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CRS Report for Congress

Defense: FY2009 Authorization and Appropriations

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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 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 an unallocated placeholder of $70 billion to cover war costs in the first part of FY2009.

On April 30 the Senate Armed Services Committee marked up 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) and the Navy's DDG-1000 destroyer. On September 17, the Senate passed the authorization bill by a vote of 88-8. Because of a controversy over earmarks, the Senate considered only four amendments to the bill, adopting three.

The House had 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, allocating those funds instead to buy several other ships. A compromise between the House and Senate bills, authorizing $611.1 billion, was worked out informally by the House and Senate Armed Services committees. It was passed by the House September 24 as an amended version of the Senate-passed S. 3001 by a vote of 392-39. The Senate passed the compromise bill September 27 by voice vote, clearing the measure for the President.

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, in discretionary funds, $4 billion less than the President requested for that bill. The Senate Defense Appropriations Subcommittee marked up its version of the appropriations Bill on September 10, also recommending $487.7 billion.

Neither chamber held full committee markups of a FY2009 defense appropriations bill, and neither chamber considered a bill on the floor. Instead, a compromise version of the subcommittee bills — in effect, a conference agreement on the FY2009 defense appropriations bill — was incorporated into H.R. 2638, the FY2009 continuing resolution, which the House passed September 24 by a vote of 370-58. The Senate passed the bill September 27 by a vote of 78-12, clearing the measure for the President. The final bill provides $487.7 billion in regular FY2009 defense discretionary appropriations and $25.0 billion in military construction appropriations. This report will be updated as developments warrant.

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Most Recent Developments

On September 24, the House passed what was, in effect, a conference agreement on the FY2009 defense authorization bill (S. 3001) and what was, in effect, a conference agreement on the FY2009 continuing resolution (H.R. 2638) which incorporated the FY2009 defense appropriations bill. The amended defense authorization bill was approved under suspension of the rules, a procedure which did not permit amendments but which required approval by a two-thirds vote.

Although neither bill was accompanied by a traditional conference report reconciling House-passed and Senate-passed versions, the compromise versions of each had been worked out by House and Senate members and an "explanatory statement" on each measure, fleshing out the details of the final legislation was published in the *Congressional Record*.[1]

On September 27, the Senate approved the compromise versions of both bills, clearing them for the President. The Senate passed the amended version of the authorization bill (S. 3001) by a vote of 78-12. It passed by voice vote the compromise version of the continuing resolution which included the FY2009 defense appropriations bill (H.R. 2638). The President signed the continuing resolution into law on September 30, P.L. 110-329.

Division C of the final, enacted version of the continuing resolution provides $487.7 billion in regular, discretionary FY2009 defense appropriations, and Division E provides $25.0 billion in military construction appropriations (see **Table A-2** in the **Appendix** to this report). The final House- and Senate-passed version of the FY2009 national defense authorization act authorizes $611.1 billion for national defense, including $68.6 billion for war-related programs (see **Table A-1** in the **Appendix** to this report).

The House had passed its version of the FY2009 defense authorization bill (H.R. 5658) on May 22, 2008, by a vote of 384-23. The House version of the bill would have authorized $612.4 billion, including $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.

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[1] The explanatory statement to accompany the defense authorization bill, S. 3001, was published in the *Congressional Record* of September 23 (pp. H8718-H9081). The explanatory statement to accompany the DOD-related section of the continuing resolution was published in the *Congressional Record* of September 24 (pp. H9434-H9870).

On May 12, the Senate Armed Services Committee reported S. 3001, its version of the authorization bill, which also would authorize the appropriation of $612.5 billion in new budget authority for national security programs, including $542.5 billion for the so-called base budget — that is, the cost of routine defense activities excluding U.S. operations in Iraq and Afghanistan — and an additional $70 billion allowance for war-related costs.

Controversies over various issues — including a provision that would incorporate into the legislation hundreds of earmarks listed in the committee's report on the bill and an unrelated dispute over offshore oil drilling — delayed Senate action on the measure until September 8. After the Senate began debating the bill, it acted on four amendments:

- By Senator Kyl and others, directing that $89 million of the total appropriated for missile defense research be used to deploy an X-band, long-range missile-detection radar in a secret location; Adopted by voice vote;

- By Senator Leahy and others, extending from three years to five years the period following the end of a war during which the statute of limitations on contractor fraud would be suspended; Adopted by voice vote;

- By Senator Vitter and others, increasing by a total of $358 million the amounts authorized for three missile defense programs; Rejected 39-57; and

- By Senator Bill Nelson, repealing the requirement that military survivors' benefits paid from DOD's Survivor Benefit Plan be reduced by the amount of any benefits received under the dependency and indemnity compensation program of the Department of Veterans Affairs; Adopted 94-2.

As a result of the continuing controversy over the bill's earmark provision, no other amendments were considered before the Senate passed the bill September 17 by a vote of 88-8. Another result of the earmark dispute was that the Senate did not request a conference with the House to reconcile the two versions of the defense bill. Instead, members of the House and Senate Armed Services committees negotiated informally a compromise version of the Senate-passed bill, S. 3001, that authorized $611.1 billion, a reduction of $1.4 billion from the Administration's request.

All but a very small amount of the authorization bill's reduction — $1.4 billion — was taken from the $70 billion requested for military operations in Iraq and Afghanistan. This was the compromise version of S. 3001 passed September 24 by the House and September 27 by the Senate.

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 Senate Defense Appropriations Subcommittee marked up its version of the appropriations Bill on September 10, also recommending $487.7 billion.

Neither chamber held full committee markups of a FY2009 defense appropriations bill, and neither chamber considered a bill on the floor. Instead, a compromise version of the two subcommittee bills — in effect, a conference agreement on FY2009 defense appropriations — was incorporated into H.R. 2638, the FY2009 continuing resolution, along with full-year versions of the FY2009 homeland security and military construction/veterans affairs appropriations bills. This bill was passed by the House September 24 and by the Senate September 27.

Highlights of FY2009 Defense Appropriations in the FY2009 Continuing Resolution (H.R. 2638)

Neither the House nor the Senate ever held full committee markups of an FY2009 defense appropriations bill, neither committee issued a report on the bill, and neither chamber considered a bill on the floor and debated amendments. Instead, what is in effect a conference agreement on FY2009 defense appropriations, along with agreements on military construction/VA and homeland security appropriations, was considered as Division C of H.R. 2638, the FY2009 continuing resolution.

In all, the FY2009 defense appropriations bill provides $487.7 billion in new discretionary appropriations for the Department of Defense and related agencies,[2] which is $4.0 billion below the Administration request, and which, in turn, reflects the House and Senate Appropriations Committees' allocations of funds to the each chamber's defense subcommittees under Section 302(b) of the Congressional Budget Act (see below for a discussion of the annual budget resolution and Section 302 allocations).

For most programs, the defense appropriations bill ultimately determines the level of funding Congress provides. The defense authorization bill recommends amounts to be appropriated, but, with few exceptions, the final amount of new budget authority actually made available is determined in appropriations bills. Appropriations bills may provide more or less than amounts in the authorization, may eliminate funds for programs approved in the authorization, and may provide funds for "new start" programs not approved in an authorization bill. The main exception is that defense authorization bills generally include statutory language that (1) establishes end-strength levels for uniformed personnel in each of the military services and reserve components and (2) sets amounts for pay and benefits of uniformed personnel. The appropriations bills, therefore, do not usually determine the amount of a military pay raise, though they normally include funds for military personnel accounts based on pay rates, bonuses, benefits, and end-strength established in the annual defense authorization.

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[2] The defense appropriations division of the bill provides $1 billion for CIA retirement and disability insurance and the rest for the Department of Defense. Division E of the overall bill provides $25 billion for Department of Defense for military construction and family housing programs.

On military personnel matters, the House-Senate agreement on the FY2009 defense appropriations bill provides funds for a 3.9% increase in base pay for uniformed personnel, reduces funding to reflect lower-than planned strength levels in some of the services, and establishes a new health professionals scholarship program. The bill also includes a general provision, Section 8116, that provides $72 million in FY2009 for a program to provide up to $500 per month in additional compensation to personnel kept on active duty beyond the end of their normal enlistment periods under a "Stop Loss" order. The provision does not, however, require that a specific amount be paid.

On major weapon programs,

- The agreement provides $2.5 billion, as requested for Navy DDG-1000 destroyer procurement, but splits the funding between two ships, with $1 billion for a second vessel, and requires the Navy to complete financing of the split buy in the FY2010 budget. The agreement also requires the DOD Joint Requirements Oversight Council, comprised of Deputy Chiefs of the military services, to review the Navy's decision to reduce DDG-1000 acquisition and resume production of smaller DDG-51 destroyers. The measure eliminates $59 million in advance procurement for the DDG-1000 program and adds $200 million in advance procurement to preserve the option to build additional, DDG-51s. In effect, the bill keeps both the DDG-1000 and DDG-51 production lines open, for now.

- On other shipbuilding issues, the bill adds $830 million as the first half of split funding to procure an additional, 10th of the class, LPD-17 amphibious ship; provides $1.02 billion, $100 million more than requested, for the Littoral Combat Ship (LCS) program, rescinds $337 million in earlier LCS funding, and directs that funding be allocated to two ships with contract awards as soon as possible; cuts $170 million from the $348 million requested for a replacement for LHA class amphibious ships and shifts funds from the National Defense Sealift Fund (NDSF) to the Navy shipbuilding account, where the ability to reallocate funds is more constrained; and adds $79 million to the $1.3 billion requested in advance procurement for Virginia-class attack submarines in order to facilitate production of two boats per year beginning in FY2010.

- The agreement provides $6.3 billion, the amount requested, to the Navy and the Air Force for the F-35 Joint Strike Fighter program, but trims procurement from 16 to 14 aircraft and allocates $430 million for alternate engine development — a perennial congressional addition to the Administration request.

- The bill provides $2.9 billion, as requested, to purchase 20 Air Force F-22 fighters and adds $523 million for advance procurement of an additional 20 aircraft in future years. The additional amount is to keep the production line open and allow the next Administration to decide whether to purchase more than the 181 aircraft now planned.

- The bill shifts $62 million requested in procurement and $832 million requested in R&D for the KC-X tanker replacement program into an already established "Tanker Replacement Fund," which is a no-year transfer account which sets no limit on the number of years for which funds remain available and from which funds can be shifted as needed to other accounts. The bill also rescinds $72 million in previously appropriated funds for the tanker program from Air Force R&D and $239.8 million from the Tanker Replacement Fund.

- The bill provides $3.6 billion for the Army's Future Combat System, adding $26 million to accelerate unmanned air and ground vehicle acquisition, and moving funds between programs to reflect recent Army adjustments to the program to accelerate near term elements.

- On satellite and other space programs, many of which have suffered long delays and large cost growth in recent years, the bill adds $150 million for a fourth, current-generation Advanced EHF communications satellite, cuts $75 million from the $843 million requested for the Transformational Communications Satellite (T-SAT) program, transfers $152 million into the Evolved Expendable Launch Vehicle program, and cuts $163.5 million from launch vehicle for a second Navy MUOS fleet communications satellite program to reflect delays. These are fewer changes than in past years, when SBIRS and the Space Radar, as well T-SAT, were often cut substantially, perhaps reflecting efforts by the services to be less technically ambitious in pursuing new space systems.

