

At a Glance

S. 4049, the National Defense Authorization Act for Fiscal Year 2021

As reported by the Senate Committee on Armed Services on June 23, 2020

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	343	488
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	343	488
Spending Subject to Appropriation (Outlays)	0	711,982	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 totaling \$736.9 billion over the 2021-2025 period, mainly for the military functions of the Department of Defense and the atomic energy defense activities of the Department of Energy
- Allowing DoD, during national emergencies, to waive statutes and regulations that govern the military health system
- Requiring DoD to provide hazardous-duty pay to service members who supported the department's response to COVID-19 during calendar year 2020

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

- Anticipating which requirements for the military health system DoD would waive during emergencies and when the department would do so
- Predicting how DoD would carry out the requirement to provide hazardous-duty pay to members who support the response to COVID-19

Detailed estimate begins on the next page.

Bill Summary

S. 4049 would authorize appropriations totaling \$736.9 billion over the 2021-2025 period. Almost all of that amount, \$731.2 billion, would be specifically authorized for 2021 for the military functions of the Department of Defense (DoD) and the atomic energy defense activities of the Department of Energy. CBO estimates that appropriation of the authorized amounts would result in outlays of \$712.0 billion over the 2021-2025 period.

In addition, enacting S. 4049 would increase net direct spending by \$343 million over the 2021-2025 period and \$488 million over the 2021-2030 period. Enacting the bill would have an insignificant effect on revenues.

Estimated Federal Cost

The estimated budgetary effects of S. 4049 are shown in [Table 1](#). Of the \$736.9 billion that would be authorized over the 2021-2025 period, nearly all—\$736.7 billion—would be for activities within budget function 050 (national defense).

Some authorizations, however, fall within other budget functions, including \$0.1 billion for a medical facility demonstration fund in function 700 (veterans benefits and services) and another \$0.1 billion for the Armed Forces Retirement Home in function 600 (income security).

Costs of direct spending programs would fall within functions 050, 550 (health), and 700.

Basis of Estimate

For this estimate, CBO assumes that S. 4049 will be enacted near the start of fiscal year 2021 and that the authorized amounts will be appropriated each fiscal year. Outlays for existing programs were estimated using historical spendout rates.

Spending Subject to Appropriation

S. 4049 would specifically authorize appropriations totaling \$736.9 billion for the 2021-2025 period (see [Table 2](#)).

For defense programs, \$731.2 billion would be authorized for 2021, of which \$662.2 billion would, if appropriated, count against that year's defense cap set in the Budget Control Act (BCA), 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. An additional \$5.5 billion would be authorized for 2022 for activities designed to support the National Defense Strategy in the Indo-Pacific region.

The bill would authorize the following amounts for 2021:

- \$289.2 billion for operation and maintenance (including the revolving funds);
- \$161.0 billion for military personnel;
- \$140.0 billion for procurement;
- \$107.0 billion for research and development;
- \$25.9 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 a decrease of \$16.0 billion (or 2 percent) compared to the \$747.2 billion appropriated for 2020. However, the amount appropriated for 2020 includes \$18.6 billion in emergency funding—\$10.6 billion provided in response to the coronavirus pandemic and \$8.0 billion provided in response to natural disasters.

Excluding that emergency funding, S. 4049 would authorize \$2.6 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 \$6.2 billion (4 percent), research and development by \$2.6 billion (3 percent), and atomic energy activities by \$1.9 billion (8 percent). Conversely, authorized funding for three categories would decrease—military construction and family housing by \$3.8 billion (32 percent), procurement by \$3.4 billion (2 percent), and operation and maintenance by \$1.0 billion (less than 1 percent).

For nondefense programs in 2021, the bill would authorize \$0.1 billion for the Armed Forces Retirement Home and \$0.1 billion for a Medical Facility Demonstration Fund that is jointly managed by the Department of Veterans Affairs and DoD.

Direct Spending and Revenues

Several provisions in S. 4049 would affect direct spending. CBO estimates that five of those provisions would increase net outlays by \$488 million over the 2020-2030 period (see [Table 3](#)). Other provisions would have insignificant effects on direct spending, generally because very few people would be affected, or because the proposals would allow DoD to collect and spend new receipts so that the net effect would be small. In addition, enacting the bill would have an insignificant effect on revenues.

