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Fact Sheet: FY13 National Defense Authorization Act Highlights of the Conference Report

The National Defense Authorization act (NDAA) for Fiscal Year 2013 is the key mechanism to provide necessary authorities and funding for America's military. This is the fifty-first consecutive NDAA. The bill meets Chairman McKeon and our member's goals of providing resources to meet the threats America faces; keeping faith with America's men and women in uniform; aligning our military posture in a dangerous world, and rebuilding a force after a decade at war. The House version of the bill, **H.R. 4310 passed the House in May by a bipartisan vote of 299-120**. The Senate passed their version, S.3254 earlier this month 98-0.

RESOURCES FOR A DANGEROUS WORLD:

The FY 2013 National Defense Authorization Act reflects concern about America's mounting debt, but also ensures that our Armed Forces have the resources they need to meet an increasingly dangerous world. It also recognizes that the military has absorbed 50% of deficit reduction efforts to date, though it comprises only less than 20% of the federal budget.

AUTHORIZED FUNDING LEVELS: The bill authorizes **\$552.2 billion** for base national defense and **\$88.5 billion** for Overseas Contingencies Operations. This is **\$1.7 billion above** the President's budget request, and is an incremental step to address the **\$46 billion decrease** when considering where the President proposed National Defense would be for fiscal year 2013 in last year's budget.

Both the President's budget request and the House-passed budget authorized National Defense above the Budget Control Act; however, in crafting the House budget, the House was careful to identify other non-defense sources to accommodate the needed increase in national security accounts while reducing the overall funding below the BCA cap.

KEEPING FAITH WITH OUR WARFIGHTERS AND MILITARY FAMILIES:

The FY13 NDAA provides our war fighters and their families with the care and support they need, deserve, and have earned; while ensuring that proposed drawdown plans do not cut to the heart of the Army and Marine Corps. Vital provisions include:

TROOP PAY: The FY13 NDAA authorizes a **1.7% pay increase** and extends bonuses and special pay for our men and women in uniform.

TRICARE: The FY13 NDAA restates the firmly held sense of Congress that access to quality health care services during retirement is a benefit earned through prior service to our nation. Mindful of our commitment to servicemembers and their families, the FY13 NDAA rejects Administration proposals to increase some TRICARE fees and establish new TRICARE fees. These proposals went too far and were not included in the bill. The FY13 NDAA includes a modest increase in TRICARE pharmacy co-pays in 2013 and a cap on pharmacy co-pays beginning in 2014 that would allow fees to rise by no more than the annual retiree COLA. This is offset by a 5-year pilot program that requires TRICARE for life recipients to obtain refills of maintenance drugs through the TRICARE mail-order program.

Additional items directed to the care and support of warfighters and their families include:

- **Limiting Troop Reductions:** As the size of the military is reduced, the FY13 NDAA caps the number of troops that can be separated from the Army and Marine Corps in a single year.
- **Conscience Clause for Servicemembers and Chaplains:** This provision requires the Armed Forces to accommodate the moral principles and religious beliefs of service members and chaplains and restricts adverse personnel actions because of those beliefs.
- **Hyde Amendment:** Under the Hyde Amendment and H.R. 3, the No Taxpayer Funding for Abortion Act, federal funding for abortion is prohibited with the exemption of rape, incest, or life of the mother. Under the Department of Defense, the current restriction is more narrowly drawn, only exempting the life of the mother. The FY13 NDAA retains the overall prohibition on federal funding for abortion but would include rape or incest in the exemption.
- **Addressing Sexual Assault:** The FY13 NDAA reflects a bipartisan effort to provide significant new regulations and procedures for combating and prosecuting sexual assault within the military, as well as deterring potential sexual predators. The bill requires that new commanders assess the climate of their organizations with regard to sexual assault shortly after assuming command and then annually thereafter and requires the Department of Defense to make information about resources available to report and respond to sexual assaults widely available throughout the Department. The conference report also requires each of the military services to establish a special victims' capability for the investigation, prosecution and victim support in connection with sexual assault and other offenses under the Uniform Code of Military Justice.
- **Suicide Prevention:** The FY13 NDAA responds to the nations' profound concern about suicides by members of our military. The bill requires DOD to develop a comprehensive policy on the prevention of suicide among service members. It also requires the Secretary to establish a position within the Office of the Secretary of Defense that would be responsible for overseeing all suicide prevention and resilience programs of DOD and the military services.

