H.R. 1540 – FY12 NATIONAL DEFENSE AUTHORIZATION BILL

SUBCOMMITTEE ON SEAPOWER AND PROJECTION FORCES

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SUMMARY OF BILL LANGUAGE

Titles 1, 2, 10, 14, & 35

TITLE I—PROCUREMENT

SUBTITLE B—ARMY PROGRAMS

Section 111—Limitation on Retirement of C-23 Aircraft

This section would limit the Secretary of the Army from retiring C-23 aircraft until 1 year after the Director of the National Guard, in consultation with the Chief of Staff of the Army, the Chief of Staff of the Air Force, Commander, U.S. Northern Command, Commander, U.S. Pacific Command, and the Administrator of the Federal Emergency Management Agency submits an intra-theater airlift study to the congressional defense committees that incorporates a comprehensive review of intra-theater airlift requirements for both title 10, United States Code, and title 32, United States Code, operations. This section would also require the Comptroller General of the United States to review the report.

SUBTITLE C—NAVY PROGRAMS

Section 121—Multiyear Funding for Detail Design and Construction of LHA Replacement Ship Designated LHA-7

This section would amend section 111 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383) by adding a third year of multiyear authority to fully fund the LHA-7. Instead of just fiscal years 2011-12, this section would authorize the Secretary of the Navy to also fund the ship in fiscal year 2013.

Section 122—Multiyear Funding for Procurement of Arleigh Burke-Class Destroyers

This section would authorize the Secretary of the Navy to enter into a multiyear procurement of *Arleigh Burke*-class destroyers beginning with the fiscal year 2012 program year. This section would require the Secretary to submit a report to the congressional defense committees, 30 days prior to contract award, containing the findings required by subsection (a) of section 2306b of title 10, United States Code.

Section 124—Separate Procurement Line Item for Certain Littoral Combat Ship Mission Modules

This section would direct the Secretary of Defense to provide a separate, dedicated procurement line for each of the primary three mission modules for the Littoral Combat Ship (LCS) commencing with the budget request for fiscal year 2013. Currently, LCS mission modules are in one procurement line in Other Procurement, Navy. The three primary mission modules are for Surface Warfare,

Mine Countermeasures, and Anti-Submarine Warfare. Three distinct lines would allow the committee to have visibility into the quantity of each type of module and the cost of each type of module that is being requested each year. This section also would require that any classified mission modules or components of the modules be included in the classified annex to the budget request.

Section 125—Life-Cycle Cost-Benefit Analysis on Alternative Maintenance and Sustainability Plans for the Littoral Combat Ship Program

This section would direct the Secretary of the Navy to conduct a life-cycle cost-benefit analysis comparing alternative maintenance and sustainability plans for the Littoral Combat Ship program in accordance with the Office of Management and Budget Circular A-94, to be delivered to the congressional defense committees with the President's budget submission for fiscal year 2013.

With the commissioning of the USS *Freedom* and USS *Independence*, the Navy is now in a position to develop a maintenance and sustainability concept for these ships, which will eventually comprise a large percentage of the fleet.

SUBTITLE D—AIR FORCE PROGRAMS

Section 131—B-1 Bomber Force Structure

This section would allow the Secretary of the Air Force to retire 6 B-1 bomber aircraft, but would require the Secretary to maintain a combat-coded inventory of 36 B-1 bomber aircraft and requisite number of training and testing aircraft to support 36 combat-coded aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SUBTITLE B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

Section 214—Limitation on Availability of Funds for Amphibious Assault Vehicles of the Marine Corps

This section would limit the obligation of funds committed for the amphibious assault vehicle until the Secretary of Defense meets certain requirements.

The committee notes that the budget request contained no funds for the Expeditionary Fighting Vehicle (EFV) and that the Department is terminating the program. The committee continues to be frustrated with the lack of transparency by the Department, and its failure to inform Congress prior to making major weapons systems decisions that have significant national security implications. The committee agrees with the June 5, 2007, Nunn-McCurdy recertification letter submitted to Congress, which stated there are no options other than a restructured EFV program that could provide equal or greater military capability at less cost. The recertification letter also stated that initiating a new start program would

increase operational risk due to further delayed deliveries, and pursuing an upgraded Amphibious Assault Vehicle (AAV), while entailing lower cost, would provide less military capability due to the slow speed of the AAV. In addition, the recertification letter stated that the Joint Requirements Oversight Committee (JROC) affirmed the need for a high-speed amphibious assault capability. The EFV's ability to accelerate until the vehicle moves along the top of the water is what gave it the capability to reach speeds in excess of 25 knots.

