

CRS Report for Congress

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Authorization and Appropriations for FY2005: Defense

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Stephen Daggett and Amy Belasco
Specialists in National Defense
Foreign Affairs, Defense, and Trade Division

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 13 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. It summarizes the status of the bill, its scope, major issues, funding levels, and related congressional activity, and is updated as events warrant. The report lists the key CRS staff relevant to the issues covered and related CRS products.

NOTE: A Web version of this document is available to congressional staff at [\[http://www.crs.gov/products/appropriations/apppage.shtml\]](http://www.crs.gov/products/appropriations/apppage.shtml).

Authorization and Appropriations for FY2005: Defense

Summary

Early on the morning on October 7, 2004, a conference agreement on the FY2005 defense authorization bill (H.R. 4200) was announced. The House approved the conference agreement by a vote of 359-14 on October 8, and the Senate approved it by unanimous consent on October 9. The President signed the bill into law (P.L. 108-375) on October 23. On the key issues, conferees rejected a House provision to delay military base closures; authorized purchases, but not leasing, of Boeing KC-767 or other refueling aircraft; increased statutory caps on Army and Marine Corps active duty end-strength in FY2005 by 23,000; rejected a House provision that would limit purchases of defense goods from nations that require offsets for purchases of U.S. weapons; and increased benefits for 62-and-older survivors of military retirees.

Earlier, on July 22, 2004, both the House (by a vote of 410-12) and the Senate (by a vote of 96-0) approved a conference agreement on the FY2005 defense appropriations bill (H.R. 4613). The President signed the bill into law (P.L. 108-287) on August 5, 2004. The conference agreement provides \$391.2 billion for regular Department of Defense programs, about \$1.7 billion below the Administration request, \$25 billion in emergency funds for operations in Iraq and Afghanistan, \$685 million for State Department operations in Iraq, \$95 million for assistance to refugees in Sudan and Chad, \$500 million for fire fighting, \$50 million for security at the party conventions, and \$26 million for a federal judiciary shortfall. Later, the energy and water appropriations bill, included in the consolidated appropriations bill (H.R. 4818), rescinded \$300 million in regular FY2005 defense appropriations.

The appropriations conference agreement resolves what was, perhaps, the major defense issue in Congress this year: whether to provide additional funds for ongoing operations in Iraq and Afghanistan. On May 12, after considerable prodding from Congress, the Administration requested \$25 billion to cover costs for the next few months. The key issue in Congress then became how much flexibility to grant the Defense Department in allocating the funds. None of the congressional defense committees agreed to the Administration request for full funding flexibility. The conference agreement on the appropriations bill provides \$3.8 billion of the funds in a flexible transfer account, of which \$1.8 billion is for classified programs, leaving \$2 billion available for unforeseen expenses. The remainder is provided in regular defense appropriations accounts subject to standard procedures requiring advance congressional approval if funds are shifted between accounts. The appropriations conference report also resolves a number of major weapons issues. It makes substantial cuts in a few high-profile weapons programs, including the Space-Based Radar and the Transformational Communications Satellite. It approves funding to begin construction of the Navy DD(X) destroyer and Littoral Combat Ship.

One other major defense policy issue was resolved in action on the energy and water appropriations bill. In floor votes on the defense authorization bill, both the House and the Senate rejected amendments to eliminate funds for the Robust Nuclear Earth Penetrator nuclear warhead and new low-yield nuclear weapons development. The conference agreement on the energy and water appropriations bill, however, following the House, eliminates funds for both programs.

Key Policy Staff

Area of Expertise	Name	Telephone	E-Mail
Acquisition	Valerie Grasso	7-7617	vgrasso@crs.loc.gov
Aviation Forces	Christopher Bolkcom	7-2577	cbolkcom@crs.loc.gov
Arms Control	Amy Woolf	7-2379	awoolf@crs.loc.gov
Arms Sales	Richard Grimmett	7-7675	rgrimmett@crs.loc.gov
Base Closure	David Lockwood	7-7621	dlockwood@crs.loc.gov
Defense Budget	Stephen Daggett	7-7642	sdaggett@crs.loc.gov
	Amy Belasco	7-7627	abelasco@crs.loc.gov
	Jeff Chamberlin	7-5413	jchamberlin@crs.loc.gov
Defense Industry	Gary Pagliano	7-1750	gpagliano@crs.loc.gov
	Daniel Else	7-4996	delse@crs.loc.gov
Defense R&D	Michael Davey	7-7074	mdavey@crs.loc.gov
	John Moteff	7-1435	jmoteff@crs.loc.gov
Ground Forces	Edward Bruner	7-2775	ebruner@crs.loc.gov
	Steven Bowman	7-7613	sbowman@crs.loc.gov
Health Care; Military	Richard Best	7-7607	rbest@crs.loc.gov
Intelligence	Richard Best	7-7607	rbest@crs.loc.gov
	Al Cumming	7-7739	acumming@crs.loc.gov
Military Construction	Daniel Else	7-4996	delse@crs.loc.gov
Military Personnel	Robert Goldich	7-7633	rgoldich@crs.loc.gov
	David Burrelli	7-8033	dburrelli@crs.loc.gov
Military Personnel; Reserves	Lawrence Kapp	7-7609	lkapp@crs.loc.gov
Missile Defense	Steven Hildreth	7-7635	shildreth@crs.loc.gov
	Andrew Feickert	7-7673	afeickert@crs.loc.gov
Naval Forces	Ronald O'Rourke	7-7610	rorourke@crs.loc.gov
Nuclear Weapons	Jonathan Medalia	7-7632	jmedalia@crs.loc.gov
Peace Operations	Nina Serafino	7-7667	nserafino@crs.loc.gov
Radio Frequency, Military	Lennard Kruger	7-7070	lkruger@crs.loc.gov
Readiness	Amy Belasco	7-7627	abelasco@crs.loc.gov
Space, Military	Marcia Smith	7-7076	msmith@crs.loc.gov
War Powers	Louis Fisher	7-8676	lfisher@crs.loc.gov
	Richard Grimmett	7-7675	rgrimmett@crs.loc.gov

Contents

Most Recent Developments	1
Overview: What the Defense Authorization and Appropriations Bills Cover ...	1
Status of Legislation	2
Highlights of Final Conference Agreements	3
Defense Authorization Conference Agreement	3
Defense Appropriations Conference Agreement	18
Congressional Committee and Floor Action	27
House Defense Authorization Markup	27
House Defense Authorization Floor Action	29
Senate Defense Authorization Markup	33
Senate Defense Authorization Floor Action	36
House Defense Appropriations Markup	43
House Defense Appropriations Floor Action	46
Senate Defense Appropriations Markup	47
Senate Defense Appropriations Floor Action	49
Issues for Congress	49
Funding for Iraq and Afghanistan	51
Deficits and the Defense Budget	55
Active Duty End-Strength	58
Missile Defense	60
“Bow Waves” and “Train Wrecks”: Cost Growth and Affordability of Major Weapons Programs	63
Evolutionary Acquisition and Spiral Development	68
Military Personnel Benefits	68
Base Closures	72
Overseas Troop Deployments	73
Army Transformation	73
DOD’s Civilian and Uniformed Personnel Systems	74
Easing Environmental Provisions Affecting Military Training	76
Development of New Nuclear Weapons	77
Boeing KC-767 Tanker Aircraft Acquisition	78
Buy American Act, Trade Offsets, and Related Issues	79
Legislation	80
Concurrent Budget Resolution	80
Defense Authorization	81
Defense Appropriations	81
For Additional Reading	82
CRS Reports	82
Appendix A. Funding Tables	84