- The bill adds $750 million for intelligence, surveillance, and reconnaissance (ISR) programs, including $360 million for 24 C-21 aircraft equipped with sensor suites, $20 million for MQ-9 UAVs for special operations forces, and $13 million for additional medium UAVs. Secretary of Defense Gates has acknowledged disputes with the Air Force, in particular, in allocating sufficient ISR resources to operations in Iraq and Afghanistan.

On other matters

- The agreement provides $350 million, $150 million less than requested, for the "Global Train and Equip" program, originally established by Section 1206 of the FY2006 national defense authorization act (and still commonly referred to as Section 1206 authority). The Secretary of Defense, with the concurrence of the Secretary of State, may use Section 1206/Global Train and Equip funding to provide a wide range of security and other assistance to foreign nations. The joint explanatory statement accompanying the bill asserts bluntly that the State Department, rather than the Department of Defense should be responsible for training and equipping foreign military forces and that the Administration should

request future funds in the State Department budget. The bill also trims $123 million from the $389 million requested in military personnel and operation and maintenance accounts for the newly established Africa Command (AFRICOM). The cut in AFRICOM funding reflects the same sentiment as the reduction in Global Train and Equip funding. While the AFRICOM reduction is not as steep as in the House Defense Appropriations Subcommittee version of the bill, and the joint explanatory statement expresses support for AFRICOM, the statement also insists that the State Department and the U.S. Agency for International Development (USAID) should "play a more important role in this new organization supported with the appropriate manpower and funding required."

- The joint explanatory statement includes a critique of Air Force management of major acquisition programs, citing in particular recent numerous breaches of limits on cost growth under the Nunn-McCurdy amendment. The statement requires the Secretary of Defense to report by March 31, 2009, on steps to reform Air Force practices. The joint explanatory statement also cites inaccurate cost estimates in many other major programs and requires the Defense Department to report on which programs since 2004 did not use cost estimates by the independent DOD Cost Analysis Improvement Group (CAIG) and to explain why. The bill also directs the Defense Department to provide funding for the Acquisition Workforce Development Fund that was established by the FY2008 defense authorization act, in the regular appropriations process.

Highlights of the Final Version of the FY2009 Defense Authorization Bill (S. 3001)

Although the House and Senate both passed versions of the FY2009 defense authorization bill through the usual procedures, the Senate's final action on its version (S. 3001) was delayed until September by various controversies. One issue contributing to the delay was a provision of the defense bill (Section 1002) that would incorporate into the legislation hundreds of earmarks listed in the committee's report on the measure; Another issue was an unrelated dispute over offshore oil drilling. The Senate passed the bill September 17.

The Senate did not request a conference with the House to reconcile S. 3001 with the House-passed H.R. 5658. Instead, members of the House and Senate Armed Services committees negotiated informally the compromise version of S. 3001 that was cleared for the President.

Although the Administration objected to the provision that incorporated into the Senate-passed bill the earmarks listed in the Senate Armed Services Committee's report on the bill, a substantially identical provision (Section 1005) was included in the compromise version of S. 3001, that incorporated into that measure the hundreds of earmarks listed in summary tables in the "explanatory statement" that was, for all

practical purposes, equivalent to the explanatory statement in a formal conference report.

Veto Threats Avoided. The compromise version of S. 3001 did not include any of the several provisions in either the House and Senate versions of the authorization bill that had been singled out by Administration officials as grounds for a veto, if they had been included in the version of the bill sent to President Bush.

Following is a summary of provisions of the House or Senate versions of the authorization bill that Deputy Defense Secretary Gordon England had cited as grounds for a veto in a September 19 letter to leaders of the House and Senate Armed Services committees:

- a ban on the government's use of private security contractors in combat zones; Section 832 of the compromise bill expresses a sense of Congress that security missions in combat zones should be performed by U.S. military personnel.

- a ban on the use of contractor employees to interrogate detainees; Section 1057 of the compromise expresses a sense of Congress that contractors should not conduct interrogations.

- a requirement that detainee interrogations be videotaped. Section1058 of the compromise expresses a sense of Congress that such interrogations be videotaped or otherwise electronically recorded.

- a requirement that Congress approve, either as a treaty or by legislation and agreement governing the legal status of U.S. forces in Iraq. The compromise included no such requirement but retained in Section 1212 a requirement in the House bill that DOD provide Congress with a detailed report on such an agreement, should it be reached.

- a requirement that the Davis-Bacon Act, requiring the payment of locally prevailing wages on federal construction projects, apply to military construction projects on Guam, to which Marine Corps units currently stationed on Okinawa, are being moved. The provision was dropped.

- provisions that would bar or inhibit DOD from outsourcing on the basis of a "public-private competition" jobs currently performed by military or federal civilian personnel. No such provisions were included in the compromise bill.

- provisions that would halt the construction of facilities to replace Walter Reed Army Medical Center in Washington, D.C., pending a review, and would prohibit the use of an independent commission to draw up recommendations for any future rounds of military base closures. No such provisions were included in the final bill.

- several provisions in the Senate bill relating to the management of intelligence activities in DOD. All such provisions were dropped.

- four provisions in the House bill — instigated by the Air Force's now-cancelled selection of a European-designed mid-air refueling tanker — three of which the Administration said would require DOD to discriminate against foreign manufacturers and one of which it said would require disclosure of contractors' proprietary information. The provisions were dropped or greatly diluted in their impact.

- funding cuts "below acceptable levels" to the $657 million requested for research and development and facilities construction associated with deployment of an anti-missile system in Poland and the Czech Republic. While the Administration did not specify an "acceptable level," the compromise bill cut $208 million compared with the $421 million that had been cut by the House version.

Weapons Program Issues. The bill requires the Secretary of Defense to submit annually an aircraft procurement plan for the Navy, Marine Corps and Air Force that would project procurements, retirements and losses over the following 30 years for all types of combat and support aircraft (Section 141). The services have warned Congress in recent years of coming shortfalls in combat planes as planned retirements outstrip the acquisition of replacement craft.

The amounts authorized for particular programs were generally consistent with (and largely superseded by) the amounts actually appropriated by the companion defense appropriations bill. But the authorization measure included significant policy provisions bearing on some high profile programs:

Littoral Combat Ship. The bill would defer until FY2010 application to the Navy's Littoral Combat Ship (LCS) program of a cost cap set by Congress in the FY2007 John Warner National Defense Authorization Bill (Section 122). The cap limits the cost of each LCS to $460 million with the proviso that the cost would be allowed to exceed that cap by up to $10 million because of inflation.

F-22 Fighter. To buy long lead-time components that would allow the procurement of additional F-22 fighters in FY2009, the bill authorizes $523 million not requested by the Administration (funds that also were included in the companion FY2009 defense appropriations bill). However, the bill would allow DOD to expend only $140 million of that amount until the next President decides whether to buy additional F-22s or shut down the program.

White House Helicopters. The bill would authorize $835 million to continue development of a new fleet of helicopters for the White House, a reduction of $213 million from the request. The companion FY2009 defense appropriations bill provides the same amount. Although the project is based on an existing helicopter of European design, costs have increased significantly, in part because of the high tech communications equipment being installed in the aircraft. The authorization bill

would require the Secretary of Defense to submit to Congress several reports called for by the House and Senate versions of the measure, including one that would analyze the advantages and disadvantages of re-competing the helicopter contract, which was won in 2005 by Lockheed Martin.

Missile Defense Program Issues. In an explanatory statement accompanying the compromise version of S. 3001, the House and Senate members who negotiated the bill objected to the frequency with which the Missile Defense Agency (MDA) had cancelled scheduled flight tests. They directed MDA to consult with certain other DOD agencies before cancelling future tests and to report to the congressional defense committees on the reasons for any future test cancellations and MDA's plan to meet the objectives of the cancelled test.

The bill would also require the National Academy of Sciences to analyze the feasibility of the proposed systems that are intended to destroy missiles in their "boost-phase" — the period immediately after launch when their rocket motors are firing (Section 232) One of the boost-phase defenses covered by that section is the Airborne Laser — a Boeing 747 armed with a huge laser . Another section of the bill (Section 235) would require DOD's director of operational testing to report on the operational effectiveness, survivability and affordability of the Airborne Laser.

While the bill authorized $449 million of the $667 million requested to begin deploying anti-missile interceptors in Poland and their associated radar in the Czech Republic, the bill also would bar expenditure of the funds until after the two host countries have signed and ratified the agreements necessary for the deployments and 45 days have elapsed from the time Congress receives an independent assessment of the proposed European deployment conducted by a federally funded research and development corporation (Section 233). That review was mandated by the FY2008 National Defense Authorization Act.

Military Personnel Issues. The bill would authorize a military pay raise of 3.9 percent, which is one-half of 1 percent higher than the President requested. But it does not include a provision in the House-passed bill that would have required military pay raises in FY2010-FY2013 that would be one-half of 1 percent above the annual increase in the Labor Department's Employment Cost Index (ECI), which is a measure of changes in employee compensation in the private sector.

The bill would mandate, for male service members whose spouse gives birth to a child, 10 days paternity leave in addition to any other leave to which the service member is entitled. It also would authorize a pilot program to test the value of allowing a small number of military personnel to leave active duty for a period of up to three years to focus on personal or professional goals. Participating members would return to active duty at the same rank and seniority they held when the left active duty, but the time spent in the program would not could toward the 20 years of service required to retire.

The bill does not include a Senate-passed provision which would have repealed an existing legal requirement that, if the survivor of a deceased service member is eligible both a DOD annuity from the Survivor Benefit Plan (SBP) and an annuity from the Dependency and Indemnity Compensation program (DIC) of the

Department of Veterans Affairs, the SBP payment would be reduced by the amount of the DIC payment.

Health Care. For the third year in a row, the authorization bill reject's Administration proposals to increase fees and copayments for military retirees participating in DOD's Tricare health care program.

The bill also includes several provisions intended to encourage service members and Tricare beneficiaries to take steps designed to prevent health problems, such as controlling their weight, abstaining from smoking and exercising. These include a provision that would waive Tricare copayments for preventive services (Section 711), authorize a demonstration program testing the effectiveness of monetary and other incentives to participate in a program to monitor health risk factors, such as weight and blood pressure (Section 712) and establish a smoking cessation program under Tricare (Section 713).

Acquisition Policy. The compromise bill dropped a House-passed provision that would have prohibited the award of any contract for a contractor to act as lead systems integrator (LSI) on a major acquisition program.

It includes a provision requiring the creation of a career path for military personnel who specialize in the acquisition field, including the creation of five additional positions for general officers serving in acquisition jobs.

Among the bill's other significant provisions relating to DOD's acquisition process are the following:

- requirement to establish for all major acquisition programs a Configuration Steering Boards intended to control costs by controlling proposed changes in the design of the system (Section 814);

- authorization of a streamlined hiring process to fill acquisition jobs in DOD (Section 833);

- requirement to establish a government-wide policy (codified in standard contract clauses) to prevent conflicts of interest for contractor employees who are managing DOD acquisitions (Section 841); and

- extension from three years to five years of the period after the end of a congressionally authorized conflict during which no statute of limitation applies for contractor fraud (Section 855).

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.[3] 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.[4]

> 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.

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

[4] 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 began action on the annual defense authorization bill with the Senate Armed Services Committee approving its version (S. 3001) on April 30 and the Senate passing it September 17. The House Armed Services Committee marked up its version of the bill (H.R. 5658) on May 14 and passed the bill May 22. Instead of convening a House-Senate conference committee to reconcile the two versions of the bill, House and Senate negotiators worked out a compromise version, which the House passed September 24 as an amended version of the Senate-passed bill. The Senate passed the compromise version September 27.

