

CRS Report for Congress

Defense: FY2009 Authorization and Appropriations

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Prepared for Members and
Committees of Congress

The annual consideration of appropriations bills (regular, continuing, and supplemental) by Congress is part of a complex set of budget processes that also encompasses the consideration of budget resolutions, revenue and debt-limit legislation, other spending measures, and reconciliation bills. In addition, the operation of programs and the spending of appropriated funds are subject to constraints established in authorizing statutes. Congressional action on the budget for a fiscal year usually begins following the submission of the President's budget at the beginning of each annual session of Congress. Congressional practices governing the consideration of appropriations and other budgetary measures are rooted in the Constitution, the standing rules of the House and Senate, and statutes, such as the Congressional Budget and Impoundment Control Act of 1974.

This report is a guide to one of the regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the House and Senate Appropriations Subcommittees on Defense. For both defense authorization and appropriations, this report summarizes the status of the bills, their scope, major issues, funding levels, and related congressional activity. This report is updated as events warrant and lists the key CRS staff relevant to the issues covered as well as related CRS products.

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Defense: FY2009 Authorization and Appropriations

Summary

The President's FY2009 federal budget request, released February 4, 2008, included \$611.1 billion in new budget authority for national defense. This total included \$515.4 billion in discretionary new budget authority for the base budget of the Department of Defense (DOD) — i.e., activities not associated with combat operations in Iraq and Afghanistan. The budget included an additional \$2.9 billion in mandatory spending for the DOD base budget and \$22.8 billion for non-war-related defense costs of the Department of Energy and other agencies. In addition to the \$541.1 billion requested for the base line (i.e., non-war cost) budget, the request also included \$70 billion to cover war costs in the first part of FY2009.

On April 30 the Senate Armed Services Committee approved its version of the FY2009 defense authorization bill (S. 3001), authorizing the appropriation of \$612.5 billion in new budget authority for national security programs, including \$542.5 billion for the base line budget and a \$70 billion allowance for war-related costs. The committee approved without major change the funding requests for several programs that have been the subject of controversy, including the Army's Future Combat Systems (FCS), the Navy's DDG-1000 destroyer, and the Air Force's KC-45A mid-air refueling tanker. The committee bill would add to the request \$497 million to either continue or terminate production of the Air Force's F-22 fighter. It also would add to the request \$465 million to continue development of an alternate engine for the F-35 Joint Strike fighter and \$35 million to improve the engine currently slated for installation. The Senate may take up the bill in September.

In related action, the House passed its version of the defense authorization bill (H.R. 5658) on May 22 authorizing \$612.5 billion, including \$70 billion for war-related costs. The bill would deny authorization of the \$2.5 billion requested for a third destroyer of the DDG-1000 class. Instead, it would allocate those funds to buy an LPD-17-class amphibious landing transport, and two T-AGE-class supply ships and to purchase either components to be used in another DDG-1000 or components that would be used to continue production of DDG-51 class destroyers, the type the DDG-1000 is intended to supplant.

In addition to authorizing \$3 billion requested to buy 20 F-22 fighters in FY2009, the House bill would authorize \$523 million that was not requested but which would buy components that would allow the purchase of 20 additional F-22s in FY2010. It also added to the Administration's request authorization for \$3.9 billion for 15 C-17 cargo planes.

The House Defense Appropriations Subcommittee marked up its version of the FY2009 Defense Appropriations Bill on July 30, recommending a total of \$487.7 billion, which the panel said was \$4 billion less than the President requested for that bill. The full House Appropriations Committee will take up the bill in September.

This report will be updated as developments warrant.

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Defense: FY2009 Authorization and Appropriations

Most Recent Developments

On May 22, 2008, by a vote of 384-23, the House passed its version of the FY2009 national defense authorization bill (H.R. 5658), which would authorize \$542.4 billion for national defense-related activities of DOD and other federal agencies and an additional \$70 billion for costs related to military operations in Iraq and Afghanistan.

Earlier, on April 30, the Senate Armed Services Committee approved its version of the FY2009 defense authorization bill (S. 3001) authorizing the appropriation of \$612.5 billion in new budget authority for national security programs, including \$542.5 billion for the base line budget and a \$70 billion allowance for war-related costs. On July 31, an effort to begin Senate debate on the bill stalled when proponents fell short of the 60 votes needed to invoke cloture (and thus end debate) on a motion to begin consideration of the bill. The vote on the cloture motion was 51-39. The Senate may take up the authorization bill in September.

The House Defense Appropriations Subcommittee marked up its version of the FY2009 Defense Appropriations Bill on July 30, recommending a total of \$487.7 billion, which the panel said was \$4 billion less than the President requested for that bill.¹ In addition to funding a military pay raise of 3.9% (0.5% higher than the President's request), the bill would provide, for service members who were retained on active duty involuntarily by a so-called "Stop Loss" action, an additional \$500 per month for each month their service was extended from October 2001 onward.

On key weapons systems, the subcommittee bill would appropriate:

- \$6.7 billion, as requested, for development and production of the F-35 Joint Strike Fighter, but with a \$785 million cut from production funding that is nearly offset by increases in the development program to continue work on an alternative engine (\$430 million) and to increase the amount of testing (\$320 million);

¹ The House Defense Appropriations Subcommittee did not release either the text of the unnumbered bill or the committee report language it will present to the full House Appropriations Committee in September. The following summary of highlights of the subcommittee bill is based on a press release by Subcommittee Chairman John P. Murtha, issued July 30.

- \$893 million, as requested, for the new aerial refueling tanker, with legislative language directing that, as DOD conducts a new competition to choose between a tanker offered by Northrop Grumman and one offered by Boeing, it comply with findings made by Government Accountability Office (GAO) in its ruling that a previous competition, won by Northrop Grumman, was invalid;
- \$523 million to buy components to permit continued production in FY2010 of the F-22 Raptor;
- No funds, instead of the \$2.5 billion requested, for a third ship of the DDG-1000 class;
- Additions to the request of \$1.6 billion for an LPD-17 amphibious landing transport, \$398 million for components to be used in a future Virginia-class submarine, \$450 million for components to be used in the DDG-1000 program, and \$941 million for two T-AGE cargo ships.

The House subcommittee bill also would require the Administration to include in future annual defense budget requests funding to cover the cost for the year of ongoing operations in Iraq and Afghanistan.

Highlights of the House-Passed Defense Authorization Bill

Among the changes the House-passed bill would make to the budget proposed by the Administration is denial of the \$2.5 billion authorization requested for a third ship of the DDG-1000 class. The House bill would, instead, allocate those funds to buy an LPD-17-class amphibious landing transport and two additional supply ships and to purchase either components to be used in another DDG-1000 or components that would be used to continue production of DDG-51 class destroyers, the type the DDG-1000 is intended to supplant.

The bill also would add \$722 million to the \$3.4 billion requested for acquisition of *Virginia*-class submarines. The request would buy one sub in FY2009 and components (including a nuclear powerplant) to be used in another sub slated for purchase in FY2010. The bill, by comparison, would let the Navy buy enough “long lead-time components” in FY2009 to allow the purchase of two subs in FY2010, thus accelerating by one year the time when the Navy could begin buying subs at the rate of two per year.

The House bill authorized the request for \$832 million to continue development of a new mid-air refueling tanker for the Air Force, but denied \$62 million requested for long lead-time components to begin production of the planes. According to the House Armed Services Committee, Air Force officials said elimination of the long lead-time funding would not delay the program. The bill also cut \$200 million from the \$3.6 billion requested to continue development of the Army’s Future Combat Systems (FCS) program, an effort to develop a new generation of digitally-linked vehicles for ground combat.

The bill added to the Administration's request \$3.9 billion for 15 additional C-17 cargo planes in FY2009 and \$523 million for components that would be needed to continue procurement of F-22 fighters in FY2010. For both programs, the Administration's FY2009 request includes neither the funds that would be needed to continue production beyond FY2009 nor the funds that would be needed to shut down either production line.

The bill included a provision that would exempt it from the President's executive order prohibiting agencies from complying with congressional earmarks that are not specified in statutory language. As is customary, the more than 500 earmarks associated with H.R. 5658 are specified in the report (H.Rept. 110-652) issued by the House Armed Services Committee, which drafted the bill and which had reported it to the House on May 16.

In a Statement of Administration Policy issued May 22, the Office of Management and Budget (OMB) cited the provision exempting the bill from the executive order dealing with earmarks as one of many provisions which, if included in the final version of the bill, would cause the President's advisors to recommend a veto. Other provisions of H.R. 5658 cited by OMB as potential reasons for a veto are reductions totaling more than \$700 million in the \$10.8 billion requested for missile defense programs, prohibition of proposed increases in health care fees and copays paid by some military retirees, and a provision requiring that any agreement with the Iraqi government concerning the legal status of U.S. military personnel in that country include a requirement that Iraq pay some of the costs of those forces.

See below for a more detailed discussion of the bill's provisions.

Highlights of the Senate Committee-Reported Defense Authorization Bill

The Senate Armed Services Committee approved without major change the funding requested for several programs that have been the subject of controversy, including the Army's Future Combat Systems (FCS), the Navy's DDG-1000 destroyer, and the Air Force's KC-45A mid-air refueling tanker. The committee bill would add to the request \$497 million to either continue or terminate production of the Air Force's F-22 fighter. It also would add to the request \$465 million to continue development of an alternate engine for the F-35 Joint Strike fighter and \$35 million to improve the engine currently slated for installation in the planes.

President Bush's Executive Order 13457 prohibits agencies from complying with congressional earmarks not specified in statutory language; S. 3001 includes a provision (Section 1002) that would incorporate into the bill the detailed funding tables in the accompanying committee report, which would circumvent E.O. 13457. These funding tables spell out how the Senate intends DOD and the services to allocate the lump sums authorized for each appropriations account, such as the accounts for procurement of aircraft for the Army and for research and development for the Navy.

The bill incorporates \$2.0 billion worth of reductions to the Administration's military personnel and operation and maintenance budget requests which, according to the committee, would have no adverse impact on DOD operations. This includes (1) cuts totalling \$1.1 billion from military personnel accounts and \$212 million from operations and maintenance accounts based on an historic pattern of DOD requesting more for those amounts than it spent in a given year, (2) reductions totalling \$198 million based on what the committee said was an erroneously high request for civilian pay, and (3) a reduction of \$497 million in the amount requested for depot maintenance of Air Force planes.

On several important military personnel questions, S. 3001 agrees with the House-passed FY2009 authorization bill (H.R. 5658). Both bills approve the requested addition of 12,000 troops to the active-duty end-strength of the Army and Marine Corps, as a step toward a planned increase of 92,000 troops over the FY2007 level. Similarly, both bills authorize a 3.9% raise in military pay effective January 1, 2009, rather than the 3.4% raise in the budget request, an increase that costs an additional \$316 million. Like the House bill, S. 3001 prohibits the Administration's proposed increase in fees, co-payments, and pharmacy prices charged some military retirees by DOD's TRICARE health insurance system.

Unlike the House bill, S. 3001 authorizes \$2.5 billion requested for a third DDG-1000 class destroyer. However the Senate bill also would expand the Administration's shipbuilding plan, rejecting the request for \$103 million to shut down production of LPD-17 class amphibious landing transports and adding to the bill \$273 million for long lead-time components that would allow the Navy to budget for an additional LPD-17 in FY2010. It also adds \$79 million to the \$1.3 billion requested for long lead-time components to allow the Navy to begin budgeting for two submarines per year starting in FY2011.

The committee also cited delays in helicopter carriers at the Northrop Grumman shipyard in Pascagoula, MS, that was damaged by Hurricane Katrina, and provided only \$178 million of the \$348 million requested for an L.A.(R) class helicopter carrier slated to be part of the planned Maritime Prepositioning Force (Future). Also, citing delays in finalizing the design of a new class of cruisers (designated CG(X)) that would replace the Aegis cruisers in the anti-aircraft and missile defense mission, the committee cut \$121 million from the \$313 million requested to prepare for construction of the first CG(X), which is slated for inclusion in the FY2011 budget.

Reflecting widespread uncertainty about the future of the F-22 fighter program, the bill authorized as requested \$3.1 billion to buy 20 of the aircraft; but it also adds to the Administration's request an authorization of \$497 million to be used either to shut down the F-22 production line or to buy long lead-time components that would allow the Air Force to build 20 additional planes in FY2010. The bill authorizes, as requested, \$3.1 billion to continue development of the F-35 Joint Strike Fighter, \$3.3 billion to buy 16 of the planes, and \$396 million for long lead-time components to support future purchases. But it also adds to the budget request \$500 million to continue the three-year long congressional effort to make DOD fund development of a General Electric engine as a possible alternative to the Pratt & Whitney engine currently used in the F-35.

Citing warnings by the Navy, Marine Corps, and Air Force that the retirement of older fighter planes combined with delays in fielding the F-22 and F-35 could leave the services short of planes to equip their squadrons, the committee included in the bill a provision (Section 171) requiring DOD to give Congress annually a 30-year plan detailing projected changes in its inventory of all major types of aircraft. The committee also urged the Navy to prepare to sign a multi-year contract for more F/A-18E/F strike fighters than it currently plans to buy, as a hedge against delays in the acquisition of F-35s.

Because the losing contractors have filed an official protest of the Air Force's selection of the Boeing Chinook as its new combat search and rescue helicopter (designated CSAR-X) intended to retrieve downed pilots from enemy territory, the bill authorizes \$265 million of the \$305 million requested to develop the aircraft and none of the \$15 million requested to buy long lead-time components in preparation for manufacture. The bill also authorizes the \$1.0 billion requested to continue development of the VH-71, intended to replace the aging helicopters that serve the White House. In view of delays in the program, the committee also directs the Navy to submit to Congress a detailed report on the status of the program.

Following the same general approach as the companion House bill, S. 3001 would authorize less for anti-ballistic missile defenses than the administration requested. Of the \$10.9 billion requested, the House bill would authorize \$9.9 billion and the Senate bill \$10.2 billion (**Table A-2**). Moreover, within those overall totals, both bills authorize more than was requested for systems that are ready, or nearly ready, for deployment to deal with existing short-range and medium-range missiles. On the other hand, both bills authorize less than requested for programs that would not enter production that soon, many of which are intended to deal with intercontinental-range missiles.

Among the reductions the bill would make in anti-missile programs are cuts of:

- \$269 million (undistributed) from the Missile Defense Agency;
- \$10 million, the entire amount requested, for the Space Test Bed; and
- \$50 million of \$354 million requested for the Multiple Kill Vehicle which would enable one interceptor to knock out several attacking warheads.

S. 3001 authorizes the funds requested to begin deploying in Europe a variant of the defense against intercontinental-range missiles currently deployed in Alaska and California. However, the bill includes a provision (Section 232) that would bar use of the funds to buy interceptor missiles for that deployment or to begin construction on-site until (1) Poland and the Czech Republic have formally ratified agreements to allow the American sites on their territory and (2) the Secretary of Defense certifies to Congress that the interceptor slated for deployment at the European site — which is a considerably modified variant of the version already deployed — has been successfully tested in operationally realistic flight tests.

See below for a further, more detailed discussion of the committee bill.

Overview of the Administration Request

On February 4, 2008, the Administration released its federal budget request for FY2009 which included \$606.8 billion in discretionary budget authority for national defense.² This included \$515.4 billion for the so-called base budget of the Department of Defense (DOD) — the cost of routine activities excluding U.S. operations in Iraq and Afghanistan. It also included a lump-sum request for \$70 billion to cover war costs in the first part of the year.³

For congressional action on the Administration's funding request for war costs, see CRS Report RL34451, *FY2008 Spring Supplemental Appropriations and FY2009 Bridge Appropriations for Military Operations, International Affairs, and Other Purposes (P.L. 110-252)*, by Stephen Daggett, et al. For policy issues raised by that request, see CRS Report RL33110, *The Cost of Iraq, Afghanistan and Other Global War on Terror Operations since 9/11*, by Amy Belasco.

The total national defense request also included \$16.1 billion for nuclear weapons and other defense-related programs of the Department of Energy and \$5.2 billion for the defense-related activities of other agencies.

Because it did not submit a request for funds to cover the full anticipated costs of operations associated with Iraq and Afghanistan, the Administration was not in compliance with a provision of the FY2007 John Warner National Defense Authorization Act (P.L. 109-364, Section 1008) which requires the President to include in future annual budget requests funds to cover the anticipated cost of operations in Iraq and Afghanistan. Last year, the Administration's DOD budget request for FY2008 included a request for \$141.7 billion (subsequently increased to \$189.3 billion) to cover anticipated war costs for the entire fiscal year.

When the FY2009 defense request was submitted in February 2008, administration officials contended that there was too much uncertainty about future troop levels in Iraq to enable them to provide a funding request for war costs for the entire year.

Pressed by Senate Armed Services Committee Chairman Carl Levin during a February 5 hearing to provide an estimate of war costs for all of FY2009, Defense Secretary Robert M. Gates observed that a simple extrapolation of the FY2008 costs would amount to \$170 billion, but he added that he had no confidence in that projection because of the uncertainties concerning U.S. combat operations.