Appendix B. Overview of the Administration Request	93
Comanche Termination	95
Continued Growth in Operation and Maintenance and in Military Personnel Costs	95
Growth of Large Acquisition Programs	97
Appendix C: Defense Budget Trends	99

List of Figures

Figure B-1. Operation and Maintenance Budget Authority Per Active Duty Troop, FY1955-FY2009	96
Figure B-2. Military Personnel Budget Authority Per Active Duty Troop, FY1973-FY2009	97
Figure C-1. National Defense Outlays % of GDP, FY1947-FY2009	100
Figure C-2. Federal Outlays % of GDP, FY1962-FY2009	101

List of Tables

Table 1a. Status of FY2005 Defense Appropriations, H.R. 4613	3
Table 1b. Status of FY2005 Defense Authorization: H.R. 4200, S. 2400	3
Table 2. Side by Side Comparison of Key Provisions: Defense Authorization ..	7
Table 3. Side by Side Comparison of Key Provisions: Defense Appropriations	21
Table 4. Congressional Budget Resolution Target for the National Defense Budget Function (050)	57
Table A-1. Congressional Action on FY2005 Defense Appropriations Bill by Title	84
Table A-2. National Defense Budget Function Request by Appropriations Bill, FY2002-FY2005	85
Table A-3. Congressional Action on Missile Defense Programs	86
Table A-4. House and Senate Action on Major Weapons Acquisition Programs: Authorization	87
Table A-5. House and Senate Action on Major Weapons Acquisition Programs: Appropriations	90
Table B-1. National Defense Budget Function, FY2004-FY2009, Administration Projection	94
Table B-2. Department of Defense Budget, FY2004-FY2005, With and Without FY2004 Supplemental Funding	94
Table B-3. Increases in Funding for Selected Acquisition Programs, FY2000-FY2005	98
Table C-1. Change in National Defense Budget Function by Appropriations Title, FY2000-FY2005	99
Table C-2. Administration Projections for the National Defense Budget Function, FY2005-FY2009	101

Authorization and Appropriations for FY2005: Defense

Most Recent Developments

Early in the morning on October 7, 2004, a conference agreement on the FY2005 defense authorization bill (H.R. 4200) was announced. The House approved the conference report (by a vote of 359-14) on October 8, and the Senate approved it (by unanimous consent) on October 9. The President signed the bill into law (P.L. 108-375) on October 28. On the key issues, conferees rejected a House provision to delay military base closures; authorized purchases, but not leasing, of Boeing KC-767 or other refueling aircraft; increased statutory caps on Army and Marine Corps active duty end-strength in FY2005 by 23,000; rejected a House provision that would limit purchases of defense goods from nations that require offsets for purchases of U.S. weapons; and increased benefits for 62-and-older survivors of military retirees. Earlier, on July 22, 2004, both the House (by a vote of 410-12) and the Senate (by a vote of 96-0) approved a conference agreement on the FY2005 defense appropriations bill (H.R. 4613). The President signed the bill into law on August 5, 2004 (P.L. 108-287). The conference appropriations agreement provides \$416.9 billion in new budget authority, including \$391.2 billion for regular Department of Defense programs and \$28.2 billion in emergency funding, of which \$25 billion is for operations in Iraq and Afghanistan. The \$391.2 billion in regular defense appropriations is about \$1.7 billion below the Administration request. The energy and water appropriations bill, included in the consolidated appropriations bill approved in November (H.R. 4818), however, rescinded \$300 million of regular FY2005 defense appropriations.

Overview: What the Defense Authorization and Appropriations Bills Cover

Congress provides funding for national defense programs in several annual appropriations measures, the largest of which is the defense appropriations bill. Congress also acts every year on a national defense authorization bill, which authorizes programs funded in several regular appropriations measures. The authorization bill addresses defense programs in almost precisely the same level of detail as the defense-related appropriations, and congressional debate about major defense policy and funding issues often occurs mainly in action on the authorization.

Because the defense authorization and appropriations bills are so closely related, this report tracks congressional action on both measures.

The annual defense appropriations bill provides funds for military activities of the Department of Defense (DOD), including pay and benefits of military personnel,

operation and maintenance of weapons and facilities, weapons procurement, and research and development, as well as for other purposes. Most of the funding in the bill is for programs administered by the Department of Defense, though the bill also provides (1) relatively small, unclassified amounts for the Central Intelligence Agency retirement fund and intelligence community management, (2) classified amounts for national foreign intelligence activities administered by the CIA and by other agencies as well as by DOD, and (3) very small amounts for some other agencies.

Several other appropriations bills also provide funds for national defense activities of DOD and other agencies — see **Table A-2** in the **Appendix** for a list and for budget amounts. This report does not generally track congressional action on defense-related programs in these other appropriations bills, except for a discussion of action on some Department of Energy nuclear weapons programs in the energy and water appropriations bill.

Status of Legislation

Congress began action on annual defense authorization bills the week of May 3, 2004. The House Armed Services Committee began subcommittee markup of its version of the FY2005 national defense authorization (H.R. 4200) on May 5, completed full committee markup on May 12, and reported the bill on May 13 (H.Rept. 108-533). The House began floor action on the bill on May 19 and approved it on May 20. The Senate Armed Services Committee completed full committee markup of its version of the bill (S. 2400) on May 7 and issued a report on May 11 (S.Rept. 108-284). Floor action on S. 2400 began in the Senate on May 17, and resumed on June 2 after the Memorial Day recess. Debate continued through June 23, when the bill was passed by a vote of 97-0. The Senate debated the bill for a total of four weeks.

Action on the annual defense appropriations bills began on June 2, when the House Defense Appropriations Subcommittee completed marking up its version of the bill. The full committee marked up the bill on June 16 and reported H.R. 4613 on June 18 (H.Rept. 108-553). The full House debated and passed the bill by a vote of 403-17 on June 22. The Senate Appropriations Committee marked up its version (S. 2559) on June 22, and filed a report on the bill on June 24 (S.Rept. 108-284). In floor action, the Senate took up the House-passed version of H.R. 4613 on June 24, incorporated the reported version of S. 2559 into H.R. 4613, considered amendments, and then passed H.R. 4613, as amended, by a vote of 98-0. A conference report was filed on July 20, 2004 (H.Rept. 108-622) and approved both in the House and in the Senate on July 22. The President signed the bill into law on August 5, 2004 (P.L. 108-287).

Earlier, the Senate passed its version of the FY2005 concurrent budget resolution (S.Con.Res. 95) on March 12, and the House passed its version (H.Con.Res. 393) on March 25. A conference agreement was filed on April 10 and approved in the House on April 11 and “deemed” to be in effect on the House side on April 19, 2004 (H.Res. 649). The Senate has not taken up the conference agreement, but the conference agreement on the defense appropriations bill included

a provision deeming amounts approved in the budget resolution for discretionary programs to be in effect in the Senate for subsequent action on appropriations bills.

