

WILLIAM M. (MAC) THORNBERRY NATIONAL DEFENSE  
AUTHORIZATION ACT FOR FISCAL YEAR 2021

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JULY 16, 2020.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. SMITH of Washington, from the Committee on Armed Services,  
submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 6395]

[Including cost estimate of the Congressional Budget Office]

This supplemental report shows the cost estimate of the Congressional Budget Office with respect to the bill (H.R. 6395), as reported, which was not included in part 1 of the report submitted by the Committee on Armed Services on July 9, 2020 (H. Rept. 116-442, pt. 1).

CONGRESSIONAL BUDGET OFFICE ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the House of Representatives, the cost estimate prepared by the Congressional Budget Office and submitted pursuant to section 402 of the Congressional Budget Act of 1974 is as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 16, 2020.*

Hon. ADAM SMITH,  
*Chairman, Committee on Armed Services,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6395, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matt Schmit.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

At a Glance			
H.R. 6395, the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021			
As reported by the House Committee on Armed Services on July 9, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	710,510	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< \$5 billion	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

Estimated budgetary effects of the bill would primarily stem from

- Authorizing appropriations in 2021 totaling \$732.4 billion for the military functions of the Department of Defense and for the Department of Energy's atomic energy defense activities
- Authorizing appropriations totaling \$1.3 billion over the 2021–2025 period for nondefense activities, mainly for the Maritime Administration
- Offering paid leave for certain employees in federally funded jobs following the birth, adoption, or foster placement of a child

#### Mandates

- The bill would impose intergovernmental and private-sector mandates by increasing the authorized end strength for active duty personnel and requiring defense-related industries to share intelligence about cybersecurity incidents

#### Areas of significant uncertainty include

- Predicting the amount of new family leave federal employees would substitute for other leave categories

#### *Bill summary*

H.R. 6395 would authorize appropriations totaling \$733.7 billion over the 2021–2025 period. Almost all of that amount, \$732.4 billion, would be specifically authorized for 2021 for the military functions of the Department of Defense (DoD) and for the atomic energy defense activities of the Department of Energy. CBO estimates that appropriation of all authorized amounts would result in outlays of \$710.5 billion over the 2021–2025 period.

In addition, CBO estimates that enacting H.R. 6395 would have an insignificant effect on direct spending and revenues over the 2021–2030 period.

*Estimated Federal cost*

The estimated budgetary effects of H.R. 6395 are shown in Table 1. Of the \$733.7 billion that would be authorized over the 2021–2025 period, nearly all—\$732.4 billion—would be for activities within budget function 050 (national defense).

The other \$1.3 billion would fall within budget functions 400 (transportation), 700 (veterans benefits and services); 600 (income security); and 270 (energy).

*Basis of estimate*

For this estimate, CBO assumes that H.R. 6395 will be enacted near the start of fiscal year 2021 and that the authorized amounts will be appropriated each fiscal year. Outlays were estimated using historical spendout rates.

*Spending subject to appropriation*

H.R. 6395 would specifically authorize appropriations totaling \$733.7 billion for the 2021–2025 period.

For defense programs, \$732.4 billion would be authorized for 2021, of which \$663.4 billion would, if appropriated, count against that year's defense cap set in the Budget Control Act of 2011, as amended. The remaining \$69.0 billion would be authorized for appropriations designated for overseas contingency operations (primarily for activities in and around Afghanistan, Iraq, and Syria) and not counted against the cap.

The bill would authorize the following amounts for 2021:

- \$289.3 billion for operation and maintenance (including revolving funds);
- \$162.4 billion for military personnel;
- \$139.1 billion for procurement;
- \$106.8 billion for research and development;
- \$26.7 billion for atomic energy activities; and
- \$8.2 billion for military construction and family housing.

In total, the amount that would be authorized for defense programs in 2021 is \$14.8 billion (or 2 percent) less than the \$747.2 billion appropriated for 2020. The amount appropriated for 2020 includes \$18.6 billion in emergency funding—\$10.6 billion provided in response to the novel coronavirus pandemic and \$8.0 billion provided in response to natural disasters.

Excluding that emergency funding, H.R. 6395 would authorize \$3.8 billion more than was appropriated for 2020, an increase of less than 1 percent. Authorizations for three categories of spending would increase—military personnel by \$7.6 billion (5 percent), atomic energy activities by \$2.6 billion (11 percent), and research and development by \$2.5 billion (2 percent). Conversely, authorized funding for three categories would decrease—procurement by \$4.3 billion (3 percent), military construction and family housing by \$3.8 billion (32 percent), and operation and maintenance by \$0.8 billion (less than 1 percent).