Table 2A. Status of FY2009 Defense Authorization, S. 3001

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	9/17/08 88-8	*Cong. Record* pp. H8718-H9081	392-39 9/24/08	9/27/08 voice vote	

The House Defense Appropriations Subcommittee marked up an unnumbered FY2009 defense appropriations bill on July 30. The Senate Defense Appropriations Subcommittee marked up its own unnumbered bill on September 10. Instead of convening a House-Senate conference committee to reconcile the two versions of the bill, House and Senate negotiators worked out a compromise version which was incorporated into the FY2009 continuing resolution (H.R. 2638, Division C). The House passed the continuing resolution, including the compromise FY2009 defense appropriations bill September 24 and the Senate passed it September 27.

Table 2B. Status of FY2009 Defense Appropriations Bill, H.R. 2638, Division C

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
7/30/08	9/10/08					*Cong. Record* pp. H9434-H9870	370-58 9/24/08	9/27/08 78-12	

Is the Budget Too Small? The 4% of GDP 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 4% 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.[5]

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.[6]

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.

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[5] 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, 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.

[6] 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.[7] Reasons include the following.

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[7] 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.[8] 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: Although 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 seven of the past eight 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),[9] 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. Although 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.[10]

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[7] (...continued)
A Powerpoint Summary," available at [http://www.crs.gov/products/browse/documents/WD06002.pdf].

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

[9] TRICARE is a DOD-run health insurance program for military dependents.

[10] 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
(continued...)

- 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.[11]

- 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-

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[10] (...continued)
Footnote 6 for a graph that illustrates the trend.

[11] 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, available at [http://www.gao.gov/new.items/d08467sp.pdf].

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 "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.[12] 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.[13]

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.[14] 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

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

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

[14] 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.[15]

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.[16]

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.

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

[16] 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.[17]

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.[18]

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.[19]

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 currently deployed systems, mainly the Patriot PAC III theater defense system. For

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

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

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

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.[20]

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.[21]

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 confront; and some object that the program as currently scheduled will take too long

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[20] 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.

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

to get more effective weapons into the hands of the troops.[22] 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.[23]

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.[24] 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.[25] However others deny that funding for four planes would delay the need for a decision long enough to make a difference.

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

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

[24] *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.

[25] 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. 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.

On September 10, Defense Secretary Robert Gates cancelled the second competition to select a new tanker. In a statement, Gates said there was not enough time for DOD to complete the selection process by next January, when a new Administration will take office and that, accordingly, he had decided to allow the next Administration to define the requirements budget allocation for the new plane.[26] During a House Armed Services Committee hearing on September 10, Gates said DOD soon would recommend to Congress how to allocate the tanker funds requested for FY2009. On September 15, Air Force Chief of Staff Gen. Norton Schwartz, reportedly said in a press conference that it could take the next Administration between eight months and four years to conduct a new tanker competition.

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.[27]

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[26] "DoD Announces Termination of KC-X Tanker Solicitation," DOD News Release 758-08, September 10, 2008.

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

"Soft" Power Functions and Interagency Burden-Sharing[28]

Policymakers are debating the appropriate balance between military and civilian personnel in operations and activities involving "soft" power functions, i.e., building and strengthening government institutions and economic systems abroad, as well has providing humanitarian assistance. As demands have increased on military personnel to perform such functions over the past several years, especially in Iraq and Afghanistan, Congress has granted DOD new authorities and funded expanded DOD activities in areas where civilian agencies were traditionally in the lead. For some policymakers, the expanded use of the defense budget to fund, and military personnel to perform, "stabilization and reconstruction" activities reflects shortfalls in civilian agency budgets and in civilian personnel that should be remedied. Nevertheless, there is no consensus on an optimal division of labor, authorities, and funding sources for such functions, or how to achieve that balance, nor on appropriate interim arrangements.

Among the DOD programs of most concern:

- The Commander's Emergency Response Program (CERP) provides funds for commanding officers in Iraq and Afghanistan to carry out small-scale reconstruction programs, to fund state-building activities such as supporting local militias such as the Sons of Iraq, and to provide urgent humanitarian relief. In early 2008, the Administration requested Congress make CERP authority permanent and extend its use to other developing countries where U.S. forces are operating.

- "Section 1206" Global Train and Equip authority allows the Secretary of Defense to fund, with the concurrence of the Secretary of State, the training and equipping of foreign military forces for counterterrorism operations and to participate in or to support military and stability operations in which U.S. armed forces participate. In early 2008, the Bush Administration asked Congress to codify an expanded version of Section 1206 to increase the annual authorization from $300 to $750 million and to permit DOD to train and equip a broad array of security forces in addition to military forces. It asked for an FY2009 appropriation of $500 million.

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[28] Prepared by Nina Serafino, Specialist in International Security Affairs.

For more information on this topic and related programs, see CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress*; CRS Report RS22855, *Section 1206 of the National Defense Authorization Act for FY2006: A Fact Sheet on Department of Defense Authority to Train and Equip Foreign Military Forces*; CRS Report RS22871, *Department of Defense "Section 1207" Security and Stabilization Assistance: A Fact Sheet*; CRS Report RL32862, *Peacekeeping and Conflict Transitions: Background and Congressional Action on Civilian Capabilities*; and CRS Report RL34003, *Africa Command: U.S. Strategic Interests and the Role of the U.S. Military in Africa*.

- The Combatant Commander Initiative Fund (CCIF) has traditionally been used to fund foreign participation in military exercises and the military education and training of foreign personnel, and certain humanitarian and civil assistance. In 2006 Congress also added to the permitted categories, "civic assistance, including urgent and unanticipated humanitarian relief and reconstruction assistance." For FY2009, the Administration requested $100 million for the CCIF specifically to meet those needs.

- "Section 1207" Security and Stabilization funding authorizes DOD to transfer defense articles, services and other support to assist civilian agency responses to critical situations, in particular stabilization activities and operations planned and coordinated by the State Department's Office of the Coordinator for Reconstruction and Stabilization (S/CRS). The Administration requested authority to transfer $200 million for this purpose in FY2009.

- The Administration has requested $389 million in FY2009 to create U.S. Africa Command (AFRICOM) to give a senior general unified command over activities related to Africa that, previously, had been distributed among three regional DOD commands. Although the new organization is intended to have a large non-military staff and to cooperate extensively with the State Department, Agency for International Development and other civilian agencies, some question the wisdom of giving DOD such a prominent leadership role in U.S. policy toward Africa.

War Funding Issues in the FY2009 DOD Bridge Fund[29]

To get a more complete picture of war funding, the John Warner 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. In their spring markups, the authorization committees used the original $70 billion placeholder figure.

On May 2, 2008, the Administration filled in the details by submitting an amended emergency war request with $66 billion for the Department of Defense (DOD) and $4 billion for State/USAID programs; however, these materials arrived too late to be taken into account in the authorization markup this spring.[30]

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[29] Prepared by Amy Belasco, Specialist in U.S. Defense Policy and Budget.

[30] 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* (continued...)

Since FY2004, the Defense Department has generally received war funding in two appropriations acts — a bridge fund included as a separate title in DOD's baseline appropriations bill to cover the first part of the same fiscal year, and a separate supplemental appropriation provided after the fiscal year has begun.

In the spring of 2008, however, Congress passed H.R. 2642, the FY2008 Supplemental Appropriations Act (P.L. 110-252) with funding to cover war costs for the rest of FY2008, and a bridge fund to cover part of the following fiscal year, FY2009.[31] 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 for the remainder of the year.

Like the members of the House and Senate Appropriations committees, the members of the House and Senate Armed Services committees, which draft the defense authorization bill, did not address full-year war costs for FY2009. Instead, the authorizing 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 passed its bill (S. 3001) on September 17, 2008, including levels that differed from funding already included in for FY2009 in the already enacted supplemental (P.L. 110-252, see **Table 4**).[32]

Dropping funding levels proposed in the House and Senate bills, the conference version of the authorization, S. 3001, adopts the funding levels included for FY2009 bridge fund already enacted in the FY2008 Supplemental except for a $2.1 billion addition for six more C-17 transport aircraft. Thus, S. 3001 includes a total of $68 billion for war funding compared to the $66 billion appropriated in the FY2009 bridge fund (H.R. 2642/P.L. 110-252). The conference authorization bill does, however, include different restrictions on funding and reporting requirements for the Iraq Security Forces Fund and the Commanders Emergency Response Program (see **Table 4**).[33]

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[30] (...continued)
Hunter National Defense Authorization Act for Fiscal Year 2009, p. 469. For DOD request, see DOD, *Fiscal Year 2009 Global War on Terror Bridge Request*, May 2008; [http://www.defenselink.mil/comptroller/defbudget/fy2009/Supplemental/FY2009_Global_War_On_Terror_Bridge_Request.pdf].

[31] Similarly, Congress appropriated the first tranche of $70 billion for FY2008 war funds in the FY2007 Consolidated Appropriations Act, P.L. 110-161 to fill the gap between the beginning of that fiscal year and passage of a supplemental.

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

[33] See Sec. 1501, S. 3001 and explanatory statement for conference version; available at [http://armedservices.house.gov/pdfs/fy09ndaa/FY09conf/S3001NDAAforFY2009.pdf]. These caps in the authorization conference exceed the amount appropriated, in which case, the appropriation level probably sets funding. In this year's authorization bills, funding levels for some programs like the ISFF and CERP were initially *below* appropriated levels, which would probably have taken precedence over the appropriations act under the "last in time" rule, under which the latest congressional action is in effect; see GAO, *Principles of* (continued...)

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.[34] In February 2008 testimony, Secretary of Defense Gates suggested that war costs in FY2009 could total $170 billion, which would be about the same level as the FY2008 request excluding certain one-time costs for Mine Resistant Ambush Protected (MRAP) vehicles. The Administration said it had not submitted a full-year budget because of the uncertainty of predicting future troop levels in Iraq.[35]

In later testimony in May 2008, Secretary Gates suggested that "further reductions in the [U.S.] presence in Iraq during the course of 2009 and, perhaps, later this year" would contribute to DOD's ability to return to 12- month tour lengths to which the President committed the Administration.[36] General Petraeus, former Commander of Multinational Forces, Iraq, and now head of Central Command, has been assessing troop levels since completion in July 2008 of the withdrawal of five combat brigades sent to Iraq in 2007 in the "surge."

With the departure from Iraq of these five additional combat brigades, and the completion of MRAP purchases funded last year, war costs in FY2009 will be below FY2008's level. On September 9, 2008, the President announced a modest additional cut below surge levels of 8,000 troops in Iraq by January 2009 that would be coupled with an increase of troops in Afghanistan to meet requests from commanders on the ground for additional troops.[37] Those additional troops could offset some if not all of the savings that would result from further troop reductions in Iraq.[38]

Working from the Administration's original request, the House and Senate-passed versions of the FY2009 National Defense Authorization bills (H.R. 5658 and S. 3001) both proposed $70 billion in emergency bridge funds for DOD. Those bills were $5.8 billion above the amended request and the amount appropriated in the recently passed FY2008 Supplemental, H.R. 2642/P.L. 110-252.

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[33] (...continued)
Federal Appropriations Law, Third Edition (Red Book), Volume I, p. 2-44; [http://www.gao.gov/special.pubs/d04261sp.pdf].