The Department briefed the committee on its rationale for termination of the EFV program on April 7, 2011. The committee remains concerned that the Department failed to conduct the proper analysis prior to making the decision to terminate the EFV program. The committee has yet to see the detailed analysis that would show one way or the other whether or not other alternatives may have been a more efficient solution rather than terminating the EFV program. The committee questions the Department's assumptions behind the decision to change the deployment distance from 25 nautical miles to 12 nautical miles. In addition, the committee believes that the Marine's combat effectiveness will be negatively impacted as a result of potential motion sickness stemming from riding in an amphibious assault vehicle that is not up on plane for long periods of time. The current AAV is launched from approximately 2 nautical miles and can travel up to 6 knots in ideal sea state conditions. During the April 7 briefing, the committee was told that an upgraded AAV might be able to reach 10 knots and that the speed requirement for the follow-on effort to the EFV, the Amphibious Combat Vehicle (ACV), would be somewhere in the vicinity of 14 knots. The committee notes that a replacement vehicle to the EFV would have to go 16 or 17 knots in order to accelerate until the vehicle moves along the top of the water. The committee is concerned that although no analysis has yet to be completed, the Department has determined that it does not have a high-speed water requirement as validated by the JROC in 2007.

The committee is concerned by what it believes is the Department's current plan to spend approximately $3.0 billion to upgrade the current AAV for it to go from a max speed of 6 knots to 10 knots, travel and then spend an additional $6.0 to $7.0 billion on the ACV so that it can travel up to 14 knots. The committee is concerned that the Department may not be able afford both a comprehensive upgrade to the AAV, and a new start ACV program. The committee believes that a more affordable plan would be minor upgrades that are focused on survivability to the current AAV, which would allow the Department to focus its remaining resources on the ACV program. The committee encourages the Department to develop an acquisition strategy that would produce the ACV program within approximately 5 years upon new start approval.

Section 220—Designation of Main Propulsion System of the Next-Generation Long-Range Strike Bomber Aircraft as Major Subprogram

This section would require the Secretary of Defense to designate the main propulsion system of the next-generation long-range strike bomber aircraft as a major subprogram and would require the Secretary of the Air Force to develop a competitive acquisition strategy for the propulsion system.

Section 221—Designation of Electromagnetic Aircraft Launch System Development and Procurement Program as Major Subprogram

This section would direct the Secretary of Defense to designate the Electromagnetic Aircraft Launch System (EMALS) as a major subprogram of the CVN-78 *Ford*-class aircraft carrier major defense acquisition program within 30 days after the date of enactment of this Act. A major subprogram is defined in section 2430a of title 10, United States Code.

The committee is aware that EMALS is progressing through its land-based testing. However, earlier problems in development have reduced almost all schedule margin in order to make the date the equipment must be in the shipyard for installation in the first ship of the class. The committee acknowledges elevating EMALS to a major subprogram will provide the proper oversight to this critical system as it continues its development and production.

Section 241—Annual Comptroller General Report on the KC-46A Aircraft Acquisition Program

This section would require the Comptroller General of the United States to conduct an annual review of the KC-46A aircraft acquisition program and provide the results of that review to the congressional defense committees by March 1, 2012, and annually thereafter through 2017.

TITLE X—GENERAL PROVISIONS

SUBTITLE C— NAVAL VESSELS AND SHIPYARDS

Section 1021—Budgeting for Construction of Naval Vessels

This section would repeal an amendment made by section 1023 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111-383). This section would require that a 30-year shipbuilding plan be delivered to Congress periodically. The section that would be repealed changed the periodicity from an annual requirement to once every 4 years to be delivered with the Quadrennial Defense Review.

The committee believes that returning to an annual submittal of the plan would promote stability and continuity in the planning process, both in the plan itself, and in the shipbuilding industrial base. One aspect of the section that would be retained is the requirement that the Director of the Congressional Budget Office, within 60 days of submittal of the plan, provide an assessment of the sufficiency of

funds to execute the plan in the budget year and Future Years Defense Program to the congressional defense committees.

