

NDAA Highlights for Defense Communities

Congress unveiled its conference report of the FY 2021 National Defense Authorization Act (NDAA) last week. Among the provisions of the \$731.6 billion defense bill include a 3 percent military pay raise, bolstering the military's response to the pandemic, and a mandate to change military bases named after Confederate generals.

Below are specific provisions pertaining to America's defense communities:

Defense Community Infrastructure Program (Sect. 2882) and OEA Redesignation (Sec. 905)

The conference requested an increase of \$50 million for the program. DCIP awards have previously been administered through the Office of Economic Adjustment (OEA). The 2021 NDAA stipulates that the OEA will be redesignated as the "Office of Local Defense Community Cooperation."

- » *Project priority categories:* The Secretary will award DCIP funding based on the following priority areas: military value, resilience, or military family quality of life.
- » *Cost Share:* "The State or local government agree to contribute not less than 30 percent of the funding for the community infrastructure project." This doesn't apply to projects carried out in rural areas where the Secretary, "shall not penalize a State or local government for offering to make a contribution of 30 percent or less of the funding for the community infrastructure project."
- » *The law defines rural as:* a community with a population under 100,000 inhabitants (previously it was 50,000).

- » *Definition of what constitutes an infrastructure project benefiting quality of life:* "alleviating installation commuter workforce issues and the benefit of schools or other local infrastructure located off of a military installation that will support members of the armed forces and their dependents residing in the community."

Readiness and Environmental Protection Integration Program (Sec. 312)

Both the House and Senate bills contained provisions to amend section 2684a of the REPI program: "Funds obligated to carry out an agreement under this section shall be available for use with regard to any property in the geographic scope specified in the agreement— at the time the funds are obligated; and in any subsequent modification to the agreement."

Modification of Authority to Carry Out Military Installation Resilience Projects (Sec. 315)

"The Senate amendment contained a provision (sec. 314)...to ensure that military installation resilience projects can be executed to maintain, improve, or rapidly reestablish mission assurance and prevent commercial and residential encroachment around military installations."

Consideration of Certain Military Family Readiness Issues in Making Basing Decisions Associated w/ Certain Military Units and Major Headquarters (Sec. 2883)

This provision would require the “Secretaries of the military departments to factor military family readiness considerations, among other relevant factors, in future basing decisions.” Additionally, each secretary of the military departments would, for each military installations in their jurisdiction, be required to create a “basing decision scorecard” to incorporate military family readiness considerations. Finally, the provision requires the Secretaries address retention and family readiness issues in a briefing to Committees on Armed Services for the Senate and the House of Representatives and the Committee on Education and Labor for the House of Representatives and Committee on Health, Education, Labor, and Pensions of the Senate not later than March 1, 2021.

Department of Defense pilot program to evaluate expansion of land exchange authority (sec. 2862)

“The House bill contained a provision (sec. 2804) that would allow consideration of installation support services in the calculation of fair market value in certain Department of Defense land exchanges.” The new language would broaden existing land transfer language to allow a transfer of land from DoD in exchange for services or building and building improvements.

Pilot program to authorize use of cost savings realized from intergovernmental services agreements for installation-support services (sec. 2861)

“Secretary will make available to the commander of each military installation for which cost savings are realized as a result of an [IGSA] entered into under this section an amount equal to not less than 25 percent of the amount of such cost savings for that military installation for a fiscal year”

Department of the Army pilot program for development and use of online real estate inventory tool (sec. 2866)

“The provision would “require the Secretary of the Army, in consultation with the Administrator of the General Services Administration and Assistant Secretary of Defense for Sustainment, to establish a pilot program for developing an online real estate tool of existing inventory of space available at Army installations.”

Creation of the Assistant Secretary of Defense for Energy, Installations, and Environment (sec.904)

“The principal duty of the Assistant Secretary shall be the overall supervision of matters relating to energy, installations, and the environment for the Department of Defense.”

EFMP Program Reforms:

Section 582 of the NDAA dictates: 1) Standardization of EFMP across the military branches, 2) Ensuring healthcare, special needs education programs and installation-based programs are available to EFMP families, and 3) establishing an EFMP case manager and case management model at each installation.

Special Education Reform:

Also in Sec. 582 each installation must have an attorney trained in special education law. Furthermore each Secretary must collect and maintain dispute information regarding special education (Sec 589G), and the GAO and DoD conduct a study on military students with disabilities (589A and 589G).

Echo Program Reforms:

The NDAA has multiple provisions reforming the TRICARE Extended Care Health Option (**ECHO**) which provides supplemental services to active duty family members (ADFMs) with qualifying mental or physical disabilities. This includes increasing the respite benefit from 16 to 32 hours, families will not have to use another ECHO benefit to access a respite benefit, and a GAO study on ECHO utilization.