[34] 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.

[35] 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.

[36] Senate Appropriations Committee, Subcommittee on Defense, Transcript, "Department of Defense Fiscal Year 2009 Budget Request," May 20, 2008, p. 13.

[37] White House, Speech by President Bush at National Defense University, Distinguished Lecture Program, "President Bush Discusses Global War on Terror," 9-9-08.

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

FY2009 Bridge Fund. Although Congress has included a bridge fund in DOD's regular appropriations to cover part of that year's war costs until submission and passage of a supplemental in previous years, this year Congress added a bridge fund for the following fiscal year, FY2009 to the supplemental.

Thus, the FY2008 Supplemental (P.L.110-252), that was enacted June 30, 2008 includes not only war funds for FY2008 but also a $65.9 billion in a bridge fund to cover DOD war costs until a new Administration submits and a new Congress approves a FY2009 supplemental. Expected to last until June or July 2009, the FY2009 bridge fund was intended to give time to a new Administration to determine the future course in Iraq and Afghanistan.

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). This appropriations act includes relatively small amounts for procurement — $4 billion compared to the $67 billion requested by DOD for all of FY2008 — 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.

On the basis of the halving of DOD's procurement request by Congress in the FY2008 supplemental appropriations act passed in late May (P.L. 110-252) reflecting in part on DOD's informal proposals this spring to withdraw procurement requests for $6.7 billion in order to pay for higher fuel costs and other unanticipated needs, it appears that congressional scepticism about war-related procurement funding request may be growing.[39] Although the House and Senate authorizers initially included funding for major weapons systems recommended such as F-22 aircraft for the Air Force, all but the C-17 aircraft were dropped in the conference version that, instead, adopted funding levels for the FY2009 bridge already enacted in the FY2008 Supplemental (P.L. 110-252).

Resolution of Issues

Although the conference version of S. 3001, the FY2009 NDAA generally adopts the funding levels in the already enacted FY2008 Supplemental (HG.R. 2642/P.L.110-252), it adds $2.1 billion for six more C-17 aircraft that is not included in that enacted bridge appropriations act. This brings the authorization total for the FY2009 bridge fund to $68 billion compared to the $66 billion appropriated (see

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

Table 4). The conference bill also resolves most of the outstanding differences between the two houses and P.L.110-232, the enacted supplemental.

The FY2009 NDAA conference bill, does, however, add various restrictions and reporting requirements on the use of funds for several high-interest programs — the Iraq Security Forces Fund, Commanders Emergency Response Program, and the Joint Improvised Explosive Device Defeat Organization (JIEDDO). The conference bill:

- authorizes $1 billion, half the request, for the Iraq Security Forces Fund (ISFF) but prohibits using these funds for infrastructure;
- authorizes $1.5 billion, $200 million less than requested and $300 million more than appropriated for the Commanders' Emergency Response program with a prohibition on projects over $2 million unless waived by the Secretary of Defense;
- authorizes $350 million for Section 1206 authority to build and equip foreign militaries for counter-terror operations;
- adopts the appropriated funding level for Mine Resistant Ambush Protected (MRAP) vehicles transfer fund; and
- adopts the Senate proposal to require separate budget displays for Iraq and Afghanistan.

Neither of the two authorizing bills, nor the already passed FY2009 bridge fund address the overall funding for the full year's war costs for FY2009. That will be decided by the next Administration. 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. With the conference bill, differences between House and Senate authorizers and amounts already appropriated are largely resolved (see **Table 4**).

Table 4. FY2009 War Bridge Funding

(in billions of dollars and percent of total)

Type of Spending	FY2008 War Bridge Fund, P.L. 110-161		FY2009 Bridge Fund: Authorization and Appropriation Action (In billions of dollars or shares of total)					
Title	**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-Passed Auth., S. 3001, 9-17-08**	**House-passed Conf. Auth, 9-24-08**
Military Personnel	1.1	2%	3.8	1.2	2%	1.2	0.8	1.2
Operation & Maintenance	50.2	72%	44.9	51.9	79%	52.0	47.0	51.9
Defense Health	0.6	1%	0.1	1.3	2%	1.3	0.8	1.3
Working Capital Fd/Other[a]	1.2	1%	2.2	0.0	0%	0.0	1.0	0.0
Procurement	6.1	9%	2.8	4.4	7%	9.5	11.2	6.5
RDT&E	0.0	0%	0.4	0.4	1%	0.4	0.2	0.4
Military Construction	0.0	0%	0.0	0.0	0%	0.0	0.5	0.0
Special Funds								
Iraq Freedom Fund	3.7	5%	0.0	0.0	0%	0.0	0.2	0.0
Afghan. Sec. Forces Fund	1.4	2%	3.7	2.0	3%	2.0	3.0	3.7
Iraq Sec. Forces Fund	1.5	2%	2.0	1.0	2%	1.0	0.2	2.0
JIEDDO[b]	4.3	6%	3.0	2.0	3%	2.5	3.0	3.0
MRAP[c]	0.0	0%	2.6	1.7	2%	[2.6]	[.6]	2.6
Global Train & Equip[d]	[.2]	0%	[.8]	[0.2]	0%	[.3]	[.3]	[.4]
Commanders' Emerg. Response Program[e]	[0.5]	[1%]	[1.7]	[1.2]	[2%]	[1.5 or 2X Iraqi fdg]	[0]	[1.5]
Coalition Support Cap[f]	[.3]	[0%]	[.9]	[.2]	[0%]	[.2]	[0]	[.9]
Rapid Acquisition Fund	0.0	0%	0.1	0.0	0%	0.0	0.0	0.1
Transfer Authority[g]	[4.0]	[6%]	[4.0]	[4.0]	[6%]	[4.0]	[3.0]	[4.0]
TOTAL	**70.0**	**100%**	**66.0**	**65.9**	**100%**	**65.9**	**70.0**	**68.0**

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 set a funding cap on the amount that can be spent to train and equip foreign militaries in counter-terrorist operations for FY2007 and FY2008 under Section 1206 authority in P.L.109-364, the FY2007 National Defense Authorization Act. In Sec. 9109, the FY2008 Supplemental set a funding limit of $150 million (P.L.110-252).

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; S. 3001,* conference version and explanatory statement; [http://armedservices.house.gov/pdfs/fy09ndaa/FY09conf/S3001NDAAforFY2009.pdf]; and [http://armedservices.house.gov/pdfs/fy09ndaa/FY09conf/FY2009NDAAJointExplanatoryStatement.pdf].

Funding for Iraq Security Forces (ISFF). The halving of DOD's request for the ISFF from $2 billion to $1 billion in the FY2009 authorization conference reflects broad and growing sentiment to push the Iraqis to pay more of the cost of reconstituting their security forces in reaction to large and growing Iraqi oil revenues that are documented in a recent GAO report.[40] In addition to the funding cut, the authorizers prohibit funding for any facilities used by Iraqi forces, limiting funding to equipment, supplies, services, training and facility repair (see Sec. 1508**,** S. 3001).

This prohibition adopts the stricter House version rather than limiting infrastructure funding to smaller projects as proposed by the Senate. Senate authorizers argued that "the Iraqi Government is well able to afford to finance its own infrastructure needs at this point."[41] The strict prohibition on funding infrastructure in the authorization conference would presumably supersede report language in the appropriations act that required "equal cost-sharing" for all reconstruction projects above $750,000.[42] These changes set new standards that increase Iraqi "burden-sharing" of the cost to rebuild its security forces and reconstruction.

Strict Monitoring of Joint Improvised Explosive Device Defeat Fund (JIEDDO). Reflecting oversight concerns, the authorization conference provides the $2.2 billion rather than the $3 billion requested, and requires that the Director of JIEDDO develop a science and technology investment strategy for countering Improvised Explosive Devices (IEDs), as well as annual reporting. In addition, the conference bill requires five-day advance notification of obligations and 15-day notice of transfers (Sec. 1503-1505, S. 3001).

Commanders Emergency Response Program Funding. Another high visibility and rapidly growing program where the $1.5 billion authorization cap in the conference bill is below the request 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 CERP program has grown from $180 million in FY2004, its first year, to $956 million in FY2007 to $1.7 billion in FY2008.[43]

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[40] GAO, *Stabilizing and Rebuilding Iraq: Iraqi Revenues, Expenditures, and Surplus*," GAO-08-1031, August, 2008, p. 14.

[41] Sec. 1616 in S. 3001 as reported and 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; see also **Table 5**.

[42] Section entitled "Iraq Security Forces" in P.L. 110-252 and report language on p. S4337, *Congressional Record*, May 19, 2008.

[43] *Congressional Record*, May 19, 2008, explanatory statement for, p. S4324. *H.R. 2642, FY2008 Supplemental* (P.L. 110-252). As later congressional action, the funding in the supplemental appropriations act (P.L. 110-252) took precedence over the authorization cap of $977 that was set earlier.

Instead of adopting the House-proposed restrictions limiting U.S. funding for CERP) to no more than twice Iraqi funding, the authorization bill requires reporting of all projects over $500,000 and certifications for projects over $1 million. The bill also requires detailed reporting, including for Iraqi government contributions, and prohibits funding for projects above $2 million unless there are contributions from other countries, the Iraqi government, or private organizations or the Secretary of Defense submits a waiver (Sec. 1214, S. 3001).[44]

The conference version does, however, exempt CERP projects from the overall prohibition on infrastructure spending (Sec.1508) as was proposed in the Senate version. In addition, the appropriations act requires equal cost sharing of all reconstruction projects over $750,000 in report language as the "necessary first step in decreasing the Government of Iraq's reliance on U.S. funds for reconstruction."[45]

Section 1206 Training and Equipping of Foreign Military Forces. In its FY2009 request, the Administration proposed a broadening of Sec.1206 authority to include training of foreign and border police as well as military forces, an increase in the current funding cap from $300 million to $750 million, and $500 million in designated funding rather than the current practice where funds are transferred from other programs.[46]

As recommended by both houses, the conference bill rejects most of the Administration's proposals and limits Section 1206 authority to train and equip foreign militaries for counter-terror operations, reflecting congressional concerns about the foreign policy implications of expanding DOD authority. The bill extends authorization for the Section 1206 program for three years. It also raises the annual cap to $350 rather than the $750 million requested (Sec. 1206, S. 3001).[47] The

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[44] For earlier House version, 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.

[45] Congressional Record, p. S2808. S. 3001 includes no specific authorization level for CERP, making no change to the $977 million level set for both FY2008 and FY2009 in the FY2008 National Defense Authorization Act (Sec. 1205, *P.L. 110-181, H.Rept. 110-477,* p. 1014); Sec. 9104, *P.L. 110-252* sets a cap of $1.2217 billion to fund CERP.

[46] See CRS Report RS22855, *Section 1206 of the National Defense Authorization Act for FY2006: A Fact Sheet on Department of Defense Authorization to Train and Equip Foreign Military Forces*, by Nina M. Serafino; see also DOD, *FY2009 Legislative Request*, September 2, 2008 and section by section analysis; [http://www.dod.mil/dodgc /olc/legislpro.html].

