



Legislative Bulletin.....December 20, 2012

Contents:

Conference Report on H.R. 4310—Fiscal Year 2013 National Defense Authorization Act

Conference Report on H.R. 4310—Fiscal Year 2013 National Defense Authorization Act (McKeon, R-CA)

Order of Business: The bill is scheduled to be considered on Thursday, December 20, 2012. The bill will be brought to the floor under a structured rule, [H. Res. 840](#), that waives all points of order against the conference report and its consideration. It provides that the conference report shall be considered as read, and provides one hour of debate and one motion to recommit.

Summary: [H.R. 4310 Conference Report](#) authorizes funding at \$552.2 billion for the base national defense budget and \$88.5 billion for overseas contingencies operations in Afghanistan. According to the House Armed Services Committee (HASC), this is \$1.7 billion above the President’s budget request. This funding level is \$1.8 billion below the House passed version of the NDAA (see here our analysis on the House passed NDAA: [Legislative Bulletin](#)).

➤ **Key policy provisions**

○ **Salary for service members**

- H.R. 4310 authorizes a 1.7% pay increase and extends bonuses and special pay for service Members.

○ **TRICARE**

- Includes a modest increase in TRICARE pharmacy co-pays in 2013 and a cap on pharmacy co-pays beginning in 2014 which will allow fees to rise by no more than the annual retiree COLA.
- This is offset by a five-year pilot program that requires TRICARE for life recipients to obtain refills of maintenance drugs through the TRICARE mail-order program.
- TRICARE serves 9.3 million beneficiaries, including 5.5 million military retirees.

○ **Limiting troop reductions**

- The end strength of the regular component of the Army shall not be reduced by more than 15,000 members during FY2014-FY2017 from the end strength of the regular component of the Army at the end of the preceding year.
- The end strength of the regular component of the Marine Corps shall not be reduced by more than 5,000 members during FY2014-FY2017 from the end strength of the regular component of the Army at the end of the preceding year.

o *Guantanamo Bay detainees*

- Prohibits the transfer of detainees from Guantanamo Bay to the United States (for one year) and prohibits the use of funds to house these detainees in the United States.
- This legislation also contains text addressing the controversy over the detainee language in the FY2012 NDAA:
 - o Nothing in the Authorization for Use of Military Force or the National Defense Authorization Act for Fiscal Year 2012 “shall be construed to deny the availability of the writ of habeas corpus in a court ordained or established by or under Article III of the Constitution for any person who is detained in the United States pursuant to the Authorization for Use of Military Force.”
- The Feinstein Amendment (the provision stating that AUMF should not be construed to provide detention authority vis-a-vis US persons captured in the US absent express language authorizing detention) was not in the final text.

o *Afghanistan*

- o The conference report has removed the section on the sense of Congress that we should “maintain at least 68,000 troops in Afghanistan through December 31, 2014, unless fewer troops can achieve United States objectives” and “maintain a credible troop presence after December 31, 2014, sufficient to conduct counter-terrorism and train and advise the Afghan National Security Forces. . .”
- o The Secretary of Defense is required to provide for the conduct of an independent assessment of the strength, force structure, force posture, and capabilities required to make the Afghan National Security Forces capable of providing security for their own country so as to prevent Afghanistan from ever against becoming a safe haven for terrorists.
 - This shall include an assessment whether the current proposal for the resourcing of the Afghan National Security Forces after 2014 is adequate to establish and maintain long-term security for the Afghanistan people.

o *Iran*

- The conference report changes the language (from the original House legislation) relating to the findings on Iran from:
 - o “Preventing Iran from acquiring a nuclear weapon is among the most urgent national security challenges facing the United States.”
 - o “In order to prevent Iran from developing nuclear weapons, the United States, in cooperation with its allies, must utilize all elements of national power including diplomacy, robust economic sanctions, and credible, visible preparations for a military option.”
 - o “Declaration of Policy- It shall be the policy of the United States to take all necessary measures, including military action if required, to prevent Iran from threatening the United States, its allies, or Iran's neighbors with a nuclear weapon.”
- To:
 - o “It is the sense of Congress that the United States should be prepared to take all necessary measures, including military action if required, to prevent Iran from threatening the United States, its allies, or Iran’s neighbors with a nuclear weapon.”

