



## Legislative Bulletin.....December 12, 2013

### Contents:

H. Res. 441 - National Defense Authorization Act for Fiscal Year 2014

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### H. Res. 441- National Defense Authorization Act for Fiscal Year 2014 (McKeon, R- CA)

**Order of Business:** [H.Res.441](#) - The National Defense Authorization Act for Fiscal Year 2104 is scheduled to be considered on the floor on Tuesday, December 10, 2013, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage

**Summary:** [H.Res.441](#) - The National Defense Authorization Act for Fiscal Year 2104 (NDAA) authorizes \$552.1 billion in spending for national defense and an additional \$80.7 billion for Overseas Contingency Operations. The funding authorized by the NDAA is consistent with the FY2014 House-passed budget ([H.Con.Res. 25](#)) and the [Republican Study Committee](#) (RSC) budget, as well as House and Senate Appropriations bills. This legislation is substantially based on two bills: (1) HR. 1960, the National Defense Authorization Act for FY14 which passed the House on June 14, 2013, by a vote of 315-108; and (2) S.1197, a product of the Senate Armed Services Committee which passed out of committee on the same day by a vote of 23-3.

To read a background document from the House Armed Services Committee (HASC), click [here](#).

To read an explanatory document provided by HASC, click [here](#).

Highlights of the major provisions of note are included below:

- **Troop Pay:** This legislation maintains current law. It is important to note President Obama has notified Congress that he intends to use his authority to set 2014 military pay at 1 percent as opposed to the annual, automatic pay increase of 1.8 percent. This bill does not affirm or reject the President's decision.
- **TRICARE:** The FY2013 NDAA enacted reforms that included tying Tricare fee increases to retiree cost of living increases. This bill rejects all Administration proposals

to increase TRICARE fees or establish new TRICARE fees. Tricare, which provides health benefits for military personnel and retirees serves approximately [9.6 million](#) beneficiaries around the world

- **Sexual Assault:** Contains over 30 provisions or reforms to the Uniform Code of Military Justice (UCMJ) related to combatting sexual assault in the military. Included are proposals in the House version introduced by Representatives Turner and Tsongas, Representative Walorski, Noem, Castro, and Sanchez. Provision in the bill include:
  - Reforms which would strip commanders of their authority to dismiss a finding by court martial.
  - Prevent commanders from reducing guilty findings to guilty of a lesser offense. This was in the House passed version.
  - The bill permits a crime victim to apply for a permanent change of station or unit transfer, provides authorities materials for post-trial considerations, and requires specially trained lawyers for victims of sex-related offenses are provided. This was in the House passed version.
  - Reforms the Article 32 process to avoid destructive fishing expeditions and properly focus on probable cause. This is newly added after the passage through the House.
  - Requires the provision of victims' counsels, qualified and specially trained lawyers in each of the services, to be made available to provide legal assistance to the victims of sex-related offenses. The NDAA adds rape, sexual assault, or other sexual misconduct to the protected communications of service members, with a Member of Congress or an Inspector General- and expands those protections for sexual assault crime.

This bill does not include the amendment offered by Senator Gillibrand.

- **Gender Neutral Standards:** Contains the House passed provision which would establish a definition of a "gender-neutral occupational standard" that would be used by each military service to develop the standards required for all military career designators.
- **Religious Liberties Protections:** Expands religious liberty by requiring the accommodation of individual expressions of belief by service members unless such expressions of belief could have an adverse impact on military readiness, unit cohesion, and good order and discipline. The language included is based off of section 512 of the Senate bill.
- **Protecting and Supporting Warfighters and Military Families:** Requires a minimum 180 day notification before the cancellation of a deployment and a minimum 120 day notification before a deployment for individuals for the operational reserves. It also authorizes the commander of U.S. Special Forces Command to provide additional family support services to U.S. Special Operations Forces and their families.
- **Protective Body Armor:** Includes is a provision found in the House bill (sec. 252) that would require the Secretary of Defense to submit to the congressional defense

committees a comprehensive research and development strategy for achieving significant weight reductions for body armor components. In addition, the NDAA facilitates the development of more functional, lighter, and more protective body armor.