[47] For more information, see CRS Report RS22855, *Section 1206 of the National Defense Authorization Act for FY2006: A Fact Sheet on Department of Defense Authorization to Train and Equip Foreign Military Forces,* by Nina M. Serafino and CRS Report RL34639, *The Department of Defense Role in Foreign Assistance: Background, Major Issues, and Options for Congress,* by Nina M. Serafino et. al. The House raised the cap to $400 million and the Senate retained the current $300 million cap; see *H.Rept. 110-652,* p. 452 and *S.Rept. 110-335*, p. 400.

FY2008 Supplemental sets a limit of $150 million for FY2008 but did not include a FY2009 cap.[48]

Reflecting action by both houses, the conference authorization bill raises the limit for Sec. 1208 authority to fund foreign irregular forces from $25 million to $35 million until FY2013 and also specifies that the irregular forces would work with U.S. special forces.[49]

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 conference bill adopts the $1.7 billion funding level appropriated in the FY2008 supplemental (P.L. 110-252) rather than setting a cap with funds drawn from other accounts as was in the House bill or the $600 million level funding in the Senate bill.[50] 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.[51]

Separating Iraq and Afghanistan Funding. Currently, funding for Iraq and Afghanistan is provided in standard appropriation accounts, which mix funds for the two operations and the funds for DOD's baseline and war appropriations. While the authorization conference bill does not specify separate amounts for Iraq and Afghanistan in FY2009 as the Senate bill did, it requires DOD to present separate budget displays for each operation at the appropriation level and by program, project or activity level in the next submission (Sec. 1502).

In addition, the conference version requires that DOD provide a "detailed description of the assumptions underlying the funding for the period covered by the budget request, including the anticipated troop levels, the operations intended to be carried out, the equipment reset requirements necessary to support such operations," as proposed by the House.[52]

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[48] See Sec. 9109, P.L. 110-252 for FY2008 cap; no general provision in Chapter 2, the FY2009 bridge.

[49] 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 for earlier versions.

[50] 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*.

[51] *Inside Defense*, "DOD Readying for Last Round of MRAP Vehicle Contract Awards," June 30, 2008; CRS Report RS22707, *Mine-Resistant, Ambush-Protected (MRAP) Vehicles: Background and Issues for Congress*, by Andrew Feickert, p.4 and p. 5, 6-6-08.

[52] Sec. 1502, S. 3001; this language may also reflect the fact that a very detailed cost of war amendment added by Congressman Braley was also added on the floor. 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. See Sec.1002 and Sec. 1003 in *H.R. 5658*, and p. 427ff in *H.Rept. 110-*

(continued...)

This requirement for separate budget displays would not necessarily require that DOD to set up individual accounts for war spending for each operation. Although 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. According to the Senate report, separate funding displays would help prevent confusion between the two missions, a concern of both Secretary of Defense Gates and the committee.

Caps on Transfers. Finally, the authorization conference bill sets a $4 billion cap on transfer authority for FY2009 funds, which limits the overall amount that DOD can transfer between accounts as requested by DOD and adopted by the appropriations act (Sec. 1507, S. 3001).[53] The level of transfer authority is of considerable concern to DOD because it provides flexibility to adjust funding levels during execution.

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.

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[52] (...continued)
652.

[53] 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*.

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.[54]

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.[55]

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

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[54] For highlights of the compromise final version of the FY2009 defense authorization bill, see pp. x-x.

[55] 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.

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.[56]

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.

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.

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[56] Office of Management and Budget, Statement of Administration Policy.

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).[57]

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,

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[57] 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.

but $213 million more than Congress appropriated for these programs in FY2008 (see **Table A-3**). 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.

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.

Civilian Response Corps. The bill incorporates the text of the Reconstruction and Stabilization Civilian Management Act of 2008, H.R. 1084, as passed by the House on March 5, 2008. The provisions of this act would authorize the President to furnish, after notifying Congress, up to $100 million in assistance annually from FY2008 through FY2010, for stabilizing and reconstructing a country or region in conflict or civil strife, or in transition from that status. It also would codify the establishment of the State Department Office of the Coordinator for Reconstruction and Stabilization (S/CRS), authorize the Secretary of State to establish a response readiness corps, including a civilian reserve corps, and authorize the appropriation of funds for through FY2010 to cover personnel, education, training, equipment, travel, and deployment costs.

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 Senate passed the bill September 17 by a vote of 88-8.[58]

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).

During floor debate on the bill, the Senate adopted three amendments:

- By Senator Kyl and others, directing that $89 million of the total appropriated for missile defense research be used to deploy an X-band, long-range missile-detection radar in a secret location; Adopted by voice vote;

- By Senator Leahy and others, extending from three years to five years the period following the end of a war during which the statute of limitations on contractor fraud would be suspended; Adopted by voice vote;

- By Senator Bill Nelson, repealing the requirement that military survivors' benefits paid from DOD's Survivor Benefit Plan be reduced by the amount of any benefits received under the dependency and indemnity compensation program of the Department of Veterans Affairs; Adopted 94-2.

The Senate rejected by a vote of 39-57 an amendment by Senator Vitter and others that would have increased by a total of $358 million the amounts authorized for three missile defense programs.

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[58] For highlights of the compromise final version of the FY2009 defense authorization bill, see pp. x-x.

The bill incorporates $2.0 billion worth of reductions to the Administration's budget requests for military personnel and operation and maintenance which, according 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. .

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 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 Bill[59]

The House and Senate 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.

[59] 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-Passed Bill (S. 3001)
IRAQ PERMANENT BASING 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	**IRAQ PERMANENT BASING** 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.
REPORT ON SECURITY AGREEMENTS 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).	
IRAQ PRT STRATEGY AND REPORT 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. 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.	

House-Passed Bill (H.R. 5658)	Senate-Passed Bill (S. 3001)
COMMANDERS EMERGENCY RESPONSE PROGRAM 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.	
POLICE TRAINING TEAMS REPORT 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."	
	PRIVATE SECURITY CONTRACTORS Location: §841 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." 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

House-Passed Bill (H.R. 5658)	Senate-Passed Bill (S. 3001)
	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. 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. 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. 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.
	REPORT ON DETENTION OPERATIONS Location: §1052 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). COMMENT: The intent, clarified in the SASC Report, is to consider applications of the lessons from Iraq for U.S. detention practices elsewhere.
	GOVERNMENT OF IRAQ TO PAY COSTS Location: §1616 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." "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).

House-Passed Bill (H.R. 5658)	Senate-Passed Bill (S. 3001)
	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). 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." 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).

FY2009 Defense Appropriations Bill: House and Senate Defense Appropriations Subcommittee Markups

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 Senate Defense Appropriations Subcommittee marked up its version of the appropriations Bill on September 10, also recommending $487.7 billion.

Neither chamber held full committee markups of a FY2009 defense appropriations bill, and neither chamber considered a bill on the floor. Instead, a compromise version of the two subcommittee bills — in effect, a conference agreement on FY2009 defense appropriations — was incorporated into H.R. 2638, the FY2009 continuing resolution, which the House passed September 24 by a vote of 370-58.[60]

House Defense Appropriations Markup. 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.[61] In addition to funding a military

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[60] For highlights of the compromise final version of the FY2009 defense appropriations bill, see pp. x-x.

[61] The House Defense Appropriations Subcommittee did not release the text of either the unnumbered bill or the committee report language that, as a rule, it would present to the full

(continued...)

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 unnumbered 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, partly by purchasing two more prototypes ($320 million);

- $523 million not requested to buy components to permit continued production in FY2010 of the F-22 Raptor, in addition to approving the funds requested to buy 20 of the aircraft in FY2009 ;

- $3.6 billion for the Army's Future Combat Systems (FCS) program, including an increase of $33 million to accelerate the development of unmanned ground and aerial vehicles;

- 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, $450 million for components to be used in the DDG-1000 program, and $941 million for two T-AGE cargo ships.

- $398 million for components to be used in a future Virginia-class submarine, thus allowing the Navy to begin in 2010 — a year earlier than currently planned — funding two subs per year instead of one;

- $835 million, which is $212 million less than the budget request, to continue development of a fleet of new helicopters for use by the White House;

The subcommittee also approved $893 million, as requested, to develop a new aerial refueling tanker for the Air Force to replace existing KC-135 tankers built by Boeing in the 1950s. In addition, the subcommittee directed 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

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[61] (...continued)
House Appropriations Committee. The following summary of highlights of the subcommittee bill is based on a press release by Subcommittee Chairman John P. Murtha, issued July 30.

Office (GAO) in its ruling that a previous competition, won by Northrop Grumman, was invalid.[62]

On September 10, Defense Secretary Robert Gates cancelled the second competition to select a new tanker. In a statement, Gates said there was not enough time for DOD to complete the selection process by next January, when a new Administration will take office and that, accordingly, he had decided to allow the next Administration to define the requirements budget allocation for the new plane.[63] During a House Armed Services Committee hearing on September 10, Gates said DOD soon would recommend to Congress how to allocate the tanker funds requested for FY2009. On September 15, Air Force Chief of Staff Gen. Norton Schwartz, reportedly said in a press conference that it could take the next Administration between eight months and four years to conduct a new tanker competition.[64]

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.

The bill would provide $80.6 million of the $389 million requested to stand up a new U.S. Africa Command. According to press accounts, subcommittee's draft report to accompany the defense bill contended that a high-profile military command was not the appropriate basis for organizing U.S. government efforts, carried out by many agencies, to promote security stability in Africa.[65]

Action on the subcommittee draft by the full House Appropriations Committee, which had been scheduled for September 9, was postponed.

Senate Defense Appropriations Markup. The Senate Defense Appropriations Subcommittee marked up its version of the FY2009 Defense Appropriations Bill on September 10. Like its counterpart House panel, the Senate subcommittee recommended a total of $487.7 billion.[66]

The subcommittee accepted by voice vote an amendment by Senator Domenici that would continue a nuclear nonproliferation agreement under which Russia is

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[62] See CRS Report RL34398, *Air Force Air Refueling: The KC-X Aircraft Acquisition Program*, by Christopher Bolkcom.

[63] "DoD Announces Termination of KC-X Tanker Solicitation," DOD News Release 758-08, September 10, 2008.

[64] Mariana Malenic, "New Tanker Contract Could Be Up To Four Years Away, Air Force Chief Says," *Defense Daily*, September 16, 2008.

[65] "Lawmakers' Questions about Military's Role in Africa Spur Steep AFRICOM Cuts," *InsideDefense.com*, September 9, 2008

[66] Like its counterpart House subcommittee, the Senate Defense Appropriations Subcommittee did not release the text of either the unnumbered bill or the committee report language that it approved. The following summary of highlights of the subcommittee bill is based on the Senate Appropriations Committee's September 10 press release which, in general, does not list the amounts appropriated for specific acquisition programs.

converting 500 metric tons of weapons-grade uranium to a less potent form of uranium that can be used to fuel nuclear powerplants. To protect U.S. producers of nuclear reactor fuel, the amendment limits the amount of uranium fuel Russia can sell to U.S. powerplants.

An amendment by Senator Dorgan that would have rescinded funds appropriated for reconstruction in Iraq and for training and equipping Iraqi security forces, was rejected by a vote of 10-9.[67]

The unnumbered bill approved by the Senate subcommittee would fund a military pay raise of 3.9% (0.5% higher than the President's request).

The bill would fund procurement of 14 of the 16 requested F-35 Joint Strike Fighters and would add to the request $495 million to continue developing an alternative engine for the F-35.

It also would fund, as requested, procurement of a third destroyer of the DDG-1000 class. It would add funds to buy components that would enable the purchase in a future budget of a DDG-51 class destroyer ($397 million), an LPD-17 class amphibious landing transport ($273 million), and an LHA(R) class helicopter carrier ($178 million).

