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2010 Defense Authorization Bill: Merits and Flaws of House Armed Services Bill H.R. 2647

Mackenzie M. Eaglen and Eric Sayers

The U.S. House of Representatives Armed Services Committee completed its markup of H.R. 2647, the National Defense Authorization Act for fiscal year (FY) 2010, last week. The full House will likely begin debate and pass its version this week.

While considering the legislation, committee members made several important steps to begin reversing some of President Obama's most alarming proposals. The legislation is not without its flaws, however, as it fails to restore funding for the missile defense budget. When the U.S. Senate Armed Services Committee completes its markup this week, it should retain many of the House recommendations while restoring missile defense funding.

What the House Armed Services Committee Got Right. The House Armed Services Committee legislation for 2010 started down a sound path by funding many solid programs and initiatives. Just a few highlights from the bill that should be kept in future versions and signed into law include:

- Authorizing the creation of an independent National Defense Panel to assess the overall effectiveness of the Pentagon's Quadrennial Defense Review (QDR);
- Keeping *Virginia*-class nuclear attack submarines on track to reach two a year in 2011;
- Providing funding for more F/A-18s for the Navy's rapidly aging fighter fleet;
- Keeping the F-22 production line open with parts funding for 12 additional aircraft; and

- Requiring the Pentagon to submit a report to Congress justifying any decisions relating to the early retirement of legacy fighter jets.

The Merits of H.R. 2647.

1. Establishing an Independent National Defense Panel. The need for an open dialogue about senior-level assumptions that are currently driving Pentagon strategy and budget decision-making is becoming increasingly apparent. In February, Secretary Gates asked those working on the draft 2010 defense budget to sign nondisclosure agreements and later made any additional revelation permanent even though the budget was submitted to Congress.¹

In addition to announcing that shifts in overall Pentagon posture and risk management will be managed as part of the QDR process, Secretary Gates has indicated that future cuts and cancellations for a variety of weapons systems will result from the FY 2011 budget.²

A bipartisan, independent National Defense Panel tasked with reviewing the assumptions and recommendations of the QDR strategy review process is a critical step Congress should take to reassert its constitutional authority over the defense planning process and challenge the assumptions

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now prevalent within the office of the secretary of defense.

2. *Providing Advance Procurement Funding for Virginia-Class Attack Submarines.* The U.S. Navy requires 48 attack submarines (SSNs) to maintain its undersea capability. However, as the old *Los Angeles*-class attack boats continue to age, the number of available submarines is projected to fall, reaching the low 40s by the 2020s.³

H.R. 2647 rightly stresses the need to reverse “the declining trend in Navy force structure.”⁴ This is encouraging language for the U.S. submarine fleet, which has declined from 79 SSNs in 1996 to 53 in 2008—a decrease of over 41 percent.⁵

H.R. 2647 provides advance procurement for two additional *Virginia*-class boats each year after FY 2011. The long-held plan to procure two subs per year should yield eight *Virginia*-class boats from 2009 through 2013 in a 1-1-2-2-2 production rate.⁶ If the Navy adopts the two-per-year built rate that H.R. 2647 supports, only then may the U.S. submarine fleet be properly sustained.

3. *Authorizing a Multi-Year Procurement for Additional F/A-18s for the Navy.* In April 2009, Chief of Naval Operations Admiral Gary Roughead stated that due to F/A-18 retirements and the unavailability of the Joint Strike Fighter F-35, between 2016 and 2025 the Navy would face a “strike fighter gap.”⁷

House committee members have made clear their legitimate concerns about the Navy’s looming fighter bathtub. The bill correctly determines that the purchase of new F/A-18s is the appropriate response to alleviate the coming Navy fighter gap.

The House committee bill therefore recommends a multi-year procurement contract for new F/A-18/E/Fs and EA-18G fighters. The legislation also authorizes an extra \$108 million for advance procurement of parts after FY 2010 and an additional \$56 million specifically for the EA-18Gs.⁸ The Congressional Budget Office is also authorized to evaluate the overall cost effectiveness of the decision to procure more F/A-18s rather than refitting and extending the service lives of current fighters.

4. *Sustaining F-22 Production.* The House Armed Services Committee smartly chose to allocate \$369 million for the advance procurement of parts for 12 additional F-22s in FY 2011. Though a step in the right direction, this level of funding still leaves the Air Force short of the 243 F-22s that General Norton Schwartz, Air Force chief of staff, testified would be a “moderate risk” force.⁹

President Obama’s decision to cap F-22 production at 186 fighters would in actuality yield only about 127 combat-ready aircraft because some fighters will also be used for training and testing. This reduced level will also ensure a more rapid expiration of the fleet’s service life.¹⁰