o *Israeli Iron Dome program*

- This legislation provides significant support for the Israeli Iron Dome program that is mainly designed for small and medium range missile attacks.
- It would provide \$680 million in funding, which is in addition to nearly \$100 million already provided in assistance for medium and long range missile defense through other foreign aid.
 - o This assistance is out of the DoD budget, and is separate from the annual \$3.1 billion in foreign aid to Israel.
- This triples the previous highest allocation of \$205 million for this program, which was made in 2010.
 - o Because the Iron Dome program is designed to intercept short-range rockets and 155 mm artillery shells with a short-range, it seems unclear whether this technology could be used by the US military (especially considering the US investment in alternative platforms).

o *Pakistan*

- Freezes security assistance funding until Pakistan reopens vital supply routes to U.S. troops in Afghanistan.

- After an alleged NATO attack that killed over 20 Pakistani troops, Pakistan has [shut down](#) supply routes to Afghanistan. This has made providing supplies to our troops much more expensive, as previously most supplies for our troops went through Pakistan.
- Places a limitation upon reimbursement to Pakistan contingent upon the Secretary of Defense submitting a report that includes a certification that Pakistan is “committed” to:
 - Supporting counter-terrorism operations against Al Qaeda, its associated movements, the Haqqani Network, and other domestic and foreign terrorist organizations.
 - Dismantling improvised explosive device (IED) networks and interdicting precursor chemicals used in the manufacture of IEDs.
 - Preventing the proliferation of nuclear-related material and expertise.
 - Issuing visas in a timely manner for United States Government personnel supporting counterterrorism efforts and assistance programs

➤ ***Specific weapons programs***

○ ***Air National Guard aircraft and manpower***

- Preserves C-130 Hercules, 5 Galaxies, and C-27J Spartan aircraft dependent upon how the Air Force chooses to allocate its resources.

○ ***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***

- Funds upgrades for Abrams tanks (\$129 million)
- Bradley fighting vehicles (\$288 million)
- Hercules recovery vehicles (\$169 million)

○ ***Aircraft***

- *Fully funds requests for:*
 - 50 AH-64 Apaches
 - 59 UH-60 Blackhawks
 - 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
- Maintains the option for additional airborne electronic warfare capabilities by supporting advance procurement for the EA-18G.

- Air Force will be allowed to retire C-5A Galaxy transports once the Pentagon completes a study satisfying Congress that airlift needs will be met.
- ***Naval Vessels***
 - Increases the authorized multi-year procurement from 9, to up to 10 DDG-51 Arleigh Burke class destroyers.
 - 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..
 - Increases the authorized multi-year procurement from 9, to up to 10 Virginia class submarines.
- ***Cyber***
 - Re-affirms DoD’s role in cybersecurity dealing with international targets and protection of their own assets.
 - The Secretary of Defense must provide a quarterly briefing to SASC and HASC on all offensive and “significant” defense military operations in cyberspace.
 - Section 941 requires Defense contractors that have classified information on their networks to report any successful cyber penetrations on their systems to the Defense Department.
- ***Additional provisions***
 - ***Base Realignment and Closure (BRAC)***
 - The prohibition on conducting additional BRAC rounds in the House version of the legislation was removed.
 - ***Alternative fuels***
 - None of the FY 12-13 Defense Production act funds may be obligated or expended for the construction of a biofuel refinery unless the DoD receives matching contributions from the Department of Energy and equivalent contributions from the Department of Agriculture.
 - ***Information on Guantanamo detainees***
 - Requires information on individuals being detained at Guantanamo.
 - ***Sentaku islands***
 - Section 1286 includes a sense of Congress that “the east China Sea is a vital part of the maritime commons of Asia,” and “the United States has national interests in freedom of navigation, the maintenance of peace and stability, respect for international law, and unimpeded lawful commerce.”
 - Additionally, it reaffirms our commitment to Japan under Article V of the Treaty of Mutual Cooperation and security.
 - ***Missile defense***
 - Prohibits the sharing of missile defense technology with the Russian Federation.
 - ***Exporting satellites and satellite technology***