Waive TRICARE Requirements During Emergencies. During a national emergency, section 723 would allow DoD to waive the statutes and regulations that govern the military health system. While it is highly uncertain how DoD would use that authority, CBO anticipates that DoD may reduce some forms of cost sharing by beneficiaries. For instance,

the department could temporarily reduce or eliminate copayments for pharmaceuticals obtained through the TRICARE mail-order program or the retail pharmacy network, in an effort to reduce the number of people who visit military pharmacies during public health emergencies. They could also reduce cost sharing to promote the use of alternate points of service when military treatment facilities are damaged or made inaccessible by natural disasters. Changes to TRICARE cost sharing affect direct spending because the costs of care for beneficiaries of the military health system who are eligible for Medicare are paid from mandatory appropriations.¹

CBO estimates that in 2021, Medicare-eligible beneficiaries of the military health system will pay about \$575 million for pharmacy copayments. Of that amount, about \$310 million will be for mail-order copayments and \$265 million will be for copayments at the retail network. Because of the current COVID-19 emergency, CBO projects a 50 percent probability that DoD would exercise this waiver authority and reduce pharmacy copayments for mail-order prescriptions in calendar year 2021. We also estimate that there would be a 25 percent probability that DoD would reduce copayments at retail points of service. CBO estimates the probability that DoD would use this authority in any year after 2021 would decrease to about 5 percent; that estimate is based on a review of the frequency of prior emergencies. After factoring in the time to implement the changes, CBO estimates section 723 would increase direct spending by about \$100 million in 2021 and about \$430 million over the 2021-2030 period.²

Retroactive Hazardous-Duty Pay for COVID-19. Section 602 would require DoD to temporarily increase the pay of service members in the regular and reserve components of the U.S. Armed Forces who perform duty in support of the department's response to COVID-19 during calendar year 2020. That hazardous-duty pay would be provided for each month that service members perform such duty during that year. Section 602 would require DoD to pay eligible members at least \$150 per month for that duty; the exact amount and the specific eligibility requirements would be set in regulations by the department.

Payments made for the period before enactment of S. 4049 would be classified as direct spending because members have already performed such hazardous duty and therefore would be entitled to retroactive payments for that time.

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1. Most health care costs for beneficiaries of the military health system are paid from discretionary appropriations to the Defense Health Program. Medicare covers most costs for beneficiaries who are eligible for that program; any remaining costs, including almost all pharmacy costs, are paid from mandatory appropriations for the DoD Medicare-Eligible Retiree Health Care Fund.
 2. CBO estimates that section 723 would also require an increase in spending subject to appropriation. Because of the many different types of beneficiaries and types of waivers that DoD could exercise, those costs are very uncertain, although CBO estimates they would exceed \$200 million over the 2021-2030 period.

The provision includes a sense of the Senate that DoD should provide additional compensation for hazardous duty to service members who provide health care and supporting services related to that care to COVID-19 patients in the department's medical treatment facilities. On the basis of information from the department, CBO estimates that roughly 60,000 service members work in those facilities as health care providers or in support positions related to health care. In addition, about 45,000 members of the reserve and National Guard were mobilized in support of the department's response to COVID-19 as of April 2020, according to DoD.

Given the guidance to establish eligibility criteria so that service members in medical treatment facilities would earn the incentive pay, CBO expects that DoD would set rules that would qualify the most people for hazardous-duty pay. We estimate that roughly 100,000 service members would receive six months of hazardous-duty pay for service during the period between January 1, 2020, and October 1, 2020, (the assumed date of enactment of this bill). In addition, CBO estimates that DoD would pay \$150 a month for that hazardous duty—the minimum amount specified in this section. Thus, CBO estimates that retroactive payments of hazardous-duty pay for work in support of the department's response to COVID-19 would cost \$90 million. That amount would be disbursed in fiscal year 2021.³

Armed Forces Retirement Home. Section 1413 would authorize retirees from the reserve components to reside at the Armed Forces Retirement Home (AFRH). Approximately 650 (or 0.04 percent) of the roughly 1.5 million retirees from the active component reside in the home. CBO expects that newly eligible retirees are as likely to reside in the home as active-duty retirees; thus CBO estimates that approximately 180 of the roughly 415,000 reserve component retirees would occupy some of the 350 vacant rooms at the home beginning in 2022.

Each new resident would pay monthly fees to the AFRH that are based on their income, up to the cost of care provided to them. On the basis of data concerning the level of care for and median income of AFRH residents, CBO estimates fees paid by reserve retirees (an average of roughly \$26,000 annually) would decrease direct spending by \$43 million over the 2021-2030 period.⁴

Drug Pricing Pilot Program. Section 707 would require DoD to conduct a three-year pilot program to promote the distribution of brand-name maintenance medications through the

3. Payments made for qualifying service between October 1, 2020, and December 31, 2020, would be classified as discretionary spending. Those payments would be made from amounts appropriated pursuant to the specified authorization of appropriations for military personnel that would be provided by the bill.

