under this authority at any given time. The authority to activate reservists under this provision rests with the service secretary, but it may only be invoked for missions that are “preplanned” and where the reserve component activations were budgeted for.

According to the Senate Armed Services Committee report on the Senate bill, this new authority “is not designed for use for emergent operational or humanitarian missions, but rather to enhance the use of reserve component units that organize, train, and plan to support operational mission requirements to the same standards as active component units under service force generation plans in a cyclic, periodic, and predictable manner”<sup>27</sup> There was no analogous provision in the House bill. The provision in the final bill was modified to provide that this authority could be used only preplanned missions in support of a combatant command.

A second provision of the final version of the bill, Section 515, which was adopted without change from the Senate version of the bill, allows the Secretary of Defense to involuntarily order units and individuals of the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve to active duty for up to 120 days “when a governor requests federal assistance in responding to a major disaster or emergency.” National Guard forces are not included in this authority, but state governors already have the ability to activate their state National Guard forces and to request support from other state National Guards under the Emergency Management Assistance Compact. The Coast Guard Reserve already has a short-term, disaster response activation authority (14 USC 712). There was no analogous provision in the House bill.

## **TRICARE Fees**

The final version of H.R. 1540 allows the administration to increase (for the first time since 1995) enrollment fees for TRICARE Prime, an HMO-style managed care plan that offers the most comprehensive coverage among the nine options offered by DOD’s TRICARE medical insurance programs for servicemembers, retirees and their dependents. Accordingly, as the administration had proposed in its FY2012 budget request, enrollment fees for TRICARE Prime increased by \$30 per year for individuals (to \$260) and by \$60 per year for families (to \$580).

However for FY2012 and for later years, the bill (Section 701) allows the fees to increase no faster than the rate of increase of military retired pay. The administration had proposed that, in future years, the fees increase annually at the same rate as the National Healthcare Expenditure (NHE) Index, a measure of health spending calculated by the federal agency that manages Medicare and Medicaid. The NHE index is projected to increase at an average annual rate of 5-6% over the next decade.<sup>28</sup>

The House Armed Services Committee (HASC) Personnel Subcommittee proposed including in H.R. 1540 a one year prohibition on increasing TRICARE Prime fees, similar to prohibitions

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(...continued)

a priority to fill this "mobilization category" and currently there are no members assigned to it.

<sup>27</sup> S.Rept. 112-26, p. 110.

<sup>28</sup> Testimony of Jonathan Woodson, M.D., Assistant Secretary of Defense (Health Affairs) before the Senate Armed Services Committee Personnel Subcommittee, May 4, 2011, available at [http://www.tricare.mil/tma/congressionalinformation/downloads/2011/05-04-11%20SASC-P%20DoD%20Focus%20Hearing%20Statement%20\\_Woodson\\_%20-%20FINAL.pdf](http://www.tricare.mil/tma/congressionalinformation/downloads/2011/05-04-11%20SASC-P%20DoD%20Focus%20Hearing%20Statement%20_Woodson_%20-%20FINAL.pdf).

Congress has included in several prior defense authorization bills. But instead, the full House committee included in the bill a provision (Section 701) that would have limited increases in any future year to the percentage by which military retired pay is increased in the same year. In its analysis of H.R. 1540, the Congressional Budget Office estimated that this provision would allow the fees to increase by about 2% annually over the next decade.<sup>29</sup>

The Senate bill contained a similar provision (also designated Section 701). However, in its report on the bill the Senate committee said it would consider options for phasing in a more rapid increase in TRICARE fees, as early as FY2014.

### **Don't Ask, Don't Tell<sup>30</sup>**

The final version of H.R. 1540, included a provision (Section 544) – identical to a provision the the Senate had adopted as an amendment to its version of the bill -- allowing any military chaplain to decline, on grounds of conscience or moral principle, to officiate at any marriage. That issue had been raised by some critics of the repeal in December 2010 of the 1993 law barring openly homosexual persons from military service, policy colloquially referred to as, “don't ask, don't tell” (DADT).<sup>31</sup>

The conference report did not include any of three provisions of the House-passed bill backed by opponents of DADT repeal. These provisions would have:

- Deferred repeal of the 1993 law until the senior uniformed officer of each service certifies, in writing, that repeal would not degrade the combat readiness, cohesion or morale of units (Section 533).
- Affirmed that any DOD ruling or regulation concerning a service member of DOD civilian employee will conform with the provision of the Defense of Marriage Act (P.L. 104-199) which defines “marriage” as only a legal union of one man and one woman (Section 534).
- Required that any marriage performed in a DOD facility or by a military chaplain or other DOD official acting in an official capacity conform to the same definition of “marriage” (Section 535).

The conference report did take one other action that was supported by some critics of DADT repeal, by dropping a provision in the Senate bill (Section 551) that would have repealed Article 125 of the Uniform Code of Military Justice (UCMJ), which prohibits sodomy and bestiality. The provision also would have amended Article 120 the UCMJ to prohibit forcible sodomy.

In its report on the bill, the Senate Armed Services Committee said the proposed change had been recommended by the Joint Services Committee on Military Justice, which is a committee of senior military lawyers, and by a DOD task force that made recommendations in 2009 to reduce the incidence of sexual assault in the military. The committee said that all instances of forcible

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<sup>29</sup> H.Rept. 112-78, Part 2.

<sup>30</sup> For background, see CRS Report R40782, “*Don't Ask, Don't Tell*”: Military Policy and the Law on Same-Sex Behavior, by David F. Burrelli, and CRS Report R40795, “*Don't Ask, Don't Tell*”: A Legal Analysis, by Jody Feder.

<sup>31</sup> The 1993 legislation was repealed by H.R. 2965 which was enacted on December 22, 2010 as P.L. 112-321.

sodomy that currently could be prosecuted under Article 125 could be prosecuted under Article 120 as amended by the bill. However the committee's action drew some public objections.

### **Analysis of issues related to the 'Don't Ask, Don't Tell' Policy**

For a more comprehensive analysis of issues related to legislation and DOD policy concerning service of openly homosexual persons in the armed forces, see CRS Report R40782, *"Don't Ask, Don't Tell": Military Policy and the Law on Same-Sex Behavior*, by David F. Burrelli, CRS Report R40795, *"Don't Ask, Don't Tell": A Legal Analysis*, by Jody Feder.

## **Women in Combat**

In its report on H.R. 1540, the House committee took a matter-of-fact approach to the sometimes contentious issue of military women being placed in combat situations. The committee noted that it had heard from a number of service women who had been deployed in Iraq and Afghanistan that they found body armor designed for male soldiers to be restrictive and uncomfortable.

The committee notes that the current counterinsurgency and dismounted operations in [Iraq and Afghanistan] place service women in direct combat action with the enemy. The committee believes there is merit in conducting an evaluation as to whether there is an operations need to tailor interceptor body armor systems...specifically for the physical requirements of women....The committee commends the Army for acknowledging this issue and encourages the acceleration of these efforts to help determine the most effective organizational clothing and individual equipment, to include body armor and associated components, for military service women.<sup>32</sup>

## **Acquisition Policy**

Both the House and Senate versions of the defense authorization bill included provisions intended to promote greater use of competitive procedures in DOD contracting for the acquisition and maintenance of weapons systems.

### **Competition-Promoting Provisions**

The conference report on H.R. 1540 incorporated (in some cases, with modifications) several provisions drawn from the House and Senate versions of the bill that are intended to promote greater use of competition in DOD contracting, not only for complex weapons but also for their principal components.

For instance, the final version of the bill includes (Section 837) a modified version of a provision in the House bill (Section 326) ) requiring DOD to consider using competitive procedures in awarding maintenance contracts for components and subsystems of major weapons. Noting in its report on H.R. 1540, that the Weapons System Acquisition Reform Act (WSARA) of 2009 (P.L. 111-23) requires the use of competitive procedures in maintaining a weapons system, the House Armed Services Committee faulted DOD for relying unnecessarily on sole-source maintenance contracts.<sup>33</sup>

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<sup>32</sup> H.Rept. 112-78, pp. 48-49.

<sup>33</sup> For background on WSARA, see CRS Report RL34026, *Defense Acquisitions: How DOD Acquires Weapon Systems and Recent Efforts to Reform the Process*, by Moshe Schwartz, pp. 19-20.

As an example of the potential for savings, the committee estimated that DOD could reduce its annual maintenance costs by \$2 billion if it awarded competitively the maintenance contracts for the large number of its jet engines that are variants of commercial engines for which there are many suppliers and maintenance contractors.

The final version of the authorization bill also incorporated provisions drawn from the House and Senate versions that:

- Require the Air Force conduct a competition to select the engines to be used in a new long-range bomber the service is trying to develop (Section 220);<sup>34</sup>
- Require the Navy to designate as a “major subprogram” an electro-magnetic catapult intended to launch planes from the Navy’s next class of aircraft carriers, with the aim of ensuring high-level oversight of the catapult program (Section 221);<sup>35</sup>
- Require DOD to report on how it plans to implement, as part of the F-35 Joint Strike Fighter Program, provisions of WSARA that require major weapons programs to allow for the possibility of periodic re-competition for the prime contract and for major subcontracts (Section 149);<sup>36</sup>
- Prohibit the Navy from spending more than 75% of the \$121.2 million authorized for the Unmanned Carrier-Launched Airborne Surveillance and Strike (UCLASS) system – a program to develop a long-range, drone bomber -- until DOD certifies to Congress that the program incorporates “open architecture standards” (Section 213).<sup>37</sup> An open architecture is a computer or software system based on specifications that are publicly known and thus relatively easy to modify with products of a manufacturer other than the original contractor—a characteristic intended to encourage competition designing and building the system and its components.

The conference report rejected the Senate’s proposal to shift the authorization of \$142.2 million for the development of improved communication satellites out of the budget line that funds improvements in the existing satellites into a new budget line. In its report, the Senate Armed Services Committee had contended that the proposed change would enhance competition by giving companies not associated with the current satellite a better chance of competing for the funds.

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<sup>34</sup> This is a modified version of a provision in the House bill that also was designated Sec. 220.

<sup>35</sup> Unlike the corresponding House provision (also Sec. 221), the conference report’s restriction would lapse once operational testing of the so-called Electro-Magnetic Aircraft Launch System (EMALS) has been completed.

<sup>36</sup> This provision is identical with Sec. 153 of the Senate-passed version of H.R. 1540.

<sup>37</sup> The House bill included a provision (Sec. 223) that would have barred spending more than 15% of the UCLASS appropriation until DOD officials certified to Congress certain details about its plans for producing the aircraft. The Senate bill included a provision (Sec. 213) that would have prohibited spending more than 50% of the UCLASS funds until DOD officials reported certain details about the program and certified that it would entail “open architecture.”

## **Other Acquisition-related Provisions**

### ***Political Contribution Reporting Ban***

The final version of H.R. 1540 included a provision (Section 823) similar to Section 847 of the House version of the bill that prohibits the government from requiring, as a condition of bidding on a government contract, that the bidder disclose any political contributions, except to the extent that the collection and disclosure of such information is allowed by the Federal Election Campaign Act of 1971 (P.L. 92-225).

The Senate version of the bill included a similar provision (Section 845) that would have applied only to DOD contractors. A widely-reported (but never issued) draft executive order would have required the bidders to disclose political contributions to any candidate or party competing for a federal office in the two years preceding the bid.

### ***Allowable Cost Limits on Contractor Salaries***

Both the House and Senate versions of H.R. 1540 would have expanded the scope of an existing limitation on the amount of total compensation for certain employees which a contractor could claim as a reimbursable cost under certain types of contracts. Under current law (10 U.S.C. 2324e.1), no contractor could claim as an allowable expense on a federal contract more than \$693,951.00 in total annual compensation for any of its five most senior executives.<sup>38</sup>

Section 803 of the House-passed bill would have extended that cap on allowable compensation costs to cover all contractor employees. As reported by the Senate Armed Services Committee, Section 842 of the Senate bill would have extended the cap to cover all executives of a firm, but not other employees. During Senate debate on the bill, an amendment was adopted that would have lowered the cap on the amount of compensation for an executive that could be claimed as a reimbursable expense to the annual compensation of the President of the United States (currently \$400,000).

The final version of H.R. 1540 retains the current cap on allowable compensation rather than reducing it to the level of the President's compensation. However the final bill (Section 803) applies the cap to all contractor employees except that the Secretary of Defense may allow for narrowly targeted exceptions for scientists and engineers.

### ***Nunn-McCurdy Triggers***

The final version of the bill includes a Senate provision (Section 831) that modifies the so-called Nunn-McCurdy rules which require various high-level reviews of any acquisition program that exceeds its baseline cost estimate by more than a specified percentage.<sup>39</sup> The provision exempts

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<sup>38</sup> The amount of that cap is calculated by the Office of Federal Procurement Policy (OFPP) using a methodology prescribed in 41 U.S.C. 435.

<sup>39</sup> In the Senate bill, this was Sec. 801. For background, see CRS Report R41293, *The Nunn-McCurdy Act: Background, Analysis, and Issues for Congress*, by Moshe Schwartz.

from this requirement programs for which a sharp rise in the projected unit-cost was the result of a decision to reduce the number of units that would be purchased.

### *Hedging Against Technical Risk*

The final version of H.R. 1540 reversed or ameliorated four steps that would have been mandated by the Senate bill which the Senate Armed Services Committee had justified as efforts to slow or kill high-profile development programs which the Committee said were technically promising but risky and, in any case, lower priorities than other projects that could produce usable weaponry sooner.

Section 212 of the Senate version of the bill would have barred any funding for development of a new satellite communication system for the B-2 stealth bomber until the Air Force sends Congress a detailed report on the projected cost and schedule of the effort. At issue is the effort to develop an antenna that would allow the plane to send and receive information over the Pentagon's satellite-based global information grid 100 times as fast as the bomber's current communication system. The committee said it wanted more detailed analysis of the technical risks of developing a novel type of antenna the bomber would need, including the risk that the antenna would compromise the plane's stealthiness.

The final version of the bill (Section 216) allows the Air Force to spend no more than 60% of the amount appropriated for the new satellite before submitting to Congress the report as described in the Senate provision. The bill would authorize \$224.5 million of the \$285.0 million requested for the communications upgrade.

The final version also authorizes the amounts requested for two programs for which the Senate bill would have denied funding:

- \$30.0 million to continue work on the so-called “free electron” laser, one of several types of lasers the Navy is considering to protect ships against cruise missiles and swarms of small speedboats; and
- \$26.9 million to continue development of an electromagnetic “rail gun”—a Navy project intended to use magnetic energy rather than gunpowder to propel bullets and artillery shells for ships' self-defense and to strike distant surface targets.

The final version of H.R. 1540 also makes a smaller reduction than the Senate version would have done in the funding requested to continue testing the Airborne Laser Test Bed (ALTB) – a modified Boeing 747 equipped with a massive, anti-missile laser. The Senate bill would have cut \$60.0 million the request whereas the final version cuts \$46.3 million from the program.<sup>40</sup>

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<sup>40</sup> After the final version of H.R. 1540 was cleared for the President's signature, DOD reportedly terminated the ALTB program. See Amy Butler, “Grounded: Airborne Laser No More,” ARES, December 21, 2011, accessed at <http://www.aviationweek.com/aw/blogs/defense/index.jsp?plckController=Blog&plckBlogPage=BlogViewPost&newsPaperUserId=27ec4a53-dcc8-42d0-bd3a-01329aef79a7&plckPostId=Blog%3a27ec4a53-dcc8-42d0-bd3a-01329aef79a7Post%3a2cce307f-7e3e-4d24-978c-f7d2adc09212&plckScript=blogScript&plckElementId=blogDest>.

### ***'Counterfeit' Electronic Components<sup>41</sup>***

The final version of the bill includes a provision (Section 818) that was a modified version of a provision of the Senate bill (Section 848) that would allow DOD to revise its Supplement to the Federal Acquisition Regulation to:

- hold prime contractors responsible for detecting and avoiding the inclusion of counterfeit electronic parts in items acquired by the DOD; and
- require contractors to bear the cost of any rework that necessary to remove suspected counterfeit parts.

The provision also requires contractors to establish internal processes for detecting counterfeit parts. Such contractor processes are subject to approval by DOD and, if disapproved, could result in the withholding of payments to the contractor.

### ***Small Business Innovation<sup>42</sup>***

The final version of H.R. 1540 includes a modified version of a section of the Senate bill that reauthorizes the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs.

The Small Business Innovation Development Act of 1982, P.L. 97-219, created Small Business Innovation Research (SBIR) programs within the major federal research and development (R&D) agencies. This effort was intended to increase participation of small innovative companies in federally funded R&D. Government agencies with budgets of \$100 million or more to support R&D work by non-federal entities are required to set aside a portion of these funds to support research and development in small firms through the SBIR program.

In general, Division E of H.R. 1540, as agreed to in conference, reauthorizes the SBIR through September 30, 2017; incrementally expands the set-aside to 3.2% by FY2017 and beyond; increases the amount of Phase I and Phase II awards; allows NIH, DOE, and NSF to award up to 25% of SBIR funds to small businesses that are majority-owned by venture capital companies, hedge funds, or private equity firms and other agencies to award up to 15% of SBIR funds to such firms; creates commercialization pilot programs; and expands oversight activities, among other things.

STTR, modeled after SBIR, was established by the Small Business Technology Transfer Act of 1992 (P.L. 102-564, Title II) as a pilot program to foster the commercialization through small businesses of technologies developed by non-profit research institutions. Government agencies with R&D budgets of \$1 billion or more are required to set aside a portion of these funds to finance the STTR activity. In addition to reauthorizing STTR through 2017, H.R. 1540 would gradually increase the set-aside for this program to 0.6% of an agency's R&D funding by FY2017 and beyond.

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<sup>41</sup> The section was written by Moshe Schwartz, Specialist in Defense Acquisition, Congressional Research Service.

<sup>42</sup> This section was written by Wendy H. Schacht, Specialist in Science and Technology Policy, Congressional Research Service.

The corresponding sections of the Senate bill would have reauthorized the two programs for longer periods over the course of which the set-asides would increase to higher levels.

### **Detailed Analysis of SBIR and STTR Reauthorization**

For additional background on SBIR and STTR and a more detailed analysis of the reauthorization of these programs, see CRS Report 96-402, *Small Business Innovation Research (SBIR) Program*, by Wendy H. Schacht, and CRS Report RS22865, *The Small Business Innovation Research (SBIR) Program: Reauthorization Efforts*, by Wendy H. Schacht.

## **Ground Combat Systems**

### **M-1 Tanks and Bradley Troop Carriers**

The House and Senate Armed Services Committees both challenged DOD's plan to shut down—for at least a couple of years—the assembly facilities that originally manufactured new M-1 tanks and, for more than a decade, have rebuilt existing tanks with improved communications equipment and sensors. As a cost-saving measure, DOD plans to shut down the line in FY2013 and then to restart them for a new tank modification in FY2016. (See **Table A-3** for authorization action on selected ground combat systems.)

The committees objected that closing the lines and then reopening them could cost more than continuing to operate them at a low rate, partly because some component suppliers and assembly-line technicians familiar with these programs could move on to other work, forcing the prime contractors to train new suppliers and workers before they could resume production. Accordingly, the House bill would have authorized an additional \$272 million and the Senate version an additional \$240 million to sustain the Abrams production line.<sup>43</sup> The conference report authorizes an additional \$255 million intended to bridge the planned gap in the production line.

