CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 28, 2009

H.R. 2647
National Defense Authorization Act for Fiscal Year 2010

As cleared by the Congress on October 22, 2009

SUMMARY

H.R. 2647 would authorize the appropriation of about $681 billion, primarily for the fiscal year 2010 costs of the military functions of the Department of Defense (DoD) and the atomic energy activities of the Department of Energy. Those discretionary costs of implementing the act are not discussed here; this cost estimate addresses only the effects that H.R. 2647 would have on direct spending and revenues.[1]

H.R. 2647 contains provisions that would affect both direct spending and revenues, primarily from changes to retirement programs for federal employees. In total, CBO estimates that enacting H.R. 2647 would decrease deficits (or increase surpluses) by $124 million over the 2010-2019 period. (Over that 10-year period, the on-budget deficit would increase by $98 million, while the off-budget deficit would decrease by $222 million.)

ESTIMATED COST TO THE FEDERAL GOVERNMENT

CBO's estimate of the budgetary effects of provisions that would affect direct spending and revenues is shown in Table 1. Those impacts fall primarily within budget functions 050 (national defense) and 600 (income security).

[1]For details on discretionary costs associated with earlier versions of the act, see the cost estimate transmitted on June 22, 2009, for H.R. 2647 as reported by the House Committee on Armed Services and the cost estimate transmitted on July 14, 2009, for S. 1390 as reported by the Senate Committee on Armed Services. (Those estimates are available at www.cbo.gov.)

TABLE 1. SUMMARY OF THE EFFECTS OF H.R. 2647 ON DIRECT SPENDING AND REVENUES

	By Fiscal Year, in Millions of Dollars											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2014	2010-2019
Increases in Outlays	8	15	36	118	40	93	105	113	156	170	218	855
Increases in Revenues	26	70	105	104	107	109	110	113	116	120	412	979
Net Impact on Deficit [a]	-17	-55	-70	14	-67	-16	-6	*	40	50	-194	-124

Note: Details may not sum to totals because of rounding; * = less than $500,000.

a. Negative numbers indicate a reduction in the deficit; positive numbers indicate the opposite.

BASIS OF ESTIMATE

The legislation contains provisions that would affect both direct spending and revenues. In total, CBO estimates H.R. 2647 would increase direct spending by $855 million over the 2010-2019 period, of which $848 million would be considered on-budget and the remainder would be off-budget.

The act also would increase revenues by $979 million over the 2010-2019 period, of which about $751 million would be considered on-budget and the balance would be off-budget. CBO estimates that, on net, H.R. 2647 would decrease deficits (or increase surpluses) by $124 million over the 2010-2019 period. (The on-budget deficit would increase by $98 million, while the off-budget deficit would decrease by $222 million.)

The largest effects of H.R. 2647 would result from changes to federal employee retirement programs (see Table 2), with additional direct spending resulting from new authorities for multiyear refueling contracts, stockpile sales, military retirement, and the Energy Employees Occupational Illness Compensation Program (EEOICP).

Retirement Credit for Sick Leave

Currently, the retirement benefit calculation for federal employees in the Federal Employee Retirement System (FERS) does not incorporate any accrued sick leave hours. Under section 1901, eligible federal employees who retire after enactment, but before December 31, 2013, would add 50 percent of their remaining sick leave hours to their total years of service when calculating retirement benefits. Eligible federal employees who retire after December 31, 2013, would receive credit for 100 percent of their sick leave.