² The budget request included an additional \$4.3 billion in mandatory spending for the national defense function of the budget (Function 050).

³ On May 2, the White House sent Congress an amendment to its FY2009 budget providing some detail as to how it would allocate the \$70 billion, which included \$66 billion for the Department of Defense and \$4 billion for international affairs programs.

On May 2, 2008, the Administration submitted an amended budget request that specified funding levels by account in the FY2009 war costs bridge fund, including a total of \$66 billion for DOD and \$4 billion for foreign aid.

Congress incorporated action on the FY2009 war costs request into H.R. 2642 (P.L. 110-252), a bill making supplemental appropriations for FY2008 and FY2009 for military operations in Iraq and Afghanistan and for other purposes. On June 30, President Bush signed the bill providing \$96.1 billion for military operations in Iraq, Afghanistan and elsewhere in FY2008 and \$65.9 billion for those purposes in FY2009.

Comparison and Context

The President's \$515.4 billion request for DOD's FY2009 base budget is \$35.9 billion more than Congress appropriated for the FY2008 base budget, a nominal increase of 7.5 %. Adjusting for the cost of inflation, the FY2009 request would provide a real increase of 5.4 %. Roughly two-thirds of the proposed increase would go to the accounts that pay for current operations: funding for military personnel would increase by \$8.8 billion over the FY2008 appropriation, to \$125.2 billion; operations and maintenance funding would increase by \$15.6 billion, to \$179.8 billion (see **Table 1**).

The FY2009 base budget request is \$3.3 billion larger than the base budget request for that year the Administration had projected in February 2007. However, compared with the earlier projection, the actual request for procurement was lower by \$6.3 billion and the military construction request was lower by \$2.7 billion. On the other hand, the operations and maintenance request was \$5.4 billion higher and the R&D request \$2.4 billion higher than had been forecast in February 2007.

Table 1. Department of Defense Baseline Budget Discretionary Budget Authority, FY2008-FY2009
(amounts in billions of dollars)

	FY2008 Enacted (Excluding War Funds)	FY2009 Request (Excluding War Funds)	Change
Military Personnel	116,478	125,247	+8,769
Operation and Maintenance	164,187	179,787	+15,600
Procurement	98,986	104,216	+5,231
Research, Development, Test, & Evaluation	76,536	79,616	+3,080
Military Construction	17,763	21,197	+3,434
Family Housing	2,867	3,204	+337
Revolving & Management Funds	2,692	2,174	-518
Total DOD	479,508	515,440	+35,932

Source: Department of Defense, *Fiscal Year 2009 Budget Request: Summary Justification*, February 2008.

Status of Legislation

Congress has begun action on the annual defense authorization bill with the Senate Armed Services Committee approving its version (S. 3001) on April 30 and Senate floor action is possible in September. The House Armed Services Committee marked up its version of the bill (H.R. 5658) on May 14 and passed the bill May 22.

Table 2A. Status of FY2009 Defense Authorization

Full Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
5/14/08	4/30/08	H.Rept. 110-652	5/22/08 384-23	S.Rept. 110-335					

The House Defense Appropriations Subcommittee marked up FY2009 defense appropriations bill on July 30. Further action on the bill in both chambers is likely in September.

Table 2B. Status of FY2009 Defense Appropriations Bill

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7/30/08									

Is the Budget Too Small? The 4% Debate

Over the past few months, a number of senior military officers, as well as research groups and advocacy organizations, have been arguing that defense spending needs to be substantially higher in the next few years to avoid drastic cuts in major weapons programs or in the size of the force. Many have called for a baseline defense budget, not including war-related costs, pegged to about four percent of Gross Domestic Product — an amount that would be anywhere from \$70 to \$180 billion per year higher over the next few years than the current Administration plan.⁴

⁴ For an example of the 4% argument, see Jim Talent and Mackenzie Eaglen, “Providing for the Common Defense: Four Percent for Freedom,” Heritage Foundation, December 13, (continued...)

Senior leaders of the military services have been particularly vocal in arguing for substantial increases in the defense budget. The Chairman of the Joint Chiefs, Admiral Michael Mullen, has, for some time, urged 4% of GDP for defense. For the past two years, the Chief of Staff and Secretary of the Air Force have argued that the Air Force needs an average of \$20 billion more each year for the next several years in weapons acquisition accounts. In the past few months, senior Army officials have pointed out that the Army budget, including war costs, has grown to over \$230 billion. Though it may come down some, they say, if forces in Iraq and elsewhere are brought home, several more years of spending at near that level will be needed to repair, replace, and upgrade equipment consumed by the war-time pace of operations. For their part, Navy leaders now calculate that the long-term shipbuilding plan they have proposed for the past few years will, in the future, cost an average of \$20 billion a year in FY2007 prices, an increase of about 40% over earlier estimates.⁵

These arguments for a substantial increase in the defense budget, however, come at a time when, by historical standards, military spending appears to be very robust. Between FY1998, when the post-Cold War decline in defense spending reached its zenith, and FY2008, the baseline Department of Defense budget, not including war costs, has increased by almost 40% above inflation (see **Table 2**). After adjusting for inflation, the requested FY2009 baseline DOD budget is more than \$100 billion, or about 20%, greater than the average during the Cold War (measured from the end of the Korean War in FY1954 through FY1990). Requested funding for weapons acquisition (procurement plus R&D) in FY2009 is more than \$45 billion — or about one-third — higher than the annual Cold War average.

⁴ (...continued)

2007. The target is not intended to be very precise — proponents have not specified, for example, whether the 4% goal applies to just the Defense Department budget or to the national defense budget function — a difference, in itself, of \$22-23 billion each year.

⁵ For Admiral Mullen's views, see Geoff Fein, "National Discussion Needed On Whether To Boost DoD Spending Above 4 Percent, Chairman Says," *Defense News*, February 1, 2008. For statements by Air Force leaders, see Erik Holmes, "Fewer Airmen, Less Cash: With Fleet Continuing to Age, Wynne Says Drawdown Savings Are Less than Expected," *Air Force Times*, October 1, 2007. For costs of the Navy shipbuilding plan, see CRS Report RL32665, *Navy Force Structure and Shipbuilding Plans: Background and Issues for Congress*, by Ronald O'Rourke.

Table 3. DOD Budget Authority, FY1998-FY2013
(amounts in billions of dollars)

	Current Year Dollars			Constant FY2009 Dollars		
	Total DOD	Base DOD	Supplemental	Total DOD	Base DOD	Supplemental
FY1998	258.3	255.4	2.8	357.2	353.2	3.9
FY1999	278.4	269.3	9.1	375.1	362.9	12.2
FY2000	290.3	281.8	8.6	381.4	370.1	11.2
FY2001	318.7	299.3	19.4	405.8	381.1	24.6
FY2002	344.9	328.7	16.2	427.7	407.5	20.1
FY2003	437.7	375.1	62.6	526.0	450.8	75.2
FY2004	470.9	401.4	69.5	547.9	467.0	80.9
FY2005	483.9	381.9	101.9	540.7	426.8	113.9
FY2006	536.5	412.4	124.0	580.3	446.1	134.2
FY2007	603.0	431.7	171.3	635.5	455.0	180.5
FY2008	670.5	481.2	189.3	686.3	492.6	193.8
FY2009	588.3	518.3	70.0	588.3	518.3	70.0
FY2010	527.0	527.0	—	514.8	514.8	—
FY2011	533.1	533.1	—	508.5	508.5	—
FY2012	542.4	542.4	—	504.7	504.7	—
FY2013	552.7	552.7	—	501.8	501.8	—

Source: Total DOD budget and deflators from Department of Defense, *National Defense Budget Estimates Fiscal Year 2009*, March 2009; supplemental appropriations by CRS.

The disconnection between the size of the budget and the appeals for more money appears even more striking when amounts that have been appropriated for war costs are added to the equation. On top of a baseline DOD budget that has grown from \$255 billion in FY1998, in current year prices not adjusted for inflation, to almost \$520 billion in FY2008, supplemental appropriations for war-related costs that have grown from \$19.4 billion in FY2001, with an initial response to the 9/11 attacks, to \$63 billion in FY2003, the year of the Iraq invasion, to an estimated \$189 billion in FY2008. While large portions of the supplementals have been consumed by war-related operating costs, substantial amounts have also been devoted to buying new equipment, particularly for the Army and the Marine Corps. Although the bulk of this acquisition has been for force protection communications, and transportation, the effect has been to modernize much of the basic equipment stock of both services, in effect augmenting their baseline budgets.

The fact that so large a level of spending appears to the military services to be so inadequate has several explanations — and the policy implications are, accordingly matters of varying interpretation.⁶ Reasons include —

⁶ These issues were discussed in a CRS seminar on the FY2009 defense budget on February 11, 2008. A video of the seminar is available on line or as a DVD to congressional offices. See “FY2009 Defense Budget: Issues for Congress, Online, Video,” at [<http://www.crs.gov/products/multimedia/MM70107.shtml>]. The seminar slides illustrate points discussed below, and are available at “FY2009 Defense Budget: Issues for Congress:

(continued...)

- Future baseline budgets are widely expected to decline: The Administration plan to balance the federal budget by FY2012 includes limits on defense as well as non-defense spending. White House budget projections accommodate an increase of about 5% above inflation in the FY2009 DOD budget, but project a cumulative decline of about 3% between FY2009 and FY2012. Many unofficial projections of the deficit situation are less sanguine than the Administration's, so many analysts expect, at best, a flat baseline defense budget for the foreseeable future.⁷ Increased costs in part of the budget, therefore, will necessarily come at the expense of resources available in other areas.
- Supplemental appropriations are expected to decline as well: While plans to withdraw from Iraq are uncertain, the military services expect that supplemental appropriations will come down within a few years. Costs for training and equipment maintenance that have been covered in supplementals, then, will migrate back into the baseline budget at the expense of other programs, and money to further upgrade ground forces will have to be found elsewhere.
- Costs of military personnel have grown dramatically in recent years: Since the end of the 1990s, Congress has approved substantial increases in military pay and benefits, including pay increases of ½ percent above civilian pay indices in 7 of the past 8 years, three rounds of “pay table reform” that gave larger raises to personnel in the middle grades, increased housing allowances to eliminate on-base and off-base disparities, DOD-provided health insurance for Medicare-eligible military retirees (known as “TRICARE” for Life),⁸ concurrent receipt of military retired pay and veterans disability benefits that had earlier been offset, elimination of a reduction in retiree survivor benefits that had occurred at age 62, and large increases in enlistment and reenlistment bonuses and special pays. While bonuses and some other payments may decline in the future, most of the past increases in pay and benefits have been built into the basic cost of personnel. CRS calculates that uniformed personnel now cost 40% more, after adjusting for inflation, than in FY1999.⁹

⁶ (...continued)

A Powerpoint Summary,” at [<http://www.crs.gov/products/browse/documents/WD06002.pdf>].

⁷ See, for example, the annual 10 year projections of defense spending by the Government Electronics and Information Technology Association, at [<http://www.geia.org/>].

⁸ TRICARE is a DOD-run health insurance program for military dependents.

⁹ This reflects the military personnel budget divided by the number of active duty personnel, indexed for inflation using the consumer price index. See the slides cited in Footnote 6 for a graph that illustrates the trend.

- Operating costs continue to grow above base inflation: Historically, military operation and maintenance budgets, which pay for everything from personnel training, to weapons repairs, to facility operations, to health care, have increased relative to the size of the force by about 2.5% per year above inflation. These increases are not as large as in some areas of the civilian economy, such as health care, but they do not reflect gains in productivity that are common in other sectors of the economy. Continued growth in operating costs, which is now widely seen as a fact of life in defense planning, erodes the availability of resources for weapons modernization and other priorities.
- Increasing generational cost growth in major weapons programs: It is generally expected that new generations of weapons will be more expensive than the systems they replace as weapons technology advances. The rate of generational cost growth, however, is becoming a matter of increasing concern within the Defense Department. New stealthy aircraft, multi-mission ships, advanced space systems, and networked missiles, guns, and vehicles appear to be getting more expensive than their predecessors at a greater rate than in the past. Unless budgets increase more rapidly than costs, trade-offs between the costs of new weapons and the size of the force may be required.
- Poor cost estimates: The difficulties engendered by accelerating inter-generational weapons cost growth are exacerbated by poor cost estimation. The Government Accountability Office has documented frequent, substantial increases in costs of major defense systems compared to original development estimates. A side-effect of inaccurate cost projections is to exacerbate instability in the overall defense budget, which entails inefficient production rates for major weapons programs and increased costs due to changing production plans.¹⁰
- New requirements based on the lessons of Iraq and Afghanistan: The wars in Iraq and Afghanistan have led to very large increases in equipment requirements for ground forces, particularly for force protection, communications, and transportation. National Guard combat units that earlier were equipped with older systems cascaded from active units are now seen as part of the rotation base that require equally modern equipment. And full sets of current equipment are also expected to be available not only for next-to-deploy units, but also for units as they begin to reset from overseas rotations. A key lesson of the war is that what used to be called

¹⁰ For GAO's most recent annual overview of defense acquisition cost growth, see Government Accountability Office, *Defense Acquisitions: Assessments of Selected Weapon Programs*, GAO-08-467SP, March 31, 2008, at [<http://www.gao.gov/new.items/d08467sp.pdf>].

“minor procurement” for ground forces was substantially under-capitalized.

- A broader range of national security challenges: A common presumption before 9/11 was that forces trained and equipped for traditional conflicts between national armies would be able to cope with what were seen as less demanding other challenges such as stability operations. Now the view is that forces must be designed not only for traditional conflicts, but for insurgencies and other irregular wars, support of allies, threats of catastrophic attacks by non-state actors with weapons of mass destruction, and entirely new kinds of disruptive attacks on specific U.S. and allied vulnerabilities. The effect has been to broaden requirements without, necessarily, an attendant offsetting reduction in older force goals.

When these factors are taken as a whole, it is not so surprising that military planners discover some shortfalls. But, for Congress, it may not be so obvious that the principle answer is simply to provide more money for defense. As a practical matter, the arguments for more money that senior military leaders have begun to lay out appear most likely to become matters of debate in Congress once the next Administration takes office. The next Secretary of Defense, and the 111th Congress, may, very early on, face a contentious debate about defense resources.

More money is one alternative. Other alternatives may include backing away from plans to add 92,000 active duty troops to the Army and Marine Corps; shifting resources among the military services to reflect new challenges rather than allocating them roughly the same proportions every year; reviewing requirements for expensive new technologies in view of the presence or absence of technologically peer or near peer competitors; and shifting resources from military responses to global threats toward non-military means of prevention. The defense budget environment, however, appears likely to be troubling enough that it will force some attention to these matters earlier in the term of the next President rather than much later.

Potential Issues in the FY2009 Base Budget Request

Following is a brief summary of some of the other issues that may emerge during congressional action on the FY2009 defense authorization and appropriations bills, based on congressional action in prior years and early debate surrounding the President’s pending request.

Military Pay Raise

The budget includes \$2 billion to give military personnel a 3.4% pay raise effective January 1, 2009, an increase that would keep pace with the average increase in private-sector wages as measured by the Labor Department’s Employment Cost

Index (ECI), as required by law.¹¹ For several years, some have contended that service members' pay should increase at a faster rate than the annual increase in the ECI in order to compensate for a lag in military pay resulting from budget-constrained pay hikes in the 1990s. DOD officials deny that any such pay-gap exists, but Congress typically has sided with the advocates of larger increases. For every fiscal year but one since FY2000, Congress has mandated a military pay increase one-half percent higher than the rate of increase in the ECI.

Army and Marine Corps End-Strength Increases

The budget includes \$20.5 billion to pay for the costs in FY2009 of the \$112 billion multi-year plan to increase active-duty end-strength by a total of 92,000 Army and Marine Corps personnel. Most of the additional personnel are slated for assignment to newly created combat units — Army brigade combat teams and Marine regiments — which would enlarge the pool of units available for overseas deployment. This would make it easier for the services to sustain overseas roughly the number of troops currently deployed in Iraq and Afghanistan while allowing soldiers and Marines to spend more time between deployments at their home bases for rest and retraining. The plan has been challenged by some who note that, after the initial investment costs have been covered, the additional units would cost about \$13 billion annually, in a time when the total DOD budget is expected to be relatively flat. It also has been criticized by some who contend that the Army in particular needs more units organized and trained especially for counter-insurgency and advisory missions more than it needs additional traditional combat units.¹²

TRICARE Fees and Co-pays

For the third consecutive year, the Administration's budget assumes that part of the cost of the Defense Health program — \$1.2 billion in the pending FY2009 request — will be covered by an increase in fees, co-payments and deductibles charged to retirees under the age of 65 who participate in TRICARE, DOD's medical insurance program for active and retired service members and their dependents. The increases are intended partly to restrain the rapid growth of DOD's annual health-care budget — projected to reach \$64 billion by FY2015 — and partly to compensate for the fact that TRICARE fees have not been increased since 1995.¹³ This year, as in the two previous years, the proposed fee increases are vehemently opposed by organizations representing service members and military retirees who argue that giving medical care to retirees on favorable terms is appropriate given the unique hardships of a military career. Congress rejected the proposed fee hikes in the

¹¹ See CRS Report RL33446, *Military Pay and Benefits: Key Questions and Answers*, by Charles A. Henning.

