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MEMORANDUM

TO: ADC BOARD OF DIRECTORS
TIM FORD
TODD HERBERGHS
RANDY FORD
DAN COHEN

FROM: MR. SCHLOSSBERG
MR. PERSKY, LEGISLATIVE PROGRAM MANAGER

DATE: DECEMBER 12, 2012

RE: SENATE PASSES FY13 NATIONAL DEFENSE AUTHORIZATION ACT,
BILL GOING TO CONFERENCE

Introduction

The Senate passed its version of the Fiscal Year 2013 National Defense Authorization Act (S. 3254) on December 4, 2012. Since the House passed its version of the bill (H.R. 4310) in May 2012, the chambers can now proceed to conference negotiations to report out a final bill.

Amendments Adopted

Prior to passage, the Senate adopted a number of amendments to its bill:

Modification of notice requirements in advance of permanent reduction of sizable numbers of members of the armed forces at military installations: Section 2705 enhances the Secretary's congressional reporting requirements regarding proposed reductions in the number of military and civilian personnel, including indirect reductions in base operations support services and personnel.

Small Business HUBZones: Section 889E expands the eligibility for certain base closure areas to be treated as HUBZones for purposes of the Small Business Act.

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Report on property disposals and additional authorities to assist local communities around closed military installations: Section 313 requires the Secretary to submit a report to Congress on the disposition of any not yet completed closure of an active duty military installation since 1988 in the United States that was not subject to the property disposal provisions contained in the Defense Base Closure and Realignment Act.

Sense of the Senate on protection of Department of Defense airfields, training airspace, and air training routes: Section 1086 expresses the sense of the Senate that (1) Department of Defense airfields, training airspace, and air training routes are national treasures that must be protected from encroachment; (2) placement or emplacement of obstructions near or on Department of Defense airfields, training airspace, or air training routes has the potential of increasing risk to military aircraft and personnel as well as impacting training and readiness; and (3) the Department of Defense should develop comprehensive rules and regulations to address construction and use of land in close proximity to Department of Defense airfields, training areas, or air training routes to ensure compatibility with military aircraft operations.

Air Force assessments of the effects of proposed movements of airframes on joint readiness training: Section 1711 requires the Secretary of the Air Force to (1) undertake an assessment of the effects of currently-proposed movements of Air Force airframes on Green Flag East and Green Flag West joint readiness training; and (2) if the Secretary determines it appropriate, submit to the congressional defense committees a report setting forth a proposal to make future replacements of capabilities for purposes of augmenting training at the joint readiness training center (JRTC) or for such other purposes as the Secretary considers appropriate.

Report on military resources necessary to execute United States force posture strategy in the Asia Pacific region: Section 1067 requires the Secretary to conduct a comprehensive review of the national defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies of the United States with regard to the Asia Pacific region to determine the resources, equipment, and transportation required to meet the strategic and operational plans of the United States.

Geothermal heat pumps: Section 3122 includes geothermal heat pumps in federal renewable energy purchase requirements.

White Sands Missile Range and Fort Bliss land withdrawal: Section 1091 withdraws Federal land associated with the White Sands missile Range and Fort Bliss from entry, appropriation, and disposal under the public land laws.

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Conference is Next Step

Aides report they expect the House-Senate conference to finish this week or next week. Most of the bill has already been pre-negotiated, with the exception of some controversial items such as restrictions on transferring detainees out of the military prison at Guantanamo Bay and limits on purchasing alternative fuel. We will prepare and distribute a comprehensive analysis of the Conference Report as soon as the information is available.

White House Veto Threat

The White House has issued a veto threat against both the House and Senate versions of the bill. The Administration objects to:

- provisions in both bills that would place limitations on the Secretary's ability to divest, retire or transfer units of the Air Force;
- a provision in the House bill that would prohibit DOD from spending any funds to propose or plan for additional rounds of BRAC;
- a provision in the House bill that would mandate DOD to indemnify anyone who acquired ownership or control of DOD property at any military installation closed outside the BRAC process after October 24, 1988 against costs or claims arising from environmental conditions; and
- a provision in the Senate bill that would impose limitations on military construction funding in Guam.

It remains unknown if the Conference Report will include these provisions or other provisions to which the White House objects, and how the President will respond if the contested provisions are included in the final bill sent to his desk.

If you have any questions concerning this information, please call George Schlossberg directly at (202) 828-2418 or email him at george.schlossberg@kutakrock.com, or call Eli Persky directly at (202) 828-2465 or e-mail him at eli.persky@kutakrock.com.

