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ANALYSIS OF THE FY 2010 DEFENSE AUTHORIZATION BILLS

By Todd Harrison

On June 25, 2009, the full House passed its version of the fiscal year (FY) 2010 national defense authorization act. The Senate passed its version of the bill on July 23, 2009. This Update provides a brief assessment of how these two bills compare, both to each other and to the administration's request, and what issues remain to be resolved during conference. The administration's defense budget request is still working its way through the House and Senate appropriations process.¹

The House and Senate defense authorization bills would provide a total of \$663.3 billion and \$663.9 billion in discretionary budget authority, respectively, for the Department of Defense (DoD), similar to the \$663.8 billion requested by the administration.² Although consistent with the Obama Administration's request at the topline level, the defense authorization bills differ from each other and from the administration's request in several important details.³

Military Personnel

Both the House and the Senate bills provide for an across-the-board pay increase of 3.4 percent for military personnel, more than the 2.9 percent increase requested by the administration. The cost of the additional pay increase above the amount requested is about \$350 million in FY 2010. The House and the Senate bills agree with the administration's proposed end strength of 1.41 million active duty troops, which completes the increase begun in 2007. They also authorize up to 30,000 additional troops to be added to the Army over FY 2011 and FY 2012. Since this temporary increase in end strength would not become effective until FY 2011, no additional funding is required in the FY 2010 budget. However, the CBO estimates that a temporary increase of 30,000 soldiers would cost \$2.1 billion in FY 2011,

¹ The defense authorization act *authorizes the appropriation* of funds. It does not, however, provide any actual funds to the Department of Defense (DoD). The enactment of separate appropriations measures is required for DoD to receive funding. As of the date of publication, the House had passed its version of the defense appropriations bill, but the Senate had not.

² All figures shown are in FY 2010 dollars unless otherwise stated.

³ For more information, see, Pat Towell, et. al., "Defense: FY 2010 Authorization and Appropriations," CRS, August 4, 2009.

\$4.2 billion in FY 2012, and \$2.1 billion in FY 2013—an issue that will have to be addressed in future budgets.⁴ Subsequent to the authorization bills being passed by the House and Senate, the administration sent a budget amendment to Congress to temporarily increase the number of soldiers in the Army by an additional 15,000 in FY 2010, with the increase rising to a total of 22,000 in later years—less than the additional 30,000 proposed by Congress. Funding for the increase in FY 2010 would come from offsets within the budget request, primarily from the Army, rather than new funding.⁵

Operations and Maintenance

The Operations and Maintenance (O&M) title, the largest title within the defense budget, funds a wide range of programs and activities. Most of DoD's civilian employee costs and nearly 60 percent of military healthcare costs are funded in O&M. The administration requested a total of \$156.4 billion in O&M funding in the base budget for FY 2010. While the Senate bill includes essentially the same level of funding as requested, the House authorization bill includes slightly more funding for O&M (\$157.3 billion).

Both the House and Senate authorization bills fully fund the amount requested for the Defense Health Program, although the House bill moves \$1 billion in funding for health information management and information technology programs to the Office of the Secretary of Defense, citing the need for “higher level leadership oversight” of these programs. The Senate bill fully funds the Defense Health Program with no significant changes.

The House and Senate bills freeze implementation of the National Security Personnel System (NSPS) and recommend termination of the program, pending a review by the Secretary of Defense. NSPS was intended to link pay more directly to performance, but it has been challenged in court by government employee unions contending it is unfair.⁶ Current DoD enrollment in the new system is around 200,000, and the administration has already suspended conversion of any additional positions to NSPS.⁷ In July, the Defense Business Board released its review of NSPS and recommended that the system be “reconstructed” to address flaws in the assumptions and design of the system. It also recommended that the moratorium on transitioning additional positions to NSPS be continued until the issues identified are corrected.⁸

⁴ CBO, *S. 1390 National Defense Authorization Act for Fiscal Year 2010*, July 14, 2009, p. 8.

⁵ OMB, *FY 2010 Budget Amendments: Department of Defense (Oversees Contingency Operations)*, August 13, 2009.

⁶ Wendy Ginsberg, *Pay-for-Performance: The National Security Personnel System*, CRS, September 17, 2008.

⁷ DoD News Release, DoD, *OPM Announce Defense Business Board NSPS Review*, May 15, 2009.

⁸ Defense Business Board, *Review of the National Security Personnel System*, Report FY09-06, July 2009.