The budget request assumed a similar hiatus in the production line that upgrades Bradley armored troop carriers, and the House committee challenged that decision for the same reasons it objected to the tank plan. For that reason, the House version of the authorization bill also would have added to the budget request \$153 million to continue Bradley upgrades. Neither the Senate bill nor the final version of H.R. 1540 authorized any increase for Bradley upgrades.

### **Ground Combat Vehicle (GCV)**

The House and Senate bills both approved the request for \$884 million to continue development of a new armored troop carrier for the Army designated the Ground Combat Vehicle (GCV). However, the House committee added to H.R. 1540 a provision (Section 211) that would have barred the use of 30% of those funds until the Army provides Congress with a report comparing the proposed new vehicle with alternatives, including the most recently upgraded version of the Bradley troop carrier.

The committee continues to support the Army's goal of pursuing a modernized combat vehicle. However, before the Army starts another major development program that could

<sup>43</sup> The original Senate Armed Services Committee bill, S. 1253, would have authorized an additional \$322 million for Abrams upgrades.

cost over \$30.0 billion, the committee must be convinced that the GCV will be significantly more capable than an upgraded version of current fielded platforms.<sup>44</sup>

The House committee noted that the Army wants a troop carrier that could carry three more soldiers than the six carried by the Bradley (in addition to a vehicle crew of three), but said that should not be “the primary attribute” that determines whether to proceed with a new vehicle.

The final version of H.R. 1540 authorizes \$449 million for the new troop carrier -- slightly more than half the amount requested. The bill also included a provision (Section 211) barring the expenditure of more than 80% of the authorized amount until the congressional defense committees receive a report comparing the planned new vehicle with various alternatives, including improved versions of vehicles already in service. In their report on the bill, the conferees reiterated the House committee’s demand for, “...assurances that the GCV will be significantly more capable than a potentially less expensive, upgraded version of currently fielded platforms.”<sup>45</sup>

### **Expeditionary Fighting Vehicle (EFV)**

The House and Senate Armed Services Committees both objected to DOD’s stated rationale for cancelling development of the Expeditionary Fighting Vehicle (EFV), an amphibious armored troop carrier intended to replace the Marine Corps’s current amphibious tractor, designated the AAV-7, which dates from the early 1970s. Former Defense Secretary Robert Gates had cited as grounds for the cancellation EFV’s cost and technical complexity, much of which was due to the design goal of enabling the new vehicle to carry Marines ashore at speeds of nearly 30 mph—about four times the speed of its predecessor. The speed specification—which required the EFV to “plane” over the surface of the water like a speedboat—had been justified by the argument that, in future conflicts, transport ships would have to launch the troop carriers from 25 miles offshore (to avoid enemy defenses) and Marines would lose their fighting edge if they were cooped up inside their troop carriers for more than an hour.<sup>46</sup>

In drawing up the specifications for a cheaper substitute for EFV, designated the Armored Combat Vehicle (ACV), the Marines have assumed that a troop carrier with more ergonomically sound seating and environmental control would allow troops to tolerate a longer ride to the beach. Moreover, the Navy now assumes that it can protect ships closer to shore than 25 miles. In combination, those assumptions allow the Marines to require that the ACV plow through the water at about 12 miles per hour, allowing a simpler (and thus cheaper) design. The Marines also plan to acquire a heavily armored, non-amphibious armored troop carrier called the Marine Personnel Carrier (MPC).

### ***House-passed Bill***

The House bill would have authorized the amounts requested to upgrade the amphibious troop carriers currently in service and slightly increase their speed (\$60.8 million) and to develop both

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<sup>44</sup> H.Rept. 112-78, p. 88. For background, see CRS Report R41597, *The Army’s Ground Combat Vehicle (GCV) Program: Background and Issues for Congress*, by Andrew Feickert.

<sup>45</sup> Ibid.

<sup>46</sup> For background, see CRS Report RS22947, *The Marines’ Expeditionary Fighting Vehicle (EFV): Background and Issues for Congress*, by Andrew Feickert.

the new amphibious ACV (\$12.0 million)—which would be designed to travel at about half the speed for which the EFV had been designed—and the non-amphibious MPC (\$34.9 million).

In its report on the bill, the House Armed Services Committee said DOD had provided no explanation for its decision to reduce the speed requirement for the new troop carrier. It added to the House bill a provision (Section 214) barring the use of any funds authorized by the bill to work on either improvements to the existing AAV-7 or development of the new ACV until the Secretary of the Navy submits to the committee a written certification of the Marines' requirements, including the distance offshore from which an amphibious assault would be launched and the speed at which an amphibious troop carrier should be able to travel. The Navy Secretary also would have been required to submit an analysis of alternative vehicles the Marines might acquire, including an improved version of the AAV-7, the cancelled EFV, and the proposed new, slower ACV.

### ***Senate-passed Bill***

The Senate version H.R. 1540 would have cut \$25 million from the total of \$95.7 million requested to (1) develop improvements to the existing AAV-7 and (2) develop the non-amphibious MPC. In its report, the Senate Armed Services Committee expressed dissatisfaction with the Marine Corps' plan to develop both the amphibious ACV and the non-amphibious MPC in wake of the EFV cancellation. The committee also added to the bill a provision (Section 241) that would have slowed the Marines' timetable by requiring:

- A thorough analysis of alternatives before proceeding with the new amphibious vehicle (the ACV); and
- An assessment by DOD of the life-cycle cost of the Marines entire planned fleet of combat vehicles.

The committee insisted that the Navy and Marine Corps substantiate—by tests and exercises, if possible—the more sanguine assumptions that undergird the less demanding speed requirement for the ACV. The panel also said that, since the ACV was designed to plow through the water rather than skim over it, it could be more heavily armored than the EFV and, thus, might obviate the need for a separate fleet of non-amphibious, armored troop carriers (MPCs).

### ***Conference Report***

The final version of the bill – like the Senate version -- authorizes \$12.0 million, as requested for the proposed EFV replacement (the ACV) and \$70.7 million of the \$90.7 million requested to develop upgrades for the AAV-7 and to develop the MPC. A provision of the bill (Section 214) allows DOD to proceed immediately to:

- develop improvements for the existing AAV-7,
- refine the specifications for the proposed ACV, and
- conduct a comparison of the ACV with certain alternative vehicles, including the EFV and a modified version of the AAV-7.

However, the provision bars any other amphibious vehicle development work until the Marine Corps sends Congress a report on regional commanders' views about how far offshore the ships

carrying a Marine landing force should remain and how quickly their amphibious vehicles should get them from ship to shore.

## Shipbuilding

The final version of H.R. 1540 authorizes funds to build 12 ships, as requested (as both the House and Senate versions of the bill would have done). The ships for which most of the total cost is authorized in FY2012 include two *Virginia*-class submarines, a destroyer equipped with the Aegis anti-missile system, four Littoral Combat Ships (LCSs), a transport for amphibious landing troops, two high-speed cargo ships (JHSVs), an oceanographic research vessel and a Mobile Loading Platform (MLP)—a modified tanker intended to serve as a floating pier used to transfer combat vehicles and other equipment from cargo ships to landing barges. The bill also authorizes, as requested, partial funding for four ships that are being funded incrementally, over two or more years: an aircraft carrier, a helicopter carrier (designated an LHA), and the last two of a planned three destroyers of the DDG-1000 class. (See **Table A-5** for authorization action on selected shipbuilding programs.)

As requested, the Senate bill would have authorized \$14.9 billion for the Navy's shipbuilding account for 10 of the fully-funded ships and the four for which incremental funding is provided (including \$554.9 million for components to be used in a *Ford*-class aircraft carrier expected ultimately to cost \$12.3 billion). It also would have authorized \$223.8 million for one of the high-speed cargo ships which is funded in the Army budget and \$425.9 million for the MLP funded through a separate sealift account.

The House bill would have authorized the same amounts except that for the FY2012 increment of funding to build the \$3.3 billion helicopter carrier (or LHA), it would have authorized \$2.0 billion—\$50 million less than was requested.<sup>47</sup> The House bill also included provisions that would have allowed DOD to:

- Include funding for the LHA, currently divided between the budgets for FY2011 and FY2012, in the FY2013 budget, as well (Section 121); and
- Spread funding over five fiscal years instead of four years (as current law allows) for the *Ford*-class aircraft carrier currently under construction and for a sister ship slated for initial funding in the FY2015 budget (Section 127).

The final version of the authorization bill cut from the several shipbuilding programs amounts totalling \$150.8 million on grounds that the budget request assumed cost increases the conferees deemed excessive. The bill also included a provision (Section 124) that would allow funding over five years for the *Ford*-class carriers, but does not extend the allowable funding period for the LHA.

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<sup>47</sup> In separate actions, the House Armed Services Committee cut \$200 million from the LHA request, because of delays, and then added \$150 million to the reduced program, yielding a net reduction of \$50 million. A floor amendment to eliminate the \$150 million add-back was rejected by the House (see **Table 5**).

## **High-Speed Cargo Ships**

The final version of H.R. 1540 includes a Senate provision authorizing DOD to pay the Maritime Administration up to \$35 million, subject to appropriation, to acquire two high-speed catamaran ferries that had been built, with federal subsidies, to provide commercial ferry service in Hawaii. That venture was terminated because of environmental concerns and local objections. The two ships are similar in design to the JHSV cargo ships the Navy currently is acquiring to haul vehicles and personnel.

## **Aegis Anti-Missile Ship Requirements**

In its report on H.R. 1540, the House Armed Services Committee directed the Secretary of the Navy to report to the congressional defense committees on how the administration's plan to rely on Aegis-equipped cruisers and destroyers for anti-missile defense missions would affect the Navy's ability to perform other missions.<sup>48</sup> Particularly in light of the administration's plan to use Aegis ships to provide ballistic missile defense for Europe, some observers are concerned that demands by U.S. regional commanders for Aegis missile defense ships will leave the Navy with too few Aegis ships for other missions.

## **Carrier-based Unmanned Aerial Vehicles (UAVs)**

The House-passed versions of the bill authorized, as requested, \$198 million for the Unmanned Carrier-based Aircraft System (UCAS) project to test the feasibility of basing long-range, stealthy drone aircraft on aircraft carriers and an additional \$121.2 million to begin work on an operational unmanned bomber (designated the Future Unmanned Carrier-Based Strike System, or FUCSS) that could be deployed on carriers by 2018. In its report on H.R. 1540, the House Armed Services Committee said the Navy might be trying to move too quickly, since the ability of a drone to land on a carrier would not be tested until 2013 and the ability of a drone to refuel in mid-air from an unmanned tanker plane would not be tested until 2014.

Accordingly, the House bill included a provision (Section 223) that would allow the Navy to spend no more than 15% of the funds authorized to develop FUCSS until DOD officials certify to Congress (1) what the specifications are that the system is intended to meet, (2) that the Navy conducted an analysis of alternative ways of performing the intended mission, and (3) that the lessons learned from the UCAS project had been incorporated into the effort to develop an operational system.

The Senate bill would have authorized the amount requested for both the UCAS and FUCSS programs. Citing delays in the latter program, however, the Senate Armed Services Committee included in the bill a provision (Section 213) that would have barred the Navy from spending more than half the amount authorized for FUCSS until DOD certifies to Congress that the system's computer is based on so-called "open architecture" which would allow information technology companies other than the original developer to bid for maintenance and upgrade work on the system.

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<sup>48</sup> H.Rept. 112-78, p. 107. See CRS Report RL33745, *Navy Aegis Ballistic Missile Defense (BMD) Program: Background and Issues for Congress*, by Ronald O'Rourke.

The final version of H.R. 1540 includes a provision (Section 213) that would allow the Navy to spend no more than 75% of the funds available for the program until 60 days after various DOD officials have given Congress reports on various aspects of the program, including a certification that it incorporates open architecture standards.

## **Navy Ship Names**

The final version of the bill included a provision (Section 1014) incorporating language adopted by the Senate as a floor amendment to its version of the bill requiring DOD to report to Congress on policies and practices governing the naming of Navy ships.<sup>49</sup> Rules for giving certain types of names to certain types of ships have evolved over time. Moreover, there have been exceptions to the rules, particularly for the purpose of naming a ship for a person. Some such exceptions have been controversial.

## **Aircraft**

The House and Senate versions of the defense bill authorized the amounts requested for most types of aircraft except two Air Force V-22 Ospreys (\$70.0 million). Both committees said FY2012 funding was not needed for those aircraft, since they had been funded in the FY2011 Defense appropriations bill, a part of the FY2011 full-year appropriations bill (P.L. 112-10) that was enacted on April 15, 2011, two months after the FY2012 budget request was published. On the same grounds, the Senate version of the bill denied authorization of \$495 million requested for nine F/A-18E/F strike fighters that had been funded in the FY2011 bill.

The final version of H.R. 1540 denies authorization for one of the 32 requested F-35 Joint Strike Fighters (a reduction of \$151.0 million). On grounds that they had been funded in FY2011, the final bill also denies authorizations of \$70.0 million requested for two Ospreys and of \$163.5 million requested for an E-2C Hawkeye carrier-borne radar surveillance plane. Unlike the Senate version, the final bill authorizes the entire amount requested for F/A-18E/F fighters, including \$495 million for nine planes the Senate Armed Services Committee said had been funded in FY2011. (See **Table A-7** for authorization actions on selected aircraft programs.)

## **Mid-Air Refueling Tanker**

The Senate bill would have authorized \$742.1 million—\$135.0 million less than was requested—for the Air Force to develop a new mid-air refueling tanker designated the KC-46A. The aircraft, which is based on the Boeing 767 jetliner, was selected by DOD over a competing design submitted by the European consortium that manufactures Airbus jetliners.<sup>50</sup> The Senate committee said the reduced amount was what was required in FY2012 by the tanker contract. The House-passed bill would have cut the tanker request by \$27.2 million, to \$849.9 million.

The final version of the bill authorizes \$877.1 million for the tanker program, as requested. It also includes a provision (Section 244, which the House version of the bill had included as Section 241) requiring the GAO to give Congress an annual review of the program.

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<sup>49</sup> For background, see CRS Report RS22478, *Navy Ship Names: Background for Congress*, by Ronald O'Rourke.

<sup>50</sup> For background, see CRS Report RL34398, *Air Force KC-46A Tanker Aircraft Program: Background and Issues for Congress*, by Jeremiah Gertler.

## **F-35 Joint Strike Fighter**

In addition to cutting from the budget request authorization for one of the 32 requested F-35 Joint Strike Fighters, the final version of H.R. 1540 includes a provision (Section 143) requiring that the batch of F-35s which DOD is scheduled to buy in 2012 be purchased under a fixed-price contract that would exempt the government from paying any cost increase above the “target price” set by the contract.<sup>51</sup>

The Senate version of the bill (Section 152) would have required that a fixed price contract be used to buy the batch of F-35s for which DOD was negotiating with the contractor at the time that bill was being hammered out by Congress. The Senate Armed Services Committee had added that provision to the bill after it rejected, on a tie vote (13-13), an amendment offered by Senator John McCain that would have killed the F-35 program on December 31, 2012 if the program’s cost continued to exceed the target price by more than 10% (as it currently does).<sup>52</sup>

The final version of H.R. 1540 also included a Senate provision requiring DOD to describe the criteria the short-takeoff version of the plane would have to meet in order to end the “probationary” status to which then-Defense Secretary Gates had consigned it.

## ***F-35 Alternate Engine***

Although the House Armed Services Committee has been a staunch supporter of an effort to develop the F-136 jet engine, built by General Electric (GE) and Rolls-Royce, as an alternative to the Pratt & Whitney F-135 jet as the powerplant for the F-35 Joint Strike Fighter, it did not attempt to add to the budget request DOD funds for the second engine. GE and Rolls-Royce had announced plans to continue work on the engine through FY2012 using their own funds.<sup>53</sup>

By a vote of 55-5, the House committee added to its version of H.R. 1540 a provision that could facilitate the companies’ efforts to keep the program alive with their own money by requiring DOD to preserve intact and to make available to the contractors (at no cost to the government) any items associated with the alternate engine program (Section 252). Another provision of the House bill (Section 215) would have barred DOD from spending any funds to improve the power of the Joint Strike Fighter’s current engine (the F-135) unless it conducts a competition that would allow GE and Rolls-Royce to offer their engine as an alternative.

For its part, the Senate Armed Services Committee had included in the Senate version of the bill a provision (Section 211) prohibiting the use of any funds to continue development of the alternate engine and barring the companies from claiming reimbursement from the DOD for using their own funds to keep the project going.

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<sup>51</sup> This section of the final bill would govern the contract for the sixth batch of planes designated as “low-rate initial production” (LRIP) lots. The LRIP lots are relatively small batches of planes built to allow realistic testing before contracts are signed for a long-term production run. The corresponding Senate provision would have applied to the fifth LRIP lot.

<sup>52</sup> Senator McCain had offered his amendment to the Senate committee’s initial version of the FY2012 authorization bill, S, 1253.

<sup>53</sup> For background, see CRS Report R41131, *F-35 Alternate Engine Program: Background and Issues for Congress*, by Jeremiah Gertler.

On December 2, 2011 – the day after the Senate passed its version of H.R. 1540 but 10 days before conferees reported their compromise final version of the bill – GE and Rolls Royce announced they were dropping plans to continue developing the F-136 engine with their own funds.

As cleared for the President's signature, H.R. 1540 drops the Senate provision and includes modifications of the two House provisions:

- Section 223 requires that DOD preserve production and test equipment associated with the alternate engine until it determines whether it can be put to good use, preserved, or disposed of.
- Section 215 bars DOD from spending more than 80% of the funds appropriated for the Joint Strike Fighter until the Secretary of Defense certifies to the Armed Services and Appropriations Committees that plans for managing the acquisition and operation of the F-35 fleet include the use of competition for maintenance and sustainment of the aircraft, as required by the Weapons System Acquisition Reform Act (WSARA).

### **Light Armed Reconnaissance Aircraft**

The Senate bill would not have authorized \$159 million requested to buy nine relatively inexpensive ground attack planes (designated Light Armed Reconnaissance Aircraft or LARA) to train U.S. pilots who, in turn, would train pilots of allied governments facing local insurgencies. The committee said procurement of the planes would be premature, though the bill would have authorized the \$24 million requested for development of the program.

The final version of H.R. 1540 would authorize procurement of six of the planes, a reduction of \$43.5 million.

### **Next Generation Bomber and Prompt Global Strike**

As the House and Senate versions of H.R. 1540 would have done, the final version of the bill authorizes the requested \$197.0 million to develop a new, long-range bomber. In its report on H.R. 1540, the House Armed Services Committee faulted the Air Force for not performing a formal life-cycle cost analysis to determine whether the service should develop a single long-range aircraft for bomber and reconnaissance and other missions rather than developing a family of aircraft, each optimized for a different mission.<sup>54</sup>

The Senate version of the bill would have authorized \$204.8 million, as requested, to continue development of a so-called Prompt Global Strike (PGS) missile intended to carry a precision-guided conventional warhead thousands of miles at 20 times the speed of sound (about 14,000 mph). The House bill cut \$25.0 million from that request. In its report, the House committee said DOD was moving too quickly in trying to incorporate promising but unproven technologies into

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<sup>54</sup> H.Rept. 112-78, pp. 65-66. For background, see CRS Report RL34406, *Air Force Next-Generation Bomber: Background and Issues for Congress*, by Jeremiah Gertler. As noted above, the final version of H.R. 1540 included a provision (Section 220) requiring the Air Force to select the engines for the new bomber by a competitive process.

an operational weapon. It encouraged DOD to explore less risky technologies for the PGS mission.