ALIGNING MILITARY POSTURE IN A DANGEROUS WORLD:

The NDAA ensures that America's military is robust, flexible, and capable. The bill will provide our warfighters with the time, resources, and authorities they need to win the war in Afghanistan and continue to prosecute the wider War on Terror.

Afghanistan: The NDAA addresses the critical transition period between now and 2014. The bill reauthorizes vital authorities for our commanders on the ground and key programs to assist the transition, including building Afghan National Security Forces. The NDAA requires presidential notification of any change in force level in Afghanistan and the associated risk of such a change in force level.

- **Insider Attacks.** Reflecting Conferees' deep concern on the increasing trend of "green on blue attacks" the NDAA imposes reporting requirements on insider attacks in Afghanistan, as well as a certification on the vetting and professional standards of the Afghan Public Protection Force for the provision of security on installations where U.S. Forces are present.

Global Challenges: Requires Combatant Commanders to give their assessment of capability gaps against North Korea, China, and Iran.

- **Space.** Provides additional funding for national security space programs, approximately \$50 million above the Administration's request.
- **Cyber.** Increases oversight of cyber operations and capabilities.
- **Science and Technology.** Supports several key areas of science and technology investments to

ensure the Department meets future defense need.

Auditability: Implements recommendations from the HASC Financial Management and Auditability Reform Panel that will improve execution and management of Department of Defense Enterprise Resource Planning systems.

Competition and Innovation: The FY13 NDAA introduces bipartisan reforms aimed at the way the Defense Department interacts with the private sector, **opening more opportunities for small businesses, increasing competition, and spurring innovation.** It also requires the Secretary to develop a national security strategy for the industrial base and eliminates obstacles to small business competition for Defense Department initiatives.

Iran: Asserts that the U.S. should be prepared to take all necessary measures, including military action if required, to prevent Iran from threatening the U.S., its allies, or Iran's neighbors with a nuclear weapon and reinforces the military option should it prove necessary.

- **Sanctions:** The NDAA extends sanctions to additional sectors of the Iranian economy, including energy, shipping, ship building, and financial services, in an effort to further restrict areas where the Government of Iran can generate revenue.

Strategic Forces: Modernizes and supports DOD's nuclear forces, including intercontinental ballistic missiles, nuclear bombers, cruise missiles and the Navy's strategic submarines and submarine-launched ballistic missiles.

- **NNSA Reform.** Implements measures and oversight mechanisms to ensure greater efficiency and effectiveness at NNSA and begins the process of important reforms of the Defense Nuclear Facilities Safety Board.
- **Nuclear oversight.** Imposes important oversight on nuclear reductions, including requiring a new nuclear posture review prior to the President undertaking radical reductions to America's nuclear deterrent that have been reported to be under active consideration.
- **Missile Defense.** Supports a robust national missile defense, including requiring the Department of Defense to begin the work of fielding an additional missile defense site in the United States, likely on the East Coast, to respond to rising ballistic missile threats from states like Iran.
- **Iron Dome:** Supports missile defense cooperation with key allies, including Israeli Cooperative Missile Defense programs like Iron Dome.

Special Operations Forces: Enables Special Operations Forces to sustain the current fight and rebalance across the globe where appropriate to counter and mitigate threats, and work with partner nations.

- Preserves and institutionalizes other capabilities such as irregular warfare and security force assistance within the services and U.S. Special Operations Command.
- Authorizes an additional \$159 million to fulfill a critical unfunded requirement identified by the Commander of U.S. Special Operations Command for high-definition Intelligence, Surveillance, and Reconnaissance capabilities.

Detainees: As terrorists have decentralized and sought new safe havens from which to carry out attacks on U.S. soil, Congress acted last year to ensure our military men and women risking their lives to defend us from such attacks on are on solid legal ground. Last year the FY12 NDAA reaffirmed the authority to go after terrorists who are part of or substantially supporting al Qaeda, the Taliban, or associated forces. This year the bill makes clear beyond a shadow of a doubt that every American will have his day in court.