TABLE 2. COMPONENTS OF THE ESTIMATED CHANGES IN DIRECT SPENDING AND REVENUES UNDER H.R. 2647

	By Fiscal Year, in Millions of Dollars											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2014	2010-2019
CHANGES IN DIRECT SPENDING												
Retirement Credit for Sick Leave												
Estimated Budget Authority	3	6	9	12	21	33	45	58	72	86	50	343
Estimated Outlays	3	6	9	12	21	33	45	58	72	86	50	343
Non-Foreign Area Retirement												
Estimated Budget Authority	2	6	12	20	26	32	38	43	46	50	67	276
Estimated Outlays	2	6	12	20	26	32	38	43	46	50	67	276
On-Budget Outlays	2	6	12	20	26	31	37	42	45	48	66	269
Off-Budget Outlays	0	*	*	*	*	1	1	1	2	2	*	7
Other Federal Employee Retirement Provisions												
Estimated Budget Authority	7	6	7	10	11	11	12	13	13	14	40	103
Estimated Outlays	7	6	7	10	11	11	12	13	13	14	40	103
Armed Forces Retirement Home												
Estimated Budget Authority	0	0	0	70	0	0	0	0	70	0	70	140
Estimated Outlays	0	0	0	25	20	15	10	0	25	20	45	115
Multiyear Contracts for Aerial Refueling												
Estimated Budget Authority	0	12	12	0	0	0	0	0	0	0	24	24
Estimated Outlays	0	1	7	9	5	2	0	0	0	0	22	24
Stockpile Sales												
Estimated Budget Authority	-5	-5	0	0	0	0	0	0	0	0	-10	-10
Estimated Outlays	-5	-5	0	0	0	0	0	0	0	0	-10	-10
Alaska Territorial Guard												
Estimated Budget Authority	*	*	*	*	*	*	*	*	*	*	1	2
Estimated Outlays	*	*	*	*	*	*	*	*	*	*	1	2
Retirement Annuity Shift												
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	0	0
Estimated Outlays	0	0	0	43	-43	0	0	0	0	0	0	0
Expansion of Authority of EEOICP Ombudsman												
Estimated Budget Authority	1	1	1	0	0	0	0	0	0	0	3	3
Estimated Outlays	1	1	1	0	0	0	0	0	0	0	3	3
Total Changes in Direct Spending												
Estimated Budget Authority	8	26	41	111	58	76	95	113	201	150	245	880
Estimated Outlays	8	15	36	118	40	93	105	113	156	170	218	855
Total On-Budget Outlays	8	14	36	118	40	92	104	112	154	168	217	848
Total Off-Budget Outlays	0	*	*	*	*	1	1	1	2	2	*	7

(Continued)

TABLE 2. CONTINUED

	By Fiscal Year, in Millions of Dollars											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2010-2014	2010-2019
					CHANGES IN REVENUES							
Non-Foreign Area Employee Contributions	26	70	105	104	107	109	110	113	116	120	412	979
On-Budget Revenues	20	54	81	80	82	83	84	86	89	91	317	751
Off-Budget Revenues	5	16	24	24	25	25	26	27	27	28	95	229
					CHANGES IN REVENUES AND DIRECT SPENDING [a]							
Estimated Deficit Impact	-17	-55	-70	14	-67	-16	-6	*	40	50	-194	-124
Total On-Budget Net Effects	-12	-39	-45	38	-42	9	19	26	66	76	-99	98
Total Off-Budget Net Effects	-5	-16	-24	-24	-25	-25	-25	-25	-26	-26	-95	-222

Notes: Components may not sum to totals because of rounding. EEOICP = Energy Employees Occupational Illness Compensation Program. * = less than $500,000.

In addition to the effects on revenues and direct spending shown in the table, CBO estimates this legislation contains several other provisions that would affect direct spending by less than $500,000 over the 2010-2019 period. This legislation also would increase spending subject to appropriations. Such effects are not reported here.

a. Negative numbers indicate a reduction in the deficit; positive numbers indicate the opposite.

CBO estimates that, once the program is fully phased in, an average of about three months would be added to employees' length of service as a result of including sick leave hours. We estimate that addition would boost the average retirement benefit by about $150 per year, increasing direct spending by $343 million over the 2010-2019 period.

Non-Foreign Area Retirement

Sections 1911-1919 would phase in the use of locality-based comparability payments ("locality pay") to replace cost-of-living allowances (COLAs) for federal employees located in certain areas of the United States (Alaska, Hawaii, and the U.S. Territories).