SUBTITLE I—OTHER MATTERS

Section 1095—Clarification of Jurisdiction of the United States District Courts to Hear Bid Protest Disputes Involving Maritime Contracts

This section would amend section 1491(b) of title 28, United States Code, by establishing the U. S. Court of Federal Claims as the exclusive Federal court forum for bid protests.

TITLE XIV—OTHER AUTHORIZATIONS

SUBTITLE A—MILITARY PROGRAMS

Section 1403—National Defense Sealift Fund

This section would authorize appropriations for the National Defense Sealift Fund at the level identified in section 4501 of division D of this Act.

TITLE XXXV—MARITIME ADMINISTRATION

Section 3501—Authorization of Appropriations for National Security Aspects of the Merchant Marine for Fiscal Year 2012

This section would authorize a total of $328.9 million for the Maritime Administration of the Department of Transportation for fiscal year 2012. Of the funds authorized, $93.1 million would be available for expenses necessary for operations of the U.S. Merchant Marine Academy, $17.1 million would be available for support of the various state maritime academies, $18.5 million for the program to dispose of obsolete vessels in the National Defense Reserve Fleet, $186.0 million for the Maritime Security Program, and $14.3 million for the loan guarantee program authorized by chapter 537 of title 46, United States Code, commonly referred to as the Title XI Loan Program.

Section 3502—Use of National Defense Reserve Fleet and Ready Reserve Force Vessels

This section would amend section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(b)) to allow the Secretary of Transportation, with concurrence of the Secretary of Defense, to use National Defense Reserve Fleet vessels for civil contingency and promotional and media events subject to other criteria to be considered.

Section 3503—Recruitment Authority

This section would amend section 51301 of title 46, United States Code, by allowing the Secretary of Transportation, subject to the availability of appropriations, to expend funds available for the operating expenses for the United States Merchant Marine Academy for recruiting activities to obtain recruits for the Academy and cadet applicants.

Section 3504—Ship Scrapping Reporting Requirement

This section would amend section 3502(f) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398), as amended by section 3505(a) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163) by eliminating a mandatory reporting requirement for ship scrapping. This section would require the Maritime Administrator to provide briefings, upon request, to the congressional committees with jurisdictional authority on issues concerning the recycling of vessels.

BILL LANGUAGE

Titles 1, 2, 10, 14, & 35

Subtitle B—Army Programs

SEC. 111.[Log #340] LIMITATION ON RETIREMENT OF C–23 AIRCRAFT.

(a) MAINTENANCE.—The Secretary of the Army shall maintain not less than 42 C–23 aircraft, of which not less than—

(1) 11 shall be available for the active component of the Army;

(2) 4 shall be available for training operations; and

(3) 22 shall be available for domestic operations in the continental United States.

(b) LIMITATION ON RETIREMENT.—The Secretary of the Army may not retire (or prepare to retire) any C–23 aircraft or keep any such aircraft in a status considered excess to the requirements of the possessing command and awaiting disposition instructions until the date that is one year after the date on which each report under subsection (c)(2), (d)(2), and (e)(2) has been received by the congressional defense committees.

(c) AIRLIFT STUDY AND REPORT.—

(1) STUDY.—The Director of the National Guard Bureau, in consultation with the Chief of Staff of the Army, the Chief of Staff of the Air Force, the Commander of the United States North-

ern Command, the Commander of the United States Pacific Command, and the Administrator of the Federal Emergency Management Agency, shall conduct a study to determine the number of fixed-wing and rotary-wing aircraft required to support the following missions at low, medium, moderate, high, and very-high levels of operational risk:

(A) Homeland defense.

(B) Contingency response.

(C) Natural disaster-related response.

(D) Humanitarian response.

(2) REPORT.—The Director shall submit to the congressional defense committees a report containing the study under paragraph (1).

(d) FLEET VIABILITY ASSESSMENT.—

(1) ASSESSMENT.—The Secretary of the Army, in coordination with the Director of the Fleet Viability Board of the Air Force, shall conduct a fleet viability assessment with respect to C–23 aircraft.

(2) REPORT.—The Secretary shall submit to the congressional defense committees a report containing the assessment under paragraph (1).

(e) GAO SUFFICIENCY REVIEW.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a sufficiency review of the study under subsection (c)(1).