The bill would provide $362 million of the $893 million the Air Force requested for the replacement mid-air refueling tanker. The Senate subcommittee marked up its bill on the same day that DOD cancelled the second competition to select the new tanker.

It would deny all funds requested for procurement of the Stryker Mobile Gun System, a version of the Stryker armored car armed with a tank-like cannon. It also would deny funds requested to integrate with the Navy's Trident submarine-launched ballistic missile a proposed new nuclear warhead designated the Reliable Replacement Warhead.

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[67] Otto Kreisher, "Senate Appropriations Subpanel Clears $487 billion Defense Package," *CongressDaily*, September 10, 2008.

Table A-1. FY2009 National Defense Authorization Act: House and Senate Action by Title

(amounts in millions of dollars)

	Request	House-Passed	Senate-Passed	Final House-Senate Agreement
Department of Defense Discretionary				
Military Personnel[a]	125,247	124,660	124,503	124,791
Operation and Maintenance	154,847	154,478	154,022	154,248
Procurement	102,694	102,712	103,911	103,970
Research, Development, Test, and Evaluation	79,616	79,725	79,733	77,710
Other Defense Programs	28,583	29,179	28,372	29,585
Military Construction and Family Housing	24,400	24,400	24,805	24,938
Subtotal, DOD Programs Authorized in Bill	**515,387**	**515,155**	**515,346**	**515,243**
DOD Programs Not Requiring Annual Authorization[b]	58	58	58	58
Subtotal, Department of Defense Discretionary	**515,445**	**515,212**	**515,404**	**515,301**
Other Agency Defense-Related Discretionary				
Department of Energy Defense-Related Discretionary[c]	16,118	16,351	16,122	16,262
Other Defense-Related Discretionary[d]	6,201	6,201	6,201	6,201
Subtotal, National Defense Discretionary	**537,764**	**537,764**	**537,727**	**537,764**
National Defense Mandatory				
DOD Concurrent Receipt Accrual Payments	3,901	3,901	3,901	3,901
Other DOD Mandatory	1,135	1,098	1,135	1,135
DOD Offsetting Receipts	-1,780	-1,780	-1,780	-1,780
DOE Energy Employees Occupational Illness	1,155	1,155	1,155	1,155
Radiation Exposure Trust Fund	38	38	38	38
CIA Retirement and Other Agency Mandatory	279	279	279	279
Subtotal, National Defense Mandatory	**4,728**	**4,691**	**4,728**	**4,728**
Total National Defense Baseline (050)	**542,492**	**542,454**	**542,455**	**542,491**
War-Related Funding	70,000	70,000	70,000	68,580
Total, National Defense, Including War-Related	**612,492**	**612,454**	**612,455**	**611,071**

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; House and Senate Armed Services Committees, "Joint Explanatory Statement to Accompany S. 3001, the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009," available on the House Armed Services Committee website: [http://armedservices.house.gov/].

a. 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.
b. Includes amounts for Defense Production Act purchases; National Science Center, Army; Disposal of DOD Real Property; and DOD Overseas Military Facility Investment Recovery.
c. Includes amounts for Department of Energy weapons activities, defense environmental cleanup, formerly utilized sites remedial action, and Defense Nuclear Facilities Safety Board.
d. Includes amounts for FBI counter-intelligence activities, selective service, civil defense, and other non-DOD programs.

Table A-2. FY2009 Defense and Military Construction Appropriations: Request and Final Bill Amounts by Title

(amounts in millions of dollars)

	FY2008 Enacted	FY2009 Request	House-Senate Agreement	Final Bill Vs. Request
FY2009 Defense Appropriations (H.R. 2638 Division C)				
Military Personnel	105,292.2	114,896.3	114,443.9	-452.4
Operation and Maintenance	140,062.2	154,847.3	152,949.7	-1,897.6
Procurement	98,201.6	102,132.3	101,051.7	-1,080.6
RDT&E	77,271.5	79,615.9	80,520.8	+904.9
Revolving and Management Funds	2,701.8	3,473.5	3,155.8	-317.7
Other Defense Programs:				
Defense Health Program (DHP)	23,458.7	24,799.2	25,825.8	+1,026.6
National Defense Stockpile Transfer to DHP	—	-1,300.0	-1,300.0	—
Chemical Agents and Munitions Destruction	1,512.7	1,485.6	1,505.6	+20.0
Drug Interdiction and Counterdrug Activities	984.8	1,060.5	1,096.7	+36.3
Joint Improvised Explosive Device Defeat Fund	120.0	496.3	—	-496.3
Rapid Acquisition Fund	—	102.0	—	-102.0
Office of the Inspector General	240.0	247.8	271.8	+24.0
Related Agencies, Discretionary	725.5	685.0	710.0	+25.0
General Provisions/Rescissions	-2,160.0	-1,173.0	-2,866.4	-1,693.4
Scorekeeping Adjustments	45.0	20.0	20.0	—
Tricare for Life Accrual Permanent Appropriations	10,876.0	10,351.0	10,351.0	—
Total Defense Appropriations, Discretionary	**459,332.0**	**491,739.9**	**487,736.7**	**-4,003.2**
Related Agencies, Mandatory*	262.5	279.2	279.2	—
Total Defense Appropriations	**459,594.5**	**492,019.1**	**488,015.9**	**-4,003.2**
War-Related Appropriations Provided in Other Bills**				
Bridge/Supplemental/Emergency Appropriations	171,837.0	66,062.9	65,921.2	-141.8
Total FY2009 Defense Appropriations to Date Including War-Related Supplemental Funding	**631,431.5**	**558,082.0**	**553,937.0**	**-4,144.9**
FY2009 Military Construction Appropriations (H.R. 2638, Division E)				
Military Construction	12,681.1	11,362.9	12,117.7	+754.8
NATO Security Investment Program	201.4	240.9	230.9	-10.0
Family Housing Construction and Operations	2,878.5	3,203.5	3,157.8	-45.7
Chemical Demilitarization Construction	104.2	134.3	144.3	+10.0
Base Realignment and Closure	8,810.2	9,458.8	9,224.0	-234.8
General Provisions	200.0	—	175.0	+175.0
Total, Military Construction Appropriations	**24,875.3**	**24,400.2**	**25,049.6**	**+649.3**

Sources: Defense appropriations and war-related funding totals from House Appropriations Committee summary table in the *Congressional Record*, September 24, 2008, pp. H9291-H9294; military construction appropriations totals from House and Senate Appropriations Committees summary table in "Joint Explanatory Statement Accompanying H.R. 2638," in the *Congressional Record*, September 24, 2008, Volume II, pp. H9867-H9870.

* "Related Agencies" mandatory amounts are for the CIA retirement and disability fund. These are appropriated amounts, but do not count against the 302(b) allocation of discretionary funds to the defense subcommittee.

**FY2009 war-related amounts appropriated through October 2008 were provided in the Supplemental Appropriations Act, 2008, H.R. 2642, P.L. 110-252, enacted June 30, 2008.

Table A-3. Congressional Action on FY2009 Missile Defense Funding: Appropriations

(amounts in millions of dollars)

PE Number	Program Element Title	FY2008 Estimate	FY2009 Request	House-Senate Agree-ment	Final Bill Vs. Request	Comments
RDT&E Missile Defense Agency						
0603175C	Ballistic Missile Defense Technology	108.4	118.7	119.7	+1.0	Cuts $5 mn adds $6 mn for specific projects.
0603881C	Ballistic Missile Defense Terminal Defense Segment	1,045.3	1,019.1	960.0	-59.1	Transfers $65 mn to proc for THAAD and $52 mn to test & targets program element, adds $58 mn for Israeli Arrow.
0603882C	Ballistic Missile Defense Midcourse Defense Segment	2,243.2	2,076.7	1,512.7	-564.0	Shifts $363 mn to Two-Stage Inteceptor, $27 mn to European Global Engagement, $104 mn to test and targets, cuts $109 mn, adds $40 mn for ground-based system upgrades.
	Two-Stage Interceptor Segment	—	—	363.3	+363.3	Adds new program element (PE), shifts $350 mn from midcourse defense and $13 mn from battle management/c2
	European Mid-Course Radar	—	—	76.8	+76.8	Adds new program element, shifts funds from sensors PE.
	European Global Engagement Manager/ U.S. Communications	—	—	27.1	+27.1	Adds new program element, shifts funds from battle management/C2 PE.
0603883C	Ballistic Missile Defense Boost Defense Segment	510.2	421.2	402.1	-19.1	Cuts $16 mn for second ABL planning, shifts $3 mn to test and targets.
0603884C	Ballistic Missile Defense Sensors	586.1	1,077.0	770.2	-306.8	Shifts $147 to Sea-Based radar, shifts $76 mn to European mid-course radar, shifts $57 mn to European transportable radar, cuts $10 mn for sensors, adds $1 mn for AIRS, $4 mn for mobile sensors.
0603886C	Ballistic Missile Defense System Interceptor	340.1	386.8	386.8	—	—
0603888C	Ballistic Missile Defense Test & Targets	621.9	665.4	914.8	+249.4	Shifts $201 mn from other program elements, adds $8 mn for backup target, $16 mn for RV inventory, $8 mn for Kodiak Island equipment, $16 mn for range upgrades.
0603890C	Ballistic Missile Defense Systems Core	413.9	432.3	404.2	-28.1	Cuts $40 mn general reduction, adds $2.3 mn for battery technology, $9.6 mn for next generation sensor producibility.
0603891C	Special Programs - MDA	196.9	288.3	176.3	-112.0	Cuts $112 mn general reduction.
0603892C	AEGIS BMD	1,126.3	1,157.8	1,117.5	-40.3	Shifts $57 mn to SM-3 procurement, shifts $39 mn to test and targets, adds $16 mn for signal processors, adds $40 mn for Aegis enhancements.