4. Providing care and services for those additional residents would cost an average of \$65,000 per person and total \$105 million over the 2021-2030 period, CBO estimates. That spending would be subject to appropriation from the Armed Forces Retirement Home Trust Fund.

TRICARE retail pharmacy network. Under current law, beneficiaries of the military health system are required, with some exceptions, to obtain all maintenance medications from the TRICARE mail-order program or from military treatment facilities. Pharmacy costs for beneficiaries of the military health system who are eligible for Medicare are paid from mandatory appropriations.

Using data from DoD, CBO estimates that the average cost to DoD of a 90-day brand-name prescription obtained through the mail-order program (about \$300) would increase by about 25 percent if that same prescription is filled at a retail pharmacy. CBO estimates that Medicare-eligible beneficiaries of the military health system would fill about 40,000 of those 90-day prescriptions from retail pharmacies each year, rather than through mail-order pharmacies. That change would increase direct spending by \$3 million in each year of the program, CBO estimates.

Under the pilot program, DoD would be encouraged to pursue voluntary rebates from pharmaceutical manufacturers to reduce DoD's costs for drugs obtained from retail pharmacies. Based on DoD's experience in attaining rebates at retail points of service, CBO expects the probability that the department would get those discounts is low. Any discounts received by the Department would reduce the cost of the program by less than \$1 million each year. In total, enacting section 707 would increase net direct spending by \$6 million, CBO estimates.⁵

Medals of Honor. Section 551 would authorize DoD to award the Medal of Honor in instances when the award would occur more than five years after the date of the act of valor that is being recognized. Current law generally requires authorization in legislation to grant awards after that 5-year period. Under section 551 DoD could grant awards if a Member of Congress asks the department to review the act of valor and it agrees the act merits the distinction. Thus, enacting section 551 would result in awards that would not occur under current law. On the basis of past awards of the Medal of Honor that required legislation, CBO projects that five living individuals would receive the Medal of Honor over the 2021-2030 period under section 551. Living recipients of the Medal of Honor receive monthly pensions which are paid from mandatory appropriations; they also receive a lump-sum payment for the months between the date of the act of valor and the date the medal is awarded. CBO estimates that payments of monthly pensions for those five awardees would increase direct spending by less than \$500,000 in each year and by \$3 million over the 2021-2030 period. CBO expects that some awards would be made to deceased individuals; however, monthly pensions are not paid posthumously. Surviving spouses of deceased

5. CBO estimates that section 707 would also require an increase in spending subject to appropriations of \$3 million during the pilot program for beneficiaries who are not eligible for Medicare.

recipients could receive expanded health benefits or increased survivor benefits. CBO estimates that the costs for those benefits would be insignificant.

Revenues. Several provisions in S. 4049 would have insignificant effects on revenues, generally because very few people would be affected. Sections 526, 532, 703, and 1043 would change the amount of fines and penalties collected by the government. Section 1047 would reduce amounts collected from visa fees.

Uncertainty

The estimated costs for the authority to waive regulations and statutes governing the operation of the military health system (section 723) is subject to considerable uncertainty. It is difficult to predict when the Administration would declare an emergency and how DoD would use the waiver authority. The costs of providing hazardous-duty pay (section 602) are also uncertain. DoD would have the authority to set regulations establishing who qualifies for the pay, so the eligible population could be larger or smaller than we estimate. Also, DoD could pay more than the \$150 per month that would be required by section 602, and service members could receive more or fewer than the six months of pay that CBO anticipates.

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. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 3.

Increase in Long-Term Deficits:

CBO estimates that enacting S. 4049 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

Mandates

S. 4049 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).

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 service members on active duty by about 5,700 relative to currently authorized levels. Those additional service members would be eligible for existing protections under the Servicemembers Civil Relief Act (SCRA). Protections under SCRA require public and private entities to grant active-duty 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 service members' loan obligations if the service member acquired the loan before starting active duty service, and it allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. The SCRA also prohibits lenders from using a service member's personal assets to satisfy the member's trade or business liability while he or she is in 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' utilization of the various provisions of the SCRA depends on a number of factors, including how often and how long they are deployed. 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 1631 would require the Secretary of Defense to establish a cybersecurity program that would be used to communicate cybersecurity threats, among other activities, between government entities and companies that develop weapon systems for the military. Under current law, private-sector companies that contract with the department must report certain cybersecurity incidents. The bill would give the department the authority to either require or encourage voluntary participation of private-sector companies in the program, including through the use of incentives. If the Secretary requires the defense industrial base to participate in the program, the bill would impose a private-sector mandate on entities without an active contract with the department by requiring them to report cybersecurity incidents. The cost of the mandate would vary depending on the complexity of the reporting requirements and the number of cybersecurity incidents. However, because the provision would affect certain companies in the defense industry without a department contract, CBO estimates that the cost of compliance would be small.