(2) REPORT.—Not later than 180 days after the date on which the Director of the National Guard Bureau submits the report under subsection (c)(2), the Comptroller General shall submit to the congressional defense committees a report containing the review under paragraph (1).

Subtitle C—Navy Programs

SEC. 121.[Log #341] MULTIYEAR FUNDING FOR DETAIL DESIGN AND CONSTRUCTION OF LHA REPLACEMENT SHIP DESIGNATED LHA–7.

Section 111(a) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Public Law 111–383; 124 Stat. 4152) is amended by striking "and 2012" and inserting ", 2012, and 2013".

SEC. 122.[Log #456] MULTIYEAR FUNDING FOR PROCUREMENT OF ARLEIGH BURKE-CLASS DESTROYERS.

(a) AUTHORITY FOR MULTIYEAR PROCUREMENT.—Notwithstanding paragraphs (1) and (7) of section 2306b(i) of title 10, United States Code, the Secretary of the Navy may enter into a multiyear contract, beginning with the fiscal year 2012 program year, for the procurement of DDG–51 Arleigh Burke-class destroyers and Government-furnished equipment associated with such destroyers.

(b) REPORT OF FINDINGS.—

(1) IN GENERAL.—Not later than 30 days before the date on which a contract is awarded under subsection (a), the Secretary shall submit to the congressional defense committees a report on such contract containing the findings required under subsection (a) of section 2306b of title 10, United States Code, including the analysis described in paragraph (2) of this subsection.

(2) DETERMINATION OF SUBSTANTIAL SAVINGS.—In conducting an analysis of substantial savings pursuant to subsection (a)(1) of such section 2306b, the Secretary shall employ a full-scale analysis of the anticipated cost avoidance resulting from the use of multiyear procurement and the potential

benefit that any accrued savings might have to future shipbuilding programs if such savings are used for further ship construction.

(c) CONDITION OF OUT-YEAR CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of appropriations for that purpose.

SEC. 124.[Log #125] SEPARATE PROCUREMENT LINE ITEM FOR CERTAIN LITTORAL COMBAT SHIP MISSION MODULES.

(a) IN GENERAL.—In the budget materials submitted to the President by the Secretary of Defense in connection with the submission to Congress, pursuant to section 1105 of title 31, United States Code, of the budget for fiscal year 2013, and each subsequent fiscal year, the Secretary shall ensure that a separate, dedicated procurement line item is designated for each covered module that includes the quantity and cost of each such module requested.

(b) FORM.—The Secretary shall ensure that any classified components of covered modules not included in a procurement line item under subsection (a) shall be included in a classified annex.

(c) COVERED MODULE.—In this section, the term "covered module" means, with respect to mission modules of the Littoral Combat Ship, the following modules:

(1) Surface warfare.

(2) Mine countermeasures.

(3) Anti-submarine warfare.

SEC. 125.[Log #192] LIFE-CYCLE COST-BENEFIT ANALYSIS ON ALTERNATIVE MAINTENANCE AND SUSTAINABILITY PLANS FOR THE LITTORAL COMBAT SHIP PROGRAM.

(a) COST-BENEFIT ANALYSIS.—The Secretary of the Navy shall conduct a life-cycle cost-benefit analysis, in accordance with the Office of Management and Budget Circular A–94, comparing alternative maintenance and sustainability plans for the Littoral Combat Ship program.

(b) REPORT.—At the same time that the budget of the President is submitted to Congress under section 1105(a) of title 31, United States Code, for fiscal year 2013, the Secretary of the Navy shall submit to the congressional defense committees a report on the cost-benefit analysis conducted under subsection (a).

Subtitle D—Air Force Programs

SEC. 131.[Log #126] B–1 BOMBER FORCE STRUCTURE.

(a) REQUIREMENTS.—

(1) IN GENERAL.—During the B–1 retirement limitation period, the Secretary of the Air Force—

(A) may not retire more than six B–1 aircraft;

(B) shall maintain not less than 36 such aircraft as combat-coded aircraft;

(C) shall maintain in a common capability configuration a primary aircraft inventory of not less than 56 such aircraft, a backup aircraft inventory of not less than 2 such aircraft, and an attrition reserve aircraft inventory of not less than 2 such aircraft; and

(D) may not keep any such aircraft referred to in subparagraph (C) in a status considered excess to the requirements of the possessing command and awaiting disposition instructions.