1. Mackenzie M. Eaglen and Eric Sayers, “Independent Panel Needed for Alternative Views to the Pentagon’s Quadrennial Defense Review,” Heritage Foundation *Web Memo* No. 2425, May 5, 2009, at <http://www.heritage.org/Research/NationalSecurity/wm2425.cfm>.
2. *Ibid.*
3. Mackenzie M. Eaglen and Eric Sayers, “USA: A 21st-Century Maritime Posture for an Uncertain Future,” *Defense Industry Daily*, March 23, 2009, at <http://www.defenseindustrydaily.com/USA-A-21st-Century-Maritime-Posture-for-an-Uncertain-Future-05342> (June 23, 2009).
4. U.S. House of Representatives, Armed Services Committee, *H.R.2647: FY 2010 National Defense Authorization Act Summary*, 2009, June 2009, at <http://armedservices.house.gov/pdfs/HASCFY10NDAA061709.pdf> (June 23, 2009).
5. Ronald O’Rourke, *Navy Attack Submarine Procurement: Background and Issues for Congress 2009*, Congressional Research Service, May 20, 2009, at <http://ftp.fas.org/sgp/crs/weapons/RL32418.pdf> (June 23, 2009).
6. *Ibid.*
7. Vago Muradian, “Navy Struggles with ‘Fighter Gap,’ May Buy More F/A-18s, Delay F-35 Purchase,” *Defense News*, April 7, 2009, at <http://www.defensenews.com/story.php?i=3466832> (June 23, 2009).
8. U.S. House of Representatives, Armed Services Committee, *H.R. 2647*.
9. Sam LaGrone, “House Committee Adds \$369M for 12 More F-22s,” *Air Force Times*, June 13, 2009, at http://www.airforcetimes.com/news/2009/06/airforce_f22s_061709w (June 23, 2009).

After subcommittee markup, Representative Neil Abercrombie (D–HI), chairman of the House Armed Services Subcommittee on Air and Land Forces, said that it was the sense of Congress that 20 more F-22s were necessary if only to provide “breathing room.” He also appeared confident that the money required to procure an additional 20 fighters would be found.¹¹

The Senate should help identify those offsets to purchase an additional 20 F-22 fifth-generation fighters. Any measure that increases or enhances F-22 numbers and capability ultimately strengthens the Air Force’s ability to achieve air dominance and should be supported by the Congress.

H.R. 2647 also took the long-overdue step of requiring the secretary of defense, in consultation with the secretary of state and the secretary of the Air Force, to submit a report on the potential foreign military sales of the F-22A fighter aircraft to Japan. An allied variant of the F-22 would have a positive impact on the aerospace industrial base, reduce the overall cost of the platform, and enhance the overall air superiority capability of core American allies.¹² In addition to Japan, the U.S. should also examine the prospect of selling the F-22 allied variant to Australia and Israel.

5. Requiring Pentagon Justification for Fighter Aircraft Retirement and Industrial Base Impact Reports. In response to the Air Force’s combat restructuring plan to accelerate the retirement of 250 legacy fighters, H.R. 2647 requires a report to Congress explaining the selection process and identifying new assignments, “follow-on missions” for its servicemen, the fate of the aircraft post-retirement, and any “capability gaps” that may arise as a result.¹³ This provision also hedges against the

coming Air Force fighter gap and challenges the budget-driven assumptions made by Secretary Gates and Air Force leadership.

What Is Still Missing. Foremost among the bill’s shortcomings is its acquiescence to the \$1.62 billion reduction in missile defense laid out in President Obama’s FY 2010 budget—nearly a 15 percent decline from fiscal year 2009 appropriation of \$10.92 billion.¹⁴

In addition, the bill supports a reduction in the number of Ground-Based Midcourse Defense Interceptors from 43 to 30. These cutbacks are particularly troublesome given the recent, renewed aggression and long-range missile capability of North Korea, which, according to General James Cartwright, vice chairman of the Joint Chiefs of Staff, will be in a position to strike the continental United States within three years.¹⁵

The Senate’s Turn. As the Senate Armed Services Committee marks up its version of the 2010 defense authorization bill this week, Members should support and retain many House initiatives including the National Defense Panel and the purchase of additional fighters. The Senate should specifically authorize the sale of modified F-22s to Japan by lifting the Obey Amendment restriction. Committee members should also restore full funding for missile defense, specifically the Ground-Based Midcourse Defense Interceptor program.

—Mackenzie M. Eaglen is Senior Policy Analyst for National Security and Eric Sayers is a Research Assistant in the Douglas and Sarah Allison Center for Foreign Policy Studies, a division of the Kathryn and Shelby Cullom Davis Institute for International Studies, at The Heritage Foundation.

10. Jim Talent and Mackenzie M. Eaglen, “Obama’s 2010 Defense Budget: Top Five Worst Choices for National Security,” *Heritage Foundation WebMemo* No. 2486, June 15, 2009, at <http://www.heritage.org/Research/NationalSecurity/wm2486.cfm>.
11. “Make That 20 More F-22s,” *AirForce-Magazine.com*, June 18, 2009, at <http://www.airforce-magazine.com/DRArchive/Pages/default.aspx> (June 23, 2009).
12. Mackenzie M. Eaglen and Eric Sayers, “Maintaining the Superiority of America’s Defense Industrial Base,” *Heritage Foundation Backgrounder* No. 2276, May 22, 2009, at <http://www.heritage.org/research/nationalsecurity/bg2276.cfm>.
13. *Ibid.*
14. Department of Defense, “Fiscal Year 2010 Budget Request,” May 7, 2009, pp. 3–34, at <http://www.defenselink.mil/comptroller/budget.html> (June 23, 2009).
15. Julian E. Barnes, “U.S. May Be within N. Korea Missile Range in 3 Years, Official Warns,” *The Los Angeles Times*, June 17, 2009, at <http://www.latimes.com/news/nationworld/world/la-sg-north-korea-missiles17-2009jun17,0,6469747.story> (June 23, 2009).