- **Readiness:** According to HASC, the NDAA meets the President’s Overseas Contingency Operations (OCO) request, replenishing readiness accounts raided in prior years to cover underfunded war costs. This includes restoring Army and Air Force flying hour programs, facilities sustainment, ship depot maintenance for each service, Army OPTEMPO, depot maintenance, Navy critical spares and combat support forces equipment and sustainment, and provides for the stabilization of fuel rates.
- **Afghanistan:** The House Armed Services Committee notes, “The most important element of the transition in Afghanistan is achieving a Bilateral Security Agreement (BSA) between the United States and the Government of Afghanistan.” The NDAA states that a BSA should ensure that:
  1. the Department of Defense, its military and civilian personnel, and its contractors are protected from liability to pay taxes or other similar charges associated with efforts to carry out missions in Afghanistan that have been mutually agreed to between the U.S. Government and the Afghan Government;
  2. the United States has exclusive legal jurisdiction over U.S. Armed Forces deployed in Afghanistan;
  3. the right of self-defense of the U.S. military mission and of U.S. military personnel is not infringed;
  4. the U.S. military in Afghanistan is able to take the necessary measures to protect other U.S. Government offices and personnel in Afghanistan; and
  5. the U.S. military has sufficient access to bases and freedom of movement to carry out such missions and activities as the President assigns the military in Afghanistan, including the continuing effort to counter al Qaeda and its associated forces.
- The NDAA fully funds a series of important authorities that support the Afghanistan and U.S. national security interest, including the Afghan Infrastructure Fund (AIF), the transition in Afghan Security Forces Fund (ASFF) and the Commander’s Emergency Response Program (CERP). It prohibits the use of half of the funds for those authorities until the Secretary of Defense certifies that the BSA is signed and is in the national security interests of the United States.
- Included is a House provision which would require the Secretary of Defense to submit to the congressional defense and intelligence committees a plan regarding defense intelligence assets in relation to the drawdown of U.S. forces in the Islamic Republic of Afghanistan.
- **Pakistan:** Extends the authority for reimbursement of certain coalition nations for support provided to United States military operations. It requires the Secretary of Defense to report on the terms and agreements associated with the movement of U.S. supplies and equipment through ground lines of communication (GLOC) with Pakistan. It also requires the use of those funds will be restricted until the Secretary certifies that Pakistan is fully supporting the movement of supplies.

