



July 20, 2020

H.R.6395, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021

Key Points:

- Today, the House is beginning consideration of H.R. 6395, the William M. (Mac) Thornberry National Defense Authorization Act for FY 2021. This bipartisan bill complies with the bipartisan budget agreement. It authorizes \$732 billion in discretionary spending for our national defense for FY 2021, including approximately \$69 billion for Overseas Contingency Operations (OCO).
- This bipartisan bill is a strong bill that honors America's values, strengthens our security, and advances America's leadership in the world.
- The bill was reported by the House Armed Services Committee on July 1 by a bipartisan, unanimous vote of 56 to 0.
- One key feature of this bill is that, in this bill, the House has come together on a bipartisan basis to begin the process of changing the names of military bases and infrastructure named after individuals who served in the Confederacy – with the process to be completed in one year. The names of our military bases should reflect our highest ideals, expressing who we aspire to be as a nation.
- The measure has strong provisions to take care of our troops and our military families – authorizing support for a 3.0 percent pay raise, authorizing increased funding to clean up contamination of drinking water on our military bases by PFAS chemicals, continuing to invest in improving the oversight and management of housing for military personnel and their families, making improvements to sexual assault prevention and response programs, and developing several key programs to promote and enhance diversity and inclusion programs in our military.
- The measure contains a key provision creating a \$1 billion Pandemic Preparedness and Resilience National Security Fund, directing funding to efforts to proactively increase our country's ability to be prepared for and respond to future pandemics.
- The bill makes corrections to the paid parental leave benefit provided through the FY 2020 National Defense Authorization Act to ensure that the FAA, Department of Veterans Affairs, and certain other civilian employees inadvertently omitted from the legislation receive the paid parental leave benefit.
- The bill also honors America's values in many ways, including prohibiting use of DOD funds to provide logistical support to the Saudi-led coalition for strikes in Yemen, limiting the funding under the national emergency military construction authority to prevent its misuse on the President's wasteful border wall, and not containing any restrictions on transferring detainees from Guantanamo Bay.
- In addition, the measure also includes several provisions to confront the climate crisis.

- **Finally, the bill does not authorize an additional Base Realignment and Cloture (BRAC) round in FY 2021.**

Following is an overview of some of the key provisions of the bill.

Creating A More Inclusive, Diverse Military

Confederate Names and Display of Confederate Flag

- **Requires DOD to identify, report on a process, and change the names of all military bases and infrastructure named for individuals who served in the Confederacy within one year.**
- **Prohibits the public display of the Confederate flag on Department of Defense installations.**

Diversity Requirements for DOD and NNSA

- Creates a Special Investigator to review and investigate racial disparities in the Military Justice System and in personnel policies and practices, including recruiting accessions, promotions, and retention, as well as white supremacist activities among military personnel.
- Establishes a Chief Diversity Officer reporting directly to the Secretary of Defense as well as establishing a Chief Diversity Officer in each of the military services reporting directly to the Secretary of that service.
- Requires the Secretary of Defense and the Secretaries of the Military Services to establish goals for increasing women and minorities in the military services.
- Requires each Secretary of a military department to submit annually a report summarizing the gender and race of each officer who was recommended on a list for promotion to the U.S. Senate for the grades of O-4 and above.
- Requires annual reports on the diversity of contractor employees of the National Nuclear Security Administration

Violent Extremism

- Adds a Violent Extremism punitive article to the Uniform Code of Military Justice.
- For example, the Article would punish individuals subject to the Code who knowingly commit murder, manslaughter, assault and other covered offenses in order to achieve political, ideological, religious, or other goals or because of the race, religion, color, ethnicity, sex, age, disability status, national origin, sexual orientation, or gender identity of the person or class of person.

Other Provisions

- Authorizes \$17 million for Historically Black Colleges and Universities and Minority Institutions.
- Establishes a scholarship for service pilot subprogram under DOD's Science, Mathematics, and Research for Transformation (SMART) program for students in Minority Institutions, to diversify and strengthen the national security workforce.
- Requires a report on improving the equal employment opportunity complaint resolution processes for civilian employees of DOD.
- Includes the Elijah Cummings Federal Employee Anti-Discrimination Act, passed by the House in January 2019, which strengthens equal employment opportunity protections for federal employees and strengthens prohibitions against discrimination and retaliation against whistleblowers.

Taking Care of Our Troops and Our Military Families

- Continues to improve the quality of life of our service men and women by authorizing support for a 3.0 percent pay increase for our service men and women.
- Authorizes additional funding to clean up contamination of drinking water on our military bases by PFAS chemicals.
- Builds on previous efforts to continue to require additional improvements in the housing for military personnel and their families.

- Continues to require additional improvements in sexual assault prevention and response programs, including creating a new pilot program for the military service academies, which includes a special prosecutor for offenses committed by attendees.