PE Number	Program Element Title	FY2008 Estimate	FY2009 Request	House-Senate Agree-ment	Final Bill Vs. Request	Comments
0603893C	Space Tracking & Surveillance System	231.5	242.4	209.6	-32.8	Cuts $30 mn for follow-on program, shifts $2.8 mn to test and targets.
0603894C	Multiple Kill Vehicle	229.9	354.5	284.5	-70.0	Cuts $55 mn for MKV-R and trims $15 mn for excess program growth.
0603895C	Ballistic Missile Defense System Space Programs	16.6	29.8	24.8	-5.0	Cuts $10 mn for space testbed, adds $5 mn for space-based interceptor study.
0603896C	Ballistic Missile Defense Command and Control, Battle Management and Communicati	447.6	289.3	289.3	—	—
0603897C	Ballistic Missile Defense Hercules	52.5	56.0	56.0	—	—
0603898C	Ballistic Missile Defense Joint Warfighter Support	49.4	70.0	70.0	—	—
0603904C	Missile Defense Integration & Operations Center (MDIOC)	78.6	96.4	106.4	+10.0	Adds $10 mn for modeling and simulation.
0603906C	Regarding Trench	2.0	3.0	3.0	—	—
0603907C	Sea-Based X-Band Radar (SBX)	165.2	—	—	—	Transfers $147 mn from BMD sensors program element.
— -	Undistributed Reduction	—	—	—	—	—
0901585C	Pentagon Reservation	6.0	19.7	19.7	—	—
0901598C	Management HQ - MDA	80.4	86.5	81.5	-5.0	Cuts $5 mn from management support.
Subtotal R&D, Missile Defense Agency		**8,552.1**	**8,890.7**	**8,376.1**	**-514.6**	—
Military Construction, Missile Defense Agency					**—**	
BMDS European Interceptor Site		—	132.6	42.6	-90.0	Cuts $90 mn due to delay in ratifying agreement.
BMDS AN/TPY-2 #3 Transportable Radar Site		—	25.5	—	-25.5	Eliminates funds as site not selected.
BMDS European Mid-Course Radar Site		—	108.6	108.6	—	—
Unspecified Minor Construction, MDA		—	3.5	3.5	—	—
MILCON Planning & Design, MDA		—	14.9	14.9	—	—
Subtotal Military Construction, Missile Defense Agency		**—**	**285.0**	**169.5**	**-115.5**	**—**
Base Realignment and Closure, Missile Defense Agency		103.2	159.9	159.9	—	—
Total Missile Defense Agency		**8,655.3**	**9,335.6**	**8,705.5**	**-630.1**	**—**
RDT&E Army						
0604869A	Patriot/MEADS Combined Aggregate Program (CAP)	369.8	431.3	431.3	—	—
0203801A	Missile/Air Defense Product Improvement Program	30.0	37.9	37.9	—	—
RDT&E The Joint Staff						
0605126J	Joint Theater Air and Missile Defense Organization	53.7	55.3	55.3	—	—
Subtotal R&D, Army, Joint Staff		**453.5**	**524.4**	**524.4**	**—**	—

PE Number	Program Element Title	FY2008 Estimate	FY2009 Request	House-Senate Agree-ment	Final Bill Vs. Request	Comments
Procurement Army						
7152C 49100	Patriot System Summary	497.7	512.1	512.1	—	—
7845C 50001	Patriot/MEADS Cap System Summary	—	71.5	71.5	—	—
0962C 50700	Patriot Mods	420.1	524.5	516.9	-7.6	Cuts $10 mn for unjustified growth, adds $2.4 mn for command post.
Subtotal, Procurement, Army		**917.8**	**1,108.1**	**1,100.5**	**-7.6**	—
Procurement Defense-Wide						
	Theater High Altitude Area Defense (THAAD) Long Lead	—	—	105.0	+105.0	Transfers $65 mn from BMD Terminal Defense Segment R&D, adds $40 mn.
	Theater High Altitude Area Defense Radar Long Lead	—	—	—	—	—
	Standard Missile-3 (SM-3)	—	—	57.1	+57.1	Transfers $57 mn from AEGIS BMD R&D.
Subtotal Procurement Defense-Wide		**—**	**—**	**162.1**	**+162.1**	**—**
Total Missile Defense R&D, MilCon, Procurement		**10,026.6**	**10,968.2**	**10,492.6**	**-475.6**	**—**

Sources: For FY2008 enacted and FY2009 request, Department of Defense, *RDT&E Program Descriptive Summaries: Missile Defense Agency*, February 2008, Department of Defense, *Procurement Programs (P-1), FY2009*, February 2008, and Department of Defense, *RDT&E Programs (R-1), FY2009*, February 2008. For congressional action, House and Senate Appropriations Committees, "Joint Explanatory Statement Accompanying H.R. 2638" in *Congressional Record*, September 24, 2008, Volume II.

Table A-4. Congressional Action on Selected Army and Marine Corps Programs: Appropriations

(amounts in millions of dollars)

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
Army Aircraft										
Joint Cargo Aircraft (AF R&D)	7	269.6	26.8	7	264.2	16.8	—	-5.4	-10.0	Eliminates $5 mn in AF for proc, cuts $10 mn in AF R&D as unexecutable.
Armed Recon Helicopter	28	438.9	135.7	15	241.7	135.7	-13	-197.2	—	Cuts 13 aircraft and $197 mn in proc due to delays.
Light Utility Helicopter	36	224.5	—	44	257.1	—	+8	+32.6	—	Adds $33 mn for 8 aircraft.
UH-60 Blackhawk Helicopter	63	1,063.0	33.9	63	1,064.6	33.9	—	+1.6	—	—
CH-47 Helicopter	16	443.5	9.9	16	443.5	15.7	—	—	+5.8	—
CH-47 Helicopter Mods	—	724.2	—	—	720.6	—	—	-3.6	—	—
AH-64 Apache Helo Mods	—	637.3	234.4	—	639.3	234.4	—	+2.0	—	—
Kiowa Warrior Mods	—	13.7	—	—	58.2	2.4	—	+44.5	+2.4	Adds $42 mn for safety enhancement, $2.5 mn for vibration management.
Weapons & Tracked Combat Vehicles										
M-2 Bradley Vehicle Mods	21	488.3	106.4	21	322.9	106.4	—	-165.4	—	Elimintates $172 mn for base sustainment, saying amt included in FY2008 supplemental, adds $6.5 mn for training devices for Guard units.
M -1 Abrams Tank Mods	29	692.7	35.0	29	692.7	35.0	—	—	—	—
Stryker Armored Vehicle	119	1,174.9	108.0	119	951.0	79.6	—	-223.9	-28.4	Cuts $224 mn in proc, of which $189 min is due to delay in mobile gun system and $35 mn, following authorization, is due to other delays, cuts $30 mn in R&D for change to acquisition strategy, adds $1.6 mn in R&D for active protection system radar.
Future Combat System	6	154.6	3,161.6	6	154.6	3,220.8	—	—	+59.2	Adds $59 mn to R&D, in agreement with Army program adjustments
Future Combat System Spin Outs	—	176.7	64.9	—	67.5	103.4	—	-109.2	+38.5	Following requested Army adjustments, agreement cuts $109.2 mn from proc, adds $38.5 mn in R&D.
Wheeled Vehicles										
Hi Mob Multi-Purpose Veh.	—	946.7	—	—	836.0	—	—	-110.7	—	Cuts $113 mn in proc for expanded capacity vehicle as funded ahead of need, adds $2.5 mn for fire suppression panels.
Family of Medium Tact. Veh.	—	944.7	1.9	—	444.7	2.7	—	-500.0	+0.8	Cuts $500 mn in proc as funded in FY2008 supplemental.
Family of Heavy Tactical Veh.	—	923.3	2.9	—	924.1	2.9	—	+0.8	—	—
Armored Security Vehicle	202	195.4	—	202	181.7	—	—	-13.7	—	—
Mine Protection Vehicle Family	—	182.4	—	—	186.4	—	—	+4.0	—	—
Heavy Expanded Mobile Tactical Truck	—	213.3	—	—	213.3	—	—	—	—	—

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
Radios/ISR										
SINCGARS Family	—	84.9	—	—	87.3	—	—	+2.4	—	Adds $2.4 mn for radio personality modules, prohibits use of any funds until SecDef certifies proc will use full and open competition.
Radio, Improved HF Family	—	48.4	—	—	48.4	—	—	—	—	—
WIN-T Ground Forces Tactical Network	—	287.6	414.4	—	256.1	394.4	—	-31.5	-20.0	Cuts $45 mn in proc for funding ahead of need, following authorization, adds $12 mn in proc for fax capability, cuts $20 mn in R&D following authorization.
Joint Tactical Radio System (JTRS)	—	—	834.7	—	—	834.7	—	—	—	—
Night Vision Devices	—	465.6	112.7	—	469.2	172.1	—	+3.6	+59.4	Adds $59 mn to R&D.
Night Vision Thermal Weapon Sight	—	416.9	—	—	416.9	—	—	—	—	—
Tactical Unmanned Aerial Systems	—	316.6	—	—	237.9	—	—	-78.7	—	Cuts net of $79 mn, cuts $6 mn due to production delay, transfers $49 mn to Army R&D, adds 1.6 mn for sensor upgrad and $5 mn for MQ-5B Hunter UAV.
Counterfire Radars	14	107.1	—	14	107.1	—	—	—	—	—
Marine Corps										
Expeditionary Fighting Vehicle	—	—	316.1	—	—	256.1	—	—	-60.0	Cuts $60 mn due to delay.
Light Armor Vehicle Product Improvement	—	64.5	—	—	43.5	—	—	-21.0	—	Cuts $21 mn due to C2 upgrade delay.
Air Operations C2 Systems	—	78.0	—	—	38.6	—	—	-39.3	—	Cuts $39 mn due to program restructure.
Night Vision Equipment	—	24.9	—	—	24.9	—	—	—	—	—
Radio Systems	—	95.8	—	—	65.8	—	—	-30.0	—	Cuts $30 mn due to delays and unobligated balances.
Logistics Vehicle System Replacement	—	324.6	4.2	—	270.5	4.2	—	-54.1	—	Cuts $54 mn due to delays and excess program growth.

Sources: For request, Department of Defense, *RDT&E Program Descriptive Summaries, FY2009*, February 2008, Department of Defense, *Procurement Programs (P-1), FY2009*, February 2008, and Department of Defense, *RDT&E Programs (R-1), FY2009*, February 2008. For congressional action, House and Senate Appropriations Committees, "Joint Explanatory Statement Accompanying H.R. 2638" in *Congressional Record*, September 24, 2008, Volume II.

Table A-5. Congressional Action on Selected Shipbuilding Programs: Appropriations

(amounts in millions of dollars)

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
Shipbuilding and Conversion, Navy										
CVN-21 Carrier Replacement Program	—	3,926.4	261.6	—	3,906.8	289.2	—	-19.6	+27.6	Trims $20 mn in proc for excessive growth in some components, adds $28 mn in R&D.
Virginia Class Submarine	1	3,423.6	167.4	1	3,502.6	190.4	—	+79.0	+23.0	Adds $79 mn for economic order quantity in proc., adds $23 mn in R&D.
Carrier Refueling Overhaul	1	628.0	—	1	614.9	—	—	-13.0	—	Trims $13 mn in proc.
Missile Submarine Refueiling Overhaul	1	261.2	—	1	261.2	—	—	—	—	—
DDG-1000 Destroyer	1	2,502.8	678.9	1	1,508.8	598.0	—	-994.0	-80.9	Directs funding to be split between FY2009 and FY2010, cuts $1 bn from FY2009 amount and directs Navy to finance remainder in FY2010. Cuts $87 mn in R&D for CG(X) missile defense ship delay.
DDG-1000 Advance Procurement	—	51.0	—	—	—	—	—	-51.0	—	Eliminates adv proc funds.
DDG-51 Destroyer	—	—	19.1	—	200.0	19.1	—	+200.0	—	Adds $200 mn in advance proc for option to resume production.
LCS Littoral Combat Ship	2	920.0	371.0	2	1,020.0	369.3	—	+100.0	-1.7	Adds $100 mn for cost growth, directs Navy to award contracts as soon as practical. Separately agreement rescinds $347 mn in FY2008 funding.
LPD-17 Amphibious Ship	—	103.2	1.0	1	933.2	1.0	+1	+830.0	—	Adds $830 mn, provides first increment of funding for one ship to be split funded in FY2009 and FY2010, directs Navy to budget for remainder in FY2010.
LHA(R) Amphibious Ship	1	348.3	2.4	1	178.3	7.8	—	-170.0	+5.4	Shifts funding from National Defense Sealift Fund to SCN, cuts $170 mn in proc following authorization.
Intratheater Connector, Navy	1	174.8	12.0	1	174.8	12.0	—	—	—	—
Outfitting	—	429.6	—	—	429.6	—	—	—	—	—
Service Craft	—	36.3	—	—	48.1	—	—	+11.8	—	Adds $12 mn for large harbor tugs.
LCAC Service Life Extension	—	110.9	—	—	110.9	—	—	—	—	—
Prior Year Shipbuilding	—	279.2	—	—	279.2	—	—	—	—	—

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
National Defense Sealift Fund										
T-AKE Cargo Ship	2	998.7	—	2	998.7	—	—	—	—	Does not add $941 mn for 2 additional ships as had the House defense appropriations subcommittee.
Maritme Prepositioning Force R&D	—	—	68.7	—	—	63.3	—	—	-5.4	Shifts LHA(R) funding to Navy R&D.
Total Navy/NDSF Ships	**10**	**14,194.0**	**1,582.1**	**11**	**14,167.1**		**+1**	**-26.8**	**-1,582.1**	—
Army										
Joint High Speed Vessel, Army	1	168.8	2.9	1	168.8		—	—	-2.9	—

Sources: For request, Department of Defense, *RDT&E Program Descriptive Summaries, FY2009*, February 2008, Department of Defense, *Procurement Programs (P-1), FY2009*, February 2008, and Department of Defense, *RDT&E Programs (R-1), FY2009*, February 2008. For congressional action, House and Senate Appropriations Committees, "Joint Explanatory Statement Accompanying H.R. 2638" in *Congressional Record*, September 24, 2008, Volume II.