¹² See CRS Report RL34333, *Does the Army Need a Full-Spectrum Force or Specialized Units? Background and Issues for Congress*, by Andrew Feickert.

¹³ For background, see Government Accountability Office report GAO-07-647, *Military Health Care: TRICARE Cost-Sharing Proposals Would Help Offset Increasing Health Care Spending, but Projected Savings Are Likely Overestimated*, May 2007.

FY2007 and FY2008 budget proposals, and the Senate Armed Services Committee has done so in drafting its version of the FY2009 defense authorization bill.

Projected Navy Strike Fighter Shortfall

Some analyses of the number of F-18 strike fighters available to the Navy show a substantial shortfall of aircraft from about the middle of the next decade until about 2025, when the full planned number of F-35 Joint Strike Fighters becomes available. The number of available aircraft, however, depends on assumptions about the number of hours that current aircraft can fly, and at what cost for maintenance, upgrades, and overhauls. Boeing has recently offered to sell additional F/A-18E/F versions of the aircraft to the Navy for about \$50 million apiece, as much as 10% cheaper than planned for additional aircraft, if the Navy agrees to buy 170 aircraft in a multiyear contract that would have early termination penalties. Several Members of Congress have expressed concerns about the potential shortfall and may propose that the FY2009 authorization approve a new multiyear deal. Future funding for the additional aircraft, however, might compete with funds for other projects, particularly if defense budgets level off in the 2010s.¹⁴

LPD-17-Class Ship Procurement

For the past two years, the Marine Corps has included a request for an additional LPD-17-class amphibious ship, which would be the 10th to be bought, at the top of its unfunded priorities list. There has been some support in Congress for adding a 10th LPD, but funding might have to come at the cost of financing for surface combatant ships such as the DOG-1000 destroyer. Support for shifting money from the DOG-1000 to LPDs or other ships that have been in production for some time comes partly from advocates of the Marine Corps and from legislators who represent the Gulf coast, where the ship would be built. In addition, there has been some support for a shift because the cost and design of the LPD-17 — as for TAKE auxiliary ships and DOG-51 destroyers — has been stable for some time.¹⁵

Funding for DDG-1000 Destroyers versus Other Ships

A directly related issue is whether Congress will agree to continue funding DDG-1000 acquisition. The Administration's FY2009 request includes \$2.6 billion for a third DDG-1000. Several legislators on the defense committees have proposed eliminating the funds and using the money instead to buy a mix of LPD-17, TAKE auxiliary ships, and DDG-51 destroyers. This would spread available shipbuilding money more widely to sustain the industrial base, provide funding to programs in which costs are stable and more predictable, and also allocate funds to less expensive ships that might be built, in the long run, in larger numbers to sustain the Navy's 313 ship fleet.

¹⁴ Megan Scully, "Boeing Presses Armed Services Panels To Have Navy Buy More Super Hornets," *National Journal Congress Daily AM*, April 29, 2008.

¹⁵ Geoff Fein, "Lawmakers Hope To Add Three More Ships To Navy's FY '09 Procurement Plan," *Defense Daily*, February 28, 2008.

Littoral Combat Ship Funding

The Administration has also requested \$920 million for two Littoral Combat Ships (LCS). This is a relatively small, lower cost ship with a common hull to support modular designs for several purposes. It is intended to be bought in large numbers over time for operations in relatively close-to-shore waters. The program has suffered significant cost growth, however, raising questions about the number of ships that can be afforded. Last year, Congress cut funding for all but one ship and shifted the savings to purchase other ships. This year may again be a test of congressional support for the ship in view of continuing cost issues.¹⁶

CG-X Design

The CG-X is the current designation for a new ship dedicated to missile defense missions. Its design was, for many years, expected to be based on the DDG-1000. Now, however, it appears that the Navy is inclined to build a substantially larger ship. Some defense committee members have raised questions about the status of the Navy's design and about the affordability of the program. There has also been some support in Congress for building a nuclear powered cruiser.¹⁷

Reliable Replacement Warhead

There has been a great deal of controversy in Congress in recent years about the Energy Department's plans to design a new nuclear warhead intended, according to its advocates, to take advantage of new technologies to improve safety and reliability in a new warhead to replace deteriorating older systems. In the past, Congress has provided funding only for conceptual design of the Reliable Replacement Warhead (RRW), but it has not permitted funds to be used for engineering development. The FY2008 consolidated appropriations act, P.L. 110-161, which included energy and water appropriations, provided no DOE funds for the RRW. In the FY2009 budget, DOE has requested \$10 million for RRW design, and the Navy has requested \$23 million.¹⁸

Missile Defense

The Administration requested \$9.3 billion for missile defense R&D in FY2009. While Congress has generally supported about the level of spending the Administration has requested in recent years, it has frequently reduced funding for technologically more challenging systems such as the kinetic energy interceptor program to intercept missiles in the boost phase, and it has increased funding for

¹⁶ See CRS Report RL33741, *Navy Littoral Combat Ship (LCS) Program: Background, Oversight Issues and Options for Congress*, by Ronald O'Rourke.

¹⁷ See CRS Report RL34179, *Navy CG(X) Cruiser Program: Background, Oversight Issues, and Options for Congress*, by Ronald O'Rourke.

¹⁸ For a full discussion, see CRS Report RL32929, *The Reliable Replacement Warhead Program: Background and Current Developments*, by Jonathan Medalia.

currently deployed systems, mainly the Patriot PAC III theater defense system. For the past two years, Congress has also eliminated money to begin construction at missile defense sites in Europe, saying in various reports that the funding was premature because there was no firm agreement with Poland and the Czech Republic where deployment is planned. The FY2009 request includes \$132.6 million for military construction at an interceptor site in Europe, which is planned in Poland, and \$108.5 million for military construction at a radar site, which is planned in the Czech Republic.¹⁹

Long-Range Non-Nuclear Prompt Global Strike

For the past several years, the Administration has pursued programs that might permit it to deploy conventional warheads on long-range missiles that now carry nuclear warheads. In recent years, this effort has focused on the possible deployment of conventional warheads on Trident submarine-launched ballistic missiles. The funding requests sought to continue R&D on the reentry vehicle that would carry the warhead, and have sought to begin modifying and equipping Trident missiles and submarines to carry the new reentry vehicles. Congress has not approved this funding. In FY2007, it permitted the continuing R&D on the reentry vehicle, but did not fund the programs that would modify the missiles and submarines. In FY2008, Congress again rejected all funding for the conventional Trident modification, and aggregated the funding for research on the reentry vehicle with other DOD funding for research on prompt global strike technologies. It directed that DOD explore all options for achieving the PGS mission, and not focus on the near-term Trident option. Congress has objected to the Trident option in part because of doubts that the capability is needed immediately, and in part because of concerns that other nations might mistake the nature of a U.S. Trident missile launch. Congress appropriated \$100 million for this combined program in FY2008; the Administration has requested \$117 million for FY2009.²⁰

Future Combat Systems

The FY2009 budget request includes \$3.6 billion to continue development and begin production of the Army's Future Combat Systems (FCS). FCS is a computer-networked array of 14 types of manned and unmanned ground and aerial vehicles intended to replace the Army's current fleet of combat vehicles, including M-1 Abrams tanks and M-2 Bradley infantry vehicles, beginning in 2015. The Army has estimated that the entire program could cost \$230 billion over many years and the Defense Department's Cost Analysis Improvement Group (CAIG) projects the cost to be \$300 billion. Critics have assailed the program on several grounds: some argue that it is unaffordable; some contend that it is optimized to fight the sort of conventional battles at which the U.S. Army already excels rather than the insurgencies, such as those in Iraq and Afghanistan, that it may be more likely to

¹⁹ For the current status of the program, see CRS Report RL34051, *Long-Range Ballistic Missile Defense in Europe*, by Steven A. Hildreth and Carl Ek.

²⁰ See CRS Report RL33067, *Conventional Warheads for Long-Range Ballistic Missiles: Background and Issues for Congress*, by Amy F. Woolf.

confront; and some object that the program as currently scheduled will take too long to get more effective weapons into the hands of the troops.²¹ In FY2006-08, Congress cut a total of \$789 million from the Army's FCS budget requests. This year, House Defense Appropriations Subcommittee Chairman John P. Murtha has suggested that near-term funding for the program be increased by \$20 billion to accelerate deployment of those elements of FCS nearest completion, at the expense of cancelling or delaying other elements of the program.²²

F-35 Joint Strike Fighter Alternate Engine

For the third consecutive year, the Administration has proposed cancellation of the effort to develop the General Electric F-136 engine as a potential alternative to the Pratt & Whitney F-135 currently slated to power the F-35 Joint Strike Fighter. The \$6.7 billion requested for the F-35 program in FY2009 includes \$3.1 billion to continue development of the plane and \$3.7 billion to buy 16 aircraft, but no funds to continue development of the alternative engine. DOD has argued that the alternative engine is a needless expense because the process of designing and developing high-performance jet engines has become much less uncertain than it once was. But Congress has backed development of the alternate engine since 1996, likening the current situation to the case of the F-15 fighter in the late 1970s which was handicapped by problems with its Pratt&Whitney-built engines until Congress mandated development of an alternative (GE-built) engine. To keep the F-35 alternative engine program going, Congress added \$340 million to the FY2007 budget and \$480 million to the FY2008 budget.

F-22 Fighter

Congress may want to consider whether to add funds to the Air Force's F-22 fighter program either to shut down production or to continue it. Although Air Force officials have argued vigorously for purchase of 381 of the planes, DOD plans to buy only 183, with the last 20 paid for by \$3.4 billion included in the FY2009 budget. However, the request includes no funds to pay for closing the F-22 production line in an orderly way that would facilitate its resuscitation at a later date. Reportedly, the shut down could cost as much as \$500 million.²³ DOD officials have said they may include in the FY2009 war cost supplemental request — not yet sent to Congress — funds to buy four additional F-22s which, they contend, would defer the necessity of a shut down decision until the next Administration had time to decide whether to continue production or end it.²⁴ However others deny that funding for four planes would delay the need for a decision long enough to make a difference.

²¹ See CRS Report RL32888, *The Army's Future Combat System (FCS): Background and Issues for Congress*, by Andrew Feickert.

²² *Defense News*, "Battle Over Proposal to Speed FCS," by Kris Osborne, March 24, 2008.

²³ *Aviation Week and Space Technology*, "Fate of F-22, C-17 Lines Uncertain in Fiscal 2009," by Amy Butler and David A. Fulgham, February 11, 2008.

²⁴ *Ibid.*

Mid-Air Refueling Tanker

The FY2009 budget request includes \$832 million to continue developing a new mid-air refueling tanker (designated KC-X) and \$62 million for components that would be used to begin building the planes. On February 29, 2008, the Air Force selected a consortium consisting of Northrop Grumman and the European Aeronautic Defense and Space Company (EADS) – the parent company of Airbus – over Boeing to build the new tankers.²⁵ But on June 18, the Government Accountability Office (GAO) upheld Boeing’s protest of the Air Force decision and DOD announced that it would re-compete the award. With the initial contract for 179 aircraft worth \$12.1 billion (and the final cost of the purchase estimated to reach approximately \$35 billion) proponents of the competing bidders may try to tilt the second competition toward one firm or the other.

C-17 Cargo Jet

As with the F-22 fighter program, so with the C-17 long-range cargo plane. The Administration’s FY2009 budget request includes neither funds to buy components to continue C-17 production, as many have urged, nor the funds that would be needed to terminate production. As with the case of the F-22, the Administration has said that the next President should decide the future of the C-17 program. While some DOD studies have concluded that the 190 C-17s previously funded will suffice, critics challenge that assessment on several grounds. While some in Congress favor production of additional C-17s, others favor upgrades to older C-5 cargo planes DOD plans to retire.²⁶

Potential War Funding Issues in the FY2009 DOD Bridge

Since FY2004, DOD has received war funding in two acts — a bridge fund generally included in the baseline appropriations bill to fund war costs for the first part of the year and a supplemental provided after the fiscal year has begun. To get a complete picture of war funding, the FY2007 National Defense Authorization Act requires the Administration to request a full year’s war cost in the February budget.

Despite this requirement, the Administration included in its FY2009 budget request only a placeholder figure of \$70 billion for bridge funding, with no details, that was intended to cover the gap between the beginning of the fiscal year and passage of a supplemental. On May 2, 2008, the Administration filled in the details by submitting an amended emergency war request with \$66 billion for the

²⁵ See CRS Report RL34398, *Air Force Air Refueling: The KC-X Aircraft Acquisition Program*, by Christopher Bolcom and William Knight.

²⁶ See CRS Report RL34264, *Strategic Airlift Modernization: Analysis of C-5 Modernization and C-17 Acquisition Issues*, by William Knight and Christopher Bolcom.

Department of Defense (DOD) and \$4 billion for State/USAID programs, which arrived too late to be taken into account in the authorization markup.²⁷

Since that time, Congress passed H.R. 2642, the FY2008 Supplemental Appropriations Act (P.L. 110-252), which provides supplemental war appropriations for both the rest of FY2008 plus a bridge fund for FY2009.²⁸ Coupled with DOD's regular appropriations for FY2009, this bridge fund is expected to last until June or July 2009, leaving it to a new Administration to decide how much funding to request to cover the remainder of the year.

The authorizers also did not address full-year war costs for FY2009. Instead, the House and Senate Armed Services committees included in their respective bills funding levels for the FY2009 bridge fund, along with various policy restrictions. The House passed its bill (H.R. 5658) on May 22, 2008 and the Senate bill (S. 3001) is currently awaiting floor action.²⁹

FY2009 War Costs

With passage of the FY2008 Supplemental (P.L. 110-252), CRS estimates that the total amount of DOD war funding for this fiscal year is \$176 billion excluding funding that is not related to the wars in Iraq and Afghanistan.³⁰ In February 2008 testimony, Secretary of Defense Gates suggested that war costs in FY2009 could total \$170 billion or about the same level as this fiscal year and said that the Administration had not submitted a full-year budget because of the uncertainty of predicting future troop levels in Iraq.³¹

With the departure from Iraq this July of the five additional combat brigades deployed for the "surge," war costs will fall. More recently, however, DOD officials have suggested that if troop levels are reduced in Iraq below pre-surge levels, then additional troops could be deployed at some point to Afghanistan as requested by

²⁷ See Sec. 1008, *P.L. 109-364, the John Warner National Defense Authorization Act for Fiscal Year 2007* for requirement for annual war costs; *see also, H.Rept. 110-652, Duncan Hunter National Defense Authorization Act for Fiscal Year 2009*, p. 469.

²⁸ Like this year, Congress appropriated the first tranche of \$70 billion for FY2008 war funds in last year's Consolidated Appropriations Act, P.L. 110-161 so as to cover the gap between the beginning of the fiscal year and passage of a supplemental.

²⁹ War funding and policy restrictions are primarily in Title XV in H.R. 5658 and Titles XV and XVI in S. 3001.

³⁰ See Table 4 in CRS Report RL33110, *The Cost of Iraq, Afghanistan and Other Global War on Terror Operations Since 9/11*, by Amy Belasco.

³¹ Congress appropriated \$16.8 billion for MRAP vehicles in FY2008 filling the current requirement for 15,000 vehicles for Iraq and Afghanistan. For \$170 billion figure, see Deputy Secretary England testifying to House Budget Committee, *FY2009 Budget for the Department of Defense*, February 27, 2008.

commanders on the ground. That could offset some of the savings that would result from additional troop level reductions in Iraq.³²

Both the House-passed (H.R. 5658) and the Senate-reported (S. 3001) FY2009 Authorization Act propose \$70 billion in emergency bridge funds for DOD, amounts that reflect the Administration's initial request in February rather than the amended request. That amount is also \$5.8 billion more than appropriated in the recently-passed FY2008 Supplemental, H.R. 2642/P.L. 110-252.

FY2009 Appropriation. Like previous bridge funds, over 70% of the appropriated FY2009 bridge fund in P.L. 110-252 is dedicated to operation and maintenance funding to ensure that funding for operations is available well into the fiscal year (see **Table 4** below). The appropriations act includes relatively small amounts for procurement — \$4 billion compared to the \$67 billion requested by DOD for all of FY2008 — generally selecting those items that may be more urgently needed such as force protection upgrades or more uparmored HMMWVs for the Army.

This leaves potentially controversial decisions about whether it is appropriate to cast as war costs service requests for major weapon systems such as EA-18 G electronic warfare aircraft or V-22 Osprey tilt rotor aircraft for the Navy, C-17 transport aircraft for the Air Force, or substantial upgrades to Army Abrams tanks or Bradley fighting vehicles, which some observers argue are more appropriately considered in the baseline budget as part of ongoing modernization programs.