- **Guantanamo Bay:** The FY13 NDAA prohibits the transfer of detainees from Guantanamo Bay to the United States.
- **Detainees in Afghanistan:** The FY13 NDAA requires notice to Congress before the transfer or

release of any foreign detainees in Afghanistan. The conference report also requires various assessments regarding the disposition of such detainees. These requirements are critical given the threat posed by these detainees to U.S. forces in Afghanistan as well as to U.S. national security.

REBUILDING A MILITARY TESTED BY A DECADE AT WAR:

The FY 13 NDAA restores and retains vital systems, platforms, capabilities, and authorities needed to maintain America's combat power after a decade of war. It also invests in capabilities necessary to meet the challenges of the future. The bill declines to take up Administration requests, such as two rounds of base closure, which could damage vital military infrastructure.

Retaining Vital Systems:

- **Navy Cruisers.** Restores funding for at least three Navy Cruisers that were scheduled for early retirement while they each had at least a decade of service life ahead of them.
- **Intra-theater airlift.** Based on known capability gaps and shortfalls, preserves **intra-theater airlift capabilities** crucial to DOD's ability to support warfighters on the ground with agile combat support by maintaining tactical airlift aircraft proposed for premature divestment. (*See Preserving Air Guard Structure*)
- Requires DOD to define **global mobility requirements for strategic airlift aircraft** before proposing retirement of strategic airlift aircraft that may be needed to support the new defense strategic guidance. (*See Preserving Air Guard Structure*)
- **Global Hawk.** Retains the Air Force's Global Hawk Block 30 unmanned intelligence, surveillance, and reconnaissance aircraft as they support the deployed warfighter, rather than shifting this asset to storage.
- **Heavy Armor.** Sustains America's **heavy armored production base** by maintaining minimum sustained production of Abrams tanks, Bradley fighting vehicles, and Hercules recovery vehicles.

Investing in Future Capabilities:

- **Airborne Electronic Warfare.** The FY13 NDAA maintains the option for additional airborne electronic warfare capabilities by supporting advance procurement for the EA-18G Growler.
- **Counter-IED.** Supports counter-IED funding for the warfighter.
- Fully funds the **Army Ground Combat Vehicle** development program.
- **Aircraft.** Fully funds requests for 50 AH-64 Apaches, 59 UH-60 Blackhawks, and 44 CH-47 Chinooks, 29 F-35 Lightning II aircraft, 26 F-18 E/F Super Hornets, V-22 aircraft, 36 MQ-9 Reaper UAS.
- Resources underfunded **critical dual-use equipment** requirements for Guard and Reserve forces.
- **Submarines.** Increases the authorized multi-year procurement from 9, to up to 10 Virginia class submarines.
- **Destroyers.** Increases the authorized multi-year procurement from 9, to up to 10 DDG-51 Arleigh Burke class destroyers.
- Limits the DOD's ability to spend FY13 Defense Production Act funds on **biofuel refinery construction** until they receive matching funds from the Department of Energy and the Department of Agriculture.

PRESERVING AIR GUARD AIRCRAFT AND MANPOWER: Conferees held significant reservations with respect to the Air Force's plans for maintaining and divesting important assets, specifically equipment and assets in the Air National Guard. Conferees found the Air Force's analysis to be flawed and the House and Senate responded by freezing any movement of guard equipment. Late appeals by the Air Force, including

a new proposal submitted in November were also rejected. Conferees were not convinced that strategy or analysis had improved.

The FY13 NDAA embraces a balanced approach that better accommodates known Air Force requirements, current Air Force readiness and operational tempo, the need to maintain “defense in depth” with National Guard and Air Force Reserve capabilities, emerging mission requirements, and the reality that defense resources are declining across the Department. The FY13 NDAA:

- The Air Force will be required to integrate the Army’s Time Sensitive / Mission Critical mission and concept of operations into Air Force doctrine, strategy, modeling and operations by June 1, 2013.
- Stops retirement of **26 C-5A** aircraft, holding the strategic airlift total at 301 aircraft, until DoD completes a comprehensive study of air mobility requirements.
- Requires the Air Force to maintain an additional **32 C-130 or C-27J** tactical airlift aircraft, beyond the Air Force’s new plan, to meet the Army’s requirement of 40 dedicated aircraft to support Time Sensitive / Mission Critical direct support airlift.
- Permits the Air Force to continue with prior FY 13 aircraft divestments, transfers, and retirements.

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