Table 1a. Status of FY2005 Defense Appropriations, H.R. 4613

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6/2/04	6/22/04	6/18/04 H.Rept. 108-553	6/22/04 (403-17) H.R. 4613	6/24/04 S.Rept. 108-284	6/24/04 (98-0) S. 2559	7/20/04 H.Rept. 108-622	7/22/04 (410-12)	7/22/04 (96-0)	8/5/04 (P.L. 108-287)

Note: In floor action, the Senate substituted its version of the bill, S. 2559, into H.R. 4613.

Table 1b. Status of FY2005 Defense Authorization: H.R. 4200, S. 2400

Full Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
5/12/04	5/7/04	5/13/04 H.Rept. 108-491	5/20/04 (391-34) H.R. 4200	5/11/04 S.Rept. 108-260	6/23/04 (97-0) S. 2400	10/8/04 H.Rept. 108-767	10/8/04 (359-14) H.R. 4200	10/9/04 (Unanimous Consent) H.R. 4200	10/28/04 (P.L. 108-375)

Highlights of Final Conference Agreements

Defense Authorization Conference Agreement

The conference on the defense authorization bill had to resolve differences between the House and the Senate on a number of major policy issues. What follows is a brief review of the issues, followed in each case by a summary of how the conference agreement of October 7 addresses them. For more extensive background on these issues, see the “Issues for Congress” section below.

- Funding for operations in Iraq and Afghanistan.* The appropriations conference agreement provided \$25 billion in emergency funding for operations in Iraq and Afghanistan. The remaining issue for the authorization conference is whether to add reporting requirements. The Senate version of the authorization requires quite extensive additional reporting on operations in Iraq in particular. **Authorization conference outcome:** Authorized \$25 billion, as expected, including \$435 million for body armor, \$572 million for up-armored Humvees, and \$100 million for bolt-on armor. Requires

a number of reports, including quarterly accounting for operations conducted as part of the Global War on Terrorism, a report on the post-major combat operations phase of Operation Iraqi Freedom, and a report on training for post-conflict operations.

- *Oversight of prisoner abuse in Iraq and elsewhere.* The Senate-passed bill includes an amendment proposed by Senator Patrick Leahy that states it is U.S. policy not to abuse prisoners in its control and that requires the Administration to produce a number of documents related to treatment of U.S.-held prisoners. The House has rejected a number of proposals to require production of similar documents. **Conference outcome:** Includes a sense of the Congress section regarding abuse of detainees, development of a policy to prevent abuse, and reports to Congress on the policy.
- *Army and Marine Corps end-strength.* The House authorization bill, as reported by the Armed Services Committee and passed on the floor, increases Army end-strength by 10,000 and Marine Corps end-strength by 3,000 in each of the next three years, for a total increase of 39,000. The bill also establishes the new end-strength totals as statutory minimums. In floor action on June 17, the Senate adopted an amendment by Senator Jack Reed to increase Army end-strength by 20,000 in FY2005. The House and Senate appropriations bills provide funds for the higher troop levels within the \$25 billion provided for Iraq and Afghanistan. **Conference outcome:** Agreed to increase Army end-strength by 20,000 and Marine end-strength by 3,000 in FY2005 and establishes the increased totals as minimums. Also authorizes, but does not require, additional increases of 10,000 in the Army and 6,000 in the Marine Corps over the next four years, but does not yet establish them as minimums.
- *Military base closures.* The House approved a measure in the authorization bill that would delay the next round of military base closures, now planned for 2005, until 2007, and that would require a number of reports in the interim. By a vote of 49-47, the Senate rejected an amendment to its version of the authorization that would have delayed domestic base closures until 2007. This issue is likely to be a major conference item because the Administration has threatened a veto if the final bill includes a delay in base closures.¹ **Conference outcome:** Does not agree to the House proposal to delay base closures by two years. Requires approval of 7 of 9 commissioners to add a facility to the base closure list that the White House will propose.
- *Health care for reservists.* In a key floor vote, the Senate approved an amendment to the authorization bill by Senators Lindsey Graham

¹ Office of Management and Budget, Statement of Administration Policy on H.R. 4200, May 19, 2004; [<http://www.whitehouse.gov/omb/legislative/sap/108-2/hr4200sap-h.pdf>].

and Tom Daschle to provide health insurance through the military-run TRICARE program for all non-deployed reservists and their dependents, with the Defense Department paying the employer share of the costs. Earlier, the Senate Armed Services Committee had approved a more limited measure to establish a health insurance program for non-deployed reservists and their dependents, called TRICARE Reserve Select. Under the program, employers could agree to pay part of the cost of the program, with reservists paying the remaining cost, or reservists could sign up by paying the full cost. The House authorization includes neither provision. Instead, the House bill establishes a three-year demonstration program for providing health insurance through TRICARE for reservists without access to employer-provided health insurance. The Senate bill also provides for a similar two-year demonstration program. **Conference outcome:** Does not approve the Senate proposal to provide TRICARE for all non-deployed reservists. Instead, who serve 90 consecutive days in active service or more and who agree to sign up for an additional year or more of service in the reserves one year of access to TRICARE after demobilization.

- *Military Survivor Benefit Plan.* The House authorization includes a measure that was adopted in markup to phase in increased benefits for 62-and-older surviving dependents of military retirees to 55% of retired pay (now provided to younger survivors) over four years through 2008. The Senate approved a floor amendment to the authorization bill that increases benefits for 62-and-older survivors from the current 35% of retired pay to 45% after September 2008 and to 55% after September 2014. **Conference outcome:** As in the House, phases in full 55% benefit level by 2008.
- *KC-767A tanker acquisition.* The House authorization approved a measure to require the Air Force to enter into a contract to acquire Boeing 767 tanker aircraft. The Senate approved a floor amendment to the authorization bill that establishes quite strict requirements before any funds can be obligated for 767 tanker acquisition. **Conference outcome:** Does not approve the House mandate to enter into a contract for 767s by next March. Repeals the lease-purchase program approved last year. Instead, prohibits leasing and authorizes multi-year procurement of 100 new aerial refueling aircraft (which could be 767s or an alternative).
- *Renewal of authorization for public-private partnerships to provide military family housing.* After this year, a statutory cap on funding for military housing privatization expires, and virtually all of the congressional defense committees called for extending it. Repealing the cap, however, would increase mandatory spending, so advocates struggled to find an offset for the extension — an effort to extend the program in House action on the military construction appropriations bill was defeated on a point of order. **Conference outcome:** The authorization conference agreement repeals the funding cap, offset

by savings from repealing the KC-767 lease-purchase plan, which CBO had scored as mandatory spending.