Protecting Our Civilian Workforces

- Prohibits the Department of Defense from excluding any civilian employees from their collective bargaining rights
- Prohibits the Office of Personnel Management from including more than one local wage area within a General Schedule pay locality to better align Federal Wage System Areas with General Schedule locality pay areas.
- Prohibits the Secretary of Defense from reducing the civilian workforce unless the Department assesses the impact of such reduction on workload, military force structure, lethality, readiness, and operational effectiveness.

Responding to the COVID-19 Pandemic

- Creates a \$1 billion Pandemic Preparedness and Resilience National Security Fund, directing the funding to efforts to proactively increase our country's ability to be prepared for and respond to future pandemics.
- Requires one of the Assistant Secretaries to be the Assistant Secretary of Defense for Industrial Base Policy, who would be responsible for developing and maintaining the defense industrial base and ensuring a secure supply of materials critical to national security.
- Creates the Small Business Industrial Base Resiliency Program and authorizes the Assistant Secretary for Defense to enter into transactions to purchase or make a commitment to purchase goods or services from small business concerns in response to the COVID-19 pandemic.

Paid Parental Leave

- Makes technical corrections to the paid parental leave benefit provided through the FY 2020 National Defense Authorization Act to ensure that the Federal Aviation Administration, Department of Veterans Affairs, and certain other civilian federal employees inadvertently omitted from the legislation receive the parental leave benefit.

Promoting American Values

- **YEMEN:** Prohibits the use of DOD funds to provide logistical support to the Saudi-led coalition for strikes in Yemen. It also prohibits DOD civilian, military, or contractor personnel from participating in hostilities against the Houthis, without authorization from Congress.
- **BORDER WALL:** Does not authorize funding for the border wall. The bill does, however, limit the funding under the national emergency military construction authority to prevent its misuse on the President's wasteful border wall.
- **GUANTANAMO BAY:** Does not carry any statutory restrictions on transfer of detainees from the Guantanamo Bay detention facility.

Addressing Climate Change

- Establishes a new "National Academies Climate Security Roundtable" within the National Academy of Science to establish best practices for identifying and disseminating climate indicators and warnings to ensure that environmental security is included in operational planning and intelligence analysis.
- Authorizes additional funding to support research that advances long-range forecasting of seasonal and subseasonal weather patterns, which would provide national security officials with advanced warning of potentially destabilizing events.
- Authorizes an additional \$5 million for research into extreme weather events.
- Establishes a pilot program to develop microgrids on military installations that integrate emergency diesel generators to demonstrate how microgrid emergency diesel generator backup power could create efficiencies and resiliency while reducing costs and emissions.

- Requires a report on efforts taken to ensure fuel consumption, distribution, and logistics are being considered across the Department and that steps are being taken to reduce consumption of fossil fuels by 30 percent in 25 years to reduce the number of resupply convoys and oilers required in a contested environment.
- Requires a report on the implementation of provisions from the FY2020 National Defense Authorization Act related to installation, master planning, updates to the Unified Facilities Criteria (building codes), sea-level rise modeling, and climate assessment tools

Provisions on PFAS Chemicals

- Requires the Secretary of Defense to meet or exceed the most stringent standards between an enforceable State standard under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), an enforceable Federal 16 | P a g e standard under CERCLA, or a health advisory under the Safe Drinking Water Act when performing removal or remediation actions of PFOS or PFOA contamination from Department of Defense or National Guard activities found in drinking water or in groundwater that is not currently used for drinking water.
- Requires the Department of Defense to publish on a public website the results of drinking and ground water PFAS testing conducted on military installations or former defense sites.
- Requires the Department of Defense to notify the congressional defense committees when there has been an uncontrolled release of PFAS-containing firefighting agent.
- Prohibits DLA procurement of certain items containing PFAS, including cookware, uniforms, personal care products, floor, and furniture wax, carpeting and upholstery, and food packaging.
- Authorizes \$150 million for research lines that support development of PFAS remediation and disposal technologies and firefighting agent replacement.
- Authorizes a total of \$1.5 billion for environmental remediation and cleanup at current military installations, formerly utilized defense sites, and installations closed by BRAC, to include an additional \$190 million in BRAC and Environmental Restoration accounts to support acceleration of remediation activities and PFAS response.

Provisions on Europe and Russia

- Prevents the use of DOD funds to reduce U.S. forces stationed in Germany and stationed in Europe below the levels present on June 10, 2020, unless 180 days in advance, the Secretary of Defense and Joint Chiefs of Staff certify that the reduction would not negatively impact U.S. and allied security, and provide Congress with assessments of the national security impacts, costs and consequences for U.S. servicemembers and their families.
- Fully funds the European Deterrence Initiative (EDI), and provides an additional \$3.789 billion for strategic sealift, satellite communications, refueling, submarine, and anti-submarine capabilities that enhance deterrence against Russia.
- Provides \$250 million for the Ukraine Security Assistance Initiative (USAI), which provides support and assistance to the Ukrainian Armed Forces, of which \$50 million can only be used for lethal defensive equipment.
- Continues to limit military-to-military cooperation with Russia, extending a rule of construction that the prohibition does not affect bilateral military-to-military dialogue for the purposes of reducing the risk of conflict.