- Lifts some of the restrictions that have hamstrung the development of space industries.

o ***Sexual harassment***

- Secretary of Defense shall modify the revised comprehensive policy for the Department of Defense sexual assault prevention and response program to include the following new requirements:
 - 1) That the service secretaries initiate and retain, for a specified period, a record on the disposition of allegations of sexual assault;
 - 2) That commanders of certain commands and units conduct, within 120 days of assuming command and at least annually thereafter, a climate assessment for the purposes of preventing and responding to sexual assaults;
 - 3) To post and widely disseminate information about resources available to report and respond to sexual assaults, and;
 - 4) For a general education campaign to notify service members of the authorities available for the correction of military records when a member experiences any retaliatory personnel action for making a report of sexual assault or sexual harassment.

o ***Iran sanctions***

- Authorizes a number of new sanctions against Iranian “energy, shipping, ship building, and financial services.”

o ***Embassy protection***

- In light of the terrorist attack on the US consulate in Benghazi, the bill authorizes an additional 1,000 Marine Corps guards at diplomatic facilities around the world.

➤ ***Key Values Provisions***

o ***Conscience Clause Protection for Military Chaplains and Members of the Armed Services:***

- The Armed Forces shall “accommodate the conscious and sincerely held moral principles and religious beliefs,” by its service members and chaplains, regarding human sexuality.
- The Armed Forces shall not use such “conscience, principles, or beliefs as the basis of any adverse personnel action” such as denying promotion.
- No member of the Armed Forces may direct, order or require a chaplain to perform a duty, ritual or ceremony that is contrary to his conscience, moral principles or religious beliefs.

o ***Hyde Amendment:***

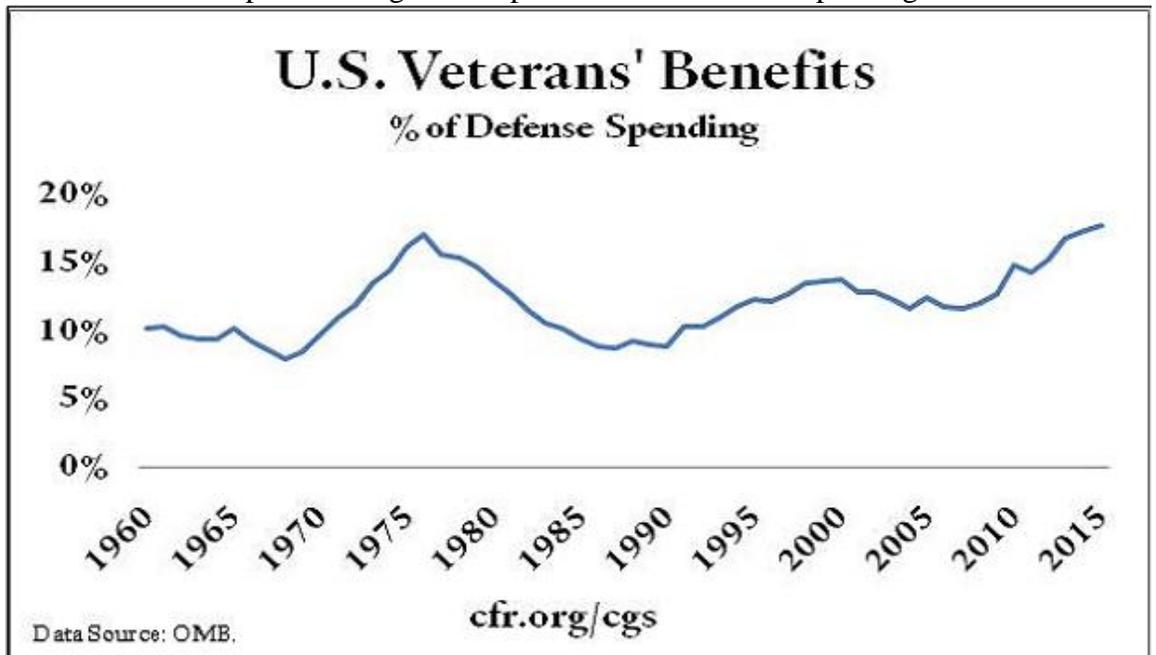
- Under the Hyde Amendment and H.R. 3, the No Taxpayer Funding for Abortion Act, federal funding for abortion is prohibited with the