- *Limits on defense offset agreements and Buy American provisions.* The House authorization includes a measure that would prohibit the United States from purchasing foreign-made defense items unless the seller agrees to provide trade “offsets” equal, as a share of value, to the offsets the selling nation applies to purchases from the United States. The provision may be waived if the Secretary of Defense certifies that a purchase is necessary to meet U.S. national security objections. In contrast, the Senate adopted an amendment to the authorization bill by Senator McCain (S.Amdt. 3461) that would allow the Secretary of Defense to exempt several allies from existing Buy American requirements. **Conference outcome:** Rejects the House provision that would limit purchases and substitutes a provision that would require the Secretary of Defense to develop a comprehensive acquisition trade policy to ensure that U.S. firms are not disadvantaged by foreign offsets.
- *Limits on arms sales and technology transfers to China.* The House authorization includes one provision that would tighten restrictions on transfer of technology with potential military utility to China by U.S. or by foreign firms and another to expand the number of Chinese firms defined as “military companies” to which sales are restricted. The Senate bill includes no similar provisions. **Conference outcome:** As in the House bill, would expand the number of Chinese firms defined as “military companies.”
- *Disposition of nuclear waste at Department of Energy nuclear weapons production facilities.* The Senate authorization includes a measure that would allow liquid waste stored at the Savannah River nuclear weapons production plant to be redefined as low-level waste that could be stabilized and stored indefinitely on site. The Senate narrowly rejected a floor amendment to delete the provision. The House bill does not address the issue. **Conference outcome:** Approves the Senate provision with some amendments, including requiring a National Academy of Sciences study of alternatives for waste cleanup.
- *Development of the Robust Nuclear Earth Penetrator and other new nuclear weapons.* Both the House and the Senate rejected amendments to the defense authorization bill to eliminate funds requested for RNEP and other new nuclear weapons development. The House-passed version of the FY2005 energy and water appropriations bill (H.R. 4614), however, eliminates the \$36 million requested for the programs in the Department of Energy budget. **Conference outcome:** The conference agreement on the energy and water appropriations bill, included in the consolidated appropriations bill, H.R. 4818, eliminates funds for RNEP and other new nuclear weapons R&D.

Table 2. Side by Side Comparison of Key Provisions: Defense Authorization

House Authorization	Senate Authorization	Conference Authorization
Military Personnel End-Strength, Pay, and Benefits		
Increased statutory end-strength for the Army by 10,000 troops each year from FY2005 through FY2007 and for the Marine Corps by 3,000 troops each year through FY2007. Set FY2005 levels as minimums.	Approved a floor amendment to increase Army end-strength by 20,000 in FY2005, but did not establish it as a floor.	Increased end-strength for the Army by 20,000 and for the Marine Corps in FY2005, established both as minimums, and approved increases of 10,000 in the Army and 6,000 in the Marine Corps through FY2009.
Approved the requested pay raise of 3.5% for uniformed personnel.	Approved the requested pay raise of 3.5% for uniformed personnel.	Approved the requested pay raise of 3.5% for uniformed personnel.
Approved the request to complete a five-year phase in of increased housing allowances sufficient to eliminate out-of-pocket housing costs.	Approved the request to complete a five-year phase in of increased housing allowances sufficient to eliminate out-of-pocket housing costs.	Approved the request to complete a five-year phase in of increased housing allowances sufficient to eliminate out-of-pocket housing costs.
Approved a measure to increase Survivor Benefits Plan (SBP) annuities for age 62-and-older survivors of military retirees from 35% of retired pay to 55% in increments through FY2008.	Approved a floor amendment to increase Survivor Benefits Plan (SBP) annuities for age 62-and-older survivors of military retirees from 35% of retired pay to 55% in increments through FY2014.	Approved the House proposal to phase in the full 55% level by FY2008.
Eliminated a statutory limit on funding for military housing privatization.	Approved a floor amendment increasing the privatization cap by \$1 as a placeholder for negotiations in conference.	Eliminated the statutory cap on funding for housing privatization.

House Authorization	Senate Authorization	Conference Authorization
Permanently increased the Family Separation Allowance from \$100 to \$250 per month and increased Imminent Danger Pay from \$150 to \$225 per month. Also increased hardship duty pay, which may be provided to troops outside of combat zones, from \$300 to \$750 per month.	Increased the Family Separation Allowance from \$100 to \$250 per month and increased Imminent Danger Pay from \$150 to \$225 per month.	Increased the Family Separation Allowance from \$100 to \$250 per month and increased Imminent Danger Pay from \$150 to \$225 per month. These measures make permanent increases that Congress approved in the FY2003 and FY2004 Iraq supplemental appropriations bills. Did not accept House provision on hardship duty pay.
Established a program to replace lost income of reservists mobilized for extended periods up to \$3000 per month.	Approved a floor amendment requiring that Federal agencies ensure that employees will not lose income when mobilized as reservists.	Neither House nor Senate provision adopted.
Authorized the Secretary of Defense to reimburse personnel for purchases of self-protection equipment if not provided by the services before deployment.	Required the Defense Department to reimburse military personnel, families, or charitable organizations for purchases of self-protection equipment if not provided by the services before deployment.	Requires the Defense Department to reimburse military personnel, families, or charitable organizations for purchases of self-protection equipment if not provided by the services before deployment. Establishes procedures for claims.
Permanently extended to all hospitalized personnel a provision in the FY2004 defense appropriations act (P.L. 108-283) that eliminated a requirement that military personnel pay for meals while hospitalized for combat-related injuries.	Extended to all hospitalized personnel a provision in the FY2004 defense appropriations bill that eliminated a requirement that military personnel pay for meals while hospitalized for combat-related injuries.	Permanently repeals the requirement that hospitalized personnel pay for meals.
Authorized the Defense Department to accept donation of frequent flyer miles for travel of military personnel or family members.	Authorized the Defense Department to accept donation of frequent flyer miles for travel of military personnel or family members and others.	Authorizes the Defense Department to accept donation of frequent flyer miles for travel of military personnel or family members and others.

House Authorization	Senate Authorization	Conference Authorization
Directed the Defense Department to establish a three-year demonstration program that would permit non-deployed reservists not eligible for employer-sponsored health benefits to sign up for health insurance through the military-run TRICARE program.	Established a two-year demonstration program to allow non-deployed military reservists not eligible for employer-sponsored health insurance to sign up for health insurance through the military-run TRICARE program.	Does not approve a TRICARE for reservists demonstration project but requires the Government Accountability Office to report on Defense Department preparations to carry one out.
	Adopted a floor amendment to allow all reservists to sign up for medical insurance through the military TRICARE program if they pay 28% of the cost. The Committee bill established a new health insurance program, called TRICARE Reserve Select, under which reservists and their dependents may sign up for health insurance through TRICARE, with employees paying 28% of the cost, as in the federal civilian health program, if employers agree to cover the remaining cost, or 100% if employers do not cover part of the cost.	Allows reservists who have been activated and who reenlist to sign up for insurance through TRICARE for one year for each 90 days of active service. Would require them to pay of 28% of the cost.
Made permanent a provision in the FY2004 Iraq supplemental that made reservists eligible for TRICARE medical benefits 90 days before activation.	Also made permanent a provision in the FY2004 Iraq supplemental that made reservists eligible for TRICARE medical benefits 90 days before activation.	Made permanent a provision in the FY2004 Iraq supplemental that made reservists eligible for TRICARE medical benefits 90 days before activation.
	Established a commission on roles, missions, and compensation of the National Guard and Reserves.	Established a commission on roles, missions, and compensation of the National Guard and Reserves.
Required separate campaign medals for Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.	Required separate campaign medals for Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.	Not included in conference report because a similar provision was enacted earlier.