- **Benghazi:** : In response to the terrorist attacks against U.S. diplomatic compounds in Benghazi, Libya, on September 11, 2012, the bill requires a report on posture and readiness of the Armed Forces to respond to an attack or other contingency against United States diplomatic facilities overseas.
- **Syria:** Gives the Secretary of Defense the authority to provide assistance to the military and civilian first responder organizations of countries that share a border with Syria in order to enhance the capability of the country to respond effectively to potential incidents involving weapons of mass destruction. The NDAA provides enhanced authority for the DOD's Cooperative Threat Reduction program to destroy Syria's chemical weapons and requires the Department to develop a cooperative threat reduction strategy to combat weapons of mass destruction in the Middle East and North Africa. It also includes a sense of Congress that:
  1. The United States Government should develop a plan to reduce the spread of technology and expertise that could support the ballistic missile development programs of Iran, North Korea, and Syria, as well as any other nation determined by the United States Government to be a ballistic missile proliferation risk; and
  2. Such plan should include efforts to secure the cooperation of the Russian Federation and the People's Republic of China to help reduce the spread of such ballistic missile technology and expertise.
- **Iran:** The bill requires the Secretary of Defense to submit a new report within 90 days of enactment to the congressional defense committees on the military partnership with Gulf Cooperation Council countries that includes an explanation of the steps the DoD is taking to improve the interoperability of the U.S.-Gulf Cooperation Council countries' missile defense systems as well as such efforts that are funded by OCO funding. It also amends the annual Iran Military Power Report to include an assessment of Iran's global networks as well as American intelligence and capabilities gaps. Finally the NDAA authorizes integrated air and missile defense with GCC countries.
- **Guantanamo Bay:** The NDAA maintains the prohibition against transfer of detainees from Guantanamo Bay to the United States and the prohibition on construction of detainees facilities in the United States. An important change to note is the policy of transferring detainees to foreign countries. This bill uses Senate language which would authorize two procedures for the transfer or release of Guantanamo detainees to their country of origin or another country other than the United States. In relation to current law, this somewhat lessens the standards for eligibility of transfer. To read more, it is Sec.1035.
- **Oversight of Targeted Operations:** The NDAA incorporates all of the key provisions of HASC Vice Chairman Mac Thornberry's Oversight of Sensitive Military Operations Act (OSOMA), as a vehicle for formalized and stringent oversight of targeted lethal or capture operations by the Armed Forces overseas.
- **Cyber Security:** Requires the Secretary of Defense to establish an outreach and education program to assist small businesses to help them understand the cyber threat, and develop

plans to protect their intellectual property and networks. The Secretary of Defense is to provide an assessment of the cyber threats to major weapons systems and tactical communications systems that could emerge within the next years; an assessment of the cyber vulnerabilities of major weapons systems and tactical communications systems; a description of the current strategy to defend against battlefield cyber attacks; and an estimate of the costs to correct the vulnerabilities in the future.

- **Accountability for Vital Strategic Programs and Assets:** According to HASC, The NDAA prohibits the transfer of some missile defense technology to Russia and strengthens congressional oversight of Administration efforts with regard to U.S- Russia missile defense cooperation generally. The NDAA requires a report on Russian strategy, doctrine and training, force structure, and military-to-military contacts.
- **BRAC:** The bill prohibits DoD from proposing, planning, or initiating any additional Base Realignment and Closure (BRAC) rounds.
- **Efficiency Studies:** The bill requires the GAO to conduct multiple studies to reduce bureaucracy including examining U.S. Central command, all functional combatant commands, the Office of the Secretary of Defense, the Joint Staff, and the Service Secretaries.
- **Missile Defense:** Contains a provision that would prohibit the use of FY14 funds to be used for the medium extended air defense system (MEADS). It would also include a prohibition on the use of fiscal year 2014 funds to integrate missile defense systems of the People's Republic of China into U.S. missile defense systems. There is also a provision that would authorize up to \$15.0 million for non-recurring engineering costs associated with establishing the capacity for United States industry to produce parts and components of the Iron Dome system in the United States, subject to an agreement between the United States and Israel for co-production of Iron Dome parts and components. The NDAA provides funding for planning for the deployment of an East Coast missile defense site, while the Missile Defense Agency undertakes siting and environmental studies- noting that both the Bush and Obama Administrations have supported an additional homeland missile defense site.
- **Communications Security Review Advisory Board:** As passed by the House, this bill require the Secretary of Defense to establish a senior-level body, to be known as the Cryptographic Modernization Review and Advisory Board, to assess and advise the cryptographic modernization activities of the Department of Defense. In addition, would require the Chief Information Officer to chair the Board, with the Board monitoring overall communications security, cryptographic modernization, and key management efforts of the Department.
- **Bureaucratic Reduction:** Requires the Secretary to submit to Congress a report on the future plans of the Joint Improvised Explosive Device Defeat Organization (JIEDDO). Additionally the NDAA requires the Secretary to determine if the Air Sea Battle Office is duplicative of efforts more efficiently carried out by the Joint Staff. The NDAA also reduces flag officer billets by 24.