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 FY 2013 NDAA retains the overall prohibition on federal funding for abortion but would include rape or incest in the exception.

Background:

➤ ***Veterans benefits***

- TRICARE is a government run insurance program that serves 9.3 million beneficiaries, including 5.5 million military retirees. This program has been, at times, extremely expensive and vastly inefficient, the back-log for veterans’ benefits is extremely long, and these benefits represent a significant part of overall defense spending:



- About 1/6 of the Defense budget is spent on benefits for veterans.
- The cost of veterans’ benefits is increasing and projected to increase further, given current commitments.
 - Former Air Force Chief of Staff Ronald Fogelman has said that rising health care costs, retirement costs and a handsome array of benefits mean the Pentagon is “now a center of entitlements. . .They have been untouchable.” (at a CSIS event, read [here](#)).
- “Health care is eating the department alive”, Defense Secretary Robert Gates has said, [pointing](#) to soaring costs that have grown from \$19 billion in 2001 to \$52.5 billion in 2011.
- The Heritage Foundation’s Baker Spring has provided sustentative analysis on reforming the Tricare system (read [here](#)). He argues:

- On a gradual basis, military health care coverage programs under TRICARE should be converted from the existing defined-benefit structure to a defined-contribution structure. Under this approach, a portion of the reductions in benefits can be offset by increasing the level of basic pay provided to the troops. Additionally, military service members, retirees, and their dependents may be provided tax advantages they carry with them for the rest of their lives.

➤ ***Iron Dome Program***

- Israel has three Iron Dome batteries. This is “enough only to protect the cities closest to Gaza (Ashkelon, Ashdod and Be’er Sheva).” At least three times as many would be needed to shield other population centers, and even with a special grant from Washington only three more are in the pipeline, for a total of six.
 - This system works up to around 50 miles, and other systems work in concert of other ranges (Magic Wand, David’s Sling, Arrow).
 - The system reads the arc of incoming missiles to determine which may threaten populated areas.
- In the spring, militants fired some 120 missiles. Iron Dome judged that about two-thirds of those would land far from populated areas, and simply left them alone. Of the 37 that it calculated posed a significant danger to people, the system launched interceptor rockets that, in 32 cases, met the incoming missile and exploded it in mid-air. That’s an 86 percent success rate (read more [here](#)).
- In the recent conflict with Hamas, the Iron dome program has been hailed by most as a major success. According to one article, it had a 85% shoot-down rate against those rockets which it targeted (the system is designed to ignore rockets on a trajectory to open space or the sea) (read more [here](#)).

Authorization Highlights: This authorization measure sets the spending levels for all DoD programs and sets military strength levels. What follows are *highlights* of authorization levels of the three divisions (Dept. of Defense, Military Construction, and Dept. of Energy & Others) in the bill.

Division A = Department of Defense Authorizations

Division B = Military Construction Authorizations

Division C = Department of Energy National Security Authorizations and Other Authorizations

Division E = SBIR and STTR Reauthorization

Division A—Department of Defense Authorizations

Division A—Procurement

- **Army**. Aircraft: \$5.853 billion; Missiles: \$1.352 billion; Weapons and Tracked Combat Vehicles: \$1.814 billion; Ammunition: \$1.571 billion; Other Procurement: \$6.152 billion.
- **Navy**. Aircraft: \$17.127 billion; Weapons (including missiles and torpedoes): \$3.112 billion; Shipbuilding and Conversion: \$14.258 billion; Other Procurement: \$6.819 billion; Ammunition (Navy and Marine Corps): \$726 million.
- **Marine Corps**: \$1.482 billion.
- **Air Force**. Aircraft: \$11.279 billion; Ammunition: \$599 million; Missiles: \$5.459 billion; Other Procurement: \$16.749 billion.
- **Defense-Wide Activities**: \$4.491 billion.
- **Subtotal**: \$98.398 billion
- **A Conference change of**: \$966 million.