Provisions on Countering ISIS

- Continues U.S. military support for our partners in Iraq and Syria to fight ISIS, while extending and expanding congressional oversight over U.S. military training and equipping activities.
- Requires the Secretary of Defense to certify U.S. military forces are not being used to extract, transport, transfer, or sell oil from Syria.
- Expresses the Sense of Congress that the Peshmerga of the Kurdistan Region of Iraq are a critical partner in Operation Inherent Resolve, the fight to destroy ISIS.

Provisions on Nuclear Security

- Requires the President to participate in at least one nuclear command and control exercise per term.
- Authorizes an increase of \$80 million for nuclear non-proliferation.

Provisions on Iran

- Requires the Department of Defense to submit detailed budget and activity information to the Congress on Operation Spartan Shield, which covers some Iran deterrence related activities, in the Central Command area of operations.

Provisions on Afghanistan

- Afghanistan Security Forces Fund (ASFF):
 - Authorizes \$3.5 billion to fund the Afghanistan National Defense and Security Forces (ANDSF).
 - Encourages the continual development of Gender Programs by specifying funds within Afghanistan Security Forces Fund for the recruitment, retention, and professional development of women in the ANDSF.
- Extends the Afghan Special Immigrant Visas program that allows Afghans (and their families) whose service to the U.S. Government puts them at great risk, to immigrate to the United States.

Provisions on Aircraft

- Supports the Administration's budget request for 79 F-35 Joint Strike Fighters.
- Authorizes funding for 12 KC-46 tanker aircraft, the Air Force's next-generation aerial refueling tanker.
- Provides additional funding for advance procurement to support the purchase of 12 F/A-18E/F Super Hornet aircraft in fiscal year 2022.
- Provides funding for six additional P-8 Poseidon multi-mission aircraft.
- Provides funding for four additional V-22 Osprey aircraft.
- Supports the Administration's request for the AH-64 Apache and UH-60 Blackhawk helicopters.

Provisions on Shipbuilding

- Authorizes funding for a total of nine new battle force ships, including one Columbia-class ballistic missile submarine, two Virginia-class submarines, two DDG-51 Arleigh Burke destroyers; one guided missile Frigate (FFG); one Expeditionary Fast Transport (EPF) ship, and two T-AT towing, salvage, and rescue ships.

Strengthening Congressional Oversight of Deployment Personnel to the Southern Border of the United States and Use of Emergency Construction Authorities

- Modifies the authority for military personnel to assist Customs and Border Protection (CBP) at the southern border to add additional oversight.
 - Requires a certification that there will be no impact on readiness.
 - Requires that deployed personnel's individual skills and unit missions align with the support task(s) assigned.
 - Requires a report on the deployment of U.S. military in support of southern border activities, including possible impact on readiness.
 - Greatly expands existing quarterly report requirements on the mission of National Guard and active duty personnel at the southern border.
 - Requires the Department of Defense to provide quarterly and total cost breakdowns for support provided to CBP.
 - Amends the emergency military construction authority to set an annual limit of \$100 million for the domestic use of the authority and \$500 million for overseas projects, with an exception for medical projects that may be necessary to support response to a health emergency or pandemic. These changes essentially render the emergency construction authority useless for purposes of constructing a border wall.

Other Provisions Strengthening Congressional Oversight of DOD

- Implements strong congressional oversight over the use of the military:
 - Requires DOD to provide congressional notification of all activities under a section of the U.S. Code that authorizes support for counterdrug activities and activities to counter transnational organized crime.
 - Updates program management controls on the nuclear warhead acquisition process and nuclear weapons plutonium pit production.
 - Continues critical oversight of the F-35 Joint Strike Fighter and initiates new reporting requirements from DOD on software testing methodologies and pertinent issues approaching the full-rate production decision in early 2021.
 - Strengthens accountability of the Advanced Battle Management System (ABMS) by adding reporting requirements on ABMS demonstrations, product line capabilities, and decision-making authorities.
- Addresses civilian casualties resulting from U.S military operations by:
 - Including a Sense of Congress commending DOD for measures to prevent, mitigate, track, investigate, learn from, respond to, and report civilian casualties resulting from U.S. military operations.
 - Requiring a study to explore other geographic combatant commanders providing civilian casualty reporting data similar to U.S. AFRICOM.
 - Authorizing resources to implement a Department policy on civilian casualties in connection with U.S. military operations.