Currently, federal employees in those areas receive a COLA to offset higher costs of living. (In contrast, federal employees in the contiguous 48 states receive locality pay under the General Schedule to narrow the pay gap between comparable federal and nonfederal positions.) H.R. 2647 would phase in the use of locality pay for employees in the specified areas over three years and would phase out the COLA, in most cases, over a longer period of time. Such changes would affect the federal budget because, while the current COLA pay is not subject to federal income or payroll taxes and is not used to calculate federal retirement benefits, locality pay is both taxable and creditable for retirement benefits.

Increased retirement benefits (a product of increases in salaries) would accrue to approximately 13,000 federal employees anticipated to retire between 2010 and 2019. As a result, CBO estimates that direct spending would increase by a total of $276 million over the 2010-2019 period—$269 million for additional retirement benefits and $7 million for higher Social Security benefits.

Those provisions would also increase the portion of salary on which employees must pay taxes and would increase the amount of pay used to calculate employees' contributions for federal retirement benefits. Accordingly, the legislation would increase revenues by a total of $979 million over the 2010-2019 period from additional income and payroll tax collections and from additional retirement contributions from employees, CBO and the Joint Committee on Taxation estimate.

That total revenue change represents both on- and off-budget activity. Additional on-budget revenues would total $751 million, including $708 million from Medicare payroll taxes and income tax collections and $43 million from higher contributions from employees toward retirement benefits. The increase in off-budget revenues would total $229 million from additional Social Security tax receipts.

Other Federal Employee Retirement Provisions

H.R. 2647 would make a number of other changes to federal employee retirement; in total, CBO estimates that these provisions would increase direct spending for the 2010-2019 period by just over $100 million.

Section 1903 would alter the way retirement benefits under the Civil Service Retirement System (CSRS) are calculated for those workers who: worked for the federal government prior to April 7, 1986; worked on a part-time basis at some point during their career; and will retire after enactment of the bill. The current calculation of retirement benefits creates a disadvantage for CSRS workers whose part-time service falls during their final working years; the disparity stems from the way part-time salaries are used to determine the portion of an employee’s annuity associated with years of service prior to April 7, 1986. Section 1903 would adjust the formula used to calculate retirement benefits so that years of service prior to April 7, 1986, would be treated in the same manner as years of service occurring on and after April 7, 1986. Based on information from the Office of Personnel Management (OPM), CBO estimates that under this proposal the average increase in value of retirement benefits for eligible employees would be about $2,000 a year, and that the change would increase direct spending by $46 million over the 2010-2019 period.

Currently, FERS employees who leave government service and choose to receive a refund of the contributions they made toward retirement during their years of service are not able to “buy back” that service time if they reenter government service at a later date. Section 1904 would allow returning FERS employees the option to pay back any refunded contributions and regain credit towards federal retirement benefits for their prior government service. Based on information from OPM, CBO estimates that the authority for FERS employees to deposit refunds would increase direct spending by $54 million over the 2010-2019 period.

H.R. 2647 also includes two smaller provisions that would affect civil service retirement: an exemption for certain CSRS employees from paying interest on repaid contributions for retirement benefits and an adjustment to retirement eligibility calculations for certain FERS employees with qualifying pre-1997 service in the District of Columbia. In total, CBO estimates such changes would increase direct spending by just over $2 million through 2019.

Armed Forces Retirement Home

Section 2823 would permit the Armed Forces Retirement Home (AFRH) to use the enhanced-use leasing authority that is currently available to the Department of Defense, the Department of Veterans Affairs (VA), and certain other federal agencies. Using that authority, those agencies have obtained third-party financing to acquire, construct, rehabilitate, operate, and maintain real property by leasing land and existing facilities to nonfederal partners for up to 50 years in exchange for the renovation, construction, and operations of facilities on the land. The partner can lease the facilities to non-federal tenants, but the federal agency has priority for occupancy.