The administration also proposed retiring approximately 250 aircraft, primarily in the Air National Guard and Air Force Reserves, for a savings of \$400 million in annual operating expenses. The House bill delays the retirement of these aircraft until the Defense Secretary submits a report to Congress, and it provides \$345 million in funding for the continued operation of these aircraft taken from other O&M accounts. The Senate bill does not contain a similar provision delaying the retirement of these aircraft.

Weapon System Acquisitions

Both the House and the Senate authorize slightly more for weapon system acquisitions than the administration requested. The House bill authorizes \$184.9 billion for Procurement and Research, Development, Test and Evaluation (RDT&E) and the Senate bill authorizes \$185.4 billion, compared to the administration's request of \$184.5 billion. The source of the increase in the House and Senate bills is RDT&E funding, which is about \$1 billion higher in both bills than the amount requested. Procurement accounts, however, are slightly lower in both bills.

One of the distinguishing features of the FY 2010 budget request is the inclusion of a separate section identifying programs for termination or reduction in order to achieve cost savings. The defense authorization bills concur with nearly all of the program terminations and reductions proposed by the president, as shown in Table 1 (attached). The notable exceptions are funding added in the House bill for continued procurement of the F-22 and continued development of the alternate engine for the Joint Strike Fighter, both of which have drawn the threat of a veto from the White House.⁹

The authorization bills make several changes to weapons programs from the president's budget request. Below are highlights of acquisition programs where there are significant differences between the administration's request and the House and Senate authorization bills.

Aircraft

- **F-22 Raptor Fighter:** The Senate authorization bill, after a floor amendment, concurs with the administration's request to end the program at 187 aircraft. The House bill, however, provides an additional \$369 million for procurement of long lead components that would enable the purchase of 12 additional aircraft in FY 2011, although it does not fund for the procurement of any additional aircraft in FY 2010.
- **F-35 Joint Strike Fighter:** The Senate concurs with the president's request to procure 30 aircraft in FY 2010 and discontinue development of the alternate engine. The House continued funding for the alternate engine by reducing the number of aircraft procured by

⁹ OMB, *Statement of Administration Policy: H.R. 2647 - National Defense Authorization Act for Fiscal Year 2010*, June 24, 2009.

one each from the Air Force and Navy and adding \$255 million in additional funding.

- **F/A-18E/F and EA-18G Fighters:** The House adds \$108 million in procurement funding to support future aircraft purchases. The Senate adds \$560 million for procurement of 9 additional aircraft in FY 2010.
- **C-40 Transport Aircraft:** The Senate makes no changes to the administration's request, but the House adds \$105 million for the procurement of a fourth aircraft in FY 2010. The C-40 is a modified version of the Boeing 737-700 business jet used for transporting senior military and civilian leaders.
- **Combat Search and Rescue Helicopter (CASR-X):** Both the House and the Senate bills concur with the administration's request to terminate the program. However, both bills go further by reducing the remaining RDT&E funding for the program below the amount requested.
- **UH-1Y/AH-1Z Helicopters:** Both the House and the Senate bills cut 10 aircraft and \$283 million from the administration's request.
- **MQ-1 Predator UAV:** Both the House and the Senate reduce the number of aircraft procured by 12.
- **Tactical UAVs:** The Senate adds \$86 million to the budget for the Hummingbird helicopter unmanned system.

Ground Combat Systems

- **Future Combat Systems:** The House and Senate both concur with the administration's decision to restructure the manned ground vehicle component of the program, but both bills cut funding below the administration's request, citing previously appropriated funds that can cover termination costs in FY 2010.
- **Stryker Armored Vehicle:** The House bill reduces funding by \$54 million in procurement, while the Senate bill did not alter the administration's request.

Shipbuilding

- **LPD-17 and Mobile Landing Platform (MLP) Transport Ships:** Both the House and the Senate concur with the administration's decision to delay building ships for one year pending a reassessment of amphibious landing requirements. However, the House bill adds \$60 million for procurement of long lead components in anticipation of future purchases.

- **T-AKE Cargo Ship:** The Senate cuts procurement funding for one of the two ships planned for FY 2010 (\$400 million), pending the outcome of the QDR.

Communications and Electronics

- **SINGARS Family of Radios:** The House bill removes all funding requested (\$135 million) citing a lack of interoperability between these radios and the JTRS radios planned for the future. The Senate reduced funding by \$75 million due to unjustified program growth.