(2) B–1 RETIREMENT LIMITATION PERIOD.—For purposes of paragraph (1), the B–1 retirement limitation period is the period beginning on the date of the enactment of this Act and ending on the date that is the earlier of—

(A) January 1, 2018; and

(B) the date as of which a long-range strike replacement bomber aircraft with equal or greater capability than the B–1 model aircraft has attained initial operational capability status.

(b) DEFINITIONS.—In this section:

(1) The term "primary aircraft inventory" means aircraft assigned to meet the primary aircraft authorization to—

(A) a unit for the performance of its wartime mission;

(B) a training unit primarily for technical and specialized training for crew personnel or leading to aircrew qualification;

(C) a test unit for testing of the aircraft or its components for purposes of research, development, test and evaluation, operational test and evaluation, or to support testing programs; or

(D) meet requirements for special missions not elsewhere classified.

(2) The term "backup aircraft inventory" means aircraft above the primary aircraft inventory used to facilitate scheduled and unscheduled depot

level maintenance, modifications, inspections, and repairs, and certain other mitigating circumstances, without reduction of aircraft available for the assigned mission.

(3) The term "attrition reserve aircraft inventory" means aircraft required to replace anticipated losses of primary aircraft inventory because of peacetime accidents or wartime attrition.

SEC. 214.[Log #128] LIMITATION ON AVAILABILITY OF FUNDS FOR AMPHIBIOUS ASSAULT VEHICLES OF THE MARINE CORPS.

(a) LIMITATION.—Except as provided by subsection (d), none of the funds authorized to be appropriated by this Act or otherwise made available for fiscal year 2012 for procurement, Marine Corps, or research, development, test, and evaluation, Navy, may be obligated or expended for the amphibious programs described in subsection (c) until the date on which the Secretary of the Navy, in coordination with the Commandant of the Marine Corps, submits to the congressional defense committees a report containing—

(1) written certification of the requirements for amphibious assault vehicles of the Marine Corps, based on the needs of the commanders of the combatant commands, relating to—

(A) the distance from the shore needed to begin an amphibious assault; and

(B) the speed at which the vehicle must travel in order to reach the shore in the time required for such assault; and

(2) the analysis of alternatives conducted under subsection (b)(1).

(b) ANALYSIS OF ALTERNATIVES.—

(1) ANALYSIS.—The Secretary of the Navy, in coordination with the Commandant of the Marine Corps, shall conduct an analysis of alternatives of the amphibious assault vehicles described in paragraph (2). With respect to such vehicles, such analysis shall include—

(A) comparisons of the capabilities and total lifecycle ownership costs (including costs with respect to research, development, test, and evaluation, procurement, and operation and maintenance); and

(B) an analysis of cost and operational effectiveness prepared by a federally funded research and development center.

(2) AMPHIBIOUS ASSAULT VEHICLES DESCRIBED.—The amphibious assault vehicles described in this paragraph are amphibious assault vehicles that—

(A) meet the requirements described in subsection (a)(1), including—

(i) an upgraded assault amphibious vehicle 7A1;

(ii) the expeditionary fighting vehicle; and

(iii) a new amphibious combat vehicle; and

(B) include at least one vehicle that is capable of accelerating until the vehicle moves along the top of the water (commonly known as "getting up on plane") and at least one vehicle that is not capable of such acceleration.

(c) AMPHIBIOUS PROGRAMS DESCRIBED.—The amphibious programs described in this subsection are the following:

(1) The assault amphibious vehicle 7A1, program element 206623M.

(2) The Marine Corps assault vehicle, program element 603611M.

(3) The termination of the expeditionary fighting vehicle program.

(d) AAV781 IMPROVEMENT PROGRAM.—The limitation in subsection (a) shall not apply to funds made available before the date of the enactment of this Act for the procurement of an assault amphibious vehicle 7A1 with—

(1) survivability upgrades under the survivability product improvement program;

(2) other necessary survivability capabilities that are in response to urgent operational needs; or

(3) interior upgrades that provide increased support and survivability to members of the Armed Forces.

SEC. 220.[Log #130] DESIGNATION OF MAIN PROPULSION SYSTEM OF THE NEXT-GENERATION LONG-RANGE STRIKE BOMBER AIRCRAFT AS MAJOR SUBPROGRAM.