The final version of H.R. 1540 tracks the House version, authorizing \$179.8 million for PGS.

## **Airlift**

The final version of H.R. 1540, like the House and Senate versions, would make relatively minor changes in the amounts requested to upgrade the Pentagon's fleet of cargo planes.

### ***Strategic Airlift (C-5, C-17)***

For long-range (or "strategic"), wide-body airlift, the administration requested a total of \$1.0 billion to improve the C-5 and \$330.4 million for modifications to the newer C-17 (counting procurement and R&D funding, in each case). The House bill would have cut \$6 million from each of those amounts. The Senate bill – and the final version – cut \$12.0 million from the C-5 request and \$33.9 million from the C-17 request.

The House and Senate Armed Services Committees each rejected a DOD request to include in the FY2012 authorization bill a provision that would repeal existing law—10 U.S.C. 8062(g)—that requires the Air Force to maintain a fleet of at least 316 long-range, wide-body cargo jets. The provision had been enacted in 2010 as part of the Ike Skelton National Defense Authorization Act for FY2011 (P.L. 111-383). However, on November 15, the Senate adopted by unanimous consent an amendment to its version of the bill that would allow the Air Force to reduce its long-range cargo fleet to 301 aircraft. That provision was included in the final version of H.R. 1540 (Section 131).

### ***Tactical Airlift***

For shorter-range (or "tactical") airlift, the final version of H.R. 1540 – like both the House and Senate versions of the bill would have done -- authorizes, as requested, \$1.08 billion for 11 C-130 Hercules aircraft, equipped for various missions, and \$479.9 million for nine smaller C-27 planes, designated Joint Cargo Aircraft. In the reports on their respective versions of the bill, the House and Senate Armed Services Committees each challenged DOD plans to:

- retire its fleet of 42 smaller C-23 cargo planes, which are used by National Guard units in both their federal role as combat units and in their state role, responding to natural disasters;
- cut the C-130 fleet from 395 planes to 335; and
- buy 38 C-27s rather than the 78 initially planned, using larger C-130 cargo planes already in inventory for missions that would have been flown with the 40 cancelled C-27s.

The House version of H.R. 1540 included a provision (Section 111) barring the retirement of any C-23s until a year after certain senior military and civilian officials give the congressional defense committees a report on the requirement for short-range cargo planes to perform both military and domestic emergency missions. The Senate adopted an amendment to its version of the bill

providing that, if the Secretary of the Army decides to retire any C-23, the governor of the state in which the plane is based may acquire it at no cost.

The final version of H.R. 1540 includes a modified version of the Senate provision and a requirement that the Army, Air Force, National Guard Bureau and Federal Emergency Management Agency (FEMA) produce a report on the number of airplanes and helicopters required to carry out certain missions including homeland defense and disaster response.

### **B-1 and U-2 Retirements**

The House and Senate versions of H.R. 1540 each would have allowed the Air Force to retire six of its 66 B-1B bombers, as requested, but with conditions attached.

The House version includes a provision (Section 131) that would have allowed the Air Force to retire six planes but would require it to keep 36 B-1B in combat-ready units and also to retain in service enough additional B-1Bs for training and maintenance service to support the 36 front-line aircraft.

The Senate version of the bill includes a provision (Section 134) that would have allowed the Air Force to retire six of the planes only after the Secretary of the Air Force sends Congress a plan indentifying the specific planes that would be mothballed, the amount of money that would be saved by the retirements, the amount of those savings that would be invested in modernizing the remaining B-1s and a plan for keeping the B-1 fleet updated through FY2022.

The final version of H.R. 1540 allows the Air Force to retire – at intervals -- a total of six B-1s by 2016 (Section 132).

The final version of the bill also includes in Section 133, with modifications, a provision of the Senate bill that bars the retirement of any U-2 reconnaissance planes until DOD certifies to Congress that Global Hawk long-range drones are cheaper to operate than the U-2s they are slated to replace.

### **Strategic Missile Subs, Arms Control, and Missile Defense**

The House and Senate versions of the bill each would have authorized, as requested, \$1.1 billion to begin development of a new class of ballistic missile-launching submarines that would replace the current *Ohio*-class subs starting in 2019. Although the Navy has reduced the projected cost of the new ships from an initial estimate of \$7 billion apiece to \$4.9 billion each, senior Navy officials have warned that the cost of a planned force of 12 subs could dramatically reduce for many years the funding available to build other types of ships.<sup>55</sup>

The House version of H.R. 1540 included a provision (Section 213) that would have required the Navy to justify its decision to reduce the number of missile launching tubes on each of the new submarines from 20 to 16. The House Armed Services Committee said that the new ships'

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<sup>55</sup> See CRS Report R41129, *Navy Ohio Replacement (SSBN[X]) Ballistic Missile Submarine Program: Background and Issues for Congress*, by Ronald O'Rourke.

contribution to the U.S. nuclear deterrent, “must not be compromised solely on the basis of the promise of potential cost savings,” resulting from a reduction in the number of missile tubes.<sup>56</sup>

The final version of the bill includes a provision requiring the Secretary of the Navy and the commander of the U.S. Strategic Command to jointly submit to Congress a report analyzing the cost and operational effectiveness of alternative missile sub fleets consisting of between eight and 12 ships, with either 16 or 20 missiles per ship.

### **Nuclear Arms Reductions (START Treaty)**

The House-passed version of H.R. 1540 included several provisions intended to (1) ensure that the Administration would follow through with a commitment it made in 2010 to modernize the Energy Department’s nuclear weapons production complex and (2) dissuade the Administration from reducing the U.S. nuclear arsenal or changing DOD’s nuclear war plans except as required by the Strategic Arms Reduction Treaty with Russia (dubbed START). During the 2010 debate leading up to Senate approval of the treaty, several senators had announced that their support for the treaty was conditional on modernization of the nuclear weapons complex.<sup>57</sup>

The Senate version of the bill included less restrictive provisions that paralleled some (but not all) of the House provisions. The final version of the bill included provisions that were analogous to the House provisions but, in general, were less restrictive.

In the final version of H.R. 1540, the provision governing nuclear force reductions (Section 1045) requires that, if President proposes to reduce the number of nuclear weapons below the current level, Congress would have to receive:

- A report from the commander of the U.S. Strategic Command providing a “net assessment” of the proposed (smaller) U.S. nuclear arsenal, comparing it with the nuclear forces of other countries to analyze how well it would meet U.S. strategic requirements; and
- A report from the Administrator of the National Nuclear Security Agency on the capacity of the U.S. network of nuclear weapons manufacturing facilities to respond to either changes in the international situation or technical problems that might show up in the U.S. weapons stockpile.

The Senate version of the bill would have required (if the President proposed a reduction below the number of weapons allowed by START) a net assessment of the proposed smaller force (Section 1047). The House bill would have prohibited (1) any reduction of U.S. nuclear forces below the START levels unless required by law or Senate-approved treaty, and (2) any START-required reductions until the Secretaries of Defense and Energy inform Congress, in writing, that the U.S. nuclear weapons manufacturing complex is being modernized (Section 1055).

The final version of H.R. 1540 would require:

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<sup>56</sup> H.Rept. 112-78, p. 89.

<sup>57</sup> The House Armed Services Committee summarizes the current state of the nuclear complex modernization plan in its report on H.R. 1540, H.Rept. 112-78, at pp. 304-06. For background on the New START Treaty, see CRS Report R41219, *The New START Treaty: Central Limits and Key Provisions*, by Amy F. Woolf.

- A biennial assessment by the senior military commanders of U.S. nuclear weapons forces of the submarines, bombers and missiles under their command and the communications systems used to control them (Section 1041). The House bill would have required such a report annually (Section 1051) while the Senate bill would have required a report every two years (Section 1073);
- A report by the Secretary of Defense on plans to carry out the reduction in nuclear forces required by START and the associated verification procedures (Section 1042). The House bill included a similar requirement (Section 1052).
- An annual report by the President on the status of plans to modernize the nuclear weapons stockpile, the nuclear weapons production complex, the U.S. force of nuclear-armed missiles, planes and subs as well as the associated command and control systems, and any plans to retire any nuclear weapons (Section 1043). The House bill included a similar requirement that did not include the nuclear command and control systems (Section 1053);
- A report to Congress on the implications for the “flexibility and resiliency” of the U.S. nuclear force of any change U.S. strategy for using the force (Section 1046). Unlike a similar provision in the House bill (Section 1056) this provision in the final bill would not require that any change in plans retain the current nuclear “triad” consisting of land-based ICBMs, long-range bombers and missile-launching submarines;
- An assessment by GAO of the U.S. strategic weapons forces and of the process by which DOD establishes policies, strategies and acquisition requirements regarding nuclear weapons (Section 1047). The House bill included a similar provision (Section 1057).

### **Anti-Ballistic Missile Defenses**

The final version of H.R. 1540 cuts a total of \$127.6 million from the \$8.63 billion requested for the Missile Defense Agency (MDA), making several adjustments to the amounts authorized for individual programs. The House version of the bill would have made a net reduction of \$105.7 million while the Senate version would have reduced the MDA total by less than \$1 million. (See **Table A-1** for authorization action on selected missile defense programs.)

### ***Ground-Based Anti-Missile Defense***

The House and Senate versions of H.R. 1540 each basically approved the administration’s funding request for the ground-based missile defense system deployed in Alaska and California. The final version of the bill authorizes \$1.16 billion for the program, as requested and approved by the Senate, rather than the \$1.26 billion approved by the House. Like both the House and Senate versions, the final bill also includes a provision (Section 234), requiring DOD to assess the causes for the system’s failure in its two most recent tests and laying out its plan to remedy the problem.<sup>58</sup>

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<sup>58</sup> Similar provisions were included in the House version of the H.R. 1540 (Sec. 234) and the Senate version (Sec. 232).

The final version of H.R. 1540 requires (Section 233) a report by the Secretary of Defense on DOD's "hedging strategy" intended to provide an alternative missile defense for U.S. territory in case the threat of long-range missile attack materializes sooner than current plans assume or in case the currently planned defenses run into technical problems or delays. Similar provisions were contained in the House version (Section 233) and the Senate version (Section 234) of the bill.

The final version did not include a provision of the House bill (Section 235) that would have required the Secretary of Defense to spend \$8 million on a report analyzing the technical feasibility, cost and effectiveness of a limited network of space-based anti-missile interceptors.

### ***Missile Defense Agreements***

The House version of the bill included a provision (Section 1228) that would have prohibited the sharing of sensitive anti-missile technology with Russia and requiring 60 days' advance notice to the congressional defense committees before any other missile defense technologies were made available to Russia. The Senate bill included a provision (Section 233) that would have the sense of Congress in support of the administration's efforts to pursue, in cooperation with Russia, missile defense programs that would protect Russia and the United States as well as other NATO members against ballistic missiles launched from Iran. The final version of H.R. 1540 included a provision (Section 1244) requiring 60 days' prior notice to the defense committees before Russia is given access to any sensitive missile defense technology.

The final bill did not include a House provision (Section 1229) that would have prohibited any international agreement affecting U.S. missile defenses that is not incorporated in either a Senate-approved treaty or enacted legislation.<sup>59</sup>

### ***Medium Extended Air Defense System (MEADS)***

The Senate version of the bill would have denied the entire \$406.6 million requested to continue development of the Medium Extended Air Defense System (MEADS), a mobile anti-aircraft and anti-missile system funded jointly with Germany and Italy. DOD had decided against producing the system, but planned to use it as a test-bed for improved missile defenses. In its report, the Senate committee urged DOD to negotiate with the other two countries a plan to pull out of the program at the lowest possible cost.

The House version of H.R. 1540 would have authorized \$257.1 million for MEADS, a reduction of \$149.5 million from the request. In its report, the House Armed Services Committee urged DOD to use promising technologies developed by the MEADS program to improve the existing Patriot air and missile defense system.

The final version of the bill authorized \$390.0 million for MEADS, but allows DOD to spend no more than 25% of that amount until DOD reports to Congress a plan to use the funds either to develop a scaled-down, cheaper version of the system or to negotiate with the other two countries

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<sup>59</sup> See CRS Report R41251, *Ballistic Missile Defense and Offensive Arms Reductions: A Review of the Historical Record*, by Steven A. Hildreth and Amy F. Woolf.

a way to terminate the program. In their report on H.R. 1540, House and Senate conferees said that the cost to DOD of killing the program could be as high as \$800 million.

## **Military Construction Issues**

### **Global Deployments**

The final version of H.R. 1540 includes a provision (Section 347) requiring an independent analysis of the strategic value and cost of the network of U.S. bases around the world. The study is to be conducted by a federally-financed research and development center (FFRDC) such as the RAND Corporation or by a non-profit research organization with recognized expertise in national security issues.

In its report on S. 1253, the Senate Armed Services Committee directed the GAO to critique the assumptions and methodology that underpin DOD's cost-estimates for overseas basing, on the basis of which the Department has contended that little or nothing would be saved by relocating to bases in the United States some units currently stationed in Europe or Asia. In particular, the Senate committee told GAO to review the cost estimates associated with DOD's decisions (1) to leave in Europe three Army brigade combat teams that had been slated for withdrawal and (2) to increase the number of family members who could accompany U.S. military personnel stationed in South Korea (a process known as "tour normalization").

### **Asia-Pacific Region**

The final version of the bill also requires (Section 346) an independent assessment of U.S. security interests in the Pacific and Indian Oceans including a review of current U.S. forces and deployment plans in that region and options for changing deployment plans to take account the capabilities of prospective allies. Like the global posture assessment required by Section 347 of the bill, this review of the Pacific region is to be conducted by an FFRDC or a recognized defense think tank. The Senate bill included a similar provision (Section 1079).

DOD has announced plans to shift the focus of U.S. forces in the Pacific, oriented for decades toward Northeast Asia, to focus instead on South and Southeast Asia. In its report on S. 1253, the Senate Armed Services Committee expressed concern that the long-term strategic and budgetary implications of that change had not been adequately considered. It directed the Secretary of Defense to develop a 20-year plan outlining intended changes with estimates from each service of the annual cost of projected deployments including associated construction costs.

The Senate committee also directed the Secretary to provide, "an independent assessment of America's security interests in Asia, current force deployment plans, and likely future needs." The assessment, to be conducted by experts "drawn widely from throughout the country and the Asia-Pacific region," is to include DOD plans relating to South and Southeast Asia as well as plans to increase the number of U.S. troops in South Korea who could be accompanied by family, plans to shift Marines from Okinawa to Guam, and additional plans to increase the forces deployed on Guam.

### ***Families and Redeployments in South Korea***

The final version of the bill includes a provision (Section 2111), similar to Section 2113 in the Senate bill, that would block – for now -- continued implementation of DOD “Tour Normalization” policy, which would allow the number of families authorized to accompany U.S. troops to Korea to rise from its current level of about 4,700 to about 12,000. Since the new policy was adopted in 2010, the number of authorized families in Korea has nearly tripled. The bill prohibits any further increase in the number of families authorized to accompany U.S. troops in South Korea until:

- The Secretary of the Army gives Congress a master plan for implementing the tour normalization policy in Korea;
- DOD’s director of Cost Assessment and Program Evaluation carries out a comparative analysis of the costs and benefits of alternatives to the policy; and
- The policy is specifically authorized by subsequent legislation.

Prior to 2010, most U.S. personnel stationed in South Korea served there for one year, unaccompanied by family. The new policy would greatly increase the number of U.S. troops authorized to bring their families to Korea, in which case they would serve there for three years—the same period as U.S. service members stationed in Europe, who routinely are authorized to serve an “accompanied” tour. U.S. soldiers not accompanied to South Korea by family would serve a two year assignment under the new policy.

A GAO report<sup>60</sup> predicted that the construction of family housing and other family support facilities together with other costs of tour normalization would cost \$5.1 billion through FY2020 and \$22.0 billion through FY2050. The report also noted that DOD had not examined the cost and benefit of alternative policies, nor had it demonstrated that service members and their families would consider an accompanied three-year stint in South Korea to be an improvement to their quality of life.

The Senate Armed Services Committee report on S. 1253 requires a report from DOD on planned changes in the status of U.S. forces in Korea, including both Tour Normalization and a plan to redeploy U.S. forces in the country that could require military construction costs of up to \$18.1 billion by 2020. Under that plan, 10,000 U.S. troops currently stationed near the Demilitarized Zone (DMZ) bordering North Korea and 9,000 troops stationed in Seoul (plus their families) would be moved to one of two U.S. force “hubs” south of Seoul. The report is to provide the strategic rationale for massing the proposed troop relocation and a list of projected military construction projects that would be required (with cost estimates).

The final version of H.R. 1540, like the House and Senate versions of the bill, authorizes the \$122 million requested for three construction projects in South Korea.

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<sup>60</sup> U.S. Government Accountability Office, *Defense Management: Comprehensive Cost Information and Analysis of Alternatives Needed to Assess Military Posture in Asia*, GAO-11-316, 2011.

### *Marines on Guam and Okinawa*<sup>61</sup>

The final version of H.R. 1540 would restrict funding for a plan to relocate Marine Corps air units based on Okinawa and to increase the number of Marines stationed on Guam. Under a 2006 agreement with the Government of Japan, the Marine Corps flying units currently based at Futenma, in a densely populated part of Okinawa, would be moved to another U.S. base in a more remote part of the island where new runways would be built on several hundred acres of ocean landfill, at an estimated cost to the Japanese government of \$5 billion to \$10 billion. The plan has encountered strong political opposition on Okinawa, and in Tokyo.

The final version of the bill includes a provision (Section 2207) – similar to Section 2208 in the Senate version of the bill -- barring the use of any funds authorized by the bill to implement to proposed relocation of Marine units on Okinawa until:

- The Commandant of the Marine Corps reports to Congress his preference for basing Marine units in the Pacific;
- The Secretary of Defense submits to Congress a master plan (including a cost estimate) for the construction projects required by the Commandant's plan for stationing Marines on Guam;
- The Secretary certifies to Congress that “tangible progress” has been made toward relocating the Marine air units to the proposed new site on Okinawa; and
- Congress receives a plan that would coordinate all actions by other federal agencies to build and repair road and other infrastructure on Guam that would be affected by the proposed realignment.

In addition, the final bill goes beyond the Senate version in requiring specific legislative authorization for any spending by non-DOD federal agencies on Guam infrastructure as a result of the Marine Corps moves.

In its report on S. 1253, the Senate Armed Services Committee directed the Secretary of Defense to report to the House and Senate Armed Services Committees by December 1, 2011 on the feasibility of moving the Marine units currently at Futenma instead to Kadena Air Force Base in central Okinawa, making room for them at Kadena by some of the Air Force units currently at that base to Anderson Air Force Base on Guam or to other sites in the Pacific.