Military Construction, Family Housing, and BRAC

The administration requested a total of \$22.9 billion in military construction, family housing, and base realignment and closure (BRAC) funding for FY 2010. The House bill provides slightly more than requested (\$23.2 billion), and the Senate bill provides slightly less (\$22.8 billion). One of the main differences between the authorizations and the request concerns the Army's construction of facilities at Forts Carson, Stewart, and Bliss for the stationing of Brigade Combat Teams (BCTs). These projects were originally intended to house three additional BCTs out of a total of 48 BCTs in the active duty Army. Following Secretary Gates' decision to reduce the number of BCTs to 45, both the House and the Senate reduced the FY 2010 funding for these projects accordingly.

In February the United States reaffirmed an agreement with the Government of Japan to relocate about 8,000 US Marines and associated facilities from Okinawa to Guam. As part of the agreement, the Japanese government has agreed to pay \$2.8 billion of the estimated \$10 billion total cost. The House bill includes a requirement that the workforce used to construct the new facilities on Guam be paid at the prevailing wages in Hawaii. The CBO estimates that this wage requirement would mean workers would be paid at about 250% higher than local wage rates for Guam, resulting in an additional cost of \$10 billion over the FY 2010-2014 period—double the current estimate. The Senate bill does not contain similar wage requirements but defers authorization of the construction funds until DoD provides additional information on construction plans, future funding, and other items.

The administration also requested that the Congress provide full funding for all military construction projects. Instead, both the House and the Senate authorization bills provide incremental funding for certain projects. The committee report accompanying the Senate bill notes that because existing law requires that each phase of a project result in a complete and usable facility, the approach pursued by the administration “can lead to inefficient designs, complex construction difficulties brought on by multiple contractors on a single site, repeated contractor mobilizations, and inefficient ordering of construction materials... While the vast majority of MILCON projects should adhere to the principle of yearly full funding, there are a few large and complex projects that warrant incremental funding.”

Atomic Energy Defense Programs

The administration requested a total of \$16.4 billion for atomic energy defense activities in FY 2010. The Senate bill provides the same level of funding requested, and the House bill adds \$83 million to the request. But both bills change the allocation of funding within the total amount requested in substantial ways. The Senate bill shifts approximately \$100 million from defense environmental cleanup activities to weapons activities, while the House bill moves nearly \$500 million from defense environmental cleanup to weapons activities and nuclear non-proliferation activities. The committee report accompanying the House authorization bill notes that over \$5 billion in funding was provided for defense environmental cleanup in the American Recovery and Reinvestment Act of 2009, but the administration warns in its statement of administration policy that “this reduction will significantly impede progress in cleaning up the legacy of waste and contamination resulting from nuclear weapons production.”

War Funding

The House and Senate authorization bills make only a few changes to the \$130 billion in Overseas Contingency Operations (OCO) funding requested by the administration. The authorization bills make no changes to the war funding for Military Personnel and only minor modifications to Operations and Maintenance. However, the bills do include significant changes to several of the “special funds” in the request:

- **Joint IED Defeat Fund:** The administration requested \$565 million for the Joint IED Defeat Fund in the base budget and \$1.5 billion in the OCO budget. The House bill moves the funding in the base budget from procurement to RDT&E and O&M accounts, maintaining the same overall amount (\$565 million) and reduces the funding in the OCO budget by \$100 million. The Senate moves all of the money from the Joint IED Defeat Fund in Army’s base budget to the OCO budget. As a result, there remains a disagreement over where the program should be funded (base versus war funding) and a \$100 million difference in the total amount authorized for the Joint IED Defeat Fund.
- **Commander’s Emergency Response Fund (CERF):** The bills also reduce funding for CERF by \$100 million in the Senate and \$200 million in the House, citing insufficient justification and rapid growth in the amount of funding that was requested (\$1.5 billion).
- **Pakistan Counterinsurgency Capability Fund:** The administration originally requested \$700 million in funding for PCCF in the OCO budget, but subsequently the Defense and State Departments agreed that it should be funded through the State Department, with transfers to DoD as appropriate.¹⁰ Both the House and the Senate bills concur with this revision.

¹⁰ Pat Towell, et. al., *Defense: FY2010 Authorization and Appropriations*, CRS, August 4, 2009, pp. 6-7.

Issues To Be Resolved

While the overall levels of funding provided in the House and Senate authorization bills do not differ significantly from the administration's request, there are several differences in the two bills that will need to be resolved in conference. Two items contained in the House bill have drawn a veto threat from the White House: funding for continued production of the F-22 and continued development of the alternate engine for the F-35 Joint Strike Fighter. The Senate bill also included funding for these items, but that funding was subsequently removed from the bill before it was passed by the full Senate. More recently, the House appropriations bill passed the full House without any funding for additional F-22s, indicating that the House may be willing to remove this funding from the authorization bill as well during conference. However, the House appropriations bill did include funding for the F-35 Joint Strike Fighter alternate engine, indicating that this issue remains to be resolved.