(a) DESIGNATION AS MAJOR SUBPROGRAM.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall designate the development and procurement of the main propulsion system of the next-generation long-range strike bomber aircraft as a major subprogram of the next-generation long-range strike bomber aircraft major defense acquisition program, in accordance with section 2430a of title 10, United States Code.

(b) COMPETITIVE ACQUISITION STRATEGY.—The Secretary of the Air Force shall develop an acquisition strategy for the major subprogram designated in subsection (a) that is in accordance with subsections (a) and (b) of section 202 of the Weapon Systems Acquisition Reform Act of 2009 (Public Law 111–23; 123 Stat. 1720; 10 U.S.C. 2430 note).

SEC. 221.[Log #127] DESIGNATION OF ELECTROMAGNETIC AIRCRAFT LAUNCH SYSTEM DEVELOPMENT AND PROCUREMENT PROGRAM AS MAJOR SUBPROGRAM.

Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall designate the electromagnetic aircraft launch development and procurement program as a major subprogram of the CVN–78 Ford-class aircraft carrier major defense acquisition program, in accordance with section 2430a of title 10, United States Code.

Subtitle D—Reports

SEC. 241.[Log #129] ANNUAL COMPTROLLER GENERAL REPORT ON THE KC–46A AIRCRAFT ACQUISITION PROGRAM.

(a) ANNUAL GAO REVIEW.—During the period beginning on the date of the enactment of this Act and ending on March 1, 2017, the Comptroller General of the United States shall conduct an annual review of the KC–46A aircraft acquisition program.

(b) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than March 1 of each year beginning in 2012 and ending in 2017, the Comptroller General shall submit to the congressional defense committees a report on the review of the KC–46A aircraft acquisition program conducted under subsection (a).

(2) MATTERS TO BE INCLUDED.—Each report on the review of the KC–46A aircraft acquisition program shall include the following:

(A) The extent to which the program is meeting engineering, manufacturing, development, and procurement cost, schedule, performance, and risk mitigation goals.

(B) With respect to meeting the desired initial operational capability and full operational

capability dates for the KC–46A aircraft, the progress and results of—

(i) developmental and operational testing of the aircraft; and

(ii) plans for correcting deficiencies in aircraft performance, operational effectiveness, reliability, suitability, and safety.

(C) An assessment of KC–46A aircraft procurement plans, production results, and efforts to improve manufacturing efficiency and supplier performance.

(D) An assessment of the acquisition strategy of the KC–46A aircraft, including whether such strategy is in compliance with acquisition management best-practices and the acquisition policy and regulations of the Department of Defense.

(E) A risk assessment of the integrated master schedule and the test and evaluation master plan of the KC–46A aircraft as it relates to—

(i) the probability of success;

(ii) the funding required for such aircraft compared with the funding budgeted; and

(iii) development and production concurrency.

(3) ADDITIONAL INFORMATION.—In submitting to the congressional defense committees the first report under paragraph (1) and a report following any changes made by the Secretary of the Air Force to the baseline documentation of the KC–46A aircraft acquisition program, the Comptroller General shall include, with respect to such program, an assessment of the sufficiency and objectivity of—

(A) the integrated baseline review document;

(B) the initial capabilities document;

(C) the capabilities development document; and

(D) the systems requirement document.

Subtitle C—Naval Vessels and Shipyards

SEC. 1021.[Log #131] BUDGETING FOR CONSTRUCTION OF NAVAL VESSELS.

(a) ANNUAL PLAN.—Section 231 of title 10, United States Code, is amended to read as follows:

"§ 231. Budgeting for construction of naval vessels: annual plan and certification

"(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year—

"(1) a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section; and

"(2) a certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

"(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1)

should be designed so that the naval vessel force provided for under that plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan should be designed so that the naval vessel force provided for under that plan is capable of supporting the ship force structure recommended in the report of the most recent quadrennial defense review.

"(2) Each such naval vessel construction plan shall include the following:

"(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

"(B) A description of the necessary naval vessel force structure to meet the requirements of the national security strategy of the United States or the most recent quadrennial defense review, whichever is applicable under paragraph (1).

"(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

"(c) ASSESSMENT WHEN VESSEL CONSTRUCTION BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

"(d) CBO EVALUATION.—Not later than 60 days after the date on which the congressional defense committees receive the plan under subsection (a)(1), the Director of the Congressional Budget Office shall submit to such committees a report assessing the sufficiency of the estimated levels of annual funding included in such plan with respect to the budget submitted during the year in which

the plan is submitted and the future-years defense program submitted under section 221 of this title.