The final version of the bill authorizes \$19.2 million of the \$303.1 million requested for construction on Guam. But it also would add to the budget \$17.4 million for a wind farm on the island.

Much of the temporary labor force expected to construct the facilities on Guam needed to permanently relocate more than 8,000 Marines, their families, and other workers from Okinawa to Guam is expected to consist largely of foreign nationals granted legal immigration status under the H-2B visa program. Responsibility for maintaining the health of these workers lies not with the Department of the Navy or with the Government of Guam, but rather with the construction contractors. Nevertheless, Section 2841 of the final bill would prohibit the Secretary of the Navy

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<sup>61</sup> For additional background and more detailed analysis see CRS Report RS22570, *Guam: U.S. Defense Deployments*, by Shirley A. Kan.

from awarding any additional Navy or Marine Corps construction contracts of until he certifies that a system of health care for these H-2B workers is available.

### **Florida Carrier Homeport<sup>62</sup>**

The House version of H.R. 1540 had denied authorization for \$30 million associated with the Navy's plan to move a nuclear-powered aircraft carrier from Norfolk, Virginia, to Mayport, Florida (near Jacksonville), which previously was home to a conventionally powered carrier that has been retired. In its report on the bill, the committee said the proposed move was too expensive and was inconsistent with previous Navy decisions.

The Senate version of the bill authorized the Mayport funds, as requested: \$15.0 million for planning and design and \$15.0 million for roads and other infrastructure. It also included a provision (Section 1025) requiring Navy to analyze the costs and benefits of stationing additional destroyers at Mayport.

The final version of the bill requires (Section 1017) the study of stationing additional destroyers at Mayport. It also would authorize the \$15.0 million requested for roads and infrastructure, but not the \$15.0 million requested for planning and design.

### **Base Realignment and Closure (BRAC)**

Military base closure law set a deadline for the implementation of the 2005 round of military base realignments and closures (the 2005 BRAC round) of September 15, 2011. The Secretary of Defense, sensing that the complexity and scale of this fifth BRAC round might prevent all required actions from being completed, submitted a legislative proposal along with the FY2012 budget request that would provide for legislative relief for up to 10 BRAC recommendations. The House bill contained a provision authorizing DOD to extend implementation for up to seven recommendations for up to one year. The Senate amendment contained no such provision. By September 15, DOD notified the conferees that "essentially all but two recommendations were completed."<sup>63</sup>

One of these BRAC Commission recommendations requires the closure of the Umatilla Army Chemical Depot, Oregon, when its mission of demilitarizing chemical munitions is completed. This task is governed by international chemical munitions treaties. The last of the chemical munitions stored at Umatilla was disposed of in October 2011 and the plant there is in the process of closing.

The other incomplete recommendation required the location consolidation of a number of military medical commands. The conferees noted that this task "was dependent on actions by other congressional committees to approve a prospectus for a lease carried out by the General Services Administration. While the lease has been approved, the department is still in the process of carrying out the move."<sup>64</sup>

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<sup>62</sup> See CRS Report R40248, *Navy Nuclear Aircraft Carrier (CVN) Homeporting at Mayport: Background and Issues for Congress*, by Ronald O'Rourke.

<sup>63</sup> Ibid. p. 257.

<sup>64</sup> Ibid., p. 257. The General Services Administration (GSA) acts as the general landlord for all federal real property. (continued...)

Although the statute under which BRAC was carried out, the Defense Base Closure and Realignment Act of 1990, as amended, expired in April of 2006, the Secretary of Defense and the secretaries of the military departments have been granted permanent authority to close or realign military installations under 10 U.S.C. § 2687. Under this base closure and realignments statute, the secretaries cannot initiate a closure or significant realignment of an installation whose authorized DOD civilian workforce exceeds certain thresholds until the Committees on Armed Services are notified as part of an annual budget request submission, an evaluation of the fiscal, local economic, budgetary, environmental, strategic, and operational consequences of such closure or realignment is forwarded, and a delay of either 30 legislative or 60 calendar days is completed. Section 2704 of the conference report amended these restrictions by adding to that general evaluation a requirement for submission of the criteria used in considering the installations for closure or realignment, including at a minimum consideration of the ability of local infrastructure at both receiving and existing communities to support the resulting military populations and the costs associated with community transportation infrastructure improvements. The amendment would also require the secretary concerned, if he finds that a significant transportation impact will occur, to analyze the adequacy of transportation at and in the vicinity of each military installation affected by these actions, consult with the Secretary of Transportation regarding that impact, analyze the resulting impact on local businesses, neighborhoods, and local governments, and include a description of his remedial intentions in the congressional notification.

While the current base closure and realignment statute places restrictions on the defense secretaries based on the number of DOD civilian workers, Section 2864 of the conferees' bill amended Chapter 50 of Title 10, United States Code, by expanding the congressional notification requirement to include planned reductions in the number of service members assigned to permanent duty at a given military installation. The section would require the secretary concerned to notify Congress of any plan to reduce by more than 1,000 the number of armed forces personnel assigned to any installation. It barred the Secretary from taking any irrevocable action until he notifies the Committees on Armed Services of the proposed reduction, submits a justification for the reduction and an evaluation of its local strategic and operational impact, and a waiting period has expired. This provision would not apply to any realignment pursuant to a base closure law or if the President certifies to Congress that the reduction is necessary for reasons of national security or military emergency.

While the House bill would have continued a standing limitation on the number of parking spaces available to DOD employees located at the Mark Center in Arlington, VA, a BRAC-mandated relocation site for a number of defense activities in the National Capital Region, the Senate bill contained no such provision. The conference report also did not include that restriction.

Section 2816 of the conference report expanded the Defense Access Road (DAR) Program (23 U.S.C. § 210) with regard to BRAC-related actions. The section already required the Secretary of Defense to assess the need for improvements to local traffic infrastructure as the result of any DOD action, such as the expansion of an installation's population or a change in installation mission. The conference report added a requirement that the Secretary of Defense make that determination without regard to the extent that the traffic generated by the affected military

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(...continued)

Under the provisions of the Defense Base Closure and Realignment Act of 1990 (as amended), the Secretary of Defense was deputized to act on behalf of the GSA in the disposal of BRAC-surplused defense properties.

reservation is greater than other local traffic. The current statute authorizes the use of defense access road appropriations, an account within the military construction appropriation, to pay for DAR projects. The amendment would require the Secretary of Defense to convene the Economic Adjustment Committee to consider additional sources for funding the DAR Program and submit to Congress an implementation plan to expand the pool of available funding sources.<sup>65</sup> In adopting this provision, the conferees recognized “that transportation issues have been an issue in recent base realignment and the Department of Defense has been slow to revise the criteria for the Defense Access Road program. Recognition of these transportation issues does not imply that their mitigation is a DOD responsibility.”<sup>66</sup>

## **Other Committee Report Language**

### ***NATO***

In its report on S. 1253, the Senate committee also expressed concern about the growing disparity between the United States and most members of NATO in terms of the percentage of GDP spent on defense. According to a NATO report released on March 10, 2011, European members of the alliance spent, on average, 1.7% of GDP on defense, which compares with NATO’s agreement that members would spend 2% of GDP on defense and with U.S. defense spending that amounted to 5.4% of its GDP. The committee warned that, “a continued decline in defense investment by many of the NATO members may have far reaching implications on the durability of the Alliance and its capability to effectively respond to future security challenges.”

### ***Potential Redeployments***

In its report on H.R. 1540, the House Armed Services Committee instructed the Secretary of Defense to report to Congress on any shift in the location of significant DOD assets, directing him to:

- Notify the congressional defense committees before announcing any decision to homeport in Europe U.S. warships equipped with the Aegis ballistic missile defense system, which is a central component of the administration’s plan for defending U.S. forces and allies in Europe.<sup>67</sup>
- Report to the congressional defense committees not later than April 1, 2012 on the cost-benefit and strategic risk associated with moving to a domestic site the headquarters for U.S. Africa Command (AFRICOM), currently located in Stuttgart, Germany.<sup>68</sup>

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<sup>65</sup> The Economic Adjustment Committee is an interagency cabinet-level body created in January 1992 under Executive Order 127887. Rotationally chaired by the Secretaries of Defense, Labor, and Commerce, the Committee is responsible advising, assisting, and supporting the Defense Economic Assistance Program to alleviate the local impact of defense-related installation adjustments and for ensuring that State and local officials are made aware of available federal economic adjustment programs.

<sup>66</sup> H.Rept. 112-329, Joint Explanatory Statement, p. 262.

<sup>67</sup> See CRS Report RL34051, *Long-Range Ballistic Missile Defense in Europe*, by Steven A. Hildreth and Carl Ek.

<sup>68</sup> See CRS Report RL34003, *Africa Command: U.S. Strategic Interests and the Role of the U.S. Military in Africa*, by Lauren Ploch.

### **Military Construction Authorization Issues**

For analysis of other issues in the FY2012 Military Construction budget, see CRS Report R41939, *Military Construction, Veterans Affairs, and Related Agencies: FY2012 Appropriations*, coordinated by Daniel H. Else.

## **Issues Related to Operations in Afghanistan and Iraq**

### **Benchmarks and Timetable for Afghanistan**

The Senate adopted by voice vote an amendment to its version of the bill, sponsored by Senator Jeff Merkley, that would have required the administration to submit to Congress a plan for the “expedited transition” to the Afghan government of responsibility for military and security operations in that country. The provision (Section 1229) also would have required the President to set benchmarks by which to measure progress toward transferring to the Afghan government the lead role in security operations.

In the final version of H.R. 1540, the corresponding provision (Section 1221) requires the President to prepare options (and associated benchmarks) for accelerating the improvement of the Afghan Army and Police, with the goal of enabling the Afghan government to assume lead responsibility for security operations in that country.

### **Detainee Provisions<sup>69</sup>**

The Senate Armed Services Committee’s initial version of the FY2012 defense authorization bill (S. 1253), like the authorization bill passed by the House on May 26, 2011, included several provisions regulating the treatment of detainees captured in the conflict with Al Qaeda, including those presently held at the U.S. base at Guantanamo Bay, Cuba. After the White House and the chairs of other Senate committees objected to some of the provisions in the bill, Senate Majority Leader Harry Reid delayed consideration of S. 1253 pending a resolution of the disputed language.

The Senate Armed Services Committee’s second version of the bill (S. 1867) included revised provisions relating to detainees that addressed some of the objections that had been raised to the committee’s earlier version. S. 1867 would have authorized the detention of certain categories of persons and require the military detention of a subset of them; regulated periodic review proceedings concerning the continued detention of Guantanamo detainees; regulated status determinations for persons held pursuant to the 2001 Authorization to Use Military Force (AUMF, P.L. 107-40), regardless of location; continued current funding restrictions that relate to Guantanamo detainee transfers to foreign countries; and barred the use of DOD funds to construct or modify facilities in the U.S. to house detainees currently held at Guantanamo. Unlike the House bill, the Senate bill would not bar the transfer of detainees into the United States for trial or perhaps for other purposes.

During the Senate’s subsequent consideration of the S. 1867, a single amendment was made to the detainee provisions of the bill (S.Amdt. 1126). The amendment clarified that the bill’s affirmation of the legal authority to detain persons captured in the conflict with Al Qaeda does

<sup>69</sup> This section was written by Jennifer K. Elsea, Legislative Attorney, Congressional Research Service.

not modify any existing authorities relating to the power to detain U.S. citizens, lawful resident aliens, or any other persons captured or arrested in the United States.

Although the detainee provisions contained in S. 1867 differed somewhat from those contained in S. 1253, the White House continued to express strong opposition to many of them. An official Statement of Administration Policy (SAP) on S. 1867 was issued November 17, 2011 by the Office of Management and Budget.<sup>70</sup> Using the standard language to issue a veto threat, the SAP said that the President’s senior advisors would recommend a veto of “any bill that challenges or constrains the President’s critical authorities to collect intelligence, incapacitate dangerous terrorists, and protect the Nation.”<sup>71</sup> Following Senate approval of S. 1867, Obama Administration officials reiterated the veto threat that had been raised in the SAP.<sup>72</sup>

The conference report for H.R. 1540 largely adopts the Senate version of the detainee provisions. The bill reaffirms the authority of the armed forces to detain certain individuals in connection with hostilities authorized in response to the 2001 terrorist attacks, leaving unclear the extent to which such authority may be exercised with respect to U.S. citizens. The Senate provision mandating military detention for a subset of detainable non-citizens survived conference with an amendment providing that it does not affect the criminal enforcement and national security authorities of the FBI or other domestic law enforcement agency. A House provision requiring the Secretary of Defense to submit a detailed “national security protocol” pertaining to the communications privileges of each Guantanamo detainee was amended to require a single report covering all Guantanamo detainees. A requirement in the House bill to prosecute certain terrorism suspects by military commission was omitted, but a provision requiring the Attorney General to consult with the Director of National Intelligence and the Secretary of Defense prior to initiating prosecution in federal court was retained with an amendment limiting the requirement to persons subject to the mandatory military detention requirement as well as any other person in military detention in connection with anti-terrorism hostilities outside the United States. The conference report includes a provision for status determinations of persons captured in the course of hostilities and regulates executive branch procedures for performing periodic reviews of detention cases. The final bill also prohibits the use of DOD funds to bring Guantanamo detainees to the United States and places stringent conditions on the use of such funds to transfer or release any Guantanamo detainee to a foreign country.

#### **Detainee Issues in the FY2012 Defense Authorization Act**

For more detailed analysis of the provisions of H.R. 1540 and S. 1867 relating to detainees, see CRS Report R41920, *Detainee Provisions in the National Defense Authorization Bills*, by Jennifer K. Elsea and Michael John Garcia.

<sup>70</sup> See Office of Management and Budget, Statement of Administration Policy on S. 1867, November 17, 2011, at [http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saps1867s\\_20111117.pdf](http://www.whitehouse.gov/sites/default/files/omb/legislative/sap/112/saps1867s_20111117.pdf).

<sup>71</sup> For further analysis, see “CRS Report R41920, *Detainee Provisions in the National Defense Authorization Bills*, by Jennifer K. Elsea and Michael John Garcia.

<sup>72</sup> See, e.g., Press Briefing by White House Press Secretary Jay Carney, Dec. 2, 2011, at <http://www.whitehouse.gov/the-press-office/2011/12/02/press-briefing-press-secretary-jay-carney> (stating that the language in the Senate-passed bill would “would jeopardize our national security by restricting flexibility in our fight against al Qaeda,” and that “[a]ny bill that challenges or constrains the President’s critical authorities to collect intelligence, incapacitate dangerous terrorists and protect the nation would prompt his senior advisors to recommend a veto”).

## **Sanctions on Iran<sup>73</sup>**

An amendment to the Senate version of the bill, adopted by a vote of 100-0, would have required the administration to impose economic sanctions on Iranian financial institutions, including the Central Bank of Iran, as part of an effort to dissuade Iran from developing nuclear weapons and supporting terrorists. In testimony before the Senate Foreign Relations Committee on December 1, 2011, Under Secretary of the Treasury David S. Cohen said the Administration strongly opposed the provision because it might alienate allies who are cooperating in a more graduated application of pressure on Iran. The final version of the bill includes a modified version of the Senate provision (Section 1245) that would give the President additional flexibility in applying sanctions against Iran's Central Bank.

In a "signing statement" issued when the President signed the bill, he said he would implement the provision in a way to avoid damage to U.S. relations with its allies.

## **Freedom of Information Act (FOIA) Amendments<sup>74</sup>**

The final version of H.R. 1540 includes provisions that modified in two respects the Freedom of Information Act (FOIA).

### ***Military Flight Operations Data***

The conference agreement (Section 1082) added to Title 10, U.S. Code a new section (§ 2254a) that exempts from disclosure under the Freedom of Information Act data files of military flight operations quality assurance systems.

Under current law, 10 U.S.C. § 2254 provides the manner in which the records and report of an investigation of an accident involving an aircraft under the jurisdiction of the secretary of a military department are to be treated. With respect to public disclosure of certain accident investigation information, upon request, the secretary concerned is required to publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation, before the release of the final accident investigation report, if the secretary concerned determines that such information would be included within and releasable with the final accident investigation report; and that release of such tapes, reports, or other information would not undermine the ability of accident or safety investigators to conduct the investigation; and would not compromise national security. Section 2254 also provides that for purposes of any civil or criminal proceeding arising from an aircraft accident, any opinion of the accident investigators in the accident investigation report may not be considered as evidence in such proceeding, nor may such information be considered an admission of liability by the United States or by any person referred to in those conclusions or statements. Section 2254 of Title 10 (Treatment of reports of aircraft accident investigations) is not amended by the conference agreement.

Section 1082 of the conference agreement to H.R. 1540 created a new section 2254a of title 10, U.S. Code permitting exemption from disclosure under exemption 3 (Information exempt under

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<sup>73</sup> For additional background and analysis, see CRS Report RS20871, *Iran Sanctions*, by Kenneth Katzman.

<sup>74</sup> This section was written by Gina Stevens, Legislative Attorney, Congressional Research Service.

other federal laws)<sup>75</sup> of the Freedom of Information Act (FOIA)<sup>76</sup> data files of the military flight operations quality assurance (MFOQA) system<sup>77</sup> upon a DOD written determination that the information is sensitive information concerning military aircraft, units, or aircrew, and the public interest in the disclosure of such information does not outweigh preventing the disclosure of such information.

Section 1082 of the conference agreement to H.R. 1540 defined the term “data file” as a file of the military flight operations quality assurance (MFOQA) system that contains information acquired or generated by the MFOQA system, including any database containing raw MFOQA data and any analysis or report generated by the MFOQA system or which is derived from MFOQA data. During its consideration of H.R. 1540, the House of Representatives rejected an amendment which sought to narrow the scope of information covered to ensure that maintenance records of military aircraft not be withheld from public disclosure in order to protect tactical information.<sup>78</sup>

Section 1082 of the conference agreement to H.R. 1540 provided that data files of the MFOQA system exempted from disclosure under FOIA Exemption 3 will be exempt from disclosure even if the information is contained in a non-exempt data file. The effect of this prohibition on the disclosure of reports of aircraft accident investigations in Section 2254, title 10 remains unclear.

Section 1082 of the conference agreement to H.R. 1540 provided that its provisions may not be superseded except by a subsequent enactment specifically citing to and repealing or modifying its provisions.

Section 1082 of the conference agreement to H.R. 1540 requires the Secretary of Defense to issue regulations. The secretary is permitted to delegate his authority to issue written determinations of exemption from FOIA to the DOD Director of Administration and Management. The transparency provision of Section 1082 requires that each determination of exemption be in writing, include the basis for the determination, and be made publicly available upon request.

New Section 2254a of Title 10 applied to “any data file of the military flight operations quality assurance system before, on, or after the date of the enactment of this Act.”

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<sup>75</sup> Exemption 3 of FOIA provides that in order for a federal law other than FOIA to qualify as a withholding statute, it must require or permit information to be withheld by particular statutory criteria or based upon particular types of information and must specifically cite to Exemption 3. Since enactment of the OPEN FOIA Act of 2009 (P.L. 111-83) federal statutes that carve out exemptions from FOIA must specifically cite not only to the FOIA (5 U.S.C. § 552), but also to 5 U.S.C. § 552b(3).