Federal agencies use the authority for enhanced-use leases to enter an array of long-term agreements with property developers. The agencies and developers then establish limited liability companies, partnerships, or other special-purpose entities, specifically for the purpose of renovating, constructing, operating, and maintaining the facilities for each project. Those agreements establish government control over the project, protect the government’s interests, and ensure that the federal agencies receive guaranteed access to the facilities being developed.

Because such agreements allow agencies to effectively acquire new buildings, CBO believes that the full cost of such projects should be recorded up front in the budget. For this estimate, CBO assumes the AFRH would use the enhanced-use lease authority in a similar manner to DoD, VA, and other federal agencies. Accordingly, CBO expects that an authorization to use the enhanced-use lease authority would result in new direct spending.

The Armed Forces Retirement Home operates two complexes; one in Washington, D.C., and one in Gulfport, Mississippi. The Gulfport home is currently building a $250 million facility to replace previous structures that were destroyed by Hurricane Katrina. The AFRH requested an appropriation of $70 million for facility improvements at the Washington home in 2010. CBO estimates that over the next 10 years, two more projects, each costing $70 million, would be carried out on AFRH properties using the enhanced-use lease authority. Because renovations and new construction have occurred recently, those enhanced-use lease projects would most likely be undertaken later in the budget window. As a result, some expenditures for those projects would occur after 2019. Thus, enacting section 2823 would increase direct spending by $115 million over the 2010-2019 period.

Multiyear Contracts for Aerial Refueling

The National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181) directed the Air Force to conduct a pilot program to evaluate the feasibility of using fee-for-service contracts with commercial aviation firms to augment the aerial refueling capabilities of the Department of Defense. Section 1082 would allow the Air Force to enter into one or more multiyear contracts to procure such aerial refueling services.

Current law (title 10, United States Code section 2306c) requires that multiyear contracts for services in excess of $500 million be specifically authorized in law and limits the term of those contracts to five years or less. Such contracts may obligate the government to pay for contractors' unrecovered costs if the contract is canceled before completion.

In addition to authorizing the use of multiyear contracts for aerial refueling services, section 1082 would extend the maximum term of contracts for aerial refueling to eight years. According to the Air Force, those enhancements to current law are necessary to facilitate the award of contracts under the pilot program.

When DoD enters multiyear contracts for the acquisition of property and services, it commits to making payments over the term of the contract—without appropriations for the full cost of those items. For those contracts, DoD obtains budget authority and records obligations only for the payment due in the first year of the contract, even though its actual contractual obligations exceed those initial payments. That budgetary treatment, however, is inconsistent with government-wide accounting principles indicating that the budget should reflect the full cost of those commitments as new obligations at the time that such a contract is signed. CBO thus believes that section 1082 would provide DoD with contract authority—a form of budget authority—because it would allow the department to incur obligations in excess of available appropriations. Providing such authority constitutes direct spending.

Under section 1082, the Air Force could enter into several multiyear contracts with commercial air carriers, in which the service would guarantee payment for a minimum number of flight hours for refueling missions from the carriers. That guarantee would be necessary to enable the contracted firms to obtain the financing needed to acquire, modify, test, and certify the aircraft for aerial refueling missions. Those capital and start-up costs would be fully amortized over the minimum number of flight hours or missions guaranteed in the contracts and the carriers would recover those costs as they charge the Air Force for the aerial refueling services on the basis of the numbers of hours or missions flown by the tanker aircraft. If the contracts were cancelled before completion, the Air Force would be required to pay for any unrecovered capital costs.