"(e) DEFINITIONS.—In this section:

"(1) The term 'budget', with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

"(2) The term 'defense budget materials', with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

"(3) The term 'quadrennial defense review' means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of such title is amended by striking the item relating to section 231 and inserting the following new item:

"231. Budgeting for construction of naval vessels: annual plan and certification".

SEC. 1095 [Log #___]. CLARIFICATION OF JURISDICTION OF THE UNITED STATES DISTRICT COURTS TO HEAR BID PROTEST DISPUTES INVOLVING MARITIME CONTRACTS.

(a) EXCLUSIVE JURISDICTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(6) Jurisdiction over any action described in paragraph (1) arising out of a maritime contract, or a solicitation for a proposed maritime contract, shall be governed by this section and shall not be subject to the jurisdiction of the district courts of the United States under the Suits in Admiralty Act (chapter 309 of title 46) or the Public Vessels Act (chapter 311 of title 46).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any cause of action filed on or after the first day of the first month beginning more than 30 days after the date of the enactment of this Act.

SEC. 1403 [Log #193]. NATIONAL DEFENSE SEALIFT FUND.

(a) AUTHORIZATION OF APPROPRIATIONS.— Funds are hereby authorized to be appropriated for the fiscal year 2012 for the National Defense Sealift Fund, as specified in the funding table in section 4501.

(b) AUTHORIZED PROCUREMENT.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) may be used to purchase an offshore petroleum distribution system, and the associated tender for that system, that are under charter by the Military Sealift Command as of January 1, 2011.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501 [Log #]. Authorization of appropriations for national security aspects of the merchant marine for fiscal year 2012.
Sec. 3502 [Log #]. Use of National Defense Reserve Fleet and Ready Reserve Force vessels.
Sec. 3503 [Log #]. Recruitment authority.
Sec. 3504 [Log #]. Ship scrapping reporting requirement.

SEC. 3501 [Log #]. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL SECURITY ASPECTS OF THE MERCHANT MARINE FOR FISCAL YEAR 2012.

Funds are hereby authorized to be appropriated for fiscal year 2012, to be available without fiscal year limitation if so provided in the appropriations Acts, for the use of the Department of Transportation for Maritime Administration programs associated with maintaining national security aspects of the merchant marine, as follows:

(1) For expenses necessary for operations of the United States Merchant Marine Academy, $93,068,000, of which—

(A) $64,183,000 shall remain available until expended for Academy operations; and

(B) $28,885,000 shall remain available until expended for capital asset management at the Academy.

(2) For expenses necessary to support the State maritime academies, $17,100,000, of which—

(A) $2,400,000 shall remain available until expended for student incentive payments;

(B) $3,600,000 shall remain available until expended for direct payments to such academies; and

(C) $11,100,000 shall remain available until expended for maintenance and repair of State maritime academy training vessels.

(3) For expenses necessary to dispose of vessels in the National Defense Reserve Fleet, $18,500,000, to remain available until expended.

(4) For expenses to maintain and preserve a United States-flag merchant marine to serve the national security needs of the United States under chapter 531 of title 46, United States Code, $186,000,000.

(5) For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 6661a(5)) of loan guarantees under the program authorized by chapter 537 of title 46, United States Code, $14,260,000, of which $3,740,000 shall remain available until expended for administrative expenses of the program.

SEC. 3502 [Log #]. USE OF NATIONAL DEFENSE RESERVE FLEET AND READY RESERVE FORCE VESSELS.

Section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(b)) is amended—

(1) in subsection (b), by striking "or" after the semicolon at the end of paragraph (4), striking the period at the end of paragraph (5) and inserting "; or", and adding at the end the following new paragraph:

"(6) for civil contingency operations and Maritime Administration promotional and media events, in accordance with subsection (f)."; and

(2) by adding at the end the following new subsection:

"(f) USE OF NDRF VESSELS FOR CIVIL CONTINGENCY OPERATIONS AND PROMOTIONAL AND MEDIA EVENTS.—With the concurrence of the Secretary of Defense, the Secretary of Transportation may allow the use of vessels in the National Defense Reserve Fleet (NDRF) for civil contingency operations requested by another Federal agency, and for Maritime Administration promotional and media events relating to demonstration projects and research and development supporting the Administration's mission, if the Secretary of Transportation determines

such use is in the best interest of the Government after considering the following factors:

"(1) AVAILABILITY.—The availability of NDRF or Ready Reserve Force (RRF) resources and the impact of such use on NDRF and RRF mission support to the defense and homeland security requirements of the Government.