<sup>76</sup> 5 U.S.C. § 552(b)(3).

<sup>77</sup> The Department of the Navy (DON) added a new system of records-- DON Military Flight Operations Quality Assurance (MFOQA) system-- subject to the Privacy Act of 1974 (5 U.S.C. § 552a) effective September 12, 2011. The purpose of the MFOQA system is “to track pilot and aircrew performance during flights in order to preemptively identify hazards before they lead to mishaps; and provide timely, tangible information on aircrew and system performance for each aircraft flight to prevent mishaps and improve operational readiness.” Covered by the system are all aeronautically designated commissioned Navy and Marine Corps officers and enlisted members assigned as aircrew members in the operation of an aircraft. Categories of records in the system include the Name, last four digits of the Social Security Number (SSN), squadron ID; reports of each flight; unique system ID; age and gender (if available); and Common Access Card (CAC) Electronic Data Interchange Personal Identifier (EDIPI) (DoD ID Number). 76 Fed. Reg. 49755-49757 (August 11, 2011).

<sup>78</sup> H.Amdt. 324 (A024), CR H3651-3652, May 25, 2011. [Http://thomas.loc.gov/cgi-bin/bdquery/z?d112:hz324](http://thomas.loc.gov/cgi-bin/bdquery/z?d112:hz324).

The House bill contained a provision (Sec. 1081 in H.R. 1540) that would exempt data files of the military flight operations quality assurance systems of the military departments from Section 552 of Title 5, United States Code (the Freedom of Information Act). The Senate version of the bill contained a provision concerning the treatment under the Freedom of Information Act of Certain Sensitive National Security Information (Section 1044 in S. 1867) which includes DOD critical infrastructure security information and data files of military flight operations quality assurance systems. In the conference agreement, the Senate receded [to the House bill] with an amendment that would incorporate transparency standards and a delegation limitation into the provision.

### ***Domestic Infrastructure Security-Related Data***

The conference agreement (Section 1091) inserted into the U.S. Code a new section, following Section 130d of title 10, which deals with the treatment under FOIA certain confidential information shared with State and local government personnel. This new Section 130e, which deals with treatment under FOIA of critical infrastructure security information, authorizes the Secretary of Defense to exempt from disclosure DOD critical infrastructure security information from disclosure upon a written determination that the (1) information is DOD critical infrastructure security information, and (2) the public interest in the disclosure of such information does not outweigh preventing the disclosure of such information. Such an exemption would be based on FOIA's Exemption 3, which applies to information exempt from disclosure under other federal laws.<sup>79</sup>

Section 1091 of the conference report defines critical infrastructure security information as sensitive but unclassified information the disclosure of which would reveal vulnerabilities in DOD's critical infrastructure that would likely result in significant disruption, destruction, or damage to DOD operations, property, or facilities, including information regarding the securing and safeguarding of explosives, hazardous chemicals, or pipelines, related to critical infrastructure or protected systems owned or operated by or on behalf of the Department of Defense, including vulnerability assessments prepared by or on behalf of the Department of Defense, explosives safety information (including storage and handling), and other site-specific information on or relating to installation security.

The provision is intended, in part, to address agency concerns about protecting information since the Supreme Court limited the scope of FOIA Exemption 2 in *Milner v. Department of Navy* on March 7, 2011.<sup>80</sup> FOIA Exemption 2 shields from disclosure information related solely to the internal personnel rules and practices of an agency.<sup>81</sup>

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<sup>79</sup> Exemption 3 of FOIA provides that in order for a federal law other than FOIA to qualify as a withholding statute, it must require or permit information to be withheld by particular statutory criteria or based upon particular types of information and must specifically cite to Exemption 3. Since enactment of the OPEN FOIA Act of 2009 (P.L. 111-83) federal statutes that carve out exemptions from FOIA must specifically cite not only to the FOIA (5 U.S.C. § 552), but also to 5 U.S.C. § 552b(3).

<sup>80</sup> 131 S. Ct. 1259 (2011) (the Court held that "Exemption 2, consistent with the plain meaning of the term "personnel rules and practices," encompasses only records relating to issues of employee relations and human resources."). *Id.* at 1271. See, U.S. Dep't of Justice, Exemption 2 After the Supreme Court's Ruling in *Milner v. Department of the Navy*, at <http://www.justice.gov/oip/foiapost/2011foiapost15.html>.

<sup>81</sup> 5 U.S.C. § 552(b)(2).

The conference agreement (Section 1091) expressly deems critical infrastructure security information provided to state or local first responders and covered by a written determination of FOIA exemption as remaining “under the control of the Department of Defense.”

The secretary is permitted to delegate his authority to issue written determinations of exemption from FOIA to the DOD Director of Administration and Management. The transparency provision of Section 1091 requires that each determination of exemption be in writing, include the basis for the determination, and be made publicly available upon request.

Section 1091 would create a federal statutory exemption from the Freedom of Information Act (FOIA). Exemption 3 of FOIA provides that in order for a federal law other than FOIA to qualify as a withholding statute, it must require or permit information to be withheld by particular statutory criteria or based upon particular types of information and must specifically cite to Exemption 3.<sup>82</sup> Since enactment of the OPEN FOIA Act of 2009 (P.L. 111-83) federal statutes that carve out exemptions from FOIA (pursuant to 5 U.S.C. § 552(b)(3) must specifically cite not only to the FOIA (5 U.S.C. § 552), but also to subsection b(3) specifically.

### Freedom of Information Act (FOIA) Amendments

For additional background on statutory exemptions to the Freedom of Information Act (FOIA), see CRS Report R41406, *The Freedom of Information Act and Nondisclosure Provisions in Other Federal Laws*, by Gina Stevens

## House Floor Amendments (H.R. 1540)

Following are selected amendments on which the House took action during consideration of H.R. 1540.

**Table 5. Selected House Floor Amendments to  
FY2012 National Defense Authorization Act (H.R. 1540)**

Principal Sponsor	Number		Disposition in House Bill	Disposition in Conf. Rept.
McGovern	344	Require President to submit a timetable for accelerated transfer of military operations in <b>Afghanistan</b> from U.S. forces to Afghan forces;	Rejected 204-215	n/a
Chaffetz	330	Require withdrawal from <b>Afghanistan</b> of U.S. ground troops except those involved in small, targeted counter-terrorism operations	Rejected 123-294	n/a
Conyers	333	Bar use of funds authorized by the bill to deploy U.S. armed forces or contractors on ground in <b>Libya</b> , except for rescue operations	Agreed 416-5 (Section 1236)	dropped
Amash	327	Strike Section 1034 which affirms an <b>Authorization of the Use of Military Force</b> (AUMF) against Al Qaeda, the Taliban or associated entities	Rejected 187-234	n/a
Mica	318	Require that <b>rules of engagement</b> allow U.S. personnel to proactively defend themselves from hostile action	Agreed 260-160 (Section 1087)	dropped
S. Davis	348 <i>en bloc 6</i>	Withhold 25% of Afghanistan Infrastructure Fund until Secretary of Defense determines <b>women</b> are integral part of Afghan reconciliation process	Agreed voice (Section 1218)	modified (Section 1219)

<sup>82</sup> 5 U.S.C. § 552(b)(3).

Carnahan <i>en bloc 3</i>	345	Withhold 25% of Afghanistan Security Forces Fund until Secretary of Defense certifies program has adequate <b>management and oversight</b> provisions	Agreed voice (Section 1531)	Included (Section 1533)
Smith, A	322	Allow <b>detainees</b> to testify in courts on U.S. territory	Rejected 165-253	n/a
Buchanan	323	Require foreign terrorists who attack U.S. targets to be tried by <b>military tribunals</b>	Agreed 246-173 (Section 1046)	dropped
Flake	334	Strike the <b>Mission Force Enhancement Transfer Fund</b> created by the House Armed Services Committee in its markup of the bill	Agreed 269-151	n/a
Flake <i>en bloc 3</i>	345	Require DOD. to make public <b>any written communication from a Member</b> of Congress recommending that funds authorized for specified purposes (rather than for specific projects) be directed to a particular project	Agreed voice (Section 1099E)	dropped
Flake <i>en bloc 3</i>	345	Require DOD report to Congress the process by which it allocated funds <b>authorized in excess of the amounts requested by the President</b> for any research and development activity (or “program element”)	Agreed voice (Section 1699F1)	dropped
Ellison	335	Strike Section 1604 which would add \$150 million to the amount requested for an <b>LHA-class helicopter carrier</b>	Rejected 176-241	n/a
Cravaack	343	Repeal authorization for the <b>United States Institute of Peace</b>	Agreed 226-194 (Section 1237)	dropped
Campbell	329	Reduce number of <b>DOD civilian employees</b> by 1% per year in each of the next 5 years	Rejected 98-321	n/a
Campbell	328	Terminate <b>Human, Social, and Culture Behavior Modeling</b> program	Rejected 63-354	n/a
Campbell <i>en bloc 2</i>	307	Terminate <b>Joint Safety Climate Assessment</b> program	Agreed voice (Section 1115)	included (Section 1125)
Flake	320	Repeal authorization for <b>National Drug Intelligence Center</b>	Agreed 246-172 (Section 1099M)	dropped
Schakowsky	321	Freeze DOD budget at the current level (except for war costs, personnel costs and wounded warrior programs) until DOD can <b>pass an audit</b>	Rejected voice vote	n/a
Polis	332	Reduce number of U.S. <b>troops stationed in Europe</b> by 30,000 and reduce end-strength by 50,000	Rejected 96-323-1	n/a
Loretta Sanchez	336	Reduce by \$100 million the amount authorized for ground-based mid-course <b>ballistic missile defense</b>	Rejected 184-234	n/a
Garamendi	311	Require prime contractors working at military bases to <b>set aside</b> 40% of the dollar value of its subcontracts for local, qualified subcontractors	Rejected 168-256	n/a
Cole	310	Bar any requirement that companies disclose their <b>political contributions</b> as a condition of bidding on a federal contract	Agreed 261-163 (Section 847)	modified (Section 823)
Carter <i>en bloc 1</i>	303	Deem casualties of <b>2009 Ft. Hood terrorist shootings</b> to be eligible for combat-related benefits, compensations and awards	Agreed voice (Section 662)	dropped
Woolsey	302	Strike funding for the procurement of <b>V-22 Ospreys</b>	Rejected 83-334	n/a
Boustany <i>en bloc 3</i>	345	Require a <b>“whole of government”</b> plan to better integrate the activities of multiple federal agencies addressing an issue	Agreed voice (Section 1079)	modified (Section 1072)
Miller <i>en bloc 1</i>	303	Make the Chief of the <b>National Guard Bureau</b> a member of the Joint Chiefs of Staff	Agreed voice (Section 515)	modified (Section 512)
McCullum <i>en bloc 4</i>	346	Limit the amount spent on DOD <b>musical groups</b> in FY 2012 to \$200 million	Agreed voice (Section 599C)	dropped

**Source:** *Congressional Record*, May 25 and May 26, 2011.

**Notes:** “Number” is the number assigned to an amendment by the House Clerk, by which the amendment can be traced through CRS’s Legislative Information System. It is not the same as the number assigned to the amendment by the House Rules Committee in H.Rept. 112-88, its report on the rule that governed most of the floor action on H.R. 1540 (H.Res. 276). During floor action on the bill, several dozen amendments were aggregated into six *en bloc* amendments, each of which was agreed to by voice vote. Individual amendments in the table that were agreed to as a component of one of those *en bloc* amendments are so identified.

## Senate Floor Amendments (S. 1867)

Following are selected amendments on which the Senate took action during consideration of S. 1867.

**Table 6. Selected Senate Floor Amendments to  
FY2012 National Defense Authorization Act (S. 1867)**

Principal Sponsor	Number	Summary	Disposition in Senate bill	Disposition in Conf. Rept.
<b>Detainee-Related Issues</b>				
Udall (CO)	1107	Replace detainee provisions in the bill as reported (Sections 1031-37) with a requirement that the Executive Branch submit to Congress an assessment of current detention policy	Rejected 38-60	n/a
Feinstein	1125	Provide that Section 1032 of the bill, requiring military detention of certain persons, will apply only to persons captured overseas	Rejected 45-55	n/a
Feinstein	1126	Prohibit the military detention of U.S. citizens for the duration of hostilities without a trial	Rejected 45-55	n/a
Sessions	1274	Provide that, if a detainee were tried for a criminal offence, then following the completion of criminal proceedings, the detainee could be held in military custody for the duration of hostilities	Rejected 41-59	n/a
Feinstein	1456	Provide that Section 1031 of the bill, which affirms the government’s detention authority, is not intended to modify any existing detention authorities	Agreed 99-1 (Section 1031)	Included (Section 1021)
<b>Other Global War On Terror Issues</b>				
Paul	1064	Repeal the <b>Authorization for the Use of Military Force</b> Against Iraq Resolution of 2002	Rejected 30-67	n/a
Merkley	1257	Require submission to Congress of a plan for the <b>expedited transition</b> of responsibility for military and security operations in Afghanistan to the Government of Afghanistan	Agreed voice (Section 1229)	modified (Section 1221)
Casey	1215	Require certification to Congress that the Government of <b>Pakistan</b> is implementing a strategy to counter improvised explosive devices (IEDs)	Agreed u/c (Section 1230)	dropped
Corker	1172	Require a report from DOD assessing reimbursements to <b>Pakistan</b> from DOD’s Coalition Support Fund (CSF) and offering recommendations, if any, for ending CSF reimbursements, as U.S. forces draw down in Afghanistan	Agreed u/c (Section 1231)	modified (Section 1231)
Menendez	1414	Require imposition of <b>financial sanctions on Iran</b> , including the Central Bank of Iran	Agreed 100-0 (Section 1245)	modified (Section 1245)

Principal Sponsor	Number	Summary	Disposition in Senate bill	Disposition in Conf. Rept.
Collins	1180	Require the Intelligence Community to assess the threat posed by <b>Libyan stocks of shoulder-fired anti-aircraft missiles</b> ; and require the President to prepare a strategy to minimize the threat such weapons would pose in terrorist hands	Agreed u/c (Section 1243)	Included (Section 1235)
<b>Reserve Component Issues</b>				
Leahy	1072	Make the Chief of the National Guard Bureau a <b>member of the Joint Chiefs of Staff</b> and modify procedures for federal-state coordination of military response to domestic emergencies	Agreed u/c (Section 1603)	modified (Section 512)
Levin	1219	Authorize the Secretary of Defense to <b>mobilize the Army Reserve, Navy Reserve, Marine Corps Reserve, and Air Force Reserve</b> to provide assistance in response to a domestic emergency or major disaster	Agreed u/c (Section 515)	Included (Section 515)
Brown	1090	Provide that the <b>basic allowance for housing for a National Guard member</b> is not reduced when the member transitions between active duty and full-time National Guard duty without a break in active service	Agreed u/c (Section 641)	modified (Section 661)
Begich	1114	Authorize <b>space-available travel</b> on military aircraft for members of the reserve components and for dependents and survivors of retired members	Agreed u/c (Section 346)	Modified (Section 362)
<b>Other Issues</b>				
Nelson (FL)	1209	Repeal existing requirement that annuities paid under the <b>Survivors' Benefit Plan</b> be reduced by the amounts paid to the same individual by veterans' dependency and indemnity compensation	Agreed voice (Section 635)	dropped
Ayotte	1066	Require that DOD prepare an <b>audit-ready</b> , complete and validated statement of budgetary resources by September 30, 2014	Agreed u/c (Section 1005)	modified (Section 1003)
McCain	1132	Require that DOD prepare a plan to meet the requirement for an <b>audit-ready</b> statement of budgetary resources by September 30, 2014	Agreed u/c (Section 1006)	modified (Section 1003)
Wicker	1056	Provide that no <b>military chaplain</b> can be required to officiate at a marriage in violation of his conscience or moral principles	Agreed u/c (Section 527)	Included (Section 544)
McCain	1250	Require a report on (a) the criteria that must be met by the short-takeoff and landing version of the <b>Joint Strike Fighter (F-35B)</b> to end its "probationary" status, and (b) the progress of the program toward those goals	Agreed u/c (Section 158)	Included (Section 148)
Leahy	1087	Amend the <b>Freedom of Information Act</b> to exempt from public disclosure information relating to critical infrastructure and the tactics and capabilities of U.S. combat aircraft	Agreed u/c (Section 1044)	modified (Secs. 1082, 1091)
Levin	1092	Establish procedures to improve DOD's ability to detect and avoid acquisition of " <b>counterfeit</b> " <b>electronic components</b>	Agreed u/c (Section 848)	modified (Section 818)
Landrieu	1115	Reauthorize and amend the Small Business Innovation Research ( <b>SBIR</b> ) and Small Business Technology Transfer ( <b>STTR</b> ) programs	Agreed voice (Secs. 5001-5503)	modified (Secs. 5001-5168)
Sessions	1183	Require the Secretary of Defense to report on the feasibility and desirability of locating on the <b>East Coast a missile defense site</b> to protect U.S. territory	Agreed voice (Section 234)	modified (Section 233)

Principal Sponsor	Number	Summary	Disposition in Senate bill	Disposition in Conf. Rept.
Ayotte	1065	Reducing from 316 aircraft to 301 the <b>total number of long-range cargo planes</b> (C-5s and C-17s) the Air Force is required to keep in service	Agreed u/c (Section 136)	Included (Section 131)
Blunt	1134	Require a report by the Secretary of the Navy on the Navy's policies and practices for <b>naming ships</b>	Agreed u/c (Section 1024)	Included (Section 1014)
McCain	1106	Require a report on the status of implementation of recommendations made in 2010 by the <b>Army Acquisition Review Panel</b>	Agreed u/c (Section 1080)	dropped
Boxer	1206	Prohibit reimbursement by DOD on any cost-reimbursement contract of <b>compensation for any contractor employee</b> in excess of the compensation of the President of the United States	Agreed u/c (Section 842)	dropped
Nelson (FL)	1210	Require an assessment by the Navy of the advisability of stationing additional DDG-51-class warships in <b>Mayport, FL</b> .	Agreed u/c (Section 1025)	Included (Section 1017)
Levin	1293	Authorize the Navy to transfer up to \$35 million to the Maritime Administration, subject to appropriation, for <b>two high-speed ferries</b> originally built for service in Hawaii	Agreed u/c (Section 1026)	Included (Section 1015)

**Source:** *Congressional Record*, May 25 and May 26, 2011.

**Notes:** "Number" is the number assigned to an amendment by the Senate Clerk, by which the amendment can be traced through CRS's Legislative Information System. The notation "Agreed u/c" indicates that the amendment was adopted by unanimous consent.

## FY2012 Defense Appropriations Act (H.R. 2219; H.R. 2250, Division A)

### Defense Appropriations Bill Overview<sup>83</sup>

#### House-Passed Bill

On July 8, 2011, the House passed H.R. 2219 which would appropriate \$638.3 billion for DOD's discretionary spending in FY2012, a reduction of \$8.1 billion from the President's request.<sup>84</sup> That

<sup>83</sup> Funding for the construction and repair of facilities and for the operation of DOD-owned military family housing usually is provided in a separate appropriations bill that also covers the Department of Veterans Affairs and related agencies. This report does not cover that bill which, for FY2012, was enacted as Division H of H.R. 2055, the Consolidated Appropriations Act. For analysis of the FY2012 military construction budget request and funding legislation, see CRS Report R41653, *Military Construction: Analysis of the President's FY2012 Appropriations Request*, by Daniel H. Else.