Based on the halving of DOD's procurement request in P.L. 110-252, the supplemental appropriations act recently passed, and DOD informal proposals this spring to offset higher fuel costs and other unanticipated needs by dropping \$6.7 billion originally requested for procurement, it appears that scepticism may be growing about the procurement funding levels.³³ Unlike the appropriations act recently passed, the House and Senate authorizers include funding for major weapons systems recommended such as C-17 and F-22 aircraft for the Air Force.

Potential Issues

Currently, there are several issues where potentially, authorization language could limit appropriations in terms of either the amount or the use of war funding. Issues that could arise because of differences between both the House (H.R. 5658) and Senate (S. 3001) authorization bills or between the authorizers and the supplemental appropriations act already passed (H.R. 2642/P.L. 110-252) include

- different approaches and funding levels for the Iraq Security Forces Fund (ISFF) and Mine Resistant Ambush Protected (MRAP) vehicles;

³² Department of Defense, DoD News Briefing with Geoff Morrell from the Pentagon, July 23, 2008; [<http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=4265>].

³³ Department of Defense, "Draft Adjustment to the FY2008 Global War on Terror Pending Request," March 2008.

- funding and policy restrictions on the use of Section 1206 authority to build and equip foreign militaries for counter-terror operations and the Commanders' Emergency Response program; and
- whether to designate funding levels separately for Iraq and Afghanistan, as proposed by the Senate authorizers, or together as proposed by the House authorizers and appropriators;

None of the bills address the overall funding for the full year's war costs for FY2009. That will be decided by the next Administration since the current Administration did not submit a request for a full year's war funding in part because of the uncertainty about future troop levels in Iraq and Afghanistan.

In most cases, the levels recommended by the House and Senate authorizers exceed the levels already appropriated in P.L. 110-252, the FY2008 Supplemental/FY2009 Bridge so that the appropriations act determines the funding level (see **Table 4**). In other areas, such as Operation and Maintenance, where the chief concern is to ensure that operating funds last as long as possible, the authorizers are likely to raise their funding from \$47 billion to the appropriated level of \$52 billion.

Similarly, the Senate might adopt the higher levels of funding for Traumatic Brain Injury and psychological health as well as for military hospitals that was appropriated for Defense Health because of high congressional concern about these areas. These increases could be offset by cuts in procurement funding, where the Senate authorizers provided more than twice the level appropriated.

Differences in Funding for Iraq Security Forces. Although there are significant differences in both funding levels and restrictions applying to the Iraq Security Forces Fund (ISFF), there appears to be broad sentiment to push the Iraqis to pay more of the cost of reconstituting their security forces because of the large increase in their oil revenues. Instead of the \$2 billion requested, the Senate authorizers recommend \$200 million for the ISFF while the House authorization bill and the supplemental appropriations act provide \$1 billion.

For the same reason, both the House and Senate authorizers would prohibit using ISFF monies for infrastructure or construction of facilities, arguing that "the Iraqi Government is well able to afford to finance its own infrastructure needs at this point."³⁴ For their part, the appropriators prohibit the use of these funds for salaries for Iraqi military personnel, a restriction not included in either authorization bill.³⁵ Settling these differences could be part of a larger discussion of how to increase Iraqi "burden-sharing" of the cost to rebuild its security forces and for reconstruction.

³⁴ *S.Rept. 110-335*, p. 428; see also Sec. 1512 in H.R. 5658 as passed by the House. Section 1613 in S. 3001 as reported by the Senate lists equipment, supplies, services, and training as the only types of expenses that can be funded in the ISFF; Sec. 1616 applies the prohibition to any "large-scale infrastructure projects" above \$2 million.

³⁵ Section entitled "Iraq Security Forces" in P.L. 110-252.

Table 4. FY2009 War Bridge Funding
in billions of dollars and percent of total

Type of Spending Title	Enacted FY2008 War Bridge Fund, P.L. 110-161		FY2009 Bridge Fund: Authorization and Appropriation Action In billions of dollars or shares of total				
	In Billions of \$	As Shares of Total	Admin. Req.	Enacted Approp., P.L. 110- 252, 6-30-08	Enacted Approp. P.L. 110- 252 As Shares of Total	House- Passed Auth., H.R. 5658, 5- 12-08	Senate- Rptd Auth., S. 3001, 5-22-08
Military Personnel	1.1	2%	3.8	1.2	2%	1.2	0.8
Operation & Maintenance	50.2	72%	44.9	51.9	79%	52.0	47.0
Defense Health	0.6	1%	0.1	1.3	2%	1.3	0.8
Working Capital Fd/Other ^a	1.2	1%	2.2	0.0	0%	0.0	1.0
Procurement	6.1	9%	2.8	4.4	7%	9.5	11.2
RDT&E	0.0	0%	0.4	0.4	1%	0.4	0.2
Military Construction	0.0	0%	0.0	0.0	0%	0.0	0.5
Special Funds							
Iraq Freedom Fund	3.7	5%	0.0	0.0	0%	0.0	0.2
Afghan. Sec. Forces Fund	1.4	2%	3.7	2.0	3%	2.0	3.0
Iraq Sec. Forces Fund	1.5	2%	2.0	1.0	2%	1.0	0.2
JIEDDO ^b	4.3	6%	3.0	2.0	3%	2.5	3.0
MRAP ^c	0.0	0%	2.6	1.7	2%	[2.6]	[.6]
Global Train & Equip ^d	0.0	0%	[.3]	0.2	0%	[.3]	[.3]
Commanders' Emerg. Response Program ^e	[0.5]	[1%]	[1.7]	[1.2]	[2%]	[1.5 or 2X Iraqi fdg]	[0]
Coalition Support Cap ^f	[.3]	[0%]	[.9]	[.2]	[0%]	[.2]	[0]
Rapid Acquisition Fund	0.0	0%	0.1	0.0	0%	0.0	0.0
Transfer Authority ^g	[4.0]	[6%]	[4.0]	[4.0]	[6%]	[4.0]	[3.0]
TOTAL	70.0	100%	66.0	65.9	100%	65.9	70.0

Notes and Sources:

- a. Working Capital Fund finances fuel and spare parts inventories.
- b. JIEDDO = Joint Improvised Explosive Device Defeat Organization, a transfer fund that funds RDT&E, Procurement and operational training to defeat Improvised Explosive Devices (IEDs).
- c. MRAP = Mine Resistant Ambush Protected vehicle fund, a transfer account for heavy trucks with V-shaped hulls that have proven resistant to IEDs.
- d. Congress sets a funding cap on the amount that can be spent to train and equip foreign militaries in counter-terrorist operations under Section 1206 authority originally provided in the FY2005 DOD Authorization Act.
- e. Authority and funding caps for CERP, a program where commanding officers have discretion to provide funds to local authorities for reconstruction activities, is set in annual authorization and appropriations acts.
- f. Coalition support funds are for logistical support to allies conducting counter-terror operations in the region, primarily Pakistan.
- g. Transfer authority sets a cap on the amount of funds in the act that can be transferred from one account to another as long as the four congressional defense committees approve.

CRS calculations based on Division L in P.L. 110-161, *FY2008 Consolidated Appropriations*; P.L. 110-252 *FY2008 Supplemental* as enacted on June 30, 2008; H.R. 5658, *H.Rept. 110-652*; S. 3001, *S.Rept. 110-335*.

Differences in MRAP Vehicle Funding. In its amended submission, DOD requested \$2.6 billion in the Mine Resistant Ambush Protected (MRAP) vehicle transfer fund to buy additional vehicles for as yet undefined requirements. The House adopted the \$2.6 billion cap but did not provide funding so monies would have to be drawn from other accounts for this purpose. The Senate authorizers provide \$600 million in funding for MRAP vehicles, well below the level requested.

In the supplemental appropriation act already passed, DOD is provided \$1.7 billion in MRAP funding. Thus there are significant differences in whether and where to provide funding for future MRAP needs.³⁶ According to DOD, the current requirement for 12,000 MRAP vehicles is already funded while the House authorizers suggest that more funding is needed to buy additional V-shaped heavy-duty trucks for training purposes.³⁷

Differences in Commanders Emergency Response Program Funding. A high visibility program where funding in the authorization bills differ is the Commanders Emergency Response Program (CERP) which allows individual commanding officers to dispense funds for small-scale reconstruction projects, or to pay local militias such as the Sons of Iraq. The House authorizes \$1.5 billion for FY2009 but requires at the same time that U.S. funding for CERP be limited to no more than twice the amount contributed by the government of Iraq unless the Secretary of Defense waives the requirement.³⁸ The Senate authorizers and the supplemental appropriations act did not address this program.

Training and Equipping Foreign Military Forces. Both authorizing bills extend Section 1206 authority to train and equip the foreign militaries to conduct counter-terror operations, an area of considerable congressional interest because of its foreign policy implications. The House authorization would extend the authority for two more years, to 2010, and raise the current cap on funding from \$300 million to \$400 million. The Senate-reported version extends the authority for three years to 2011, but would retain the current \$300 million cap. Both authorizing committees cite concerns about potential overlap between this authority and foreign assistance authorities.³⁹ Since the appropriators did not designate funding for this authority, it is not clear to what extent DOD would fund this program.

³⁶ For authorization action, see Sec. 1506 and Sec. 1606 in *S. 3001* and *S.Rept. 110-335*, p. 420 and p. 427, which provides \$500 million for MRAPs for Iraq and \$100 million for Afghanistan; Sec. 1515 in *H.R. 5658*, *H.Rept. 110-652*, p. 479; for appropriation action, see Sec. 9208, *P.L. 110-252*.

³⁷ *Inside Defense*, "DOD Ready for Last Round of MRAP Vehicle Contract Awards," June 30, 2008.

³⁸ See Sec. 1214 in *H.R. 5658* as passed by the House and *H.Rept. 110-652*, p. 454; the Secretary of Defense would also have to notify the Armed Services and Appropriations committees.

³⁹ *H.Rept. 110-652*, p. 452 and *S.Rept. 110-335*, p. 400.

Both authorizing bills also raise the limit for Sec. 1208 authority to fund foreign irregular forces from \$25 million to \$35 million and also specify that the irregular forces would work with U.S. special forces.⁴⁰

Senate Authorizers Designate Separate Funds for Iraq and Afghanistan. The Senate authorization bill provides \$49.6 billion for Iraq and \$19.9 billion for Afghanistan, setting levels in individual accounts for each operation.⁴¹ The House authorizers and the enacted appropriations act follow current practice where war funding is provided in standard DOD appropriation accounts, and war and baseline funds are mixed during execution.

It is not clear whether this Senate recommendation would require DOD to set up separate individual accounts for war spending for each operation. While separate war funding by operation would improve transparency and help Congress to see the relative cost of the two operations, DOD is likely to object to designating funds by operation in order to preserve its flexibility.

Both the House and Senate authorizers also require a separate budget display for Afghanistan, and the House requires one for Iraq as well. According to the report, this would help prevent confusion between the two missions, a concern of both Secretary of Defense Gates and the committee. The House also calls on DOD to specify “to the extent possible: anticipated troop levels, operating tempo and reset requirements.”⁴²

Finally, the Senate authorization bill sets a \$3 billion cap on transfer authority for FY2009 funds, which limits the overall amount that DOD can transfer between accounts, \$1 billion less than the limit in the appropriations act and than recommended by the House.⁴³ The level of transfer authority is of considerable concern to DOD because it provides flexibility to adjust funding levels during execution.

⁴⁰ See Sec. 1208 in H.R. 5658 and H.Rept. 110-652, p. 452; Sec. 1203 in S. 3001 and S.Rept. 110-335, p. 399.

⁴¹ See Title XV for Afghanistan and Title XVI for Iraq in S. 3001 as reported by the Senate and S.Rept. 110-335, p. 417-p. 428.

⁴² S.Rept. 110-335, p. 422; see Sec.1002 and Sec. 1003 in H.R. 5658, and p. 427ff in H.Rept. 110-652.

⁴³ For authorizing levels, see Sec. 1514 in S. 3001, and S.Rept. 110-335, p. 421 in the Senate and Sec. 1516 in H.R. 5658, and H.Rept. 110-65, p. 479 in the House. For the level in the FY2008 Supplemental for the FY2009 Bridge fund, see Sec. 9203 in P.L. 110-252.

Bill-by-Bill Synopsis of Congressional Action to Date

Congressional Budget Resolution

The Concurrent Resolution on the Budget for FY2009 (S. Con. Res. 70), adopted by the Senate on June 4 and by the House on June 5, set an overall target for national defense budget authority of \$612.5 billion. This is essentially identical to the President's request (\$611.1 billion) with the difference reflecting recalculation by the Congressional Budget Office (CBO) on the basis of slightly different technical assumptions. This total covers the so-called 050 function of the budget, which includes funding for DOD, defense-related nuclear-energy spending by the Department of Energy, and defense-related programs in other agencies.

The same defense total had been included in both the House version of the budget resolution (H. Con. Res. 312), adopted March 13, and original version of S. Con. Res. 70, adopted March 14 by the Senate.

The \$612.5 billion total cap on defense budget authority set by the final version of S. Con. Res. 70, as in the House-passed resolution, was the sum of two ceilings set by the resolution: For national defense activities other than military operations in Iraq and Afghanistan (budget function 050), the ceiling is \$542.5 billion; operations in Iraq and Afghanistan are covered by a separate ceiling of \$70 billion (budget function 970), which is the amount of the placeholder funding request included in the President's FY2009 budget.

Subsequently, the Appropriations Committees of the House and Senate, under the so-called "302b allocation" process gave their respective defense subcommittees a budget authority allowance for FY2009 of \$487.7 billion – which, in practice, is the ceiling for the FY2009 defense appropriations bill.

FY2009 Defense Authorization: Highlights of the House Bill

The House passed H.R. 5658, the Duncan Hunter National Defense Authorization Act for FY2009, on May 22 by a vote of 384-23. The bill would authorize \$531.4 billion for national defense-related activities of DOD and other federal agencies and an additional \$70 billion for costs related to military operations in Iraq and Afghanistan.

The Administration's initial FY2009 budget request included a lump-sum of \$70 billion as an initial increment of funding for DOD and other agency costs related to combat operations in Iraq and Afghanistan. On May 2, five days before the House Armed Services Committee (HASC) subcommittees began marking up H.R. 5658, the Administration issued a budget amendment formally allocating the \$70 billion request among appropriations accounts. However HASC, which also authorized the \$70 billion by accounts in H.R. 5658, acknowledged only a handful of the specific allocations included in the May 2 amendment. The bill authorizes \$2.0 billion of the

\$3.7 billion requested to support Afghan Security Forces and \$1.4 billion of the \$2.0 billion requested for support of Iraqi Security Forces.

Within the \$70 billion authorized for operations in Iraq and Afghanistan, the House bill also allocates nearly \$4.9 billion for aircraft procurement programs not included in the Administration's budget request:

- \$3.9 billion to buy 15 C-17 cargo planes;
- \$523 million for components that would be needed to fund an additional 10 F-22 Air Force fighters in FY2010;
- \$448 million to repair worn out wing structures on Navy P-3C patrol planes, which have been used extensively for reconnaissance in Iraq and Afghanistan.

Congress has incorporated the Administration's \$70 billion FY2009 costs related to operations in Iraq and Afghanistan into H.R. 2642, the Second FY2008 Supplemental Appropriations Bill.⁴⁴

The House version of the FY2009 defense authorization bill also included a provision (Sec. 1431) that would exempt it from the President's Executive Order 13457, which prohibits agencies from complying with congressional earmarks not specified in statutory language. As is customary, the more than 500 earmarks associated with H.R. 5658 are specified in the HASC report accompanying the bill (H Rept 110-652), which it reported to the House on May 16.

In a Statement of Administration Policy issued May 22, the Office of Management and Budget (OMB) cited the provision exempting the bill from the executive order dealing with earmarks as one of many provisions which, if included in the final version of the bill, would cause the President's advisors to recommend a veto. Other provisions of H.R. 5658 cited by OMB as potential reasons for a veto are reductions totaling more than \$700 million in the \$10.8 billion requested for missile defense programs, a prohibition of proposed increases in health care fees and copays paid by some military retirees, and a provision requiring that any agreement with the Iraqi government concerning the legal status of U.S. military personnel in that country include a requirement that Iraq pay some of the costs of those forces.⁴⁵

Pay Raise, Tricare, and Other Personnel Issues. H.R. 5658 authorizes a military pay raise of 3.9 percent, rather than 3.4 percent as requested, and bars during FY2009 a proposed increase in TRICARE health insurance and pharmacy fees charged to some military retirees. Congress had prohibited proposed health care fee increases in each of the two previous budgets. To offset the lost revenue the proposed fee increases had been expected to generate, the bill would authorize, subject to appropriation, the transfer to the Defense Health Program of \$1.3 billion from the unobligated balances of the National Defense Stockpile Transaction Fund.