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Table 1.
Estimated Budgetary Effects of S. 4049, as reported by the Senate Committee on Armed Services on June 23, 2020

	By Fiscal Year, Millions of Dollars						2020-2025
	2020	2021	2022	2023	2024	2025	
Increases in Spending Subject to Appropriation							
Specified Authorization	0	731,353	5,500	0	0	0	736,853
Estimated Outlays	0	432,950	178,980	59,166	29,099	11,787	711,982
Increases in Direct Spending^a							
Estimated Budget Authority	0	210	58	28	27	25	349
Estimated Outlays	0	189	68	33	27	25	343

Enactment of S. 4049 would have an insignificant effect on revenues.
 Components may not sum to totals because of rounding.

a. In addition to the changes in direct spending shown here, S. 4049 would have effects after 2025. CBO estimates that over the 2020-2030 period, S. 4049 would increase direct spending by \$488 million (see Table 3).

Table 2.
Amounts Authorized to be Appropriated by S. 4049, as reported by the Senate Committee on Armed Services on June 23, 2020

	By Fiscal Year, Millions of Dollars						2020-2025
	2020	2021	2022	2023	2024	2025	
	Increases in Spending Subject to Appropriation						
Authorizations for Appropriations Subject to the BCA Caps							
Specified Authorizations for the Departments of Defense and Energy							
Authorization	0	662,158	5,500	0	0	0	667,658
Estimated Outlays	0	391,518	159,944	54,861	27,427	11,102	644,852
Specified Authorizations for Nondefense Departments and Agencies							
Authorization ^a	0	195	0	0	0	0	195
Estimated Outlays	0	156	31	7	0	0	194
Subtotal							
Authorization	0	662,353	5,500	0	0	0	667,853
Estimated Outlays	0	391,674	159,975	54,868	27,427	11,102	645,046
Specified Authorization for Defense Appropriations not Subject to the BCA Caps							
Authorization ^b	0	69,000	0	0	0	0	69,000
Estimated Outlays	0	41,276	19,005	4,298	1,672	685	66,936
Total							
Authorization	0	731,353	5,500	0	0	0	736,853
Estimated Outlays	0	432,950	178,980	59,166	29,099	11,787	711,982

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

- a. Authorizations for the Department of Veterans Affairs (\$130 million) and the Armed Forces Retirement Home (\$64 million).
b. Primarily for costs related to overseas contingency operations in and around Afghanistan, Iraq, and Syria.

Table 3.
Estimated Increases or Decreases in Direct Spending Under S. 4049,
As reported by the Senate Committee on Armed Services on June 23, 2020

	By Fiscal Year, Millions of Dollars											2020- 2025	2020- 2030
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030		
Increases or Decreases (-) in Direct Spending													
Waive TRICARE Requirements During Emergencies													
Section 723													
Estimated Budget Authority	0	120	60	30	30	30	30	30	30	40	40	270	440
Estimated Outlays	0	99	70	35	30	30	30	30	30	38	40	264	432
Retroactive Hazardous-Duty Pay for COVID-19													
Section 602													
Estimated Budget Authority	0	90	0	0	0	0	0	0	0	0	0	90	90
Estimated Outlays	0	90	0	0	0	0	0	0	0	0	0	90	90
Armed Forces Retirement Home													
Section 1413													
Estimated Budget Authority	0	0	-4	-4	-5	-5	-5	-5	-5	-5	-5	-18	-43
Estimated Outlays	0	0	-4	-4	-5	-5	-5	-5	-5	-5	-5	-18	-43
Drug Pricing Pilot Program													
Section 707													
Estimated Budget Authority	0	*	2	2	2	0	0	0	0	0	0	6	6
Estimated Outlays	0	*	2	2	2	*	0	0	0	0	0	6	6
Medals of Honor													
Section 551													
Estimated Budget Authority	0	*	*	*	*	*	*	*	*	*	*	1	3
Estimated Outlays	0	*	*	*	*	*	*	*	*	*	*	1	3
Total Changes in Direct Spending													
Estimated Budget Authority	0	210	58	28	27	25	25	25	25	35	35	349	496
Estimated Outlays	0	189	68	33	27	25	25	25	25	33	35	343	488

Components may not sum to totals because of rounding; * = between \$0 and \$500,000.

CBO estimates that enacting S. 4049 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031. Other provisions in S. 4049 would have insignificant effects on direct spending and revenues.