CRS-10

House Authorization	Senate Authorization	Conference Authorization
Directed the Secretary of Defense to submit proposed changes in the Uniform Code of Military Justice regarding sexual assaults. Also extended the term of a task force on sexual assaults. Added a floor amendment requiring a uniform policy on sexual assault.	Directed the Secretary of Defense to establish a uniform policy on sexual assault.	Directs the Secretary of Defense to establish a uniform policy on sexual assault and requires various reports.
Approved a provision to revise eligibility requirements for award of the Combat Infantry Badge and Combat Medical Badge to Army personnel in Korea.	Approved a floor amendment to apply criteria for awarding the Combat Infantryman Badge and the Combat Medical Badge to Army personnel in Korea equivalent to procedures applied elsewhere.	Agreed to the Senate provision.
	Adopted a floor amendment to eliminate the phase-in of concurrent receipt for veterans with a disability rating of 100% and immediately provide full benefits.	Agreed to the Senate provision with a technical amendment.
	Adopted a floor amendment expressing the sense of Congress supporting current policy that there be no media coverage of the return to the United States of remains of deceased service members.	Agreed to the Senate provision with a technical amendment.
	Adopted a floor amendment to exempt abortions of pregnancies due to rape or incest from the prohibition against using DOD funds for abortions.	Not included in conference agreement.
	Adopted a floor amendment to transfer administration of the Energy Employees Occupational Illness Compensation Program from the Department of Energy to the Department of Labor.	Agreed to the Senate provision with an amendment.

House Authorization	Senate Authorization	Conference Authorization
Major Weapons Programs (note that final funding for major weapons programs is determined in defense appropriations)		
Provided \$10.0 billion for missile defense programs, \$177 million below the request, cut funding for kinetic interceptor development by \$200 million, and added \$90 million for additional Patriot PAC-3 missiles.	Approved \$10.2 billion, approximately the amount requested, for missile defense programs, though the committee trimmed funds for kinetic interceptor development and added funds for ground-based mid-course defense and for additional Patriot PAC-3 missiles.	Approves \$9.9 billion for missile defense programs, generally in line with the appropriations. Reduced funds for kinetic energy interceptor development
	Adopted a floor amendment to require the Secretary of Defense to prescribe and apply criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense program.	Agreed to the Senate provision.
Required the Air Force to enter into a multi-year contract to acquire Boeing KC-767A tanker aircraft. Also required that a new contract be negotiated after June 1, 2004, and that an independent panel review the contract terms.	Approved a floor amendment requiring the Air Force to comply with all applicable acquisition laws and regulations before entering into a contract for refueling aircraft.	Repeals a provision in the FY2004 authorization permitting leases of KC-767 tankers and adopts a provision permitting multiyear procurement of refueling aircraft.
Approved the requested shift of funds from Comanche helicopter development to other Army aviation and related programs.	Approved the requested shift of funds from Comanche helicopter development to other Army aviation and related programs.	Approves the requested shift of funds from Comanche helicopter development to other Army aviation and related programs.
Added \$118 million to procure 35 UH-60 Army helicopters, rather than the 27 requested.	Did not add funds for UH-60s.	Did not add funds for UH-60s.
Approved the requested \$905 million for Stryker medium armored vehicle procurement.	Approved the requested \$905 million for Stryker medium armored vehicle procurement.	Approves the requested \$905 million for Stryker medium armored vehicle procurement.
Cut \$245 million from the \$3.2 billion requested for Army Future Combat System development.	Approved the requested \$3.2 billion for Army Future Combat System development.	Cuts \$270 million from the \$3.2 billion requested for FCS development

CRS-12

House Authorization	Senate Authorization	Conference Authorization
Provided about the requested amounts to procure three DDG-51 destroyers, one Virginia-class attack submarine, one LPD-17 amphibious ship, and two T-AKE auxiliary ships.	Approved requested funds for three DDG-51 destroyers, one Virginia-class submarine, one LPD-17 amphibious ship, and two T-AKE auxiliary ships.	Provides about the requested amounts to procure three DDG-51 destroyers, one Virginia-class attack submarine, one LPD-17 amphibious ship, and two T-AKE auxiliary ships.
Added \$150 million as an initial increment for construction of a new LHD(R) amphibious ship.	Added \$150 million as the first increment of funding for procurement of the first of the new LHA(R)-class of amphibious assault ships.	Adds \$150 million as the first increment of funding for procurement of the first of the new LHA(R)-class of amphibious assault ships.
Approved funds for continued development of the DD(X) destroyer but eliminated \$221 million to begin constructing the first ship.	Approved \$1.5 billion, as requested, for DD(X) destroyer development, including \$221 million in the R&D accounts for design and production of the first ship of the class, and added \$99.4 million to accelerate design of the second ship.	Approves \$1.5 billion for DD(X) development, including \$221 million for initial ship construction, added \$84 million for second ship, trimmed \$45 million from fleet support R&D.
Approved funds for continued development of the Littoral Combat Ship (LCS) but eliminated \$107 million to begin constructing the first ship.	Approved \$1.5 billion, as requested for Littoral Combat Ship (LCS) development, including \$107 million to start production of the first ship.	Approves \$350 million for development of the LCS, including \$107 million to begin constructing the first ship.
Approved \$2.9 billion, as requested, for 42 Navy/Marine F/A-18E/F aircraft.	Authorized \$2.9 billion, as requested, for 42 F/A-18E/F aircraft.	Authorizes \$2.9 billion, as requested, for 42 F/A-18E/F aircraft.
Approved \$4.6 billion, as requested, for F-35 Joint Strike Fighter development.	Approved \$3.6 billion for F-35 Joint Strike fighter development, adding \$15 million for the short-takeoff variant.	Approves \$3.5 billion for F-35 development — adds \$8 million for STOVL, but cut \$134 million from engine development.
Approved \$4.2 billion for 24 F/A-22 fighters.	Approved \$3.9 billion for 22 F/A-22 fighters, a reduction of \$280 million and 2 aircraft from the request.	Approves \$4.2 billion for 24 F/A-22 fighters, with small reductions for efficiencies.
Added \$100 million to begin development of a next-generation bomber.		Adds \$30 million for bomber development.

House Authorization	Senate Authorization	Conference Authorization
Added \$35 million to the \$508 million requested for Space-Based Infrared System-High (SBIRS-High) development.	Added \$35 million to the \$508 million requested for Space-Based Infrared System-High (SBIRS-High) development.	Adds \$35 million to the \$508 million requested for Space-Based Infrared System-High (SBIRS-High) development.
Cut \$100 million from the \$775 million requested for Transformational Communications Satellite development.	Cut \$100 million from the \$775 million requested for Transformational Communications Satellite development.	Following the appropriations, cuts \$300 million from the \$775 million requested for Transformational Communications Satellite development.
Provided \$328 million, as requested, for Space-Based Radar development.	Provided \$328 million, as requested, for Space-Based Radar development.	Following the appropriations, provides \$75 million, \$273 million less than requested, for Space-Based Radar development.
Other Key Actions.		
Added substantial funds for force protection and related programs, including \$705 million for up-armored Humvees, \$332 million for add-on armor for Humvees and trucks, \$421 million for body armor, and \$517 million for the Army's Rapid Fielding Initiative. Also passed a separate measure, H.R. 4323, to provide statutory authority to the Secretary of Defense to procure equipment needed for combatant commands rapidly by waiving normal acquisition requirements.	Added substantial amounts for force protection and related measures, including \$925 million for up-armored Humvees and add-on armor (the Administration requested \$163 million for 818 up-armored Humvees), \$603 million for force protection gear and combat clothing, and \$107 million for the Army Rapid Fielding Initiative (designed to deploy high priority items rapidly to the soldiers in the field) and for Army and Marine individual equipment.	Authorizes \$105 million for the Rapid Fielding Initiative, added \$572 million for up-armored Humvees, added \$100 million for bolt-on armor.
Approved a provision that would delay military base closures until 2007 and that would require the Defense Department to submit several reports related to military basing requirements by March of 2006.	Rejected a floor amendment to delay military base closures.	Did not include the House provision delaying base closures, but requires several reports and a vote of 7 of 9 members of the Base Closure Commission to add facilities to the closure list.