⁴⁴ For details, see CRS Report RL34451, *FY2008 Supplemental Appropriations for Global War of Terror Military Operations, International Affairs, and Other Purposes*, by Stephen Daggett, et al.

⁴⁵ Office of Management and Budget, Statement of Administration Policy.

As requested, the bill would authorize increases in the active-duty end-strength of the Army (by 7,000) and Marine Corps (by 5,000), in line with the Administration's plan to increase the active-duty end-strength of the two services by 92,000 personnel over their end-strength in FY2007. It also would add a total 1,431 personnel to the requested end-strength of the Navy and Air Force (at a cost of \$101 million). The Administration had proposed to substitute civilians for this number of Navy and Air Force military personnel in medical care positions. But the House bill reaffirms a provision of the FY2008 National Defense Authorization Act (P.L. 110-181) prohibiting such military-to-civilian conversions of medical personnel.

The bill also includes a provision that would allow a limited number of service members to take sabbaticals from active service for up to three years and return with no loss of rank or time-in-service.

Tanker, Cargo, and Patrol Planes. The bill denies authorization of \$62 billion requested for long lead-time components to begin procurement of the Northrop Grumman KC-45A refueling tanker, but approved the request for \$832 million to continue development of the aircraft. Some members have objected to the Air Force's selection of the Northrop Grumman system, based on a European-designed Airbus for this mission, rather than a tanker version of the Boeing 767. According to the committee, denial of the long lead-time funding would not delay the program.

The bill includes a provision (Section 134) requiring the Secretary of the Air Force to submit to the congressional defense committees a report on the process by which the requirements were established that were the basis for selecting a new tanker. Another provision (Section 801) requires the Secretary of the Air Force to review the impact on the decision to buy the European-designed tanker of any subsidies by European governments that are illegal under the agreement reached in Uruguay round of the General Agreement on Tariffs and Trade.

Although the budget request included no funds either to continue production of the C-17 cargo plane or to shut down the production line, the bill allocates \$3.9 billion of the \$70 billion requested for operations in Iraq and Afghanistan to buy an additional 15 C-17s. It also includes a provision (Section 131) that would allow the Air Force to retire C-5A cargo planes and replace them with additional C-17s only if a federally funded research and development center concludes that this would be more prudent than upgrading the engines and electronics on the C-5As.

Fighter Planes. The bill authorizes \$3 billion requested for 20 F-22 fighters. However, it also adds to the bill authorization of \$523 million for long lead-time components that would be used to build an additional 20 F-22s in FY2010. The Administration's request includes neither the funds that would be needed to continue production of the F-22 beyond FY2009 nor the funds that would be needed to close down the production line.

The bill authorizes the requests for \$3.1 billion to continue development of the F-35 Joint Strike Fighter (JSF) and \$3.7 billion to buy 16 of the planes. But it would add to the Administration request \$525 million to continue development of an alternative engine for the JSF.

Future Combat Systems (FCS). The bill cuts \$200 million from the \$3.6 billion requested for the Army's FCS program. Armed Services Air and Land Forces Subcommittee chair Neil Abercrombie said these cuts were targeted to slow production of some components until they were more thoroughly tested. If the proposal were enacted, it would mark the fourth consecutive budget in which Congress trimmed the funding request for FCS.

The bill also includes several legislative restrictions on the FCS program, including a requirement for annual reports to Congress on cost growth in the program's eight types of manned ground vehicles (Section 213), an independent report on potential vulnerabilities of the digital communications web intended to link FCS components (Section 212), and a provision that would bar the program's lead system integrators, Boeing and SAIC, from producing major components of the program (Section 112).⁴⁶

Anti-Missile Defense. The bill authorizes a total of \$10.1 billion for missile defense programs, which would be \$719 million less than the President requested, but \$213 million more than Congress appropriated for these programs in FY2008 (See **Table A2**). It cuts the amounts requested for several programs intended to deal with long-range missiles and added to the amounts requested for defenses against short-range and medium-range missiles which, HASC said in its report, are the more pervasive threat.

Among the reductions were cuts totaling \$372 million from the \$954 million requested to begin deploying in Poland and the Czech Republic an anti-missile system intended to deal with long-range missiles launched from Iran. The bill also includes a provision (Section 222) that would bar the proposed European deployment until (1) the governments of Poland and the Czech Republic have ratified agreements to accept the stationing of U.S. personnel and equipment on their territories; and (2) the Secretary of Defense has certified to Congress that the interceptor missiles intended for the European site — a modified variant of the interceptors currently deployed in Alaska and California — has passed operationally realistic flight tests.

The bill cut \$100 million from the \$386 million requested to develop a new, high-speed interceptor missile (designated the Kinetic Energy Interceptor (or KEI) and it cut \$43 million from the \$421 million requested to develop an anti-missile laser carried in a Boeing 747. The KEI and Airborne Laser both are intended to destroy attacking missiles while in their "boost phase," that is while they still are accelerating away from their launchers and, thus, are relatively easy to detect. The bill included a provision (Section 221) requiring a detailed analysis by a federally funded research and development center of the technical feasibility and cost-effectiveness of such boost-phase defenses, compared with various anti-missile systems already deployed or nearing production.

⁴⁶ For additional background on DOD's use of contractors as "lead system integrators," see CRS Report RS22631, *Defense Acquisition: Use of Lead System Integrators (LSIs): Background, Oversight Issues, and Options for Congress*, by Valerie Bailey Grasso.

The bill cuts from the request \$100 million of the \$354 million to develop a multiple-warhead interceptor able to hit several attacking missiles. It also cuts \$10 million, the entire amount requested for the Space Test Bed, an experiment to test the feasibility of space-based anti-missile interceptors.

Shipbuilding. In its report, HASC criticized the Navy's shipbuilding plan as both unaffordable and unwise — the latter in that it would end production of proven ship classes while investing large amounts in expensive, new, unproven designs: the DDG-1000 destroyer and the Littoral Combat Ship. Compared with the Administration's request, H.R. 5658 significantly increases or decreases funding for most major shipbuilding programs.

The bill denies the \$2.5 billion requested in FY2009 to build a third ship of the DDG-1000 class. Instead, it adds to the budget a tenth ship of the LPD-17 class of amphibious landing transports (\$1.7 billion) and \$278 million to buy long lead-time components for use in two additional T-AGE-class supply ships, designed to replenish warships in mid-ocean, that would be funded in FY2009. It also authorizes \$400 million, which the Navy could use either to buy components that could be used to build an additional DDG-1000 or to resume production of the much less expensive DDG-51-class destroyers. HASC Seapower Subcommittee chair Gene Taylor has urged the Navy to use the funds to continue DDG-51 procurement.

To buy two additional Littoral Combat Ships, the bill authorized \$840 million rather than the \$920 million requested, on grounds that the contractors could use components previously purchased for ships of this class that had been cancelled.

The bill authorizes \$722 million more than the \$3.4 billion requested for acquisition of *Virginia*-class submarines. The request would buy one sub in FY2009 and long lead-time components (including a nuclear powerplant) to be used in another sub slated for purchase in FY2010. The bill's addition would let the Navy buy enough long lead-time components in FY2009 to allow the purchase of two subs in FY2010, thus accelerating by one year the time when the Navy could begin buying subs at the rate of two per year.

Reflecting SASC's concern that the Administration's shipbuilding plan shows little progress toward meeting its avowed goal of increasing the size of the fleet to 313 ships, the bill did not grant the Administration's request that Congress waive a provision of law (10 U.S.C. § 5062) that requires the Navy to maintain 11 aircraft carriers in service. To avoid the cost of refueling the nuclear-powered carrier *Enterprise*, the Navy wants to retire that ship in 2013, which would cause the carrier force to drop to 10 ships for four years or more, until the carrier *George H. W. Bush*, which was funded in FY2005, enters service. Instead of including the requested waiver in the bill, HASC directed the Secretary of the Navy to report how much it would cost and how long it would take to return to service the recently retired carrier *John F. Kennedy* and to retain in service the carrier *Kitty Hawk*, which is slated for retirement.

HASC also directed the Navy secretary to report on the cost and feasibility of extending the service life of existing *Los Angeles*-class submarines, many of which are nearing their scheduled retirement dates.

Prepositioning Ships. The bill denies the \$348 million requested for long lead-time components to be used in a modified version of the LHA-class helicopter carriers used to carry Marine combat units. The ship — for which the projected total cost is \$3.5 billion — would be the first of a new Maritime Prepositioning Force (Future) (or MPF(F)) comprising 10-12 ships from which a Marine Expeditionary Brigade (typically numbering 20,000 troops with several dozen supporting helicopters and combat jets) could be put ashore.

Unlike the currently deployed maritime prepositioning force, which consists of container ships and vehicle-carrying “roll-on, roll-off” (or RO-RO) vessels, the proposed MPF(F) would include three modified versions of the big helicopter carriers that are part of the Navy’s amphibious warfare fleet. However, like the current prepositioning ships, the MPF(F) is not intended to land a force that would have to fight its way ashore. Such so-called “assault” landings are to remain the province of the amphibious landing ships. Accordingly, MPF(F) vessels based on amphibious ship designs — such as the helicopter carriers — will be built without some of the communications equipment and damage-control features found in their combat-equipped counterparts.

In its report, HASC challenged the idea of using non-combatant ships — like those envisioned for the MPF(F) — rather than amphibious landing ships designed as combat vessels. It directed the Navy to report the number and types of amphibious ships that would be needed to carry out the MPF(F) mission.

The bill also includes a provision (Section 1013) requiring that helicopter carriers and other large amphibious landing ships be nuclear-powered. A similar provision requirement covering aircraft carriers, large surface warships and submarines was included in the FY2008 defense authorization bill.

Iraq Policy Provisions. The bill authorizes \$1 billion of the \$2 billion requested for training and support of Iraqi Security Forces and \$1.5 billion for the Commanders Emergency Response Program (CERP), a fund available to U.S. commanders in Iraq to pay for reconstruction projects. However, the bill also includes a provision (Section 1214b) requiring that Iraq obligate one dollar on similar reconstruction projects for every two dollars spent by CERP. The Secretary of Defense may waive the requirement under certain circumstances.

The bill includes provisions requiring that future budget requests list separately those items related to operations in Afghanistan (Section 1002) and Iraq (Section 1003). It also would continue an existing prohibition on the use of funds either to establish permanent bases in Iraq or to control Iraqi oil revenues (Section 1211).

The bill also would require:

- a report by the President on any agreement with the Iraqi government concerning the legal status of U.S. personnel in Iraq, U.S. rights of access to bases in that country, the rules of engagement governing U.S. units in Iraq, or any U.S. security commitment to Iraq (Section 1212);

- periodic reports by the President on the strategy and performance of U.S.-led Provincial Reconstruction Teams in Iraq (Section 1213);
- establishment of a performance monitoring system for Provincial Reconstruction Teams in Afghanistan (Section 1215);
- a report by the Secretary of Defense on the command and control structure for U.S. and NATO-led military forces in Afghanistan (Section 1216); and
- a report by the Secretary of Defense on (1) the number of police training teams needed to staff a majority of the 1,100 police stations in Iraq; (2) the cost of staffing such an effort; and (3) the feasibility of transferring responsibility for Iraqi police training from DOD to the Department of State (Section 1218).

Other Highlights. Among other provisions of H.R. 5658 as passed by the House are the following:

- Denial of authorization for the \$10 million requested to develop a new nuclear weapon, the Reliable Replacement Warhead, intended to replace some currently deployed warheads on Trident submarine-launched ballistic missiles;
- Authorization of \$118 million, as requested, for development of a long-range, conventionally armed missile for “prompt global strike.” No funds had been requested to develop a conventionally armed version of the Navy’s Trident submarine-launched, nuclear-armed missile, which Congress has refused to fund in prior budgets;
- Authorization of \$1 billion as requested to continue development of the VH-71, a new fleet of White House helicopters. Citing cost overruns in the Lockheed Martin program, which is based on a European-designed aircraft, HASC directed DOD to report alternatives for future production;
- Prohibition for one year of so-called “A-76” competitions in which private contractors bid to take over work currently performed by federal employees (Section 325);
- A requirement that the Office of Management and Budget (OMB) draft a government-wide definition of “inherently governmental functions” that should be performed by federal employees rather than by contractors (Section 322).

Defense Authorization: Highlights of House Floor Action

The House passed H.R. 5658 May 22 by a vote of 384-23 after two days of debate, during which it adopted several amendments bearing the U.S. military posture in the Middle East and a wide-ranging amendment to federal contracting law.

Agreements with Iraq. An amendment by Representative Barbara Lee, adopted by a vote of 234-183, denies legal effect to any agreement obligating the United States to defend Iraq unless the agreement is a treaty ratified with the advice and consent of the Senate or is specifically authorized by Congress.

Long-term Cost of Operations in Iraq. An amendment by Representative Braley, adopted by a vote of 245-168, requires the President to submit to Congress a report on the long-term cost (through FY2068) of U.S. operations in Iraq and Afghanistan, including the costs of operations, reconstruction and health care and disability benefits.

Detainee Interrogations. An amendment by Representative Holt, adopted by a vote of 218-192, requires recording by videotape or other electronic method of any interrogation of a detainee under the jurisdiction or effective control of DOD.

An amendment by Representative David Price, adopted by a vote of 240-168, would prohibit the interrogation of detainees by contractors, although it would allow the use of contractors as interpreters.

Intelligence on Iran. An amendment by Representative Spratt, adopted by voice vote, would require the Director of National Intelligence to submit to Congress an annual update of the November 2007 National Intelligence Estimate on Iran's nuclear weapons program. The amendment also requires the President to notify Congress within 15 days of determining that Iran has accelerated, decelerated or ceased work on any significant element of its nuclear weapons program or that Iran has met any major milestone in its effort to develop nuclear weapons.

Contracting Regulations. The House also adopted by voice vote an amendment by Representative Waxman incorporating several provisions intended to reduce the federal government's use of sole-source and cost-reimbursement contracts, establish government-wide conflict-of-interest rules governing contractor employees working in government contracting offices, and create a government-wide database of any judicial proceeding, contract suspension or disbarment of any federal contractor.

Among the other amendments to H.R. 5658 acted on by the House were the following:

- An amendment by Representative Akin that would have restored \$193 million of the \$200 million the bill would cut from the \$3.6 billion request for the Army's Future Combat Systems (FCS) program, was rejected 128-287.

- An amendment by Representative Franks that would have restored \$719 million the bill cuts from the Administration's \$10.1 billion request for anti-missile programs was rejected 186-229.
- An amendment by Representative Tierney that would have cut an additional \$966 million from the anti-missile budget was rejected 122-292.
- An amendment by Representative Pearce that would have restored the \$10 million requested to continue development of the Reliable Replacement Warhead, a request the bill denies in its entirety, was rejected 145-271.
- An amendment by Representative McGovern requiring the Secretary of Defense to make public, on request, the names, ranks and countries of origin of students and instructors at the Western Hemisphere Institute for Security Cooperation, was adopted 220-180.
- An amendment by Representative Hodes, adopted by voice vote, requires the DOD Inspector General and the General Accounting Office to report on whether a prohibition on the use of appropriated funds for domestic propaganda was violated by a Pentagon program to provide special briefings for military analysts who are frequent press commentators.

FY2009 Defense Authorization: Highlights of the Senate Bill

The Senate Armed Services Committee (SASC) approved S. 3001, the National Defense Authorization Act for FY2009, on April 30 and reported the bill to the Senate on May 12 (S.Rept. 110-335). The bill authorizes a total of \$612.5 billion in new budget authority, including \$542.5 billion for the base budget and a \$70 billion placeholder allowance for war-related costs. This is essentially the amount requested by the President except for minor differences that reflect score-keeping adjustments by the Congressional Budget Office (CBO).

The bill incorporates \$2.0 billion worth of reductions to the Administration's military personnel and operation and maintenance budget requests which, to SASC, would have no adverse impact on DOD operations. This includes cuts of \$1.1 billion from military personnel accounts and \$212 million from operations and maintenance accounts based on an historic pattern of DOD requesting for those amounts than it spent in a given year, reductions totalling \$198 million based on what the committee said was an erroneously high request for civilian pay, and a reduction of \$497 million in the amount requested for depot maintenance of Air Force planes.

The \$497 million the bill cuts from the Air Force maintenance account was requested to repair a weak section of the structure of older F-15 fighters, after one of the planes broke apart in mid-air during a training flight. In its report, SASC said a

much smaller number of planes had been found to need reconstruction than had been assumed in the budget request.

President Bush's Executive Order 13457 prohibits agencies from complying with congressional earmarks not specified in statutory language; S. 3001 includes a provision (Section 1002) that would incorporate into the bill the detailed funding tables in the accompanying committee report, which would circumvent E.O. 13457. These funding tables spell out how the Senate intends DOD and the services to allocate the lump sums authorized for each appropriations account — for instance, the accounts for procurement of aircraft for the Army and for research and development for the Navy. Member's earmarks, which are listed at the end of the report in a separate table by sponsor, amount authorized, and intended beneficiary, also are listed in the funding tables but are described there in more general terms (rather than in terms of the specific entity intended to receive the authorized funding).