For nondefense programs, the bill would authorize \$1.3 billion over the 2021–2025 period, which includes the following amounts:

- \$1,082 million for the Maritime Administration;
- \$137 million for a medical facility demonstration fund that is jointly managed by the Department of Veterans Affairs and DoD;
- \$70 million for the Armed Forces Retirement Home; and
- \$13 million for the Naval Petroleum Reserves.

*Direct spending and revenues*

Enacting H.R. 6395 would have insignificant effects on net direct spending and revenues over the 2021–2030 period, CBO estimates.

Section 1101 would provide 12 weeks of paid leave following the birth, adoption, or foster placement of a child to employees of the District of Columbia’s courts and its Public Defender Service, the Federal Aviation Administration, the Transportation Security Administration, and the Department of Veterans Affairs. That leave also would be available to judges at courts established under Article I of the Constitution, and to employees of the Executive Office of the President and at the residences of the President and Vice President.<sup>1</sup> Those changes would increase costs by allowing employees to use paid rather than unpaid leave, or by allowing employees who currently would use paid annual and sick leave instead to defer that leave for later use. Employees who as a result accrue more unused sick leave would receive higher federal pensions if they retire. However, because relatively few employees who would use that leave will be eligible to retire before 2031, CBO estimates that the additional payments would increase direct spending by less than \$500,000 over the 2021–2030 period.<sup>2</sup>

Several provisions would affect retirement benefits for military personnel, but none of those provisions would significantly affect direct spending. Some members of the reserve components will be unable to complete their annual requirement for military training because of the pandemic emergency. Under section 514, the time those service members were scheduled to train would be credited towards their reserve retirement benefits. Relatively few reservists would earn additional retirement pay over the 2021–2030 period because of that provision, CBO estimates. Section 521 would expand DoD’s ability to recall military retirees to active duty during wartime or national emergency. Retirees recalled to duty initially forego their retired pay; at the completion of their recall, their retirement pay is increased based on that additional duty. However, CBO expects that provision would primarily affect how the department recalls retirees to active duty but not how many retirees it would recall. Section 523 would require DoD to provide retirement credit, in some cases, for time spent in education under the Seaman to Admiral-21 program. Few service members would earn additional retirement pay over the 2021–2030 period because of that provision, CBO estimates.

<sup>1</sup>The Transportation Security Administration, and the Department of Veterans Affairs intend to use the discretion that is available to those agencies under current law to provide paid parental leave to employees beginning in fiscal year 2021, regardless of whether H.R. 6395 is enacted. CBO expects that providing those benefits will increase costs, but because the departments’ plans for providing such leave are the same as those that would be required by the bill, CBO estimates that implementing section 1101 would not affect the budget for those departments.

<sup>2</sup>CBO estimates that implementing section 1101 would increase personnel costs by \$170 million over the 2021–2025 period; that spending would be subject to appropriation of the estimated amounts.

Several other provisions in H.R. 6395 would affect net direct spending and revenues by an insignificant amount each year and in total over the 2021–2030 period, generally because very few people would be affected, or because the proposals would allow the Department of Defense to collect and spend new receipts so that the net effect would be small. Sections 229 and 531 would increase the amount of fines and penalties collected by the government. Those fines and penalties, which are classified as revenues, would total less than \$500,000 over the next 10 years, CBO estimates. Section 548 would increase such fines and penalties for some service members and decrease them for others; we estimate that the net effect of those changes would be insignificant.

#### *Uncertainty*

Some uncertainty is associated with the long-term costs of section 1101. The costs of federal pensions depend on the amount of paid parental leave that employees would substitute for sick leave. The costs also depend on the future size and demographic makeup of the federal workforce.

#### *Pay-As-You-Go considerations*

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. CBO estimates that the net effects of H.R. 6395 on direct spending and revenues would be insignificant over the 2021–2030 period.

#### *Increase in long-term deficits*

CBO estimates that enacting H.R. 6395 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

#### *Mandates*

H.R. 6395 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate cost of complying with the mandates would not exceed the annual thresholds established in UMRA (\$84 million and \$168 million, respectively, in 2020, adjusted annually for inflation).

CBO has not reviewed two sections of the bill for intergovernmental or private-sector mandates. Section 4 of UMRA excludes from the application of that act any legislative provision that would establish or enforce statutory rights prohibiting discrimination. CBO has determined that subtitle B of title XI falls within that exclusion because it would enforce protections for federal employees against discrimination on the basis of race, color, religion, sex, national origin, age, or handicapped condition. Section 4 of UMRA also excludes any provision that enforces Constitutional rights. CBO has determined that section 1751 falls within that exclusion because it would enforce the right of citizens to vote.