Other notable differences to be resolved include:

- Number of F/A-18s to be procured in FY 2010
- Whether to include certain items in the base or OCO budget, such as the Joint IED Defeat Fund
- Wages rates for construction of military facilities in Guam related to the relocation from Okinawa
- Funding for defense environmental cleanup in the atomic energy defense program

As Congress begins to resolve these issues in conference, the appropriations process continues to move forward. On July 30, just days after the Senate passed its authorization bill, the full House passed its FY 2010 defense appropriations bill. As mentioned above, it included several differences from the House's authorization bill. The Senate will take up the defense appropriations bill when it returns from recess in September.

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For more information, contact Todd Harrison at (202-719-1344)

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Table 1: Status of Administration's Proposed Terminations, Reductions, and Savings

Program	Administration's Request	House Authorization Bill	Senate Authorization Bill
F-22 Raptor	End production at 187 aircraft.	Adds \$368.8 MM for components that would enable procurement of 12 F-22s in FY 2011.	Concurs.
Contracted Service Support	Reduce the number of support services contractors and replace with new civil service positions.	Concurs.	Concurs.
Recruiting and Retention Adjustments to Maintain End strength	Reduce enlistment and reenlistment bonuses, advertising, and the number of recruiters in light of recent success in meeting and exceeding end-strength levels.	Concurs.	Concurs.
Transformational Satellite Communications System (TSAT)	Terminate the TSAT program and instead buy two additional AEHF communications satellites.	Concurs.	Concurs.
VH-71 Presidential Helicopter	Terminate the existing program, develop options for a new Presidential Helicopter program to begin in FY 2011, and fund service life extensions for the current fleet.	Concurs.	Concurs.
Aircraft Carrier Replacement Program	Begin procuring replacement aircraft carriers at a rate of one every five years rather than every four years.	Concurs.	Concurs.
Future Combat System (FCS) Manned Ground Vehicles	Cancel the manned vehicle portion of FCS and reexamine requirements for the next generation of ground combat vehicles.	Concurs, but cuts funding by additional \$326.8 MM citing previously appropriated funds that can cover termination costs.	Concurs, but cuts funding by additional \$381.8 MM citing previously appropriated funds that can cover termination costs.
Ground Based Midcourse Defense (GMD)	Deploy only 30 of the 44 Ground Based Interceptors procured.	Concurs.	Concurs.
Joint Strike Fighter Alternative Engine	Terminate the alternative engine program.	Funds alternate engine by cutting two planes and adding \$255 MM.	Concurs.
Multiple Kill Vehicle (MKV)	Terminate the MKV program.	Concurs.	Concurs.
Airborne Laser (ABL)	Cancel plans to procure a second test aircraft and instead focus on resolving issues with the existing test aircraft.	Concurs.	Concurs.
Combat Search and Rescue Helicopter (CSAR-X)	Terminate program and review requirements to see if a multipurpose aircraft could carry out the same mission.	Concurs and further reduces R&D funding by \$74 MM.	Concurs and eliminates all funding.
Next Generation Bomber (NGB)	Do not pursue technology efforts aimed at producing a Next Generation Bomber.	Concurs. ¹¹	Includes a statement of policy supporting the NGB.
CG(X) Next Generation Cruiser	Delay the CG(X) beyond FY 2015 and use the added time to reexamine the hull and propulsion systems needed for this ship.	Concurs.	Concurs.
C-17 Globemaster	End production of aircraft after the 205 already ordered and fund the orderly shutdown of the production line.	Concurs.	Concurs.
LPD-17 and Mobile Landing Platform (MLP) Transport Ships	Delay building the LPD-17 and MLP ships by one year and reassess requirements for amphibious lift.	Concurs, but adds \$60 MM for long-lead components.	Concurs.

¹¹ While no funding was included in the budget for the Next Generation Bomber, Rep. Abercrombie noted in a prepared statement during the Air and Land Forces Subcommittee mark-up of the authorization bill that "An additional \$140 million is provided to leverage critical technologies that were associated with the Next Generation Bomber that also apply to other classified and unclassified programs." Accessed at: http://armedservices.house.gov/apps/list/speech/armedsvc_dem/AbercrombieStatement061209.shtml