End-Strength, Tricare, and Other Personnel Issues. On several important military personnel questions, S. 3001 agrees with the House-passed FY2009 authorization bill (H.R. 5658). Both bills approve the requested addition of 12,000 troops to the active-duty end-strength of the Army and Marine Corps, as a step toward a planned increase of 92,000 troops over the FY2007 level. Similarly, both bills authorize a 3.9% raise in military pay effective January 1, 2009, rather than the 3.4% raise in the budget request, an increase that costs an additional \$316 million.

Like the House bill, S. 3001 prohibits the Administration's proposed increase in fees, co-payments, and pharmacy prices charged some military retirees by DOD's TRICARE health insurance system. The bill adds to the budget request \$1.2 billion to make up for the loss of anticipated revenue from the proposed fee increases. Unlike the House bill, however, and pursuant to an Administration request, the SASC bill repeals a provision of the FY2008 Defense Authorization Act (Section 721 of P.L. 110-181) that prohibits replacing military medical personnel with civilians, as the Administration has proposed.

Shipbuilding. Unlike the House bill, S. 3001 authorizes \$2.5 billion requested for a third DDG-1000 class destroyer. However, the Senate bill also would expand the Administration's shipbuilding plan, rejecting the request for \$103 million to shut down production of LPD-17 class amphibious landing transports and adding to the bill \$273 million for long lead-time components that would allow the Navy to budget for an additional LPD-17 in FY2010. It also adds \$79 million to the \$1.3 billion requested for long lead-time components to allow the Navy to begin budgeting for two submarines per year starting in FY2011.

Noting delays in the construction of helicopter carriers at the Northrop Grumman shipyard in Pascagoula, MS, that was damaged by Hurricane Katrina, SASC concluded that the contractor was unlikely to proceed as quickly as the budget assumed to assemble long lead-time components for an LHA(R) class helicopter carrier slated to be part of the planned Maritime Prepositioning Force (Future). Accordingly, the bill authorizes \$178 million of the \$348 million requested for that purpose. It also includes a provision (Section 1432) requiring the Navy to fund that ship — and others slated for the MPF(F) that are basically amphibious landing ships

— through its ship construction account instead of through a revolving fund for sealift ships, which gives the service more leeway to reallocate funds.

The bill adds \$25 million to the \$165 million requested to begin a \$10 billion, long-term program to modernize the 61 Arleigh Burke-class destroyers — its most numerous class of warships — so they can operate for 40 years, rather than the 20 years that the committee cited as the norm for vessels of that size. But the committee also directed the Navy to provide detailed justification of its decision to have the ships upgraded in several stages by shipyards near their homeports instead of having each one get a full upgrade from either the Northrop Grumman yard in Pascagoula or the General Dynamics-owned Bath Iron Works in Bath, ME, the two yards where all the ships were built.

Citing delays in finalizing the design of a new class of cruisers (designated CG(X) that would replace the 22 Aegis cruisers in the anti-aircraft and missile defense mission, the bill cut \$121 million from the \$313 million requested to prepare to begin building the first CG(X) in FY2011.

Fighter Aircraft. In addition to authorizing \$3.1 billion, as requested, to buy 20 F-22 fighters, the bill authorizes \$497 million to be used either to shut down the F-22 production line or to buy long lead-time components that would allow the Air Force to buy 20 additional planes in FY2010.

The bill also authorizes, as requested, \$3.1 billion to continue development of the F-35 Joint Strike Fighter, \$3.3 billion to buy 16 of the planes, and \$396 million for long lead-time components to support future purchases. But it also adds to the budget request \$500 million to continue congressional effort to make DOD fund development of a General Electric engine that could replace the Pratt & Whitney engine currently used in the F-35. The added funds include \$430 million to continue developing the alternate engine, \$35 million to develop improvements in the Pratt & Whitney powerplant — to “level the playing field,” in the words of the SASC report — and an additional \$35 million to buy long lead-time components that would be needed in future production of the alternate engine.

Citing warnings by the Navy, Marine Corps, and Air Force that the retirement of older fighter planes combined with delays in fielding the F-22 and F-35 could leave the services short of planes to equip their squadrons, the committee included in the bill a provision (Section 171) requiring DOD to give Congress annually a 30-year plan detailing projected changes in its inventory of all major types of aircraft. The committee also urged the Navy to prepare to sign a multi-year contract for more F/A-18E/F strike fighters than it currently plans to buy, as a hedge against delays in the acquisition of F-35s.

UAVs and Surveillance Planes. The bill authorizes \$1.3 billion requested to buy 52 Global Hawk and Predator unmanned aerial vehicles (UAVs), some of which would be armed but all of which are equipped for surveillance missions. It trims \$48 million from the \$480 million requested to develop a long-range UAV for maritime surveillance. But it authorizes \$371 million requested for shorter-range Army and Navy UAVs.

The bill adds to the budget request \$98 million to develop an improved ground-surveillance radar (designated R-TIP) which the committee urged the Air Force to consider backfitting on the existing E-8 J-STARS planes. It authorizes \$111 million requested for long lead-time components that would be used to begin production of a modified Boeing 737 (designated P-8) that the Navy will use as a long-range sub-hunter and reconnaissance plane and it authorizes \$160 million, not requested, to repair aging P-3 patrol planes that the P-8 is intended to replace.

Helicopters. Because the losing contractors have filed an official protest of the Air Force's selection of the Boeing Chinook as its new search and rescue helicopter (designated CSAR-X) intended to retrieve downed pilots from enemy territory, the bill authorizes \$265 million of the \$305 million requested to develop the aircraft and none of the \$15 million requested to buy long lead-time components in preparation for manufacture. The bill authorizes the \$1.0 billion requested to continue development of the VH-71, intended to replace the aging helicopters that serve the White House. But in its report, the committee cited a rash of problems besetting the program which, it said, might experience of 70% cost overrun. The report directs the Navy to submit to Congress a detailed report on the status of the program.

Anti-Missile Defenses. Following the same general approach as the companion House bill, S. 3001 would authorize less for anti-ballistic missile defenses than the administration requested. Of the \$10.9 million requested, the House bill would authorize \$9.9 billion and the Senate bill \$10.2 billion (**Table A-2**).

Moreover, within those overall totals, both bills authorize more than was requested for systems that are ready, or nearly ready, for deployment to deal with existing short-range and medium-range missiles. On the other hand, both bills authorize less than requested for programs that would not enter production that soon, many of which are intended to deal with intercontinental-range missiles.

In its report, SASC places great emphasis on an analysis by the Joint Staff — the body of officers that provide technical expertise to the Joint Chiefs of Staff — which concludes that, to meet the needs of combatant commanders around the globe, DOD needs about twice as many of the Army's THAAD interceptors and the Navy's SM-3 interceptors missiles than it currently plans to buy. Both systems are designed to knock down medium-range missiles, which fly much slower than intercontinental ballistic missiles (ICBMs). S. 3001 would add to the budget request \$135 million to field additional THAAD and SM-3 missiles and THAAD radars and an additional \$80 million to improve the anti-missile capability of the Navy's Aegis system, which uses the SM-3 missile.

Among the reductions the bill would make in anti-missile programs are cuts of:

- \$269 million (undistributed) from the Missile Defense Agency;
- \$10 million, the entire amount requested, for the Space Test Bed;
- and
- \$50 million of \$354 million requested for the Multiple Kill Vehicle, intended to let one interceptor knock out several attacking warheads.

S. 3001 authorizes the funds requested to begin deploying in Europe a variant of the defense against intercontinental-range missiles currently deployed in Alaska and California. However, the bill includes a provision (Section 232) that would bar use of the funds to buy interceptor missiles for that deployment or to begin construction on-site until (1) Poland and the Czech Republic have formally ratified agreements to allow the American sites on their territory and (2) the Secretary of Defense certifies to Congress that the interceptor slated for deployment at the European site — which is a considerably modified variant of the version already deployed — has been successfully tested in operationally realistic flight tests.

Other Highlights. Among other provisions of S. 3001 reported by the Senate Armed Services Committee are the following:

- authorizes the services to let a limited number of personnel leave active service for up to three years and return with no loss of rank or time-in-service to test the feasibility of allowing service members more flexibility in pursuing their careers,
- requires DOD to conduct a comprehensive study of the risk that critical installations could be cut off from their current sources of energy;
- requires DOD to establish ethics standards to prohibit conflicts of interest on the part of contractor employees who perform acquisition functions for the Department;
- bars private security contractors from performing in an area of combat operations any “inherently governmental functions,” which are defined to include “security operations if they will be performed in highly hazardous public areas where the risks are uncertain and could reasonably be expected to require deadly force that is more likely to be initiated by contractor personnel than by others;
- prohibits contractor employees from interrogating detainees during or in the aftermath of hostilities, a restriction that would take effect one year after enactment of the bill;
- requires the armed services to ensure that field commanders “urgent requirements” for specific equipment be presented to senior service officials for review within 60 days of submission;
- adds \$350 million to the \$843 million requested to develop the Transformational Satellite (TSAT), which would be a key node in a planned, high-volume, global laser-communication network;
- authorizes the \$10 million requested in the Energy Department’s defense-related budget for research on the Reliable Replacement Warhead, but denies authorization for the \$23 million in the Navy’s budget request for that proposed new nuclear warhead;

- prohibits, with a few exceptions, the use of funds authorized by the bill to pay for infrastructure projects in Iraq costing more than \$2 million.

Comparison of Iraq-Related Policy Provisions in House and Senate Versions of the FY2009 Defense Authorization Bill⁴⁷

The House-passed and the Senate committee-reported versions of the FY2009 National Defense Authorization Act (NDAA) include Iraq policy provisions. Some are requirements for reports to the Congress from the President or from the Secretary of Defense, while others are designed to have a more direct impact on activities in Iraq. The only point of overlap is language in both drafts that would extend a prohibition from the NDAA for Fiscal Year 2008, P.L. 110-181, against the use of funding to support permanent stationing of U.S. military forces in Iraq or to exercise control over Iraqi oil resources. **Table 5**, below, provides a side-by-side summary of Iraq policy provisions in each bill.

⁴⁷ This discussion was prepared by Catherine Dale, Specialist in International Security, Foreign Affairs, Defense, and Trade Division.

Table 5. Side-By-Side Comparison of Iraq Policy Provisions in House and Senate Defense Authorization Bills

House-Passed Bill (H.R. 5658)	Senate-Reported Bill (S. 3001)
<p>IRAQ PERMANENT BASING</p> <p>Location: §1211 Key Text: No funding “to establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq” (a)(1); or “to exercise United States control of the oil resources of Iraq” (a)(2) Comparison with Senate language: Includes a definition of “permanent stationing” — “the stationing of United States Armed Forces in Iraq on a continuing or lasting basis, as distinguished from temporary, although the basis may be permanent even though it may be dissolved eventually at the request either of the United States or of the Government of Iraq, in accordance with law” (b). Context: Would extend the prohibition in §1222 of NDAA for FY2008, P.L. 110-181</p>	<p>IRAQ PERMANENT BASING</p> <p>Location: §2913 Key Text: (same as House) No funding “to establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq” (1); or “to exercise United States control of the oil resources of Iraq” (2). Comparison with House language: Does not include any definitions.</p>
<p>REPORT ON SECURITY AGREEMENTS</p> <p>Location: §1212 Requirement: Report from the President to Armed Services and Foreign Relations/ Affairs Committees, no later than 90 days after enactment, on legal status of U.S. military/civilian/ contractor personnel; military bases; rules of engagement; and “any security commitment, arrangement, or assurance that obligates the United States to respond to internal or external threats against Iraq” (a)(1)(A)(i, ii, iii, iv). Names 13 more specific items to include in Report (b).</p>	
<p>IRAQ PRT STRATEGY AND REPORT</p> <p>Location: §1213 Requirement: President to establish a strategy “to ensure that United States-led Provincial Reconstruction Teams (PRTs) including embedded PRTs and Provincial Support Teams in Iraq are supporting the operational and strategic goals of Coalition Forces in Iraq” (a)(1); and to “establish measures of effectiveness and performance” to support that strategy (a)(2). Report: No later than 60 after enactment, and every 90 days thereafter to end FY2010, from the President to Armed Services and Foreign Relations/Affairs Committees.</p>	

House-Passed Bill (H.R. 5658)	Senate-Reported Bill (S. 3001)
<p>COMMENT: The U.S.-led PRTs in Iraq work for the U.S. Embassy, not the Coalition Forces, although it may certainly be the case that the Embassy and the Coalition Forces share a single overall strategy.</p>	
<p>COMMANDERS EMERGENCY RESPONSE PROGRAM</p> <p>Location: §1214 Amends: NDAA for FY2006, P.L. 109-163, §1202(a), as amended by P.L. 110-181 §1205 Requirement: U.S. CERP in Iraq for FY2009 “may not exceed twice the amount obligated by the Government of Iraq during calendar year 2008 under the Government of Iraq Commanders’ Emergency Response Program (commonly known as I-CERP), as established pursuant to the Memorandum of Understanding Between the Supreme Reconstruction Council of the Secretariat of Ministers and the Multi-National Force-Iraq Concerning Implementation of the Government of Iraq Commanders’ Emergency Response Program (I-CERP), signed by the parties on March 25, 2008, and April 3, 2008, respectively.” §1214(b) Waiver: Secretary of Defense may waive this limitation if required “to meet urgent and compelling needs that would not otherwise be met and which, if unmet, could rationally be expected to lead to increased threats to United States military or civilian personnel.” COMMENT: §1214(a) would authorize \$1.5 billion for U.S. CERP in Iraq in FY2009. The Government of Iraq has committed only \$300 million to I-CERP so far in calendar year 2008.</p>	
<p>POLICE TRAINING TEAMS REPORT</p> <p>Location: §1218(a) Requirement: No later than 60 days after enactment, Secretary of Defense “in consultation with” Secretary of State and the Government of Iraq, to study and submit a report to Armed Services and Foreign Relations/Affairs Committees on: “(1) the number of advisors needed to sufficiently staff enough Iraqi police training teams to cover a majority of the approximately 1,100 Iraqi police stations in FY2009 and estimated levels in FY2010; (2) the funding required to staff the Iraqi police training teams in FY2009 and estimated levels in FY2010; and (3) the feasibility of transferring responsibility for the program to staff and support the Iraqi police training teams from the Department of Defense to the Department of State.”</p>	

House-Passed Bill (H.R. 5658)	Senate-Reported Bill (S. 3001)
	<p>PRIVATE SECURITY CONTRACTORS</p> <p>Location: §841</p> <p>Requirement: No later than 60 days after enactment, Secretary of Defense to modify regulations issued pursuant to FY2008 NDAA P.L. 110-181, §862(a), “to ensure that private security contractors are not authorized to perform inherently governmental functions in any area of combat operations.”</p> <p>Definitions (b)(1): Operations are “inherently governmental” if they “(A) will be performed in highly hazardous public areas where the risks are uncertain and could reasonably be expected to require deadly force that is more likely to be initiated by personnel performing such security operations than by others; or (B) could reasonably be expected to require immediate discretionary decisions on the appropriate course of action or the acceptable level of risk (such as judgments on the appropriate level of force, acceptable level of collateral damage, and whether the target is friend or foe), the outcome of which could significantly affect the life, liberty, or property of private persons or the international relations of the United States.</p> <p>Review and Reporting: No later than June 1st of 2009, 2010, and 2011, from Secretary of Defense to Armed Services Committees, a report on periodic reviews of private security functions.</p> <p>COMMENT: The Section falls under the heading “matters relating to Iraq and Afghanistan,” but as written, it could apply to any area of combat operations.</p> <p>COMMENT: The draft language does not further define “private security contractors” and could thus apply to U.S., host nation, and/or third-country national contractors.</p>
	<p>REPORT ON DETENTION OPERATIONS</p> <p>Location: §1052</p> <p>Requirement: No later than 90 days after enactment, Secretary of Defense to report to Armed Services Committees on detention operations at theater internment facilities in Iraq from January 1, 2007 to the present (a). Contents to include policies and procedures, reintegration programs, status review procedures, costs, and lessons learned (b).</p> <p>COMMENT: The intent, clarified in the SASC Report, is to consider applications of the lessons from Iraq for U.S. detention practices elsewhere.</p>
	<p>GOVERNMENT OF IRAQ TO PAY COSTS</p> <p>Location: §1616</p>