<sup>84</sup> This is based on the Administration's request for \$646.4 billion for FY2012 discretionary spending by DOD. The Administration also requested that the bill provide \$3.2 billion to be spend in FY2013-17 on an Air Force AEHF communications satellite. This request for so-called advance appropriations was rejected by the Armed Services and Appropriations Committees of both the House and Senate.

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net reduction reflected cuts in the base budget request totaling \$8.9 billion that were partly offset by a net increase of \$842 million in funds for war costs, compared with the President's request.

The largest component of that net increase in war costs is \$1.5 billion added to the bill for unspecified equipment for National Guard and reserve units. The House Appropriations Committee had reported the bill on June 16, 2011 (H.Rept. 112-110).

Two-thirds of the House bill's net reduction to the President's request—\$5.4 billion—would come from changes which, according to the Appropriations Committee, would have no adverse impact on DOD operations. Among these were reductions of:

- \$1.7 billion in new budget authority that would be offset by rescissions totaling that amount of unspent funds appropriated in prior budgets;
- \$1.3 billion on the basis of more optimistic assumptions about inflation and other economic factors than had been incorporated into the budget request;
- \$959 million from delays in two acquisition programs;
- \$899 million accounts which, the committee says, historically have had large "unexpended balances" at the end of the fiscal year; and
- \$500 million from "unjustified supply increases," in the Army's budget request.

The House-passed bill also would cut \$1.2 billion from the amounts requested for classified procurement and research and development programs.

### *OCO Transfer Fund*

In its report, the House committee said the Army's budget request for operations in Afghanistan and Iraq was overstated because of certain erroneous assumptions. For example, the budget assumed that all supplies shipped to Afghanistan would be moved by air, whereas 80% of them are moved by cheaper surface transport, the committee said. Based on this analysis, the committee cut a total of \$5 billion from the amounts requested in various Army O&M accounts in the Overseas Contingency Operations (OCO) part of the bill (Title IX) and transferred that sum to a so-called Overseas Contingency Operation Transfer Fund from which the Secretary of Defense could draw funds to cover unforeseen expenses in Afghanistan and Iraq.

During House debate on the bill, an amendment that would have eliminated the OCO Transfer Fund was rejected by a vote of 118-295.

### *DOD 'Efficiencies' Challenged*

The House bill would add to the bill \$884.7 million to restore funds DOD had cut on the basis of "efficiency" but which the committee, in its report on the bill (H.Rept. 112-110), dubbed "valid requirements" many of which involved funding for maintenance and repair of facilities. On the

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other hand the committee made some reductions of its own to the President's request on the basis of anticipated efficiencies. As passed, the House bill would cut:

- \$400.0 million from the amount requested for contractor-provided logistic support of weapons, such as the performance of overhauls on aircraft and engines and the management of supply chains;
- \$124.0 million (from the \$300.6 million requested) for "information operations" which activities, the committee said, were not traditional or appropriate for the military services;
- \$30.0 million from the budget for telecommunications services; and
- \$315.0 million from the amounts requested for overhead costs at three of the Navy's shipyards (at Pearl Harbor, Hawaii; Bremerton, Washington; and Portsmouth, New Hampshire), in order to bring those costs in line with the less expensive Navy yard at Norfolk, VA.

### **Senate Committee-Reported Bill**

The Senate Appropriations Committee reported on September 15, 2011 an amended version of H.R. 2219 that would cut a total of \$26.2 billion from the FY2012 DOD budget request, a reduction large enough to meet the FY2012 spending caps set by the Budget Control Act of 2011 (P.L. 111-25), enacted August 2, 2011. The full Senate took no action on the bill.

A compromise, final version of the FY2012 Defense appropriations bill, which incorporated many of the reductions in the Senate committee's bill, was enacted as Division A of H.R. 2219, the Consolidated Appropriations Act of 2012 (P.L. 112-74).

### ***Funds Transferred from Base Budget to OCO***

In summary terms, the Senate committee's version of H.R. 2219 would have cut a total of \$25.9 billion from the \$528.7 billion requested for DOD's FY2012 base budget and an additional \$268 million from the \$117.7 billion requested for war costs in Title IX of the bill. But nearly 40% of the amount cut from the base budget—\$9.9 billion—would have been transferred to Title IX, where it would have supplanted most of the \$10.2 billion the committee would have cut from that part of the bill.

The largest part of the funds the Senate committee shifted from the base budget to war costs (\$6.2 billion) came from the O&M accounts, including \$4.3 billion for major overhauls of ships, planes, combat vehicles and other weapons. Also shifted into Title IX was a total of \$2.9 billion from procurement and R&D accounts, 60% of which is for three unmanned aerial vehicle programs.

Most of the \$10.2 billion the Senate committee bill would have cut from the Title IX request (to be back-filled by the \$9.9 billion moved from other parts of the budget) would have had no adverse impact on DOD operations, according to the Senate committee. This includes reductions of:

- \$5 billion to take account of President Obama's decision in June to reduce the number of troops in Afghanistan; and

- \$2 billion from the Army's O&M request which, the committee said, the service had identified as unnecessary.

### ***Other Major Senate Committee Reductions***

The Senate Appropriations Committee also maintained that an additional \$8.6 billion that its version of the defense bill would cut from the budget request would have had no adverse impact on DOD. This includes reductions totaling \$5.6 billion from programs the committee said did not need the funds during FY2012 for reasons such as contract delays and the availability of funds left over from prior budgets to cover some FY2012 costs. The Senate committee bill also would have rescinded \$2.7 billion appropriated in prior budgets, allowing those funds to be used instead of new budget authority to cover a share of FY2012 costs.

The Senate committee bill also would have cut \$1.57 billion from the \$12.8 billion requested to assist the military and police forces of Afghanistan.

### **Conference Report Overview**

The final version of the FY2012 Defense appropriations bill, enacted as Division A of H.R. 2055, the Consolidated Appropriations Act of FY2012, provides a total of \$633.3 billion in discretionary FY2012 spending for DOD, a \$23.6 billion reduction from the amount requested for programs covered by this bill.<sup>85</sup> This version of the DOD bill incorporated many of the reductions that the Senate committee had made in its version of H.R. 2219 in order to reach the spending ceiling set by the Budget Control Act.

As in the Senate committee's bill, a significant portion of the amount that the conference report removed from the base budget was transferred to the part of the bill (Title IX) that funds war costs, which are not constrained by the BCA spending caps. In the final bill, of the \$22.5 billion cut from the base budget, \$6.0 billion was shifted war costs, including a total of \$1.4 billion for Predator and Reaper unmanned aerial vehicles (UAVs) used for reconnaissance and ground attack.

The final bill cuts an additional \$3 billion from the base budget request in ways that, in principle, need not affect DOD programs. This includes \$2.5 billion worth of rescissions of prior-year appropriations (making those funds available to cover FY2012 costs in lieu of new budget authority) and \$515 million cut from DOD's Working Capital Funds to reduce what the House-Senate conferees deemed to be unnecessarily large cash balances.

Despite the conference report's transfer of \$6.0 billion from the base budget to the Title IX of H.R. 2250, that part of the bill incorporated a net reduction of \$2.8 billion to the Administration's request for war costs. The amount transferred into the title was largely offset by several reductions, including:

- \$4.0 billion to reflect President Obama's decision to reduce the number of U.S. troops in Afghanistan;

- \$419.3 million cut from the \$1.6 billion requested for support of the Afghan Army and National Police;
- \$595 million cut from the \$3.2 billion requested for Mine-Resistant, Ambush-Protected (MRAP) armored troop carriers; and
- \$380.1 million in rescissions from prior-year war-cost appropriations.

Following are further highlights of the House-passed and Senate committee-reported versions of H.R. 2219 and the conference report on the bill, which is Division A of H.R. 2205 (P.L. 112-74).

### **Defense Health Program**

The House-passed bill would have provided \$32.3 billion—\$118.7 million more than requested—for the Defense Health Program (DHP), which serves 9.6 million beneficiaries, including service members and military retirees, their survivors and their dependents. The committee cut \$394 million from the request for operating accounts that, historically, have not spent their entire annual allocation. The bulk of that reduction -- \$330 million -- came from the TRICARE health insurance program for active and retired service members and their dependents.

But the House bill also added to the budget request \$523.5 million for research and development programs focused on specific diseases and treatments including \$120 million for research on breast cancer, \$64.0 million for research on prostate cancer, and \$125.0 million for research on Traumatic Brain Injury (TBI) and psychological health.

The Senate committee bill would have added \$337.3 million to the DHP budget request, cutting \$16.7 million from the operating accounts but adding \$354 million to various R&D programs including \$120 million for breast cancer, \$64.0 million for prostate cancer, and \$60.0 million for TBI and psychological health.

The final version of the bill provided \$32.5 billion for DHP, an increase of \$283.3 million over the request. It incorporated the \$330 million reduction in TRICARE made by the House bill, but it also added a total of \$603.6 million to the \$663.7 million requested for medical R&D including \$120 million for breast cancer, \$80 million for prostate cancer and \$135.5 million for TBI and psychological health.

### **Ground Combat Systems**

Funding that would be provided for selected major Army and Marine Corps weapons programs by the House-passed and Senate committee-reported versions of H.R. 2219 and by H.R. 2055 as enacted is summarized in the Appendix (**Table A-4**).

Following are some highlights.

#### ***M-1 Tank Upgrade***

All three versions of the bill added funds to the budget to continue upgrading most of the Army's M-1 tanks with the so-called System Enhancement Package (SEP), which includes improved night vision equipment, digital communication links, and armor. DOD plans to install the SEP upgrades in 1,547 tanks—about two-thirds of the M-1 fleet—and then to shut down the tank

production line in mid-2013 and restart it three years later for a new round of tank modifications. Meanwhile, most National Guard combat units would be equipped with the one-third of the tank fleet that would not have the SEP improvements.

As enacted, the bill adds \$255.0 million to the \$181.3 million requested for SEP upgrades in FY2012. Citing in its report the frequency with which National Guard units have been deployed in recent years, the House Appropriations Committee urged DOD to consider the advantages of having all combat units, regular Army and National Guard alike, equipped with the same version of the tank.

### ***Ground Combat Vehicle***

In its report on the bill, the Senate committee questioned the cost of the Army's plan to develop a new armored troop carrier and then purchase 1,874 of those vehicles to replace half its current fleet of Bradley fighting vehicles. Noting that the program currently is behind schedule and in a state of flux, the Senate committee cut \$644.0 million from the \$884.4 million requested. The House-passed bill would have provided \$768.1 million for the program.

The final bill provides \$435.0 million for the program, a reduction of more than 50% which the conferees justified on grounds that the Army was moving too quickly to develop the new vehicle before fully taking into account a formal analysis of alternative designs.

### ***JLTV***

The Senate committee's version of the bill would have denied the \$243.9 million requested for the Joint Light Tactical Vehicle (JLTV), thus terminating the program which was intended to develop a replacement for some of the roughly 170,000 Humvees used by the Army and Marine Corps. The committee said that, although the new vehicle had been intended as a replacement for the entire Humvee fleet, the planned purchase had been greatly cut back because of the growing cost of the program which, in part, was the result of the services' desire to buy several versions of the new vehicle. The committee added to its version of the bill \$20 million for the Army to use in finding a cheaper alternative to replace existing Humvees.

The House-passed bill would have cut \$25 million from the JLTV request, with the House Armed Services Committee citing delays in the program as the reason. The House bill also would have added \$25 million to the budget to develop improved armor for Humvees.

The final bill provides \$134 million to continue JLTV and \$20 million for improved Humvee armor. In their report on the bill, conferees praised the two services for setting less demanding specifications for the new vehicle and agreeing to buy a single version.

### **Aviation Programs**

Funding for selected aircraft programs provided by the House-passed and Senate committee-reported versions of H.R. 2219 and by H.R. 2055 as enacted is summarized in the Appendix. (See **Table A-8**) Following are some highlights.

### ***F-35 Joint Strike Fighter***

The Senate Appropriations Committee cited experience with the F-22 fighter program as grounds for slicing \$695.1 million from the \$9.51 billion requested for procurement of F-35 Joint Strike Fighters. The committee argued that, because so many F-22s had been manufactured while the plane still was undergoing flight tests, the Air Force had to budget hundreds of millions of dollars to retrofit modifications to deal with problems that surfaced later in the test program. Noting that the F-35, which is being produced in three versions, had completed only about 10% of its flight test program, the committee recommended deferring DOD's plan to accelerate the F-35 production rate.

Accordingly, the Senate committee bill would have cut \$695.1 million from the \$5.4 billion requested, funding 23 of the requested 26 planes requested for the Air Force and Navy. The Senate committee approved without change the requests for \$1.14 billion to buy for the Marine Corps six F-35Bs equipped for vertical takeoffs and landings, and \$117.2 million for long lead-time components for that version of the plane.

The House-passed bill would have trimmed \$55 million from the total F-35 procurement request to reduce the amount spent on various overhead costs.

As enacted, the bill cut \$354.5 million (including one plane) from the request for the Navy and Air Force versions of the F-35, and approved without change the \$1.3 billion requested for the Marines' vertical takeoff version. It also added to the program \$100 million to deal with some of the costs resulting from the high level of concurrency in the program.

### ***C-17 Long-range Cargo Plane***

Although the Administration requested no additional C-17 cargo planes, the House-passed bill includes \$225 million to buy one plane as a replacement for a C-17 that crashed during a demonstration flight.

The Senate committee bill would deny the \$108.6 million requested to shut down the C-17 production line on grounds that recent sales of the plane to other countries will extend production into mid-2014.

The final version of the bill incorporates both those changes to the request.

### ***Army Electronic Reconnaissance (EMARSS)***

None of the three versions of the bill would fund production of an Army reconnaissance system designated the Enhanced, Medium-Altitude Reconnaissance and Surveillance System (EMARSS), a package of cameras and electronic eavesdropping gear installed in a small, twin-engine Beechcraft airplane.

Noting that the contract that would obligate the funds is scheduled to be awarded in the fourth quarter of the fiscal year and that program has experienced delays, the House bill would have provided \$15.7 million of the \$539.6 million requested for the program. The Senate committee bill and the enacted version of H.R. 2055 denied the entire request.

## Ships

Funding for selected shipbuilding programs provided by the House-passed and Senate committee-reported versions of H.R. 2219 and by H.R. 2055 as enacted is summarized in the Appendix (Table A-6).

For the Navy’s main shipbuilding account, the House bill would have provide \$14.7 billion—all but \$203.4 million of the amount requested—for purchases including two submarines, a destroyer, four Littoral Combat Ships (LCSs), and LPD-17-class amphibious landing transport, a small, high-speed ship (designated a JHSV) to carry troops or cargo, and an oceanographic research vessel. The House bill also would have provided, as requested, \$223.8 million for a second JHSV funded in the Army budget as well as \$400.0 million of the \$425.9 million requested for a ship (designated an MLP) designed to serve as a floating pier over which large combat vehicles can be transferred from large cargo ships to amphibious landing craft.

The Senate committee-reported version of the bill would have denied the entire amount requested for the MLP (\$425.9 million). It also would have cut \$38.7 million from the \$223.8 million requested for the Army-funded JHSV and would transfer that ship to the Navy’s shipbuilding account, pursuant to an agreement between the Army and Navy. Otherwise, the Senate committee bill would have made no change to the shipbuilding request.

H.R. 2250 as enacted provides \$14.9 billion for shipbuilding. It fully funds the MLP and would transfer to the Navy’s account \$187.2 million for the Army-budgeted JHSV, as the services had agreed. The only other changes to the request were relatively small reductions for what the conferees described as excessive price increases and overhead costs.

## House Appropriations Floor Debate

During two days of floor debate on H.R. 2219, the House rejected several amendments that would have reduced the amount of budget authority provided by the bill. Following is a summary of House action on selected amendments to the bill:

**Table 7. Selected House Floor Amendments to FY2012 Defense Appropriations Act (H.R. 2219)**

Principal Sponsor	Number	Summary	Disposition in House bill	Disposition in Conf. Rept.
Broun	507	Cut 10% (\$217. million) from the amount requested for Operation and Maintenance funding for the <b>Office of the Secretary of Defense</b>	Rejected 87-328	n/a
Broun	512	Cut all funds (\$25.8 million) requested for <b>Army environmental research</b>	Rejected voice vote	n/a
Broun	513	Cut all funds (\$22.8 million) requested for <b>HIV research</b>	Rejected voice vote	n/a
Broun	514	Cut all funds (\$21.7 million) requested for <b>Navy environmental research</b>	Rejected voice vote	n/a
Welch	516	Cut from the Air Force R&D account \$297.0 million, the amount the bill would appropriate for development of a <b>new bomber</b> , and move those funds to the “spending reduction account”	Rejected 98-322	n/a

Principal Sponsor	Number	Summary	Disposition in House bill	Disposition in Conf. Rept.
Lee	530	Cut all funds (\$5 billion) in the <b>Overseas Contingency Operations Transfer Fund</b>	Rejected 114-314	n/a
Mulvaney	550	Cut funding for <b>Base Budget</b> by \$17 billion (to the FY2011 level)	Rejected 135-290	n/a
Frank	563	Cut funding for <b>Base Budget</b> (excluding military personnel accounts and the Defense Health Program) by \$8.5 billion	Rejected 181-244	n/a
Flake	566	Cut \$250 million for <b>aid to local school districts</b> for schools on military bases	Rejected 39-380	n/a
Flake	567	Cut \$3.5 billion of the \$5 billion provided for the <b>Overseas Contingency Operation Transfer Fund</b>	Rejected 118-295	n/a
Flake	569	Reduce all <b>R&amp;D accounts</b> by 1%	Rejected 100-321	n/a
Kucinich	509	Increase funding for <b>Gulf War Illness Program</b> by \$3.6 million offset by a reduction in funds for the Pentagon Channel on Armed Forces Network Television	Agreed 253-167 (Title VI)	included (Title VI)
Jackson Lee	510	Increase funding for research on <b>Traumatic Brain Injury (TBI) and Post-Traumatic Stress Disorder (PTSD)</b> by \$500,000 offset by a reduction in DOD O&M funding	Agreed voice (Title VI)	included (Title VI)
Stearns	518	Increase funding for <b>Prostate Cancer research</b> by \$16 million offset by a reduction in appropriations for defense-wide agencies	Agreed voice (Title VI)	Included (Title VI)
Sessions	519	Increase funding for <b>defense health programs</b> by \$10 million for a pilot program to support private sector treatment of TBI victims offset by a reduction in R&D funding	Agreed voice (Title VI)	Included (Title VI)
Holt	535	Increase funding for <b>suicide prevention outreach</b> by \$20 million offset by a reduction of \$35 million in funding for Afghanistan Security Forces	Agreed voice (Title IX)	dropped
Lee	525	Cut \$33.0 billion for <b>combat operations</b> in Afghanistan	Rejected 97-322	n/a
Garamendi	526	Cut \$20.9 billion to <b>reduce the number of U.S. combat troops</b> in Afghanistan to 25,000 by December 31, 2012.	Rejected 133-295	n/a
Cohen	531	Cut \$200 million from <b>Afghanistan Infrastructure Fund</b>	Rejected 210-217	n/a
Cicilline	532	Cut \$475 million (entire amount requested) from <b>Afghanistan Infrastructure Fund</b>	Rejected 145-283	n/a
Cohen	534	Cut \$4 billion from the \$12.8 billion requested for <b>Afghanistan Security Forces</b>	Rejected 119-306	n/a
McCollum	540	Prohibit the use of funds to operate the <b>Task Force for Business and Stability Operations</b>	Rejected voice vote	n/a
Welch	559	Cut \$200 million from <b>Commander's Emergency Response Program</b>	Rejected 169-257	n/a
Poe	529	Reduce <b>Coalition Support Fund</b> by \$1 billion (intended to eliminate reimbursements to Pakistan)	Rejected 131-297	n/a
Poe	537	Reduce <b>Pakistan Counterinsurgency Fund</b> by \$1 billion	Rejected 140-285	n/a
Rohrbacher	554	Prohibit the use of funds to provided <b>assistance to Pakistan</b>	Rejected 88-338	n/a