Table A-6. Congressional Action on Selected Aircraft Programs: Appropriations

(amounts in millions of dollars)

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
F-35 Joint Strike Fighter, AF	8	1,810.7	1,524.0	7	1,665.5	1,739.0	-1	-145.2	+215.0	Defers one aircraft saving $180 mn in proc, adds $35 mn in advance proc and $215 mn in R&D for alternate engine.
F-35 Joint Strike Fighter, Navy	8	1,860.9	1,532.7	7	1,655.0	1,749.3	-1	-205.9	+216.6	Defers one aircraft saving $163 mn in proc,, reduces advance proc by $43 mn, adds $215 mn in R&D for alternate engine.
F-22 Fighter, AF	20	3,054.2	700.3	20	3,430.2	607.3	—	+376.0	-93.0	Cuts $147 mn in proc for last lot cost, adds $523 mn in advance proc for 20 additional aircraft, cuts $93 mn in R&D for previously provided funding and for excess lab and program growth.
C-17 Cargo Aircraft & Mods, AF	—	699.1	236.0	—	635.1	236.0	—	-64.0	—	Cuts $40 mn in proc for excess engine spares request, $7 mn in mods for improper pricing, $17 mn in mods for budgeting ahead of need.
C-130J Cargo Aircraft, AF	—	96.0	52.4	—	121.0	27.4	—	+25.0	-25.0	Shifts $25 mn from mods line to proc, cuts $25 mn in R&D for international block upgrade.
HC-130/MC-130 Aircraft, AF	6	587.7	—	6	539.7	—	—	-48.0	—	Cuts $48 mn due to revised cost estimate.
KC-130J Aircraft, Navy	2	153.5	24.4	2	153.5	24.4	—	—	—	—
KC-X Tanker Replacement, AF	—	61.7	831.8	—	—	23.0	—	-61.7	-808.8	Transfers $870 mn in proc and R&D funds to Tanker Replacement Fund. In general provisions, rescinds $72 mn from prior year AF R&D and $239.8 mn from Tanker Replacement Fund.
Multi-Intelligence Manned Aircraft & Sensors, AF	—	—	—	—	360.0	—	—	+360.0	—	Adds $360 mn for multi-intelligence manned aircraft and sensors.
Combat Search & Rescue Helicopter (CSAR-X), AF	—	15.0	305.1	—	—	233.0	—	-15.0	-72.0	Cuts $15 mn in proc for budgeting ahead of need, cuts $72 mn in R&D for request ahead of need and unobligated balance available.
F-15 Mods	—	12.3	184.2	—	19.7	199.4	—	+7.4	+15.2	—
C-130/C-130 J Aircraft Mods, AF	—	482.2	172.6	—	470.2	179.8	—	-12.0	+7.2	Shifts $25 mn from mods to proc, adds $13 mn for specified projects.
C-37B Gulfstream Executive Aircraft	—	—	—	—	—	—	—	—	—	—
C-40 Boeing Passenger Aircraft	—	—	—	1	88.0	—	+1	+88.0	—	Adds $88 mn for one aircraft.
C-5 Cargo Aircraft Mods, AF	—	583.1	125.1	—	471.0	127.5	—	-112.1	+2.4	Cuts total of $112 mn from proc due to Nunn-McCurdy cost breach, excess unobligated balances, reduced FY2010 quantity.
Global Hawk UAV, AF	5	712.2	284.3	5	712.2	311.5	—	—	+27.2	Shifts $42 mn in R&D from E-10 program, cuts $15 mn due to program execution.

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
MQ-1 Predator UAV, AF	38	378.7	38.5	38	378.7	50.9	—	—	+12.4	—
MQ-9 Reaper UAV	9	161.4	43.6	9	161.4	46.6	—	—	+3.0	—
EA-18G Aircraft, Navy	22	1,651.6	128.9	22	1,598.6	130.1	—	-53.0	+1.2	Cuts $53 mn in proc due to overhead savings from increased foreign military sales.
F/A-18E/F Fighter, Navy	23	1,911.3	71.2	23	1,862.3	73.6	—	-49.0	+2.4	Cuts $49 mn in proc due to savings from increased foreign military sales. Urges additional purchases in future, focus on cost controls.
V-22 Tilt Rotor Aircraft, Navy	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	—	—	—	—
CV-22 Special Ops Mods, SOF	6	163.0	38.2	6	163.0	38.2	—	—	—	—
VH-71A Executive Helicopter	—	—	1,047.8	—	—	835.0	—	—	-212.8	Cuts $213 mn in R&D for increment II.
UH-1Y/AH-1Z	20	474.1	3.8	18	433.3	3.8	-2	-40.8	—	Cuts $41 mn in proc by deferring 2 aircraft.
MH-60S Helicopter, Navy	18	549.7	47.3	18	549.7	47.3	—	—	—	—
MH-60R Helicopter, Navy	31	1,185.8	70.3	31	1,193.8	70.3	—	+8.0	—	Adds $8 mn in proc for ASW enhancements.
Multi-Mission Maritime Aircraft	—	110.6	1,132.0	—	110.6	1,132.0	—	—	—	—
E-2C Hawkeye Aircraft, Navy	3	589.1	54.1	3	385.7	54.1	—	-203.4	—	Cuts $166 mn in proc following authorization, cuts $38 mn in adv proc as excess to need.
JPATS Trainer Aircraft, AF	—	33.2	7.5	—	27.7	13.5	—	-5.5	+6.0	—
JPATS Trainer Aircraft, Navy	44	289.3	—	44	288.0	—	—	-1.3	—	—
P-3 Aircraft Mods	—	370.3	3.6	—	355.6	3.6	—	-14.7	—	—

Sources: For request, Department of Defense, *RDT&E Program Descriptive Summaries, FY2009*, February 2008, Department of Defense, *Procurement Programs (P-1), FY2009*, February 2008, and Department of Defense, *RDT&E Programs (R-1), FY2009*, February 2008. For congressional action, House and Senate Appropriations Committees, "Joint Explanatory Statement Accompanying H.R. 2638" in *Congressional Record*, September 24, 2008, Volume II.

Table A-7. Congressional Action on Selected Missile, Space, Munitions, and Strategic Programs: Appropriations

(amounts in millions of dollars)

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
Space Based Systems										
Fleet Satellite Communications Follow-on/Mobile User Objective System (MUOS)	—	507.5	516.8	—	344.0	516.8	—	-163.5	—	Cuts $164 mn from proc due to delays.
Advanced Extremely High Frequency Satellite (AEHF)	—	16.6	388.0	—	166.6	388.0	—	+150.0	—	Adds $150 mn in advance proc for 4th satellite.
Evolved Expendable Launch Vehicle (EELV)	4	1,205.3	33.7	4	1,357.3	33.7	—	+152.0	—	Adds $216 mn for launch capability contract, cuts $64 mn for planned GPS satellite launch.
Global Positioning System (GPS)	—	136.0	819.0	—	136.0	819.0	—	—	—	—
National Polar-Orbiting Operational Environmental Satellite System (NPOESS)	—	—	289.5	—	—	289.5	—	—	—	—
Space Based Infrared System (SBIRS)	2	1,718.0	529.8	2	1,718.0	529.8	—	—	—	—
Transformational Communications Satellite (TSAT)	—	—	843.0	—	—	843.0	—	—	—	—
Wideband Global Satellite Communications (WGS)	—	22.5	12.4	—	22.5	12.4	—	—	—	—
Missiles and Munitions										
Advanced Medium Range Air-to-Air Missile (AMRAAM)	428	441.6	62.8	286	297.7	62.8	-142	-143.9	—	Cuts $54 mn and 4 missiles from Navy and $90 mn and 138 missiles from Air Force requests.
Air Intercept Missile -AIM 9X	480	134.7	12.4	480	134.7	12.4	—	—	—	—
Joint Air to Ground Missile (JAGM)	—	—	180.8	—	—	180.8	—	—	—	—
Joint Air-to-Surface Missile (JASSM)	260	240.3	13.0	175	200.3	13.0	-85	-40.0	—	Shifts $20 mn in proc to R&D for JASSM-ER, cuts $20 mn in proc to maintain slower ramp up.
Joint Direct Attack Munition (JDAM)	3,816	115.0	—	3,816	115.0	—	—	—	—	—
Joint Standoff Weapon (JSOW)	496	149.1	22.5	496	143.0	22.5	—	-6.1	—	—
Small Diameter Bomb (SDM)	2,612	133.2	144.6	2,612	133.2	144.6	—	—	—	—
Javelin Advanced Tank Weapon	605	259.3	—	605	259.3	—	—	—	—	—
High Mobility Artillery Rocket System	—	355.5	6.2	—	355.5	6.2	—	—	—	—
Standard Family of Missiles	70	228.0	234.7	70	226.0	237.7	—	-2.0	+3.0	—

	Request			Conference			Approp vs Request			
	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	$	$	#	$	$	#	$	$	Comments
Tactical Tomahawk Cruise Missile	207	281.1	14.2	207	281.1	18.2	—	—	+4.0	—
Trident II Ballistic Missile	24	1,093.2	—	24	1,088.3	10.0	—	-4.9	+10.0	See comment below re Reliable Replacement Warhead.
Reliable Replacement Warhead	—	—	23.3	—	—	—	—	—	-23.3	Eliminates funds, but in R&D for Trident II, provides $10 mn for Trident II MK5 Reentry Body-associated arming, fusing, and firing system R&D, that could be used for RRW integration.
Prompt Global Strike	—	—	117.6	—	—	74.6	—	—	-43.0	Cuts $43 mn for alternative reentry system.

Sources: For request, Department of Defense, *RDT&E Program Descriptive Summaries, FY2009*, February 2008, Department of Defense, *Procurement Programs (P-1), FY2009*, February 2008, and Department of Defense, *RDT&E Programs (R-1), FY2009*, February 2008. For congressional action, House and Senate Appropriations Committees, "Joint Explanatory Statement Accompanying H.R. 2638" in *Congressional Record*, September 24, 2008, Volume II.