House-Passed Bill (H.R. 5658)	Senate-Reported Bill (S. 3001)
	<p>Concept: This Section would take steps to limit the use of funds authorized by this Act (only) and to increase Government of Iraq funding contributions in three areas: large-scale infrastructure; U.S.-Iraqi combined military operations; and Iraqi Security Forces and “Sons of Iraq.”</p> <p>“Large-scale Infrastructure”: No funds authorized by this Act may be obligated or expended for any large-scale infrastructure projects commenced after enactment (a)(1). The U.S. government shall work with the Government of Iraq to provide that Iraqi funds are used for non-large-scale infrastructure projects “before obligating and expending United States assistance” (a)(2). All CERP is excepted (a)(3). “Large-scale infrastructure” is defined as \$2 million and above (a)(4).</p> <p>Combined Operations: The U.S. government “shall initiate negotiations with the Government of Iraq on an agreement under which the Government of Iraq shall share with the United States Government the costs of combined operations of the Government of Iraq and the Multinational Force-Iraq undertaken as part of Operation Iraqi Freedom” (c)(1). A report on negotiations status is required 90 days after enactment from Secretary of Defense to Congress (c)(2).</p> <p>COMMENT: The draft language does not address the proportions in which costs are to be shared. It does not address whether operations conducted by Iraqi units with embedded U.S. Transition Teams are to be considered “combined operations.”</p> <p>Iraqi Security Forces: “The United States Government shall take actions to ensure that Iraqi funds are used to pay the following: The costs of the salaries, training, equipping, and sustainment of Iraqi Security Forces. The costs associated with the Sons of Iraq.” (d)(1) (A,B). No later than 90 days after enactment, President to submit to Congress a report with an assessment of progress (d)(2).</p>

**Table A-1. FY2009 National Defense Authorization Act:
House and Senate Action by Title**
(amounts in millions of dollars)

	Request	House- Passed	Senate- Reported
Department of Defense Discretionary			
Military Personnel ^a	125,247	124,660	124,503
Operation and Maintenance	154,847	154,478	154,022
Procurement	102,694	102,712	103,911
Research, Development, Test, and Evaluation	79,616	79,725	79,733
Other Defense Programs	28,583	29,179	28,372
Military Construction and Family Housing	24,400	24,400	24,805
Subtotal, DOD Programs Authorized in Bill	515,387	515,155	515,346
DOD Programs Not Requiring Annual Authorization ^b	58	58	58
Subtotal, Department of Defense Discretionary	515,445	515,212	515,404
Other Agency Defense-Related Discretionary			
Department of Energy Defense-Related Discretionary ^c	16,118	16,351	16,122
Other Defense-Related Discretionary ^d	6,201	6,201	6,201
Subtotal, National Defense Discretionary	537,764	537,764	537,727
National Defense Mandatory			
DOD Concurrent Receipt Accrual Payments	3,901	3,901	3,901
Other DOD Mandatory	1,135	1,098	1,135
DOD Offsetting Receipts	-1,780	-1,780	-1,780
DOE Energy Employees Occupational Illness	1,155	1,155	1,155
Radiation Exposure Trust Fund	38	38	38
CIA Retirement and Other Agency Mandatory	279	279	279
Subtotal, National Defense Mandatory	4,728	4,691	4,728
Total National Defense Baseline (050)	542,492	542,454	542,455
War-Related Funding	70,000	70,000	70,000
Total, National Defense, Including War-Related	612,492	612,454	612,455

Sources: House Armed Services Committee, "Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009," H.Rept. 110-652 and H.Rept. 110-652 Part 2, May 16, 2008; Senate Armed Services Committee, "Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009," S.Rept. 110-335, May 12, 2008.

Notes:

- The military personnel total includes \$10,351 million for accrual contributions to the military retirement fund for 65-and-over retiree medical benefits. This amount is a permanent appropriation.
- Includes Defense Production Act purchases; National Science Center, Army; Disposal of DOD Real Property; and DOD Overseas Military Facility Investment Recovery.
- Includes Department of Energy weapons activities, defense environmental cleanup, formerly utilized sites remedial action, and Defense Nuclear Facilities Safety Board.
- Includes FBI counter-intelligence activities, selective service, civil defense, and other agency programs.

**Table A-2. FY2009 War-Related Defense Authorization:
House and Senate Amounts by Account**
(thousands of dollars)

	Request	House	Afghanistan	Senate Iraq	Total
Military Personnel					
Army	3,500,000	—	500,000	1,500,000	2,000,000
Navy	95,000	—	25,000	75,000	100,000
Marine Corps	85,000	—	62,500	187,500	250,000
Air Force	105,000	—	25,000	75,000	100,000
Army Reserve	—	—	25,000	75,000	100,000
Navy Reserve	—	—	7,500	22,500	30,000
Marine Corps Reserve	—	—	5,000	15,000	20,000
Army National Guard	20,000	—	100,000	300,000	400,000
Total Military Personnel	3,805,000	1,194,000	750,000	2,250,000	3,000,000
Operation and Maintenance					
Army	35,560,055	37,363,243	9,000,000	27,000,000	36,000,000
Navy	238,437	3,500,000	500,000	1,500,000	2,000,000
Marine Corps	2,200,000	2,900,000	1,000,000	3,000,000	4,000,000
Air Force	3,644,078	5,000,000	500,000	1,500,000	2,000,000
Defense-Wide	3,193,494	2,648,569	688,750	1,811,250	2,500,000
Army Reserve	—	79,291	12,500	37,500	50,000
Navy Reserve	—	42,490	7,500	22,500	30,000
Marine Corps Reserve	34,000	47,076	10,000	30,000	40,000
Air Force Reserve	—	12,376	3,750	11,250	15,000
Army National Guard	—	333,540	75,000	225,000	300,000
Air National Guard	—	52,667	12,500	37,500	50,000
Drug Interdiction and Counter-Drug Activities, Defense	130,000	188,000	150,000	—	150,000
Defense Health Program/Medical Support Fund	400,000	1,100,000	155,000	460,000	615,000
Afghanistan Security Forces Fund	3,666,259	2,000,000	3,000,000	—	3,000,000
Iraq Security Forces Fund	2,000,000	1,000,000	—	200,000	200,000
Iraq Freedom Fund	—	—	—	150,000	150,000
Total Operation and Maintenance	51,066,323	56,267,252	15,115,000	35,985,000	51,100,000
Procurement					
Aircraft Procurement, Army	—	84,000	250,000	750,000	1,000,000
Missile Procurement, Army	—	—	12,500	37,500	50,000
W&TCV Procurement, Army	—	822,674	375,000	1,125,000	1,500,000
Ammunition, Army	—	46,500	87,500	262,500	350,000
Other Procurement, Army	80,536	1,255,050	1,100,000	3,300,000	4,400,000
Aircraft Procurement, Navy	—	—	25,000	75,000	100,000
Weapons Procurement, Navy	—	—	12,500	37,500	50,000
Ammunition, Navy & MC	—	—	75,000	225,000	300,000
Other Procurement, Navy	—	476,248	25,000	75,000	100,000
Procurement, Marine Corps	—	565,425	250,000	750,000	1,000,000
Aircraft Procurement, Air Force	1,209,300	4,624,842	400,000	400,000	800,000
Missile Procurement, Air Force	—	—	12,500	37,500	50,000
Ammunition, Air Force	—	—	12,500	37,500	50,000
Other Procurement, Air Force	—	1,500,644	150,000	450,000	600,000
Procurement, Defense-Wide	—	177,237	62,500	187,500	250,000
Mine Resistant Ambush Protected Vehicle Fund	2,610,000	—	100,000	500,000	600,000

	Request	House	Afghanistan	Senate Iraq	Total
Joint Improvised Explosive Device Defeat Fund	2,970,444	2,496,300	750,000	2,250,000	3,000,000
Rapid Acquisition Fund	100,000	102,000	—	—	—
Classified	1,540,208	—	—	—	—
Total Procurement	8,510,488	12,150,920	3,700,000	10,500,000	14,200,000
Research, Development, Test and Evaluation					
Army	—	—	15,000	35,000	50,000
Navy	--	113,228	15,000	35,000	50,000
Air Force	—	72,041	15,000	35,000	50,000
Defense-Wide	—	202,559	15,000	35,000	50,000
Total Research, Development, Test and Evaluation	379,125	387,828	60,000	140,000	200,000
Revolving and Management Funds					
Working Capital Fund, Defense-Wide	2,200,000	—	250,000	750,000	1,000,000
Total Revolving and Management Funds	2,200,000	—	250,000	750,000	1,000,000
Total War-Related Budget Authority	65,960,936	70,000,000	19,875,000	49,625,000	69,500,000

Sources: House Armed Services Committee, "Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009," H.Rept. 110-652 and H.Rept. 110-652 Part 2, May 16, 2008; Senate Armed Services Committee, "Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009," S.Rept. 110-335, May 12, 2008.

Table A-3. FY2009 Ballistic Missile Defense Funding: Authorization

(amounts in millions of dollars)

PE Number	Program Element Title	FY2008 Estimate	FY2009 Request	House	Senate	Conference	Comments
RDT&E Missile Defense Agency							
0603175C	Ballistic Missile Defense Technology	108.4	118.7	113.7	118.7	—	House cuts \$5 mn
0603881C	Ballistic Missile Defense Terminal Defense Segment	1,045.3	1,019.1	964.1	1,012.1	—	House shifts \$65 mn to procurement, adds \$10 mn for short-range defense. Senate shifts \$65 mn to procurement, adds \$28 mn for short range defense, \$30 mn for Arrow upper tier
0603882C	Ballistic Missile Defense Midcourse Defense Segment	2,243.2	2,076.7	1,894.7	2,076.7	—	House cuts \$182 mn for European interceptor site development
0603883C	Ballistic Missile Defense Boost Defense Segment	510.2	421.2	378.6	375.4	—	House cuts \$42.6 mn. Senate cuts \$45.8 mn
0603884C	Ballistic Missile Defense Sensors	586.1	1,077.0	978.2	1,017.2	—	House cuts \$50 mn from European site activation and \$49 mn for European radar. Senate cuts \$65 mn, adds \$5 mn for mobile sensor network
0603886C	Ballistic Missile Defense System Interceptor	340.1	386.8	286.8	341.8	—	House cuts \$100 mn from Kinetic Energy Interceptor. Senate cuts \$45 mn
0603888C	Ballistic Missile Defense Test & Targets	621.9	665.4	690.4	665.4	—	House adds \$25 mn for target development
0603890C	Ballistic Missile Defense Systems Core	413.9	432.3	412.3	402.3	—	House cuts \$20 mn. Senate cuts \$30 mn
0603891C	Special Programs - MDA	196.9	288.3	138.3	188.3	—	House cuts \$150 mn. Senate cuts \$100 mn
0603892C	AEGIS BMD	1,126.3	1,157.8	1,121.8	1,180.8	—	House shifts \$56 mn to procurement, adds \$20 mn for signal processors. Senate shifts \$57 mn to procurement, adds \$80 mn for missile enhancements
0603893C	Space Tracking & Surveillance System	231.5	242.4	217.4	192.4	—	House cuts \$25 mn. Senate cuts \$50 mn
0603894C	Multiple Kill Vehicle	229.9	354.5	254.5	304.5	—	House cuts \$100 mn. Senate cuts \$50 mn
0603895C	Ballistic Missile Defense System Space Programs	16.6	29.8	19.8	19.8	—	House and Senate cut \$10 mn from space test bed
0603896C	Ballistic Missile Defense Command and Control, Battle Management and Communication	447.6	289.3	289.3	289.3	—	—
0603897C	Ballistic Missile Defense Hercules	52.5	56.0	56.0	56.0	—	—
0603898C	Ballistic Missile Defense Joint Warfighter Support	49.4	70.0	70.0	70.0	—	—
0603904C	Ballistic Missile Defense Joint National Integration Center (JNIC)	78.6	96.4	96.4	96.4	—	—
0603906C	Regarding Trench	2.0	3.0	3.0	3.0	—	—
0603907C	Sea-Based X-Band Radar (SBX)	165.2	—	—	—	—	—
—	MDA Undistributed Reduction	—	—	—	-268.7	—	Senate makes \$269.7 mn undistributed cut

PE Number	Program Element Title	FY2008 Estimate	FY2009 Request	House	Senate	Conference	Comments
0901585C	Pentagon Reservation	6.0	19.7	19.7	19.7	—	—
0901598C	Management HQ - MDA	80.4	86.5	81.5	86.5	—	House cuts \$5 mn
Subtotal RDT&E, Missile Defense Agency		8,552.1	8,890.7	8,086.3	8,247.4	—	House cuts \$970 mn. Senate cuts \$643 mn.
Military Construction, Missile Defense Agency							
	BMDS European Interceptor Site	—	132.6	52.6	132.6	—	House cuts \$80 mn
	BMDS AN/TPY-2 #3	—	29.6	—	25.5	—	House cuts full \$25.5 mn
	BMDS European Mid-Course Radar	—	108.6	48.6	108.6	—	House cuts \$60 mn
	Unspecified Minor Construction	—	3.5	3.5	3.5	—	
	MILCON Planning & Design	—	10.8	10.8	10.8	—	
Subtotal Military Construction, Missile Defense Agency		—	285.1	115.5	281.0	—	House cuts \$165.5 mn in MDA MilCon
Base Realignment and Closure, Missile Defense Agency		103.2	159.9	159.9	159.9	—	—
Total, RDT&E & MilCon, Missile Defense Agency		8,655.3	9,335.7	8,361.7	8,688.3	—	—
RDT&E Army							
0604869A	Patriot/MEADS Combined Aggregate Program	369.8	431.3	431.3	431.3	—	—
0203801A	Missile/Air Defense Product Improvement Program	30.0	37.9	37.9	37.9	—	—
RDT&E The Joint Staff							
0605126J	Joint Theater Air and Missile Defense Organization	53.7	55.3	55.3	55.3	—	—
Subtotal R&D, Army, Joint Staff		453.5	524.4	524.4	524.4	—	—
Procurement Army							
7152C49100	Patriot System Summary	497.7	512.1	512.1	512.1	—	—
7845C50001	Patriot/MEADS Cap System Summary	—	31.0	31.0	31.0	—	—
0962C50700	Patriot Mods	420.1	524.5	524.5	524.5	—	—
Subtotal, Procurement, Army		917.8	1,067.6	1,067.6	1,067.6	—	—
Procurement Defense-Wide, Missile Defense Agency							
—	Theater High Altitude Area Defense (THAAD)	—	—	140.0	180.0	—	House shifts \$65 mn from R&D, adds \$75 mn for long lead procurement. Senate shifts \$65 mn from R&D adds \$75 mn for long lead for missiles, \$40 mn for radar.
—	Standard Missile-3 Shipboard Missile	—	—	111.0	77.0	—	House shifts \$56 mn from R&D, adds \$20 mn for facilities, \$35 mn for procurement. Senate shifts \$57 mn from R&D adds \$20 mn.
Subtotal, Procurement Missile Defense Agency		—	—	251.0	257.0	—	—
Total Missile Defense R&D, MilCon, Procurement		10,026.6	10,927.8	9,953.8	10,280.3	—	—

Sources: CRS from Department of Defense Comptroller, "RDT&E Programs, (R-1), Fiscal Year 2009," February, 2008; House Armed Services Committee, "Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009," H.Rept. 110-652, May 16, 2008, and H.Rept. 110-652 Part 2, May 20, 2008; Senate Armed Services Committee, "Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009," S.Rept. 110-335, May 12, 2008.