"(2) INTERFERENCE.—Whether the such use of vessels will support the mission of the Maritime Administration and not significantly interfere with NDRF vessel maintenance, repair, safety, readiness, and resource availability.

"(3) SAFETY.—Whether safety precautions will be taken, including indemnification of liability when applicable.

"(4) COST.—Whether any costs incurred by such use will be funded as a reimbursable transaction between Federal agencies, as applicable.

"(5) OTHER MATTERS.—Any other matters the Maritime Administrator considers appropriate.".

SEC. 3503 [Log #]. RECRUITMENT AUTHORITY.

Section 51301 of title 46, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence; and

(2) by adding at the end the following new subsection:

"(b) RECRUITMENT.—The Secretary of Transportation may, subject to the availability of appropriations, expend funds available for United States Merchant Marine Academy operating expenses for recruiting activities, including advertising, in order to obtain recruits for the Academy and cadet applicants.".

SEC. 3504 [Log #]. SHIP SCRAPPING REPORTING REQUIREMENT.

Section 3502(f) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as amended by section 3505(a) of the National Defense Authorization Act for Fiscal Year 2006 (119 Stat. 3551), is amended to read as follows:

"(f) BRIEFINGS.—The Maritime Administrator shall, upon request, provide briefings to the Committee on Transportation and Infrastructure, the Committee on Natural Resources, and the Committee on Armed Services of the House of Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Armed Services of the Senate, on the progress made in recycling vessels, problems encountered with recycling vessels, issues relating to vessel recycling, and other issues relating to vessel recycling and disposal.".

SUMMARY OF DIRECTIVE REPORT LANGUAGE

Title 2

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Joint Expeditionary Fires Analysis of Alternatives

KC-46A aerial refueling aircraft program

DIRECTIVE REPORT LANGUAGE

Title 2

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Joint Expeditionary Fires Analysis of Alternatives

In March 2010, the Secretary of the Navy submitted a report to Congress on Naval Surface Fire Support as directed by the conference report (H. Rept. 111-288) accompanying the National Defense Authorization Act for Fiscal Year 2010. This report includes comments and recommendations from both the Chief of Naval Operations and the Commandant of the Marine Corps. In the report, the Commandant states that the Marine Corps concurs with the findings of the Joint Expeditionary Fires Analysis of Alternatives (AOA). In the report to Congress, however, the Secretary of the Navy did not address the results of this AOA.

Therefore, the committee directs the Secretary of the Navy to submit the Joint Expeditionary Fires Analysis of Alternatives to the Senate Committee on Armed Services and the House Committee on Armed Services within 30 days after the date of enactment of this Act.

KC-46A aerial refueling aircraft program

The budget request contained $877.1 million in PE 65221F for the next generation aerial refueling aircraft, KC-46A.

The committee supports the attributes and benefits regarding the KC-46A competition and acknowledges that the source-selection process was conducted fairly amongst all competitors. According to Department of Defense acquisition officials, the competition resulted in at least a twenty percent savings for the unit cost of the aircraft and a savings of $3.0 to $4.0 billion as compared to the source-selection competition held for the tanker in 2008.

The committee plans to closely monitor the KC-46A engineering, manufacturing and development program to ensure that the taxpayer dollars are wisely invested and that the platform will result in a capability that enhances the warfighter's global reach capabilities. The committee also understands that the Under Secretary of Defense for Acquisition, Technology and Logistics (USD AT&L) will conduct quarterly reviews of the Air Force's KC-46A program.

Elsewhere in this title, the committee includes a provision that would require the Comptroller General of the United States to conduct an annual review of the KC-46A program and to provide the results to the congressional defense committees beginning on March 1, 2012. Furthermore, the committee directs USD AT&L to provide to the congressional defense committees the results of each quarterly review of the KC-46A program within 30 days after the date of completion of each review.

The committee recommends $849.9 million, a decrease of $27.2 million, in PE 65221F for the next generation aerial refueling aircraft.