Based on information from DoD, CBO estimates that if the Air Force used the authority in the pilot program, it would enter into two contracts with commercial carriers that would outfit a total of four planes with aerial refueling equipment. Some of the aircraft that would be modified as tankers would come from the carriers' existing fleets of planes and some additional aircraft would be acquired for the purpose of the program. The government would be obligated to pay for—either through purchased refueling services or cancellation charges—the costs of acquiring and modifying those aircraft, totaling $120 million per contract, CBO estimates. (Additional operating costs would total $70 million over the term of each contract, although the Air Force would not be liable for those variable operating costs if the contract were canceled prior to completion.) Budget authority should be recorded in the amount of the total capital costs in the year in which the contract is signed, and outlays should be recorded over the period needed to acquire, modify, and field the aircraft. CBO estimates that the process of reviewing bids and awarding contracts would take at least a year, and that contracts would be awarded in 2011 and 2012.

However, section 1081 would waive the requirement to implement the pilot program if the Air Force determines that it is not in the national interest to do so. Based on information from the Air Force, CBO expects that there is only a very small chance that the service will pursue the program and award contracts. Therefore, CBO estimates that on a probabilistic basis, enacting section 1082 would increase direct spending by $24 million over the 2011-2019 period.

Stockpile Sales

Section 1412 would extend by two years the period to sell cobalt from the National Defense Stockpile as previously authorized in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85, most recently revised by Public Law 110-417). That authority expired on September 30, 2009, and about 600,000 pounds of cobalt remains unsold. CBO estimates that all remaining cobalt would be sold over the next two years at an average price of about $16 per pound to achieve additional receipts of $10 million over the 2010-2011 period.

Alaska Territorial Guard

Section 645 would allow certain military retirees to include time served in the Alaska Territorial Guard during World War II for purposes of computing their annuities. Based on information from DoD, CBO estimates that because of this change, about 75 retirees and survivors would have their annuities increased by an average of $3,700 per year. In total, CBO estimates section 645 would increase military retirement outlays by about $2 million over the 2010-2019 period.

Retirement Annuity Shift

Section 422 would repeal section 1002 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110-417), which shifted 1 percent of military retirement payments from September 2013 to October 2013. Based on the amounts of current outlays for military retirement annuities, and taking into account expected inflation and changes in the number of retirees, CBO estimates that repeal of section 1002 would shift $43 million in outlays from fiscal year 2014 to fiscal year 2013.

Expansion of Authority of EEOCIP Ombudsman

Section 3142 would expand the duties of the Office of the Ombudsman for the Energy Employees Occupational Illness Compensation Program to include part B of the program. The office, which is authorized through October 31, 2012, currently provides information about benefits available under part E of EEOICP. CBO anticipates that the Office of the Ombudsman would see its workload roughly double under section 3142. Therefore, CBO estimates that implementing this provision would increase direct spending by the office from its current level of $1 million annually to $2 million a year for a total of $3 million over the 2010-2012 period.

Other Provisions

In addition to the sections discussed above, H.R. 2647 contains several provisions that would have an insignificant impact on direct spending or revenues, primarily because they would affect few individuals or because they authorize both the collection and spending of funds so that the net budgetary impact would be quite small.

- Section 505 would forbid any time spent by a member in the Seaman to Admiral program from counting towards the 20 years of service needed to earn a military retirement.

- Section 633 would allow the military services to reimburse the travel expenses of friends and family who provide care to members and former members who are ill or seriously wounded. Such reimbursements could increase outlays from the Medicare Eligible Retiree Health Care Fund (MERHCF).

- Section 642 would allow reserve retirees to have their annuities recalculated for any additional time served in an active status after the age of 60.

- Section 643 would allow certain active-duty members who are eligible for retirement and who join the selected reserves to have the option of electing a reserve retirement at age 60.

- Section 705 would allow the Secretary of Defense to collect and spend premiums as part of a new health benefit program for certain reservists.

- Section 709 would prevent DoD from increasing the amount of the cap on daily out-of-pocket expenses for inpatient care received through the TRICARE Standard program. This would increase outlays from the MERHCF, especially for care received overseas.