Table A-4. House and Senate Action on Selected Army and Marine Corps Programs: Authorization
(amounts in millions of dollars)

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Army Aircraft/Helicopters													
Joint Cargo Aircraft (AF R&D)	7	269.6	26.8	7	269.6	26.8	7	269.6	26.8	—	—	—	—
Armed Reconnaissance Helicopter	28	438.9	135.7	15	309.1	135.7	20	363.9	135.7	—	—	—	House cuts \$130 mn for 13 aircraft. Senate cuts \$75 mn for 8 aircraft
Light Utility Helicopter	36	224.5	—	36	224.5	—	36	224.5	—	—	—	—	—
UH-60 Blackhawk Helicopter	63	1,063.0	33.9	66	1,122.4	33.9	63	1,063.0	33.9	—	—	—	—
<i>Title XV</i>	—	—	—	20	113.0	—	—	—	—	—	—	—	—
CH-47 Helicopter	16	443.5	9.9	—	--	9.9	16	443.5	9.9	—	—	—	—
CH-47 Helicopter Mods	—	724.2	—	—	724.2	—	—	724.2	—	—	—	—	—
AH-64 Apache Helicopter Mods	—	637.3	234.4	—	--	234.4	—	637.3	234.4	—	—	—	—
Weapons & Tracked Combat Vehicles													
M-2 Bradley Vehicle Mods	21	488.3	106.4	21	488.3	106.4	21	488.3	106.4	—	—	—	—
M -1 Abrams Tank Mods	29	692.7	35.0	29	692.7	35.0	—	692.7	35.0	—	—	—	—
Stryker Armored Vehicle	119	1,174.9	108.0	119	1,019.1	118.2	119	1,174.9	112.5	—	—	—	House cuts \$156 mn
Future Combat System	6	154.6	3,161.6	6	154.6	2,951.6	6	154.6	3,163.6	—	—	—	House cuts \$210 mn from R&D, Senate adds \$2 mn for NLOS launch system
Future Combat System Spin Outs	—	176.7	64.9	—	176.7	74.9	—	176.7	64.9	—	—	—	House adds \$10 mn in R&D
Wheeled Vehicles													
Hi Mob Multi-Purpose Vehicles	—	946.7	—	—	946.7	—	—	946.7	—	—	—	—	—
Family of Medium Tact. Vehicles	—	944.7	1.9	—	944.7	1.9	—	1,025.4	1.9	—	—	—	Senate adds \$81 mn for palletized loading system
Family of Heavy Tactical Vehicles	—	923.3	2.9	—	923.3	5.9	—	966.4	2.9	—	—	—	Senate adds \$43 mn
Armored Security Vehicle	202	195.4	—	202	195.4	—	202	195.4	—	—	—	—	—
Mine Protection Vehicle Family	—	182.4	—	—	182.4	—	—	182.4	—	—	—	—	—
Heavy Expanded Mobile Tactical Truck	—	213.3	—	—	213.3	—	—	213.3	—	—	—	—	—
Radios													
SINCGARS Family	—	84.9	—	—	--	—	—	84.9	—	—	—	—	House eliminates funds from base bill
Radio, Improved HF Family	—	48.4	—	—	48.4	—	—	71.2	—	—	—	—	—
WIN-T Ground Forces Tactical Network	—	287.6	414.4	—	242.6	381.3	—	245.6	414.4	—	—	—	House cuts \$45 mn, Senate cuts \$42 mn in proc; House cuts \$33 mn in R&D.
Joint Tactical Radio System (JTRS)	—	--	834.7	—	--	834.7	—	—	834.7	—	—	—	—

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Night Vision Devices	—	465.6	112.7	—	465.6	139.4	—	494.4	116.2	—	—	—	Senate adds \$29 mn
Night Vision Thermal Weapon Sight	—	416.9	—	—	416.9	—	—	469.4	—	—	—	—	Senate adds \$52.5 mn
Marine Corps													
Expeditionary Fighting Vehicle	—	--	316.1	—	--	275.9	—	—	316.1	—	—	—	House cuts \$40 mn from R&D
Light Armor Vehicle Product Improvement	—	64.5	—	—	64.5	—	—	64.5	—	—	—	—	—
Night Vision Equipment	—	24.9	—	—	24.9	—	—	24.9	—	—	—	—	—
Radio Systems	—	95.8	—	—	47.9	—	—	95.8	—	—	—	—	House cuts \$48 mn
Logistics Vehicle System Replacement	—	324.6	4.2	—	146.5	4.2	—	299.6	4.2	—	—	—	House transfers \$178 mn to Title XV. Senate cuts \$25 mn.
<i>Title XV</i>	—	--	—	—	178.0	—	—	—	—	—	—	—	—
Joint Army and Marine Corps													
Mine Resistant Armor Protected Vehicles (MRAP)	—		—	—		—	—	—	—	—	—	—	—
<i>Title XV/XVI</i>	—	2,610.0	—	—	[2,610.0]	—	—	600.0	—	—	—	—	House approves up to \$2.6 billion by transfer from other accounts, Senate cuts \$2 billion.

Sources: CRS from Department of Defense Comptroller, "Procurement Programs, (P-1), Fiscal Year 2009," February, 2008; Department of Defense Comptroller, "RDT&E Programs, (R-1), Fiscal Year 2009," February, 2008; House Armed Services Committee, "Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009," H.Rept. 110-652, May 16, 2008, and H.Rept. 110-652 Part 2, May 20, 2008; Senate Armed Services Committee, "Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009," S.Rept. 110-335, May 12, 2008.

Table A-5. House and Senate Action on Selected Aircraft Programs: Authorization
(amounts in millions of dollars)

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
F-35 Joint Strike Fighter, AF	8	1,810.7	1,524.0	8	1,841.7	1,786.5	8	1,845.7	1,774.0	—	—	—	House adds \$31 mn in procurement and \$262.5 mn in R&D, Senate adds \$35 mn in advance procurement and \$250 mn in R&D, for alternate engine
F-35 Joint Strike Fighter, Navy	8	1,860.9	1,532.7	8	1,860.9	1,795.2	8	1,860.9	1,747.7	—	—	—	House adds \$262.5 mn, Senate adds \$215 mn in R&D for alternate engine development
F-22 Fighter, AF	20	3,054.2	700.3	20	3,054.2	700.3	20	3,551.2	700.3	—	—	—	Senate adds \$497 mn for line shut down or for advance procurement
<i>Title XV/XVI</i>	—	—	—	—	523.0	—	—	—	—	—	—	—	House adds \$523 mn for advance procurement for 20 aircraft
C-17 Cargo Aircraft & Mods, AF	—	699.1	236.0	—	659.1	188.0	—	659.9	188.0	—	—	—	House and Senate cut \$40 mn for excess spare parts, shift \$9 mn to mods, cut \$48 mn in R&D for performance improvement program
<i>Title XV/XVI</i>	—	—	—	15	3,900.0	—	—	—	—	—	—	—	House adds \$3.9 billion for 15 aircraft
C-130J Cargo Aircraft, AF	—	96.0	52.4	—	96.0	27.4	—	121.0	52.4	—	—	—	—
KC-130J Aircraft, Navy	2	153.5	24.4	2	153.5	24.4	2	153.5	24.4	—	—	—	—
KC-X Tanker Replacement, AF	—	61.7	831.8	—	—	831.8	—	—	893.4	—	—	—	Senate shifts \$62 mn from procurement to R&D, House cuts \$62 mn
Combat Search & Rescue Helicopter (CSAR-X)	—	15.0	305.1	—	—	265.1	—	—	265.1	—	—	—	House and Senate delete procurement funds and cut \$40 mn from R&D due to program delay
C-40 Aircraft	—	—	—	1	88.0	—	—	—	—	—	—	—	House adds 1 aircraft
F-15 Mods	—	12.3	184.2	—	12.3	184.2	—	12.3	184.2	—	—	—	—
C-130/C-130J Aircraft Mods, AF	—	482.2	172.6	—	487.2	179.3	—	449.4	172.6	—	—	—	—
<i>Title XV/XVI</i>	8	82.0	—	—	—	—	—	—	—	—	—	—	—
C-5 Cargo Aircraft Mods, AF	—	583.1	125.1	—	496.4	125.1	—	583.1	125.1	—	—	—	House cuts \$87 mn as excess to requirements
Global Hawk UAV, AF	5	712.2	284.3	5	712.2	284.3	5	743.2	284.3	—	—	—	Senate adds \$31 mn for National Airspace System radar

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
<i>Title XV/XVI</i>	3	354.2	—	3	354.2	—	3	354.2	—	—	—	—	—
MQ-9 Reaper UAV	9	161.4	—	9	161.4	—	9	161.4	—	—	—	—	—
<i>Title XV/XVI</i>	15	283.5	—	15	283.5	—	15	283.5	—	—	—	—	—
EA-18G Aircraft, Navy	22	1,651.6	128.9	22	1,606.6	128.9	22	1,651.6	128.9	—	—	—	House cuts \$45 mn due to foreign sales-related savings
F/A-18E/F Fighter, Navy	23	1,911.3	71.2	23	1,870.8	71.2	23	1,911.3	71.2	—	—	—	House cuts \$45 mn due to foreign sales-related savings, adds \$4.5 mn for smart bomb rack
V-22 Tilt Rotor Aircraft, Navy	30	2,220.4	68.8	30	2,220.4	68.8	30	2,220.4	68.8	—	—	—	—
CV-22 Tilt Rotor Aircraft, AF	6	423.3	18.6	6	423.3	18.6	6	423.3	18.6	—	—	—	—
CV-22 Special Ops Mods, SOF	6	163.0	38.2	6	163.0	38.2	6	163.0	38.2	—	—	—	—
VH-71A Executive Helicopter	—	—	1,047.8	—	—	1,047.8	—	—	1,047.8	—	—	—	—
UH-1Y/AH-1Z	20	474.1	3.8	20	474.1	3.8	20	474.1	3.8	—	—	—	—
MH-60S Helicopter, Navy	18	549.7	47.3	18	549.7	47.3	18	549.7	47.3	—	—	—	—
MH-60R Helicopter, Navy	31	1,185.8	70.3	31	1,175.8	70.3	31	1,185.8	70.3	—	—	—	House trims \$10 mn.
Multi-Mission Maritime Aircraft	—	110.6	1,132.0	—	110.6	1,132.0	—	110.6	1,132.0	—	—	—	—
E-2C Hawkeye Aircraft, Navy	3	589.1	54.1	3	589.1	54.1	3	589.1	54.1	—	—	—	—
JPATS Trainer Aircraft, AF	—	33.2	7.5	—	33.2	7.5	—	27.7	7.5	—	—	—	—
JPATS Trainer Aircraft, Navy	44	289.3	—	44	289.3	—	44	289.3	—	—	—	—	—
P-3 Aircraft Mods	—	370.3	—	—	370.3	—	—	370.3	—	—	—	—	—
<i>Title XV/XVI</i>	—	—	—	—	448.3	—	—	—	—	—	—	—	House adds \$448 mn for wing repairs

Sources: CRS from Department of Defense Comptroller, “Procurement Programs, (P-1), Fiscal Year 2009,” February, 2008; Department of Defense Comptroller, “RDT&E Programs, (R-1), Fiscal Year 2009,” February, 2008; House Armed Services Committee, “Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009,” H.Rept. 110-652, May 16, 2008, and H.Rept. 110-652 Part 2, May 20, 2008; Senate Armed Services Committee, “Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009,” S.Rept. 110-335, May 12, 2008.

Table A-6. House and Senate Action on Selected Missile, Space, and Munitions Programs: Authorization
(amounts in millions of dollars)

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Space Based Systems													
Fleet Satellite Communications Follow-on/Mobile User Objective System (MUOS)	—	507.5	516.8	—	507.5	516.8	—	507.5	516.8	—	—	—	—
Advanced Extremely High Frequency Satellite (AEHF)	—	16.6	388.0	—	16.6	388.0	—	116.6	388.0	—	—	—	Senate adds \$100 mn for advance proc of 4th satellite
Evolved Expendable Launch Vehicle (EELV)	4	1,205.3	33.7	4	1,205.3	33.7	4	1,205.3	33.7	—	—	—	—
Global Positioning System (GPS)	—	136.0	819.0	—	136.0	819.0	—	136.0	819.0	—	—	—	—
National Polar-Orbiting Operational Environmental Satellite System (NPOESS)	—	—	289.5	—	—	289.5	—	—	289.5	—	—	—	—
Space Based Infrared Sytem (SBIRS)	2	1,718.0	529.8	2	1,718.0	529.8	2	1,718.0	529.8	—	—	—	—
Transformational Communications Satellite (TSAT)	—	—	843.0	—	—	843.0	—	—	1,193.0	—	—	—	—
Wideband Global Satellite Communications (WGS)	—	22.5	12.4	—	22.5	12.4	—	22.5	12.4	—	—	—	—
Missiles and Munitions													
Advanced Medium Range Air-to-Air Missile (AMRAAM)	428	441.6	62.8	428	441.6	62.8	428	441.6	62.8	—	—	—	—
Air Intercept Missile -AIM 9X	480	134.7	12.4	480	134.7	12.4	480	134.7	12.4	—	—	—	—
Joint Air to Ground Missile (JAGM)	—	—	180.8	—	—	180.8	—	—	180.8	—	—	—	—
Joint Air-to-Surface Missile (JASSM)	260	240.3	13.0	260	240.3	13.0	115	160.3	13.0	—	—	—	Senate cuts \$80 mn on proc due to delays
Joint Direct Attack Munition (JDAM)	3,816	115.0	—	5,195	155.0	—	3,816	115.0	—	—	—	—	House adds \$40 mn in proc.
Joint Standoff Weapon (JSOW)	496	149.1	22.5	496	149.1	22.5	496	149.1	22.5	—	—	—	—
Small Diameter Bomb (SDM)	2,612	133.2	144.6	2,612	133.2	144.6	2,612	133.2	144.6	—	—	—	—

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	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Javelin Advanced Tank Weapon	605	259.3	—	605	259.3	—	605	259.3	—	—	—	—	—
High Mobility Artillery Rocket System	—	355.5	6.2	—	355.5	6.2	—	355.5	6.2	—	—	—	—
Standard Family of Missiles	70	228.0	234.7	70	228.0	234.7	70	228.0	234.7	—	—	—	—
Tactical Tomahawk Cruise Missile	207	281.1	14.2	207	281.1	17.2	207	281.1	14.2	—	—	—	—
Trident II Ballistic Missile	24	1,093.2	—	24	1,093.2	—	24	1,093.2	—	—	—	—	—
Global/Strategic Systems R&D													
Reliable Replacement Warhead	—	—	23.3	—	—	23.3	—	—	23.3	—	—	—	—
Prompt Global Strike	—	—	117.6	—	—	117.6	—	—	117.6	—	—	—	—

Sources: CRS from Department of Defense Comptroller, “Procurement Programs, (P-1), Fiscal Year 2009,” February, 2008; Department of Defense Comptroller, “RDT&E Programs, (R-1), Fiscal Year 2009,” February, 2008; House Armed Services Committee, “Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009,” H.Rept. 110-652, May 16, 2008, and H.Rept. 110-652 Part 2, May 20, 2008; Senate Armed Services Committee, “Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009,” S.Rept. 110-335, May 12, 2008.

Table A-7. Congressional Action on Selected Shipbuilding Programs: Authorization
(amounts in millions of dollars)

	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Shipbuilding and Conversion, Navy													
CVN-21 Carrier Replacement Program	—	3,926.4	261.6	—	3,926.4	261.6	—	3,926.4	261.6	—	—	—	—
Virginia Class Submarine	1	3,423.6	167.4	1	4,145.6	169.4	1	3,502.6	167.4	—	—	—	House adds \$722 mn in advance procurement for 2nd ship in FY2010. Senate adds \$79 mn to ramp up to two boats per year in 2011
Carrier Refueling Overhaul	1	628.0	—	1	628.0	—	1	628.0	—	—	—	—	—
Missile Submarine Refueling Overhaul	1	261.2	—	1	261.2	—	1	261.2	—	—	—	—	—
DD(X)/DDG-1000 Destroyer	1	2,553.8	678.9	—	400.0	678.9	1	2,553.8	591.7	—	—	—	House deletes current procurement, adds \$349 mn for advance procurement for DDG-1000 or DDG-51 ships. Senate cuts \$87 mn in R&D due to cruiser design delay
DDG-51 Destroyer	—	—	19.1	—	—	19.1	—	—	41.9	—	—	—	—
LCS Littoral Combat Ship	2	920.0	371.0	1	840.0	371.0	2	797.0	371.0	—	—	—	House deletes \$80 mn, one ship. Senate cuts \$123 mn for value of government furnished equipment, provides funds for 2 ships at permitted cost cap.
LPD-17 Amphibious Ship	—	103.2	1.0	1	1,800.0	1.0	—	273.2	1.0	—	—	—	House adds \$1.7 bn for one ship. Senate shifts \$103 mn from close out costs to procurement and adds \$170 mn
LHA(R) Amphibious Ship	1	348.3	2.4	—	—	2.4	1	178.3	2.4	—	—	—	Requested in National Defense Sealift Fund. House eliminates funds. Senate shifts funds from NDSF to Navy shipbuilding, cuts \$170 mn in advance procurement due to delay
Intratheater Connector, Navy	1	174.8	12.0	1	174.8	12.0	1	174.8	12.0	—	—	—	—

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	Request			House			Senate			Conference			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Outfitting	—	429.6	—	—	429.6	—	—	429.6	—	—	—	—	—
Service Craft	—	36.3	—	—	36.3	—	—	36.3	—	—	—	—	—
LCAC Service Life Extension	6	110.9	—	6	110.9	—	6	110.9	—	—	—	—	—
Prior Year Shipbuilding	—	279.2	—	—	279.2	—	—	279.2	—	—	—	—	—
National Defense Sealift Fund													
T-AKE Cargo Ship	2	962.4	—	2	1,240.6	—	2	962.4	—	—	—	—	House adds \$278 mn in advance procurement for two additional ships
Maritime Prepositioning Force R&D	—	—	68.7	—	—	68.7	—	—	63.3	—	—	—	House moves funds to Navy R&D, but makes not change in amount.
Total Navy Ships	16	14,157.6	1,582.1	14	14,272.6	1,584.1	16	14,113.7	1,512.3	—	—	—	—
Army													
Joint High Speed Vessel, Army	1	168.8	2.9	1	168.8	2.9	1	168.8	2.9	—	—	—	—

Sources: CRS from Department of Defense Comptroller, “Procurement Programs, (P-1), Fiscal Year 2009,” February, 2008; Department of Defense Comptroller, “RDT&E Programs, (R-1), Fiscal Year 2009,” February, 2008; House Armed Services Committee, “Report to Accompany H.R. 5658, National Defense Authorization Act for Fiscal Year 2009,” H.Rept. 110-652, May 16, 2008, and H.Rept. 110-652 Part 2, May 20, 2008; Senate Armed Services Committee, “Report to Accompany S. 3001, National Defense Authorization Act for Fiscal Year 2009,” S.Rept. 110-335, May 12, 2008.