- **Note:** The NDAA does not authorize the detention of citizens and the following section was passed last year and is now permanent law:
  - Nothing in the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note) or the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) shall be construed to deny the availability of the writ of habeas corpus or to deny any Constitutional rights in a court ordained or established by or under Article III of the Constitution to any person inside the United States who would be entitled to the availability of such writ or to such rights in the absence of such laws.

**Major Changes Since the Last Time This Legislation was Before the House:** The House passed the HR. 1960, the National Defense Authorization Act for FY14 on June 14, 2013 by a vote of 315-108. This bill is based heavily on the house passed version. To read more about what changes have been made, the HASC has provided [this](#) document.

**Additional Background:** The NDAA has passed been signed into law for the last 51 years. If it is not passed, the General of the U.S. Army warns the following programs will no longer be authorized.

Afghanistan Security Forces Fund	9/30/2013
Authority for Joint Task Forces to Provide Support to Law Enforcement Agencies Conducting Counter-Terrorism Activities	9/30/2013
Authority for Reimbursement of Certain Coalition Nations for Support Provided to United States Military Operations	9/30/2013
Authority to Provide Additional Support for Counter-drug Activities of Other Countries	9/30/2013
Authority to Support Unified Counter-drug and Counter-terrorism Campaign in Colombia	9/30/2013
Commanders' Emergency Response Program in Afghanistan	9/30/2013
Authority to Establish a Program to Develop and Carry Out Infrastructure Projects in Afghanistan	9/30/2013
Logistical Support for Coalition Forces Supporting Operations in Afghanistan	9/30/2013
Pakistan Counterinsurgency Fund (DoS)	9/30/2013
Task Force on Business and Stability Operations in Afghanistan and Economic Transition Plan and Economic Strategy for Afghanistan	9/30/2013
Enhancement of Authorities Relating to DoD Regional Centers for Security Studies	9/30/2013
Authority to Support Operations and Activities of the Office of Security Cooperation in Iraq	9/30/2013
Ford Class Carrier Construction Authority	9/30/2013
North Atlantic Treaty Organization Security Investment Program	9/30/2013
Reintegration Activities in Afghanistan	12/31/2013
Military Special Pays and Bonuses	12/31/2013
• Expiring Bonus and Special Pay Authorities provided by P.L. 112-239, sections 611-615 (National Defense Authorization Act for Fiscal Year 2013)	
Travel and Transportation Allowances	12/31/2013
Authority to Waive Annual Limitation on Premium Pay and Aggregate Limitation on Pay for Federal Civilian Employees Working Overseas	12/31/2013
Non-Conventional Assisted Recovery Capabilities	9/30/2013
Support of Foreign Forces Participating in Operations to Disarm the Lord's Resistance Army	9/30/2013
Authority to Provide FAA War Risk Insurance to CRAF Carriers	12/31/2013
Authority to Provide Temporary Increase in Rates of Basic Allowance for Housing Under Certain Circumstances	12/31/2013
<b>Acquisition Issues:</b>	
New Starts, Production Increases, Multiyear Procurements	Various
80/20 Rule	N/A
General Transfer Authority & Special Transfer Authority	N/A
AP of Virginia Class	10/1/2013

**Outside Groups:**

Support:

- A [letter](#) of support was signed by the following: Association of the United States Army, Air Force Association, National Defense Industrial Association, National Guard Association of the United States, Aerospace Industries Association, Nave League of the United States and the Shipbuilders Council of America.
- Chairman of the Joint Chiefs of Staff, Martin Dempsey ([letter](#))
- Commandant of the Marine Corps ([letter](#))

Opposed:

- [National Taxpayers Union](#)

**Administration Position:** No Statement of Administration Position was available at this time.

**Cost to Taxpayers:** No CBO score was available at this time.

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**NOTE:** *RSC Legislative Bulletins are for informational purposes only and should not be taken as statements of support or opposition from the Republican Study Committee.*

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