Principal Sponsor	Number	Summary	Disposition in House bill	Disposition in Conf. Rept.
Cole	542	Prohibit the use of funds to assist <b>any group or individual not part of a country's armed forces</b> in carrying out military activities against Libya	Agreed 225-201 (Sec, 10003)	dropped
Amash	543	Prohibit the use of funds for the use of <b>military force against Libya</b>	Rejected 199-229	n/a
Scott	544	Prohibit the use of funds to support <b>Operation Odyssey Dawn or Operation Unified Protector</b> (UN-sanctioned, NATO-led operations against Libyan government)	Rejected 176-247	n/a
Sherman	552	Prohibit the use of funds in contravention of the <b>War Powers Resolution</b>	Agreed 316-111 (Sec, 10014)	Included (Section 8129)
Gohmert	555	Prohibit the use of funds to support <b>military operations against Libya</b>	Rejected 162-265	n/a
Conyers	568	Prohibit the use of funds to <b>deploy U.S. forces (or private security contractors) on the ground in Libya</b> , except to rescue U.S. military personnel	Agreed voice (Section 10017)	dropped
Kucinich	579	Prohibit the use of funds for military operations against Libya except pursuant to a <b>declaration of war</b>	Rejected 169-251	n/a
Amash	520	Delete Section 8015 of the bill as reported which would have prohibited DOD from contracting out any function currently performed by federal employees, unless the proposed outsourcing would save at least \$10 million or 10% of the cost (whichever is smaller)	Agreed 212-208	n/a
Sessions	522	Delete Section 8101 of the bill as reported which would have barred the outsourcing of any DOD function pursuant to an A-76 competition, until the Executive Branch has completed studies and certifications regarding the A-76 process as required by Section 325 of the FY2010 National Defense Authorization Act (P.L. 111-84)	Agreed 217-204	n/a
Carter	523	Delete Section 8127 of the bill as reported which would have limited funding for <b>military bands</b> to \$200 million	Agreed voice vote	n/a
McCollum	538	Reduce funding in the bill by \$124.8 million, which is the amount by which the budget request for <b>military bands</b> exceeds \$200 million	Agreed 226-201	dropped
McCollum	539	Limit funding for <b>motorsport racing sponsorships</b> to no more than \$20 million	Rejected 167-260	n/a
Kissell	548	Prohibit the use of funds to contract with any U.S. airline that charges <b>baggage fees</b> to any member of the U.S. armed forces travelling on military orders.	Agreed voice (Section 10005)	dropped
Runyan	552	Prohibit the use of funds to pay any airline that charges <b>baggage fees</b> to a service member deploying to or from an overseas contingency operation except in the case of bags weighing more than 80 pounds and individuals checking more than 4 bags	Agreed voice (Section 10007)	dropped
Cole	562	Prohibit the use of funds to enforce an executive order requiring companies bidding on federal contracts to disclose all federal <b>campaign contributions</b>	Agreed 256-170 (Section 10015)	Included (Section
Huelskamp	573	Prohibit the use of funds to enforce a directive allowing Navy chaplains to perform <b>same-sex marriages</b> on Navy bases regardless of applicable state law	Agreed 236-184 (Section 10020)	Included (Section
Polis	575	Reduce the number of U.S. troops stationed in Europe to no more than 30,000 and reduce the total end-strength of the force by the corresponding number of troops	Rejected 113-307	n/a

**Source:** *Congressional Record*, July 6 and July 7, 2011.

**Notes:** "Number" is the number assigned to an amendment by the House Clerk, by which the amendment can be traced through CRS's Legislative Information System.

# Appendix. Selected Program Funding Tables

**Table A-I. Congressional Action on Selected FY2012 Missile Defense Funding: Authorization**

(amounts in millions of dollars)

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House- Passed Authorization H.R. 1540	Senate Committee- Reported Authorization S. 1867	Conference Report	Comments
0603175C	BMD Technology	75.0	75.0	75.0	75.0	
0603274C	Special Programs	61.5	61.5	61.5	61.5	
0603881C	BMD Terminal Defense Segment	290.5	290.5	310.5	290.5	
0603882C	BMD Midcourse Defense Segment	1,161.0	1,261.0	1,161.0	1,161.0	System currently deployed in Alaska and California to defend U.S. territory. HASC added \$100 million to make up for delays resulting from test failures
0603884C	BMD Sensors	222.4	222.4	222.4	222.4	
0603888C	BMD Test & Targets	1,071.0	1,071.0	1,022.0	85.7	House-Senate conferees approved the total of \$1.07 billion requested for “BMD Tests and Targets” but distributed the funds among two existing PEs and two newly created ones.
	BMD Tests	--	--	--	488.4	
	BMD Targets	--	--	--	455.0	
0603890C	BMD Enabling Programs	373.6	373.6	373.6	415.5	
0603891C	Special Programs	296.6	296.6	296.6	296.6	
0603892C	AEGIS BMD	960.3	965.3	1,250.3	990.3	SASC moved \$220 million from production to R&D to correct cause of test failures
0603893C	Space Tracking & Surveillance System	96.4	96.4	96.4	96.4	
0603895C	BMD System Space Programs	8.0	8.0	8.0	8.0	

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House- Passed Authorization H.R. 1540	Senate Committee- Reported Authorization S. 1867	Conference Report	Comments
0603896C	BMD Command and Control, Battle Management and Communications	364.1	364.1	364.1	364.1	
0603898C	BMD Joint Warfighter Support	41.2	41.2	41.2	41.2	
0603901C	Directed Energy Research	96.3	146.3	36.3	50.0	HASC added funds for scheduled projects including an anti-missile laser carried by a modified jetliner; SASC cut funds requested for the airborne laser.
0603902C	Aegis SM-3 Block IIB	123.5	123.5	123.5	123.5	Upgraded Aegis missile designed to intercept ICBMs.
0603904C	Missile Defense Integration & Operations Center (MDIOC)	69.3	69.3	69.3	69.3	
0603906C	Regarding Trench	15.8	15.8	15.8	15.8	
0603907C	Sea-Based X-Band Radar (SBX)	177.1	177.1	157.1	157.1	
H.R. 1540	Israeli Cooperative Programs	106.1	216.1	156.1	216.1	Israeli systems to defend against medium and short range missiles and artillery shells
0604880C	Land-based SM-3	306.6	306.6	306.6	306.6	Basis of Obama Administration plan for missile defense in Europe
0604881C	Aegis SM-3 Block IIA Co-Development	424.5	464.5	444.5	424.5	Collaboration with Japan
0604883C	Precision Tracking Space System (PTSS)	160.8	0	160.8	80.8	House said PTSS would duplicate role of less technologically risky airborne system

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House- Passed Authorization H.R. 1540	Senate Committee- Reported Authorization S. 1867	Conference Report	Comments
0604884C	Airborne Infrared	46.9	66.9	46.9	46.9	
0901598C	Management HQ - MDA	28.9	28.9	28.9	28.9	
<b>Subtotal, Missile Defense Agency RDT&amp;E,</b>		<b>6,577.4</b>	<b>6,641.6</b>	<b>6,828.4</b>	<b>6,573.8</b>	
	THAAD, Fielding	833.2	883.2	713.2	709.2	Request is for 68 missiles
	Aegis BMD	565.4	615.4	250.4	565.4	Request is for 46 missiles
	AN/TPY-2 radar	380.2	380.2	380.2	380.2	Request is for two relocatable radars
<b>Subtotal, Missile Defense Agency Procurement</b>		<b>1,778.8</b>	<b>1,878.8</b>	<b>1,778.7</b>	<b>1,654.8</b>	
	THAAD, Operation and Maintenance	50.8	50.8	50.8	50.8	
	Ballistic Missile Defense Radars. Operation and Maintenance	151.9	151.9	151.9	151.9	
	MDA, Military Construction	67.2	67.2	67.2	67.2	
<b>Total, Missile Defense Agency</b>		<b>8,626.1</b>	<b>8,520.4</b>	<b>8,625.7</b>	<b>8,498.5</b>	
0604869A	Medium Extended Air Defense System (MEADS)	406.6	257.1	0.0	390.0	
0102419A	Aerostat Joint Project Office	344.7	344.7	327.9	327.9	Developing balloon-borne radars to detect low-flying cruise missiles and tactical ballistic missiles.
<b>Selected Army R&amp;D missile defense</b>		<b>751.3</b>	<b>601.8</b>	<b>344.7</b>	<b>717.9</b>	

**Sources:** House Armed Services Committee, H.R. 2219 H. Rept. 112-78, Report to accompany H.R. 1540, the National Defense Authorization Act for FY2012; Senate Armed Services Committee, S.Rept. 112-26, Report to accompany S. 1253, the National Defense Authorization Act for FY2012; funding tables in S. 1867, the National Defense Authorization Act for 2012; H.Rept. 112-329, Conference Report to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012.

**Notes:** The defense authorization act generally does not determine the final amount provided for a program or project. The authorization act authorizes the appropriation of funds, but the amount available is determined by the appropriations. An appropriations act may provide more than or less than the amount authorized, may provide funds for a program for which no funds are authorized, and may provide funds for a “new start” for which funding has never been authorized.

**Table A-2. Congressional Action on Selected FY2012 Missile Defense Funding: Appropriations**

(amounts in millions of dollars)

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House-Passed Appropriation H.R. 2219	Senate Committee- Reported Appropriation H.R. 2219	Conference Report	Comments
0603175C	BMD Technology	75.0	75.0	75.0	75.0	
0603274C	Special Programs	61.5	61.5	61.5	61.5	
0603881C	BMD Terminal Defense Segment	290.5	290.5	310.5	290.5	
0603882C	BMD Midcourse Defense Segment	1,161.0	1,161.0	1,161.0	1,161.0	System currently deployed in Alaska and California to defend U.S. territory.
0603884C	BMD Sensors	222.4	222.4	222.4	224.4	
0603888C	BMD Test & Targets	1,071.0	1,071.0	0.0	85.7	SAC cut \$85.7 million and split the balance among three other lines
	BMD Tests			488.4	488.4	SAC shifts money from 060388C
	BMD Targets			455.0	455.0	SAC shifts money from 060388C
0603890C	BMD Enabling Programs	373.6	373.6	415.5	415.5	SAC shifts money from 060388C
0603891C	Special Programs	296.6	296.6	296.6	296.6	
0603892C	AEGIS BMD	960.3	960.3	1,027.0	990.3	
0603893C	Space Tracking & Surveillance System	96.4	96.4	96.4	96.4	
0603895C	BMD System Space Programs	8.0	8.0	8.0	8.0	
0603896C	BMD Command and Control, Battle Management and Communications	364.1	364.1	364.1	364.1	

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House-Passed Appropriation H.R. 2219	Senate Committee- Reported Appropriation H.R. 2219	Conference Report	Comments
0603898C	BMD Joint Warfighter Support	41.2	41.2	41.2	41.2	
0603901C	Directed Energy Research	96.3	96.3	36.3	50.0	SAC reduction tracks Senate authorization
0603902C	Aegis SM-3 Block IIB	123.5	123.5	0.0	13.5	SAC shifted the money requested for the Block IIB version of the Standard missile to less complex versions slated for earlier deployment
0603904C	Missile Defense Integration & Operations Center (MDIOC)	69.3	69.3	69.3	69.3	
0603906C	Regarding Trench	15.8	15.8	15.8	15.8	
0603907C	Sea-Based X-Band Radar (SBX)	177.1	177.1	157.1	177.1	
H.R. 1540	Israeli Cooperative Programs	106.1	235.7	235.7	235.7	Israeli systems to defend against medium and short range missiles and artillery shells
0604880C	Land-based SM-3	306.6	306.6	306.6	306.6	Slated for deployment in Europe
0604881C	Aegis SM-3 Block IIA Co- Development	424.5	424.5	474.5	424.5	Collaboration with Japan
0604883C	Precision Tracking Space System (PTSS)	160.8	0	160.8	80.8	PTSS would use satellites to track attacking missiles by their heat signature; ABIR would use drone planes for the same mission. HAC denied funding for PTSS, SAC for ABIR.
0604884C	Airborne Infrared (ABIR)	46.9	46.9	0	0.0	
0901598C	Management HQ - MDA	28.9	28.9	28.9	28.9	

PE Number (for R&D projects only)	Program Element Title	FY2012 Administration Request	House-Passed Appropriation H.R. 2219	Senate Committee- Reported Appropriation H.R. 2219	Conference Report	Comments
<b>Subtotal, Missile Defense Agency RDT&amp;E,</b>		<b>6,577.1</b>	<b>6,645.9</b>	<b>6,507.6</b>	<b>6,453.8</b>	
	THAAD, Fielding	833.2	883.2	671.2	709.2	Request is for 68 missiles
	Aegis BMD	565.4	565.4	565.4	564.4	Request is for 46 missiles
	AN/TPY-2 radar	380.2	380.2	380.2	380.2	Request is for two relocatable radars
<b>Subtotal, Missile Defense Agency Procurement</b>		<b>1,778.7</b>	<b>1,878.7</b>	<b>1,616.8</b>	<b>1,653.8</b>	
	THAAD, Operations and Maintenance	50.8	50.8	50.8	50.8	
	Ballistic Missile Defense Radars	151.9	151.9	151.9	151.9	
<b>TOTAL, Missile Defense Agency</b>		<b>8,558.5</b>	<b>8,727.3</b>	<b>8,327.1</b>	<b>8,310.3</b>	
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0604609A	Medium Extended Air Defense System (MEADS)	406.6	257.1	406.6	390.0	
0102419A	Aerostat Joint Project Office	344.7	327.9	344.7	327.7	
<b>TOTAL, ARMY RDT&amp;E</b>		<b>751.3</b>	<b>585.0</b>	<b>751.3</b>	<b>717.7</b>	
<hr/>						
<b>GRAND TOTAL: MISSILE DEFENSE</b>		<b>9,309.8</b>	<b>9,312.3</b>	<b>9,078.4</b>	<b>9028.0</b>	

**Sources:** House Appropriations Committee, H.Rept. 112-110, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; Senate Appropriations Committee, S.Rept. 112-77, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; H.Rept. 112-74, Conference report on H.R. 2219, Consolidated Appropriations for FY2012.

**Table A-3. Congressional Action on Selected FY2012 Ground Combat Programs: Authorization**

amounts in millions of dollars

	FY2012 Request			House-passed Authorization H.R. 1540			Senate-passed Authorization H.R. 1540 (debated as S. 1867)			Authorization Conference report H.R. 1540			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
M-2 Bradley Mods	n/a	250.7	12.3		403.7	12.3		250.7	12.3		250.7	12.3	DOD plans to end modification of existing Bradleys and Abrams and begin a new round of improvements a few years later, leaving many tanks without the most sophisticated upgrades. HASC and SASC both added funds avoid to upgrade more of the tanks. HASC also would continue Bradley mods.
M-1 Abrams tank Mods		160.6	9.7		160.6	9.7		131.2	9.7		131.2	9.7	
M-1 Abrams tank Upgrade	21	181.3		54	453.3		70	421.5		70	436.3		
Stryker Armored Vehicle	100	633.0	101.4	100	633.0	101.4	100	606.9	101.4	100	606.9	64.4	
Army Ground Combat Vehicle (GCV)	-	0.0	884.4	-	0.0	884.4	-	0.0	884.4	-	0.0	449.4	

**Source:** House Armed Services Committee, H.Rept. 112-78, Report to accompany H.R. 1540, the National Defense Authorization Act for FY2012; Senate Armed Services Committee, S.Rept. 112-26, Report to accompany S. 1253, the National Defense Authorization Act for FY2012; funding tables in S. 1867, National Defense Authorization Act for FY2012; H. Rept. 112-329, Conference Report to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012.

**Notes:** The defense authorization act generally does not determine the final amount provided for a program or project. The authorization act authorizes the appropriation of funds, but the amount available is determined by the appropriations. An appropriations act may provide more than or less than the amount authorized, may provide funds for a program for which no funds are authorized, and may provide funds for a “new start” for which funding has never been authorized.

**Table A-4. Congressional Action on Selected FY2012 Ground Combat and Communications Programs: Appropriations**

(amounts in millions of dollars)

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee-Reported Appropriation H.R. 2219			Conference Report			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
M-2 Bradley Mods	-	250.7	12.3		250.7	12.3	-	250.7	12.3	-	250.7	12.3	DOD plans to end modification of existing Bradleys and Abrams and begin a new round of improvements a few years later, leaving many tanks without the most sophisticated upgrades. HASC and SASC both added funds avoid to upgrade more of the tanks. HASC also would continue Bradley mods.
M-1 Abrams tank Mods	-	160.6	9.7	-	160.6	9.7	-	131.2	9.7	-	131.2	9.7	
M-1 Abrams tank upgrade	21	181.3	0.0	54	453.3	0.0	70	421.3	0.0	70	436.3	0.0	
Stryker Armored Vehicle	100	633.0	101.4	100	633.0	64.4	100	606.9	101.4	100	506.9	64.4	SAC used left-over funds from prior years to cover part of the procurement budget
Army Ground Combat Vehicle (GCV)	-	0.0	884.4	-	0.0	768.1	-	0.0	240.4	-	0.0	449.4	SAC cut nearly three-quarters of the request on grounds that it was premature, pending completion of analysis of alternatives for performing the mission.
Joint Light Tactical Vehicle (JLTV)	-	0.0	243.9	-	0.0	193.9	-	0.0	5.0	-	0.0	134.0	SAC would cancel effort to develop a new vehicle intended to replace one-third of Army and Marine HMMWVs beginning in 2016; shifted \$20.0 million to program to upgrade HMMWV design.
Army Family of Medium Tactical Vehicles and USMC Medium Trucks (incl. OCO)	-	842.2	4.0	-	492.4	4.0	-	532.2	4.0	-	532.2	4.0	Several thousand trucks of various models with a cargo capacity of 2.5-5.0 tons. After budget submitted, Marine Corps requested that \$300 million requested in OCO funds be reallocated to other Marine Corps OCO programs, including \$148.0 million moved to LVS.