- Section 821 would authorize contractors who provide technical assistance and advisory services to the U.S. government to access technical data belonging to other government contractors. The provision also would require contractors accessing such technical data to abide by statutory nondisclosure agreements, and could subject individuals who violate such agreements to criminal penalties. Revenues from such penalties would be deposited in the Crime Victims Fund and available for expenditure without further appropriations.

- Section 912 would allow DoD to provide satellite tracking services to foreign and domestic governments and commercial entities. Currently, DoD provides those services under a pilot program that expired on September 30, 2009. Under that pilot program DoD is allowed to charge fees to cover the costs of providing such services, and to spend such fees. CBO anticipates that DoD would continue providing similar services under the new authority.

- Section 921 would extend to the Defense Intelligence Agency the authority of the military departments to retain and spend proceeds generated by counterintelligence operations.

- Section 1303 would allow DoD to accept contributions from the private sector and foreign governments for use on activities associated with the Biological Threat Reduction program. Spending of amounts contributed would not be subject to further appropriation actions. The authority to both accept contributions and to spend them would expire on December 31, 2015. Any amounts not spent would be returned to the donor within three years of the date of the contribution.

- Section 1704 would create a new fund in the U.S. Treasury. VA and DoD would transfer monies into the fund to be used for the operation of the new Captain James A. Lovell Federal Health Care Center. Because monies in the fund would be available until expended, this fund could be used to extend the life of previously enacted appropriations that would otherwise expire.

- Section 1705 would authorize cost sharing arrangements between VA and DoD for operation of the new Federal Health Care Center. Such arrangements could increase outlays from the MERHCF.

- Section 3502 would increase outlays by authorizing the Maritime Administration to make lump-sum payments for unused leave to certain former employees of the U.S. Merchant Marine Academy.

PREVIOUS CBO ESTIMATES

On June 22, 2009, CBO transmitted a cost estimate for H.R. 2647, the National Defense Authorization Act for Fiscal Year 2010, as reported by the House Committee on Armed Services on June 18, 2009. CBO estimated that provisions in that bill would have no net effect on direct spending over the 2010-2014 period or the 2010-2019 period.

On July 14, 2009, CBO transmitted a cost estimate for S. 1390, the National Defense Authorization Act for Fiscal Year 2010, as reported by the Senate Committee on Armed Services on July 2, 2009. CBO estimated that S. 1390 would increase direct spending by $1.8 billion over the 2010-2014 period and $2.7 billion over the 2010-2019 period, primarily through provisions that would create new authorities for energy security at DoD installations, pilot projects for military housing, and multiyear contracts for aerial refueling. The provisions for energy security at DoD installations and pilot projects for military housing are not included in the conference report for H.R. 2647. While the provision for aerial refueling is included in the conference report, CBO has since lowered its cost estimate for that provision to reflect the inclusion of language that would authorize the Air Force to cancel that pilot project.

On May 5, 2009, CBO transmitted a cost estimate for S. 507, the Non-Foreign AREA Act of 2009, as ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on April 1, 2009. The language and cost estimate of that bill are similar to sections 1911-1919 of H.R. 2647.

Cost estimates for several of the federal employee retirement provisions in H.R. 2647 (including retirement credit for sick leave) were included in CBO cost estimates for H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. In particular, CBO transmitted three separate cost estimates of H.R. 1256 that included similar changes:

- On March 16, 2009, for the version of H.R. 1256 ordered reported by the Committee on Energy and Commerce on March 4, 2009;

- On March 24, 2009, for the version ordered reported by the Committee on Oversight and Government Reform on March 18, 2009;

- And also on April 13, for the version passed by the House of Representatives on April 2, 2009.

Differences between the cost estimate for H.R. 2647 and the estimates for H.R. 1256 reflect differences in the bills. Most notably, CBO's estimate of the costs of a provision in this act that would allow retirement credit for sick leave is less than our estimate for a similar provision in earlier versions of H.R. 1256. This lower estimate is the result of language in H.R. 2647 that would authorize those who retire prior to 2014 to count only half of their accrued sick leave towards their retirement annuity.

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