House Authorization	Senate Authorization	Conference Authorization
Approved \$409 million, as requested, for the Cooperative Threat Reduction program that finances programs to safeguard or eliminate weapons in the former Soviet Union. Provided a one year waiver of limits on funding for a chemical demilitarization plant in Russia about which there has been a longstanding disagreement between the House and Senate.	Approved \$409 million, as requested, for the Cooperative Threat Reduction program. Also allowed the President annually to waive limits on funding for a chemical demilitarization plant in Russia.	Approves \$409 million, as requested, for the Cooperative Threat Reduction program. Also allows the President to waive limits on funding for a chemical demilitarization plant in Russia for each calendar year through December 31, 2006.
Approved \$1.3 billion, as requested, for Department of Energy non-proliferation programs.	Approved \$1.3 billion, as requested, for Department of Energy non-proliferation programs.	Approves \$1.3 billion, as requested, for Department of Energy non-proliferation programs.
Approved measures to require that outsourcing of activities performed by more than 10 employees be permitted only if certain conditions are met, including a requirement that costs of health care and other benefits not disadvantage federal employees, and another to provide that Defense Department civilian employees may protest privatization decisions.	Approved floor amendments similarly limiting outsourcing and permitting specific representatives of civilian employees to protest privatization decisions, but did not address health care and other benefits.	Agreed to set requirements for outsourcing, including savings of 10% or \$10 million. Approved the Senate provision regarding bid protests with clarifications. Did not require that health and other benefits not disadvantage federal employees, but required a study of the impact of health and other benefits. In report language, noted that the FY2005 defense appropriations bill limits outsourcing if health and other benefits are a disadvantage to federal employees.
Approved a measure that would require that foreign countries receive no more in trade offsets as a percentage of the value of a contract for purchasing U.S. military equipment than the percentage of domestic content required for U.S.-purchased military equipment.	Approved a floor amendment to ease “Buy American” restrictions on defense trade with some allies.	Rejected the House provision that would limit purchases and substituted a provision that would require the Secretary of Defense to develop a comprehensive acquisition trade policy to ensure that U.S. firms are not disadvantaged by foreign offsets.

House Authorization	Senate Authorization	Conference Authorization
Approved one provision that would make it U.S. policy to restrict U.S. contracts with foreign companies that transfer technology with potential military utility to China and another to expand the number of Chinese firms defined as a “military company” to which sales are restricted.	Made no similar provisions.	Did not agree to the House provision regarding foreign firms that trade with China. Agreed to the House provision defining Chinese firms that are considered “military companies.”
Adopted an amendment in the committee markup to prohibit leasing of support ships from foreign providers for more than one year.	Made no similar provision.	Agreed to no similar provision.
Approved funding as requested for Robust Nuclear Earth Penetrator R&D and for other research on new nuclear weapons.	Approved requested funding for the Robust Nuclear Earth Penetrator and for other nuclear weapons R&D.	Approved requested funding for the Robust Nuclear Earth Penetrator and for other nuclear weapons R&D. But funding remained at issue in energy and water appropriations bill.
	Approved a measure to ease rules regarding handling of radioactive waste at the Savannah River nuclear plant in South Carolina and the Idaho National Laboratory.	Approved the Senate provision.
Increased cap on U.S. military personnel in Colombia to 500.	Agreed to an Administration request to increase a legislative cap on U.S. military personnel in Colombia from 400 to 800 and to increase the cap on contractors from 400 to 600.	Agreed to the request to increase the cap on military personnel in Colombia to 800 and on contractors to 600.
Approved \$300 million for the Commanders’ Emergency Response Program (CERP) for small-scale reconstruction projects in Iraq and Afghanistan.	Authorized \$300 million for the CERP, and authorized the Secretary of Defense, with the concurrence of the Secretary of State, to use up to \$250 million to train and equip Iraqi and Afghan security forces.	Authorized up to \$300 million for the Commanders’ Emergency Response Program and up to \$500 million to train and equip Iraqi and Afghan military and security forces.

House Authorization	Senate Authorization	Conference Authorization
	Adopted a floor amendment to provide Federal assistance to states and local jurisdictions to prosecute hate crimes.	Not included in conference agreement.
	Adopted a floor amendment increasing penalties for obscene language in broadcasts.	Not included in conference agreement.
	Adopted a floor amendment expressing the sense of the Senate that Armed Forces Radio and Television Service programming should be balanced.	Not included in conference agreement.
	Adopted a floor amendment repealing FCC regulations that loosened ownership restrictions for television and radio media companies.	Not included in conference agreement.
Approved a measure requiring the Secretary of Defense to prescribe policies to prevent the abuse of detainees and adopted a floor amendment expressing the sense of Congress concerning the abuse of detainees in Iraq.	Approved a floor amendment requiring reports on detainees; stating policy on U.S. adherence to international conventions on torture; prohibiting torture; and requiring the Secretary of Defense to prescribe regulations to ensure compliance and report twice a year on investigations of possible violations.	Approved a measure stating the sense of Congress with regard to misconduct at Abu Ghraib and the prohibition on torture; setting out U.S. policy regarding proper treatment of detainees; requiring the Secretary of Defense to prescribe policies to ensure that detainees are treated in a humane manner; setting out minimum criteria for these policies; requiring that the Secretary certify that federal employees and contractor personnel involved with handling or interrogation of detainees fulfil annual training requirements; and containing several reporting requirements.

House Authorization	Senate Authorization	Conference Authorization
	Adopted a floor amendment to extend military extraterritorial jurisdiction to cover personnel and contractor personnel of any federal agency or provisional authority supporting the mission of the Department of Defense overseas	Agreed to the Senate provision.
The House version of the FY2005 energy and water appropriations bills eliminated funding for the Robust Nuclear Earth Penetrator and other new nuclear weapons R&D.	The Senate did not act on its version of the energy and water appropriations bill.	The conference agreement on the energy and water appropriations bill, included in the consolidated appropriations bill, eliminates requested funding for the Robust Nuclear Earth Penetrator and for other new nuclear weapons R&D.
The House bill, as reported by the Armed Services Committee, included a provision, Section 1541, requiring the Treasury Department, rather than the Defense Department, to make annual payments to the military retirement fund for the costs of providing TRICARE health insurance to over-65 military retirees beginning in FY2006. This is an effort to free up an additional \$11-12 billion for defense programs by shifting costs to the non-defense side of the budget.	No provision.	Included an amended version of the House measure, Section 725.