Division A—Research, Development, Test, and Evaluation

- **Army**: \$8.494 billion.
- **Navy**: \$17.308 billion.
- **Air Force**: \$25.383 billion.
- **Defense-Wide Activities**: \$18.551 billion.
- **Operational Test & Evaluation**: \$200 million
- **Subtotal**: \$69.938 billion.

Division A—Funding for Operations and Maintenance

<i>Army</i>	\$36.481 billion
<i>Navy</i>	\$41.746 billion
<i>Marine Corps</i>	\$6.006 billion
<i>Air Force</i>	\$35.660 billion
<i>Defense-Wide Activities</i>	\$32.088 billion
<i>Army Reserve</i>	\$3.178 billion
<i>Naval Reserve</i>	\$1.247 billion
<i>Marine Corps Reserve</i>	\$272.29 million
<i>Air Force Reserve</i>	\$3.207 billion
<i>Army National Guard</i>	\$7.158 billion
<i>Air National Guard</i>	\$6.186 billion
<i>U.S. Court of Appeals for the Armed Forces</i>	\$13.52 million
<i>Acquisition Development Workforce Fund</i>	\$274.20 million
<i>Army Environmental Restoration</i>	\$335.92 million
<i>Navy Environmental Restoration</i>	\$310.60 million
<i>Air Force Environmental Restoration</i>	\$529.27 million
<i>Defense-wide Environmental Restoration</i>	\$11.13 million
<i>Formerly Used Defense Sites Environmental Restoration</i>	\$237.54 million

<i>Overseas Humanitarian, Disaster, and Civics Programs</i>	\$108.76 million
<i>Cooperative Threat Reduction Programs</i>	\$519.11 million
<i>Subtotal</i>	\$175.569 billion

Division A—Military Personnel Authorization Levels

Authorized personnel levels as of September 30, 2013:

<i>Army</i>	552,100
<i>Navy</i>	322,700
<i>Marine Corps</i>	197,300
<i>Air Force</i>	329,460
<i>Army National Guard, Selected Reserve</i>	358,200
<i>Army Reserve, Selected Reserve</i>	205,000
<i>Navy Reserve, Selected Reserve</i>	62,500
<i>Marine Corps Reserve, Selected Reserve</i>	39,600
<i>Air National Guard Reserve, Selected Reserve</i>	105,700
<i>Air Force Reserve, Selected Reserve</i>	70,880
<i>Coast Guard Reserve, Selected Reserve</i>	9,000
<i>Army National Guard, Full-Time Duty</i>	32,060
<i>Army Reserve, Full-Time Duty</i>	16,277
<i>Navy Reserve, Full-Time Duty</i>	10,114
<i>Marine Corps Reserve, Full-Time Duty</i>	2,261
<i>Air National Guard, Full-Time Duty</i>	14,765
<i>Air Force Reserve, Full-Time Duty</i>	2,888
<i>Army National Guard, Dual-Status Technicians</i>	27,210
<i>Army Reserve, Dual-Status Technicians</i>	8,395
<i>Air National Guard, Dual-Status Technicians</i>	22,180
<i>Air Force Reserve, Dual-Status Technicians</i>	40,400
<i>Army Reserve, Non-Dual-Status Technicians</i>	595
<i>Army National Guard, Non-Dual-Status Technicians</i>	1,600
<i>Air Force Reserve, Non-Dual-Status Technicians</i>	90
<i>Air National Guard, Non-Dual-Status Technicians</i>	350

Maximum numbers of reservists who may be serving at any time on full-time operational support duty:

- Army National Guard: 17,000
- Army Reserve: 13,000
- Naval Reserve: 6,200
- Marine Corps Reserve: 3,000
- Air National Guard: 16,000
- Air Force Reserve: 14,000