#### *Mandate that applies to public and private entities*

Section 401 would increase the costs of complying with existing intergovernmental and private-sector mandates by increasing the number of active-duty service members by about 12,000 relative to

currently authorized levels. Those additional service members would be eligible for protections under the Servicemembers Civil Relief Act (SCRA). Those protections require public and private entities to grant active-duty military personnel various allowances for business and tax transactions and court procedures.

For example, SCRA allows service members to maintain a single state of residence for paying state and local personal income taxes and to request deferrals for certain state and local fees. SCRA also requires creditors to charge no more than 6 percent interest on a service member's loan obligations if the loan was originated before the service member began active duty, and it allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. SCRA also prohibits lenders from using a service member's personal assets to satisfy a trade or business liability during a period of military service.

Under the bill, the number of active-duty service members covered by SCRA would increase by about 1 percent, CBO estimates. Service members' use of the various provisions of SCRA depends on such factors as the frequency and duration of deployment. The increase in the number of active-duty service members covered by SCRA would be small, and CBO estimates that the incremental cost of compliance for public or private entities also would be small.

*Mandate that applies to private entities*

Section 1632 would require the Secretary of Defense to establish a program that, among other activities, would be used by the government and companies that develop military weapon systems to communicate cybersecurity threats. Under current law, companies that contract with DoD must report certain cybersecurity incidents. The bill would require all companies involved in developing such weapon systems to report cybersecurity incidents—thus imposing a mandate on domestic companies without active DoD contracts. The cost of the mandate would depend on the complexity of the reporting requirements and on the number of incidents. However, because the provision would affect only certain companies in the defense industry without a department contract, CBO estimates that the cost of compliance would be small.

*Previous CBO estimate*

On July 1, 2020, CBO transmitted a cost estimate for S. 4049, the National Defense Authorization Act for Fiscal Year 2021, as reported by the Senate Committee on Armed Services on June 23, 2020. For fiscal year 2021, H.R. 6395 would authorize the appropriation of \$733.5 billion—\$2.1 billion more than the \$731.4 billion that would be authorized by S. 4049. In addition, S. 4049 would increase direct spending by an estimated \$488 million over the 2021–2030 period (primarily for provisions that would allow DoD to waive health care regulations during the pandemic emergency and provide hazardous duty pay for service members responding to that pandemic); H.R. 6395 does not contain those provisions and would have insignificant effects on direct spending and revenues over those ten years.

*Estimate prepared by*

Federal Costs: Kent Christensen, Sunita D'Monte, Ann Futrell, Raymond Hall, Paul B.A. Holland, Aaron Krupkin, William Ma, Aldo Prospero, David Rafferty, Dan Ready, Dawn Regan, Matt Schmit, and Logan Smith.

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*Estimate reviewed by*

David Newman, Chief, Defense, International Affairs, and Veterans' Affairs Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Leo Lex, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

**Table 1.**  
**Amounts Authorized to be Appropriated by H.R. 6395, as reported by the House Committee on Armed Services on July 9, 2020**

	By Fiscal Year, Millions of Dollars						2020-2025
	2020	2021	2022	2023	2024	2025	
Authorizations for Appropriations Subject to the BCA Caps							
Specified Authorizations for the Departments of Defense and Energy							
Authorization	0	663,433	0	0	0	0	663,433
Estimated Outlays	0	394,336	158,004	52,497	26,537	10,917	642,281
Specified Authorizations for Nondefense Departments and Agencies							
Authorization <sup>a</sup>	0	1,062	60	60	60	60	1,302
Estimated Outlays	0	540	196	171	227	130	1,264
Subtotal							
Authorization	0	664,495	60	60	60	60	664,735
Estimated Outlays	0	394,876	158,200	52,668	26,764	11,047	643,555
Specified Authorization for Defense Appropriations Not Subject to the BCA Caps							
Authorization <sup>b</sup>	0	69,000	0	0	0	0	69,000
Estimated Outlays	0	41,185	18,918	4,368	1,771	713	66,955
Total							
Authorization	0	733,495	60	60	60	60	733,735
Estimated Outlays	0	436,061	177,118	57,036	28,535	11,760	710,510

Components may not sum to totals because of rounding; BCA = Budget Control Act of 2011

- a. Authorizations for the Maritime Administration (\$1,082 million), Department of Veterans Affairs (\$137 million), Armed Forces Retirement Home (\$70 million), and the Naval Petroleum Reserves (\$13 million).
- b. Primarily for costs related to overseas contingency operations in and around Afghanistan, Iraq, and Syria.