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee-Reported Appropriation H.R. 2219			Conference Report			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Family of Heavy Tactical Vehicles and USMC Logistics Vehicle System (LVS) Replacement (incl. OCO)	-	1,122.3	5.5	-	1,270.3	5.5	-	1,240.7	5.5	1,240.7	5.5	Several thousand truck tractors and trailer of various models, with a cargo capacity of 15 tons. Slightly more than one-fourth of the money is to rebuild existing vehicles. SAC adds \$148.0 million from Marine-requested cut to medium truck replacement program	
Early Infantry Brigade Combat Team (EIBCT)	-	243.1	528.2	-	86.8	508.9	-	50.8	310.7	50.8	335.4	Effort to use some parts of cancelled Future Combat Systems (FCS) to modernize Army brigades with digital communications links. EIBCT was, itself, cancelled in February 2011, but some the digital network and a robot ground vehicle remain under development	
Warfighter Information Network—Tactical (WIN-T)	-	974.7	298.0	-	974.7	298.0	-	865.2	183.0	865.2	183.0	Wide-area digital communication network that would retain connectivity “on-the-move” in its later versions	
Joint Tactical Radio System (JTRS)	-	776.3	688.1	-	716.5	688.1	-	576.3	619.1	427.1	676.1	Programmable, digital radios for vehicles and individuals.	

**Source:** House Appropriations Committee, H. Rept. 112-110, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; Senate Appropriations Committee, S Rept 112-77, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; H.Rept. 112-74, Conference report on H.R. 2219, Consolidated Appropriations for FY2012.

**Table A-5. Congressional Action on Selected FY2012 Shipbuilding Programs: Authorization**

amounts in millions of dollars

	FY2012 Request		House-passed Authorization H.R. 1540		Senate-passed Authorization H.R. 1540 (debated as S. 1867)		Authorization Conference report H.R. 1540						
	Procurement	R&D	Procurement	R&D	Procurement	R&D	Procurement	R&D	Procurement	R&D			
	#	\$	#	\$	#	\$	#	\$	#	\$			
CVN-21 Carrier	-	554.8	54.1	-	554.8	54.1	-	554.8	54.1	-	554.8	54.1	Sixth year of long lead-time funding for a <i>Ford</i> -class carrier; Remaining two-thirds of the \$10.3 billion est. cost will be funded incrementally in FY2013-16.
Carrier Refueling Overhaul	-	529.7	n/a	-	529.7	n/a	-	529.7	n/a	-	529.7	n/a	All but \$15 million is the third year of long lead-time funding for modernizing and refueling reactor of a <i>Nimitz</i> -class carrier; Remaining three-quarters of the \$4.6 billion est. cost will be funded in FY2013-14.
<i>Virginia</i> -class submarine	2	4,757.0	97.2	2	4,757.0	107.2	2	4,757.0	107.2	2	4,682.7	97.2	
SSBN(X)	-	0	781.6	-	0	781.6	-	0	781.6	-	0	781.6	Developing a replacement for <i>Ohio</i> -class Trident missile subs.
DDG-1000 Destroyer	-	453.7	261.6	-	453.7	261.6	-	453.7	261.6	-	453.7	257.6	Procurement amount is an increment toward estimated \$3.5 billion cost of last of three ships
DDG-51 Destroyer	1	2,081.4	0	1	2,081.4	0	1	2,081.4	0	1	2,081.4	0	Includes \$100.7 million for components to be used in future ships of this class
Cruiser modernization	3	590.3	0	3	590.3	0	3	590.3	0	3	573.3	0	Upgrades the electronics, weaponry and powerplant of ships built in the '80s and '90s.
Destroyer modernization	3	119.5	0	3	119.5	0	3	119.5	0	3	117.5	0	
LCS Littoral Combat Ship	4	1,802.1	286.8	4	1,802.1	286.8	4	1,802.1	286.8	4	1,755.1	282.8	
LHA Helicopter Carrier	-	2,018.7	0	-	1,968.7	0	-	1,968.7	0	-	1,999.2	0	Second annual increment of funding for \$3.3 billion ship
LPD-17 Amphibious Force Transport	1	1,847.4	.9	1	1,847.4	.9	1	1,847.4	.9	1	1,837.4	.9	Funds 11 <sup>th</sup> and final ship of the class.

	<b>FY2012 Request</b>		<b>House-passed Authorization H.R. 1540</b>		<b>Senate-passed Authorization H.R. 1540 (debated as S. 1867)</b>		<b>Authorization Conference report H.R. 1540</b>						
Joint High-Speed Vessel	2	408.9	7.1	2	408.9	7.1	2	408.9	7.1	2	372.3	7.1	Army budget funds one ship for \$223.8 million.

House Armed Services Committee, H.Rept. 112-78, Report to accompany H.R. 1540, the National Defense Authorization Act for FY2012; Senate Armed Services Committee, S.Rept. 112-26, Report to accompany S. 1253, the National Defense Authorization Act for FY2012; funding tables in S. 1867, National Defense Authorization Act for FY2012; H. Rept. 112-329, Conference Report to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012.

**Notes:** The defense authorization act generally does not determine the final amount provided for a program or project. The authorization act authorizes the appropriation of funds, but the amount available is determined by the appropriations. An appropriations act may provide more than or less than the amount authorized, may provide funds for a program for which no funds are authorized, and may provide funds for a “new start” for which funding has never been authorized.

**Table A-6. Congressional Action on Selected FY2012 Shipbuilding Programs: Appropriation**

amounts in millions of dollars

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee-Reported Appropriation H.R. 2219			Conference Report			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
CVN-21 Carrier	-	554.8	54.1	-	554.8	54.1	-	554.8	54.1	-	554.8	54.1	Sixth year of long lead-time funding for a <i>Ford</i> -class carrier; Remaining two-thirds of the \$10.3 billion est. cost will be funded incrementally in FY2013-16.
Carrier Refueling Overhaul	-	529.7	0	-	529.7	0	-	529.7	0	-	529.7	n/a	All but \$15 million is the third year of long lead-time funding for modernizing and refueling reactor of a <i>Nimitz</i> -class carrier; Remaining three-quarters of the \$4.6 billion est. cost will be funded in FY2013-14.
<i>Virginia</i> -class submarine	2	4,757.0	97.2	2	4,682.7	112.2	2	4,757.0	97.2	2	4,682.7	97.2	
SSBN(X)	-	0	781.6	-	0	781.6	-	0	781.6	-	0	781.6	Developing a replacement for <i>Ohio</i> -class Trident missile subs.
DDG-1000 Destroyer	-	453.7	261.6	-	453.7	257.6	-	453.7	261.6	-	453.7	257.6	Procurement amount is an increment toward estimated \$3.5 billion cost of the last of three ships
DDG-51 Destroyer	1	2,081.4	0	1	2,079.0	0	1	2,081.4	0	1	2,081.4	0	Includes \$100.7 million for components to be used in future ships of this class
Cruiser modernization	3	590.3	0	3	566.9	0	3	585.3	0	3	573.3	0	Upgrades the electronics, weaponry and powerplant of ships built in the '80s and '90s.
Destroyer modernization	3	119.5	0	3	117.5	0	3	119.5	0	3	117.5	0	
LCS Littoral Combat Ship	4	1,802.1	286.8	4	1,755.1	296.8	4	1,802.1	282.8	4	1,755.1	292.8	
LHA Helicopter Carrier	-	2,018.7	0	-	1,999.2	0	-	2,018.7	0	-	1,999.2	0	Second annual increment of funding for \$3.3 billion ship
LPD-17 Amphibious Force Transport	1	1,847.4	.9	1	1,833.4	.9	1	1,847.4	.9	1	1,837.4	.9	Funds 11 <sup>th</sup> and final ship of the class.

	<b>FY2012 Request</b>			<b>House-Passed Appropriation H.R. 2219</b>			<b>Senate Committee-Reported Appropriation H.R. 2219</b>			<b>Conference Report</b>			
	<b>Procurement</b>	<b>R&amp;D</b>		<b>Procurement</b>	<b>R&amp;D</b>		<b>Procurement</b>	<b>R&amp;D</b>		<b>Procurement</b>	<b>R&amp;D</b>		
Joint High-Speed Vessel	2	408.9	7.1	2	408.9	7.1	2	370.2	7.1	2	372.3	7.1	SAC moves one ship from Army budget to Navy budget and reduces funding for that vessel by \$38.7 million
Mobile Landing Platform	1	425.9	0	1	400.9	0	0	0	0	1	400.0	0	Based on the design of a commercial tanker, this ship is intended to function as a floating pier on which large ships can transfer combat equipment to smaller landing craft.

**Source:** House Appropriations Committee, H. Rept. 112-110, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; Senate Appropriations Committee, S Rept 112-77, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; H.Rept. 112-74, Conference report on H.R. 2219, Consolidated Appropriations for FY2012.

**Table A-7. Congressional Action on Selected FY2012 Navy, Marine Corps and Air Force Aircraft Programs: Authorization**  
amounts in millions of dollars

	FY2012 Request			House-passed Authorization H.R. 1540			Senate-passed Authorization H.R. 1540 (debated as S. 1867)			Authorization Conference report H.R. 1540		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
F-35A Joint Strike Fighter and Mods, AF (conventional takeoff version)	19	3,664.1	1,435.7	19	3,664.1	1,436.7	19	3,664.1	1,387.9	18	3,418.6	1,397.0
F-35C Joint Strike Fighter, Marine Corps (STOVL version)	6	1,259.2	670.7	6	1,259.2	670.7	6	1,259.2	651.8	6	1,259.2	651.8
F-35B Joint Strike Fighter, Navy (Carrier-based version)	7	1,720.8	677.5	7	1,720.8	677.5	7	1,720.8	658.5	7	1,557.2	658.5
<b>[F-35 Joint Strike Fighter, total]</b>	<b>32</b>	<b>6,644.1</b>	<b>2,784.1</b>	<b>32</b>	<b>6,644.1</b>	<b>2,784.9</b>	<b>32</b>	<b>6,644.1</b>	<b>2,746.2</b>	-	0	781.6
F-22 Fighter Mods	-	232.0	718.4	-	232.0	718.4	-	232.0	511.4	-	232.0	571.4
F-15 Fighter Mods	-	222.4	207.5	-	222.4	207.5	-	208.4	194.8	-	208.4	194.8
F-16 Fighter Mods	-	73.3	143.9	-	56.7	143.9	-	56.7	131.1	-	56.7	131.1

	FY2012 Request			House-passed Authorization H.R. 1540			Senate-passed Authorization H.R. 1540 (debated as S. 1867)			Authorization Conference report H.R. 1540		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
EA-18G Aircraft, Navy	12	1,107.5	17.1	12	1,107.7	17.1	12	1,100.5	17.1	12	1,022.7	17.1
F/A-18E/F Fighter, Navy	28	2,431.7	151.0	28	2,431.7	151.0	19	1,835.3	151.0	28	2,303.5	145.2
F/A-18 Fighter Mods (with OCO)	-	546.6	2.0	-	546.6	2.0	-	492.6	2.0	-	472.2	2.0
A-10 Attack Plane Mods	-	153.1	11.1	-	158.1	11.1	-	7.3	11.1	-	12.5	11.1
B-1B Bomber Mods	-	198.0	33.0	-	198.0	33.0	-	198.0	33.0	-	198.0	33.0
B-2A Bomber Mods	-	41.3	340.8	-	41.3	340.8	-	41.3	226.8	-	31.0	280.3
B-52 Bomber Mods	-	93.9	133.3	-	93.9	133.3	-	93.9	133.3		93.9	94.0
Light Attack Armed Reconnaissance Aircraft	9	158.5	23.7	9	158.5	23.7	0	0.0	23.7	6	115.0	
C-130 variants, Air Force and marine Corps	12	1,184.0	39.5	12	1,184.0	39.5	12	1,184.0	39.5	12	1,184.0	39.5
C-130 Mods.	-	740.5	24.5	-	737.9	24.5	-	6.5	70.2		566.7	6.5
C-5 Mods,	-	1,035.1	24.9	-	1,035.1	24.9	-	1,035.1	12.9		1,035.1	12.9
C-17	-	0	0	-	0	0	-	0	0		0.0	0.0
C-17 Mods		213.2	128.2		196.2	128.2	-	213.2	94.3		213.2	94.3

	FY2012 Request			House-passed Authorization H.R. 1540			Senate-passed Authorization H.R. 1540 (debated as S. 1867)			Authorization Conference report H.R. 1540		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D
C-27 Joint Cargo Aircraft	9	479.9	27.1	9	479.9	27.1	9	479.9	27.1	9	479.9	27.1
KC-X Tanker Replacement,	-	-	877.1	-	-	849.9	-	-	742.1	-	-	877.1
C-37A executive transport	3	77.8	-	3	77.8	-	3	77.8	-	3	73.8	
MV-22 Osprey, Marine Corps and Mods	30	2,399.1	84.5	30	2,399.1	84.5	30	2,379.6	84.5	30	2,344.4	84.5
CV-22 Osprey, AF and Mods	7	645.2	31.5	5	610.6	31.5	5	610.6	21.5	5	610.6	24.0
<b>[V-22 Osprey Total]</b>	<b>36</b>	<b>2,976.7</b>	<b>116.0</b>	<b>35</b>	<b>2,831.4</b>	<b>116.0</b>	<b>35</b>	<b>2,882.7</b>	<b>111.0</b>	<b>35</b>	<b>2,955.0</b>	<b>108.5</b>

**Source:** House Armed Services Committee, H.Rept. 112-78, Report to accompany H.R. 1540, the National Defense Authorization Act for FY2012; Senate Armed Services Committee, S.Rept. 112-26, Report to accompany S. 1253, the National Defense Authorization Act for FY2012; funding tables in S. 1867, National Defense Authorization Act for FY2012; H. Rept. 112-329, Conference Report to accompany H.R. 1540, the National Defense Authorization Act for Fiscal Year 2012.

**Notes:** The defense authorization act generally does not determine the final amount provided for a program or project. The authorization act authorizes the appropriation of funds, but the amount available is determined by the appropriations. An appropriations act may provide more than or less than the amount authorized, may provide funds for a program for which no funds are authorized, and may provide funds for a “new start” for which funding has never been authorized.

**Table A-8. Congressional Action on Selected FY2012 Navy, Marine Corps and Air Force Aircraft Programs: Appropriation**  
amounts in millions of dollars

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee- Reported Appropriation H.R. 2219			Conference Report		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
<b>COMBAT AIRCRAFT</b>												
F-35A Joint Strike Fighter and Mods, AF (conventional takeoff version)	19	3,664.1	1,435.9	19	3,664.1	1,397.9	17	3,267.6	1,387.9	18	3,518.6	1,397.9
F-35C Joint Strike Fighter, Marine Corps (STOVL version)	6	1,259.2	670.7	6	1,259.2	651.8	6	1,259.2	651.8	6	1,259.2	651.8
F-35B Joint Strike Fighter, Navy (Carrier-based version)	7	1,720.8	677.5	7	1,665.8	658.5	6	1,422.2	658.5	7	1,557.2	658.5
<b>[F-35 Joint Strike Fighter, total]</b>	<b>32</b>	<b>6,644.1</b>	<b>2,784.1</b>	<b>32</b>	<b>6,644.1</b>	<b>2,708.2</b>	<b>29</b>	<b>5,949.0</b>	<b>2,698.2</b>	<b>31</b>	<b>6,335.0</b>	<b>2,708.5</b>
F-22 Fighter Mods	-	232.0	718.4	-	232.0	658.4	-	232.0	511.4	-	232.0	571.4
F-15 Fighter Mods	-	222.4	207.5	-	208.4	207.5	-	255.6	194.8	-	255.6	194.8
F-16 Fighter Mods	-	73.3	143.9	-	56.7	143.9	-	56.7	131.1	-	56.7	131.1

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee- Reported Appropriation H.R. 2219			Conference Report		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
EA-18G Aircraft, Navy	12	1,107.5	17.1	12	1,029.7	17.1	12	1,100.5	17.1	12	1,022.7	17.1
F/A-18E/F Fighter, Navy	28	2,431.7	151.0	28	2,368.2	145.2	28	2,330.3	151.1	28	2,303.5	145.2
F/A-18 Fighter Mods (with OCO)	-	546.6	2.0	-	483.8	2.0		492.6	2.0	-	472.2	2.0
A-10 Attack Plane Mods	-	153.1	11.1		195.6	11.1		7.3	11.1		55.0	11.1
B-1B Bomber Mods	-	198.0	33.0		198.0	33.0	-	198.0	33.0	-	198.0	33.0
B-2A Bomber Mods	-	41.3	340.8		31.0	362.8	-	41.3	263.3		31.0	280.3
B-52 Bomber Mods	-	93.9	133.3		93.9	133.3	-	93.9	88.0	-	-93.9	94.0
Light Attack Armed Reconnaissance Aircraft	9	158.5	23.7	9	158.5	23.7	0	0.0	35.0	6	115.0	13.7
<b>CARGO AND TRANSPORT AIRCRAFT</b>												
C-130 variants, Air Force and marine Corps	12	1,184.3	39.5	12	1,184.3	39.5	12	1,304.3	39.5	12	1,367.6	39.5
C-130 Mods.	-	655.1	24.5	-	655.1	24.5	-	636.3	6.5	-	602.0	6.5
C-5 Mods,	-	1,035.1	24.9	-	1,035.1	24.9	-	1,035.1	12.9	-	1,035.1	12.9
C-17	-	0.0	0.0	1	225.0	0.0	-	0.0	0.0	1	225.0	0.0
C-17 Mods		213.2	128.2		213.2	128.2	-	213.2	94.3		213.2	94.3

	FY2012 Request			House-Passed Appropriation H.R. 2219			Senate Committee- Reported Appropriation H.R. 2219			Conference Report		
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$
C-27 Joint Cargo Aircraft	9	479.9	27.1	9	479.9	27.1	9	479.9	27.1	9	479.9	27.1
KC-X Tanker Replacement,	-	-	877.1	-	-	877.1			742.1	-	-	877.1
C-37A executive transport	3	77.8	-	3	77.8	-	3	77.8	-	3	77.8	-
MV-22 Osprey, Marine Corps and Mods	30	2,399.1	84.5	30	2,363.8	84.5	30	2,382.4	84.5	30	2,347.2	84.5
CV-22 Osprey, AF and Mods	6	577.6	32.5	5	481.6	26.5	5	490.6	21.5	5	492.6	24.0
<b>[V-22 Osprey Total]</b>	<b>36</b>	<b>2,976.7</b>	<b>117.0</b>	<b>35</b>	<b>2,845.4</b>	<b>116.0</b>	<b>35</b>	<b>2,873.0</b>	<b>106.0</b>	<b>35</b>	<b>2,839.8</b>	<b>108.5</b>

**Source:** House Appropriations Committee, H. Rept. 112-110, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; Senate Appropriations Committee, S Rept 112-77, Report to accompany H.R. 2219, Department of Defense Appropriations Bill, 2012; H.Rept. 112-74, Conference report on H.R. 2219, Consolidated Appropriations for FY2012.

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