Authorization of Appropriations for Military Personnel:

Division A—Other Authorizations

- **Defense Working Capital Funds:** \$144.62 million.
- **Defense Working Capital Fund DECA:** \$1.372 billion.
- **National Defense Sealift Fund:** \$608.14 million.
- **Defense Health Program:** \$32.621 billion.
- **Chemical Agents and Munitions Destruction:** \$1.302 billion.
- **Defense Wide Drug Interdiction:** \$1.025 billion.
- **Defense Inspector General:** \$332.92 million.
- **Armed Forces Retirement Home:** \$67.59 million.

Division B—Military Construction Authorizations

Division B—Military Construction

- **Army:** \$1.684 billion.
- **Navy:** \$1.573 billion.
- **Air Force:** \$322.54 million.
- **Defense Wide:** \$3.432 billion.
- **NATO Security Investment Program:** \$254.16 million.
- **Army National Guard:** \$613.80 million.
- **Army Reserve:** \$305.85 million.
- **Naval and Marine Corps Reserve:** \$49.53 million.
- **Air National Guard:** \$42.39 million.
- **Air Force Reserve:** \$10.98 million.

Division C—Department of Energy National Security Authorizations and Other Authorizations

Division C—Department of Energy National Security Programs

- **Energy Security & Assurance:** \$17.354 billion.
- **Weapons Activities:** \$7.658 billion.
- **Defense Nuclear Nonproliferation:** \$2.485 billion.
- **Naval Reactors:** \$1.088 billion.
- **Office of Administrator for Nuclear Security:** \$382 million.
- **Defense Environmental Cleanup:** \$5.009 billion.
- **Other Defense Activities for National Security:** \$731.3 million.

Potential Conservative Concerns:

- *Limiting unilateral executive power to initiate wars that are not vital to American national security.*

As was mentioned in our previous [Legislative Bulletin](#), the legislation does not change the current process in regard to the President’s power to unilaterally engage in a humanitarian war without Congressional approval.

In 2011, President Obama initiated hostilities in Libya in Operation Odyssey Dawn as a humanitarian mission. This action appeared to directly violate the War Powers Resolution. While he consulted with the United Nations, he never consulted with the Congress.

The [War Powers Resolution](#) requires that the President notify Congress within 48 hours of engagement and forbids armed forces from remaining there beyond 60 days, with another 30 day withdrawal period, without an authorization of the use of military force or a declaration of war.

Despite this law, President Obama kept military assets in Libya beyond this 90 day deadline without any authorization. President Obama's Attorney General provided the legal [explanation](#) for how the President had the constitutional authority to use force in Libya on the sole basis that "he could reasonably determine that such use of force was in the national interest."

The NDAA does not contain any provisions to limit Presidential ability to unilaterally initiate a humanitarian war that is not necessary to protect American national security.

➤ ***Procedure for killing American citizen terrorists.***

As was mentioned in our previous [Legislative Bulletin](#) on the House NDAA, the legislation does not change the current process in regard to the procedures for killing an American citizen who is involved in a terrorist group.

It is widely believed that Mr. Awlaki was killed by U.S. Hellfire missiles on September 30, 2011. Mr. Awlaki was an American citizen and was not charged with a crime by the United States government. Attorney General Holder argued that the AUMF gave the President authority to kill American citizens in Yemen (read more [here](#)). Some conservative have questions regarding the procedure for this type of alleged killing of an American citizen (Mr. Awlaki's father tried to contest his status on the "kill list" in a court of law but his claim was denied for lacking standing and involving a political question).

➤ ***Cyber-security***

As was mentioned in our previous [Legislative Bulletin](#), Vice JCS Winnefeld noted the lack of clear cyber-security policy, authorities, etc. which would be tremendously helpful to protecting the U.S. from the cyber threat. He mentioned the ability to be active defenders rather than reactionary defenders, i.e., stopping Pearl Harbor before it happens rather than responding once the damage is done.