Defense Appropriations Conference Agreement

The conference agreement on the FY2005 defense appropriations bill, approved in the House and Senate on July 22, 2004, and signed into law on August 5, provides \$25 billion for operations in Iraq and Afghanistan, and resolves a number of major weapons issues.

Highlights of the defense appropriations conference agreement include

- *Funding for operations in Iraq and Afghanistan.* Both the House- and Senate-passed versions of the defense appropriations bill included \$25 billion, as the Administration requested on May 12, to cover costs of ongoing military operations in Iraq and Afghanistan through the first few months of FY2005. The main issue in Congress was how much flexibility to provide the Defense Department in allocating the funds among budget accounts. The conference agreement provides \$3.8 billion of the money in a flexible transfer account, called the Iraq Freedom Fund, and the remainder in regular appropriations accounts. The level of detail in which the funds are provided is quite narrow, as in the House-passed appropriations bill, and the Defense Department will have to seek advance approval from the congressional defense committees to shift funds to other uses.² Of the \$3.8 billion in the Iraq Freedom Fund, \$1.8 billion is for classified programs, so \$2 billion is available for unforeseen expenses.
- *Repeal of FY2004 rescission.* The FY2004 Consolidated Appropriations Act (P.L. 108-199), enacted last January, rescinded \$1.8 billion of funds in earlier defense appropriations bills. The conference agreement repeals the rescission. The Congressional Budget Office scores this as a reappropriation of funds. So the total of emergency appropriations for the Defense Department in the FY2005 defense appropriations bill is \$26.8 billion, with additional amounts for other agencies.
- *Emergency funding for non-defense programs.* The defense bill includes emergency funds for a number of other programs, including \$685 million for State Department operations in Iraq, \$95 million to respond to the humanitarian crisis in the Darfur region of Sudan and Chad, \$400 million to fight wild fires in the West, \$50 million for security at the upcoming Democratic and Republican political conventions, and \$26 million to make up a shortfall in Federal Judiciary defender services.

² For an extensive discussion, see CRS Report RL32422, *The Administration's FY2005 Request for \$25 Billion for Operations in Iraq and Afghanistan: Precedents, Options, and Congressional Action*, by Stephen Daggett and Amy Belasco.

- *Navy DD(X) and LCS ship construction.* The Administration requested \$221 million in R&D funding for the DD(X) destroyer program to begin construction of the first ship of the class and \$107 million, also in R&D funds, to begin construction of the first Littoral Combat Ship (LCS). The House authorization cut money for ship construction from both programs, though it approved continued development funding. The Senate authorizers approved the requested construction funds for both programs and also added \$99 million in design funds for the DD(X) to accelerate production of a second ship. The House Appropriations Committee agreed with the House authorization in cutting money for DD(X) construction and added \$125 million for advance procurement for an additional DD-51 destroyer in place of the DD(X). The House appropriators did not, however, agree to trim funds for the LCS and instead added \$107 million (for a total of \$214 million) to fully fund construction of the first ship. Like the Senate authorization, the Senate Appropriations Committee approved the requested construction funds for both programs and added \$99 million for the DD(X), though it shifted the \$221 million requested for DD(X) construction from R&D to the procurement accounts. The appropriations conference agreement provides \$221 million for DD(X) construction, but in procurement rather than in R&D. The agreement also provides \$214 million to fully fund construction of the first LCS in the R&D accounts. So the House authorization cuts did not prevail in final congressional action on appropriations.
- *F/A-22 fighter.* The Senate Armed Services Committee trimmed the request from 24 to 22 aircraft, saving \$280 million. The House authorization and the House and Senate appropriations bills, however, all supported the full 24 aircraft, \$4.2 billion procurement request. The appropriations conference agreement trims \$30 million from the request for assumed efficiencies, but supports the full 24 aircraft request.
- *Army Future Combat System (FCS).* The House authorization trimmed \$245 million from the FCS program and imposed a requirement that the Army more fully justify the program. The Senate provided the full \$3.2 billion requested. The House Appropriations Committee cut \$324 million and eliminated funds for the non-line of sight launch system (NLOS-LS), while providing full funding for the non-line of sight cannon (NLOS-C). The Senate appropriations bill provided the full \$3.2 billion requested and the committee report specifically approved funding for NLOS-LS. The appropriations conference agreement trimmed \$268 million from the program, but included \$58.2 million for NLOS-LS.
- *Space programs.* The House appropriators shifted \$91 million from the Evolved Expendable Launch Vehicle (EELV) program to the Space-Based Infrared System-High (SBIRS-High) program, as the Air Force requested. Senate appropriators, however, cut \$100

million from the EELV due to delays but did not add anything to SBIRS-High. The appropriations conference agreement cuts \$100 million from the EELV and adds \$91 million to SBIRS-High. The House appropriators cut \$100 million from the \$775 million requested for the Transformational Communications Satellite program, following the House authorization, while the Senate appropriators cut \$400 million. The appropriations conference agreement cuts \$300 million, which will require the Air Force to substantially restructure the program. The House appropriators essentially terminated Space-Based Radar development, leaving \$75 million for a more basic technology development effort, while the Senate appropriators cut \$100 million from the \$327 million requested. The appropriations conference agreement agrees with the House, effectively terminating the current Space-Based Radar program.

Table 3. Side by Side Comparison of Key Provisions: Defense Appropriations

House Appropriations	Senate Appropriations	Conference Appropriations
Military Personnel End-Strength, Pay, and Benefits		
Provided funding for a military pay raise of 3.5% and for housing allowances and other benefits as approved in the House authorization.	Provided funding for a military pay raise of 3.5% and for housing allowances and other benefits as approved in the Senate authorization.	Provided funding for a military pay raise of 3.5% and for housing allowances and other benefits.
Within the \$25 billion for Iraq and Afghanistan, included funds for Army and Marine Corps end-strength increases as approved in the House authorization.	Within the \$25 billion for Iraq and Afghanistan, included funds for an increase in Army end-strength of 20,000 as approved in the Senate authorization.	Provides funds for added end-strength within the \$25 billion provided for Iraq and Afghanistan.
Cut \$499.7 million from military personnel accounts to reflect perennial underexecution of military personnel programs in prior years, as reported by the General Accounting Office.	Cut \$375 million from military personnel accounts to reflect perennial underexecution of military personnel programs in prior years, as reported by the General Accounting Office.	Cuts \$528 million from military personnel accounts to reflect unobligated balances of prior year funds.
	Cut \$94 million from military personnel accounts to reflect the planned end of U.S. operations in Bosnia in December 2004.	Cut \$94 million from military personnel accounts to reflect the planned end of U.S. operations in Bosnia in December 2004.
Major Weapons Programs		
Added \$2.2 billion to “recapitalize” Army and Marine Corps ground forces, including \$950 million, doubling the amount requested, to procure Stryker armored personnel carrier, \$350 million for other armored combat vehicles, \$503 million for helicopters, \$390 million for trucks and other support vehicles, and \$52 million for the ammunition production base.		Adds \$1.5 billion for Army recapitalization, including \$625 million for Strykers, \$313 million for other Army and Marine Corps armored vehicles and related equipment, \$333 million for Army trucks, and \$51 million for the ammunition production base.