Some conservatives argue that this legislation could do more to explain and delineate who does what in the cyber realm, such as what is the role of the NSA vs. the Navy and Air Force.

Paul Rosenzweig has written regarding his concern for Section 939 of the NDAA Conference Report which contains a provision requiring Defense contractors that have classified information on their networks to report cyber breaches without affording them liability protection and without allowing the DoD to share the threat or vulnerability information with other parts of the Government (read [here](#)).

➤ *Afghanistan*

As was mentioned in our previous [Legislative Bulletin](#), the NDAA is Congress's main mechanism to control our policies related to ongoing war – through the power of the purse. Ultimately, Congress has the ability to shut off funding for a war of which it does not approve, or to limit the implementation of allocated funds for specific purposes.

The conference report specifically authorizes \$88.5 billion in “overseas contingency operations” including in Afghanistan, thereby effectively authorizing another year of the continued strategy from last year in the war in Afghanistan. Some conservatives would argue against this.

[418](#) US soldiers were killed in Afghanistan last year, and 307 soldiers were killed this year far, bringing to the total US fatalities to [2171](#) since 2001. Last year was the second deadliest year in the war in Afghanistan – now the [longest war](#) in American history.

The conference version of the legislation does not contain the original language on the sense of Congress that the President “should maintain at least 68,000 troops in Afghanistan through December 31, 2014, unless fewer troops can achieve United States objectives”; and that we should maintain a credible troop presence after December 31, 2014, sufficient to conduct counter-terrorism and train and advise the Afghan National Security Forces. . .”

Some conservatives argue that our continued presence in Afghanistan is an expensive use of manpower, resources and capability. They argue that it remains unclear what the mission is in Afghanistan. Some conservatives argue that we should only deploy American troops with (1) a clear mission that can be accomplished, (2) that is realistic, (3) that is vital to American national security, where (4) there is no alternative method that is more effective, (5) there is sufficient/overwhelming resources to accomplish that mission, and (6) a system of benchmarks for success and reassessment. This concern is fully fleshed out in our previous [Legislation Bulletin](#) on the House NDAA – which went into detail on these arguments.

That Legislative Bulletin also includes the counter arguments from American Enterprise Institute, the Heritage Foundation and others in favor of our continuing our presence in Afghanistan.

Cost to Taxpayers: A full CBO estimate is not available, but the CBO chart on mandatory spending shows that it will save \$52 million over the 2013-2022 period.

Committee Action: H.R. 4310 was introduced on March 29, 2012, and it was referred to the House Armed Services Committee. A mark-up was held ([Report](#)) and it was reported out of committee on May 9, 2012 (56 – 5 vote). On May 11, 2012, it was reported out of committee (H. Rept. [112-479](#)). H.R. 4310 passed the House by a recorded vote on May 18, 2012 ([299-12](#) vote). It was then referred the Senate Committee on Armed Services. On December 4, 2012, the Senate Committee on Armed Services discharged the legislation by unanimous consent. On December 12, 2012, an amended version of the NDAA passed the senate by unanimous consent. On December 13, 2012, both Houses agreed upon conferees for a conference report. On December 18, 2012, Conferees agreed to the conference report (H. Rept. [112-705](#)).

Administration Position: While a Statement of Administration Policy (SAP) is not available at press time.

Does the Bill Expand the Size and Scope of the Federal Government? No, the bill authorizes less than what was appropriated in FY 2012.

Does the Bill Expand the Size and Scope of the Federal Government?: No. Providing for the common defense is a primary constitutional duty of the federal government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: According to Rep. McKeon’s statement of constitutional authority which accompanied H.R. 4310, Congress has the power to enact this legislation pursuant to the following: “The constitutional authority on which this bill rests is the power of Congress ‘to provide for the common Defence’, ‘to raise and support Armies’, ‘to provide and maintain a Navy’ and ‘to make Rules for the Government and Regulation of the land and naval Forces’ as enumerated in Article I, section 8 of the United States Constitution.”

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

RSC Staff Contact: Derek S. Khanna, Derek.Khanna@mail.house.gov, (202) 226-0718.