House Appropriations	Senate Appropriations	Conference Appropriations
In Iraq/Afghanistan emergency funds provided \$674 million for up-armored Humvees, \$198 million for bolt-on armor, \$297 million for the Army Rapid Fielding Initiative, and \$59 million for aircraft hardening equipment.	In Iraq/Afghanistan emergency funds, provided \$865 million, for an Army “Rapid Response Force Protection Initiative” for up-armored Humvees, bolt on armor, armored cabs, or other related purposes. Also provided \$240 million for Marine Corps vehicle hardening.	In Iraq/Afghanistan emergency funds, provided \$572 million for up-armored Humvees, \$100 million for the Rapid Response Force Protection Initiative, \$65 million for the Rapid Fielding Initiative, and \$15 million to counter improvised explosive devices.
Provided \$9.7 billion for missile defense, \$458 million below the request, and rescinded \$31.5 million due to termination of a joint satellite program with Russia (called RAMOS) and \$74.7 million due to restructuring of the Airborne Laser program.	Provided \$10.2 billion, about the amount requested, for missile defense programs. Added \$80 million for the Israeli Arrow program. Agreed to terminate the U.S.-Russian RAMOS program, but allocated \$5 million for a follow-on program. Added \$163.5 million for Ground-Based Midcourse Defense. Cut \$252 million, about half the amount requested, from kinetic energy interceptor program.	Provided \$10.0 billion for missile defense, cut \$163 million from the kinetic energy interceptor, cut an unallocated \$180 million, added \$246 million for mid-course defense.
Cut the Army’s request for \$3.2 billion for Future Combat System development by \$324 million, \$79 million more than the House authorization, of which \$76 million was from the non-line of sight launch system (NLOS-LS), terminating the project.	Provided the full \$3.2 billion requested for Army Future Combat System development. The committee specifically approved continued funding for the non-line of sight launch system (NLOS-LS).	Cut \$250 million from the FCS request as excessive overhead, provides \$58 million for NLOS-LS.
Provided \$76 million to fully fund construction of a Theater Support Vessel in Army R&D accounts.	Approved the \$65 million requested for TSV R&D.	Approved the \$65 million requested for TSV R&D, rejecting the House addition.
Agreed with the House authorization in trimming \$248 million from the DD(X) R&D program, including \$221 million to begin constructing the first ship.	Approved \$221 million for construction of the first DD(X) destroyer, but moved the money from R&D to procurement, and added \$99 million for design of the second ship of the class, following the Senate authorization.	Approved \$221 million for construction of the first DD(X) destroyer, but moved the money from R&D to procurement, and added \$84 million for design of the second ship.

CRS-23

House Appropriations	Senate Appropriations	Conference Appropriations
In place of DD(X) construction, the committee added \$125 million in advance procurement for one additional DDG-51 destroyer to be fully funded in the FY2006 or FY2007 budgets.	Approved \$3.4 billion for 3 ships, as requested, but did not provide additional advance procurement funds for future ship construction.	Approves \$3.4 billion for 3 ships, as requested, added \$50 million for upgrades, but did not provide additional advance procurement funds for ship construction.
Did not agree with the House authorization cut of \$107 million for construction of the first Littoral Combat Ship and, instead, added \$107 million to fully fund building the first ship, cut \$50 million for design of the second ship of the class.	Provided \$107 million in R&D, as requested, for construction of the first prototype Littoral Combat Ship, but did not add funds, as the House did, to fully fund construction.	Adds \$107 million to fully fund construction of the first ship, trimmed \$2 million from second ship design.
Eliminated \$44 million requested for R&D on the LHA(R) amphibious ship program and provided no funds for procurement, rejecting the addition of \$150 million for LHA(R) advance procurement recommended in the House and Senate authorization bills.	Added \$175 million for LHD(R) advance procurement — the House committee provided no funds, while both authorization bills approved \$150 million.	Adds \$150 million for LHA(R).
Supported procurement of 24 F/A-22 fighters, as requested.	Supported procurement of 24 F/A-22 fighters, as requested — did not follow Senate authorization in cutting 2 aircraft.	Supports procurement of 24 F/A-22 fighters, as requested.
Provided \$4.4 billion for F-35 Joint Strike Fighter R&D funding, a reduction of \$240 million to reflect delays. Also prohibited obligation of \$1.4 billion of the funds until DOD reports to Congress on plans to adjust the program following an independent review.	Provided full funding, as requested, for Navy and Air Force development of the F-35 Joint Strike Fighter — did not concur with House cuts due to delays.	Cut \$240 million due to delays. Requires a report on the program by December 15, 2004.

House Appropriations	Senate Appropriations	Conference Appropriations
Provided \$100 million in a “Tanker Replacement Transfer Fund” available to acquire KC-767 tanker aircraft whenever the status of the program warrants acquisition.	Provided \$110 million for tanker aircraft replacement, but did not specify whether the funds were for KC-767s, in effect leaving the issue for authorizers to decide.	Provides \$100 million for tanker replacement, but leaves other issues for authorization.
Objected to the Air Force failure to fully fund purchases C-17 and C-130 aircraft and shifted \$159 million from C-17 upgrades to fully fund 15 aircraft, one more than requested.	Added \$34 million to C-17 program for maintenance training, did not address full funding issue.	Adds \$159 million for full funding of 15 aircraft and \$34 million for training.
Added \$91 million for the Space Based Infrared System-High (SBIRS-High) program, more than the \$35 million the House and Senate authorizers added.	Provided \$508 million for development of the Space-Based Infrared System-High (SBIRS-High), but did not add \$91 million, as the Air Force had requested and the House agreed.	Adds \$91 million for SBIRS-High.
Provided \$75 million for the Space Based Radar program, \$253 million below the request, effectively terminating the program, with the remaining funds to be used for alternative technologies and concepts.	Provided \$228 million for the Space-Based Radar program, \$100 million below the request, but did not agree with House cuts that would effectively terminate the program.	Provides \$75 million, a cut of \$253 million from the request, as in the House, effectively terminating the program.
Cut \$100 million from the request for \$775 million for the Transformational Communications Satellite, following the House and Senate authorizations.	Provided \$375 million for the Transformation Communications Satellite, \$400 million below the request.	Provides \$475 million, a cut \$300 million from the request.
Cut \$91 million from the Evolved Expendable Launch Vehicle (EELV) for transfer to SBIRS-High, and, in report language, said that two contractors may not be justified.	Cut \$100 million Provided \$511 million for the Evolved Expendable Launch Vehicle, \$100 million below the request due to launch delays.	Cuts \$91 million.

House Appropriations	Senate Appropriations	Conference Appropriations
Provided \$557 million for development of a replacement Marine One helicopter, \$220 million below the request.	Provided \$557 million for development of a replacement Marine One helicopter, \$220 million below the request, as in the House.	Cuts \$220 million.
Added \$50 million for new bomber development, half what the House authorization added.		Adds \$30 million for new bomber development.
Other Key Actions		
Added \$25 billion for operations in Iraq and Afghanistan, almost all in regular appropriations accounts except for \$2.978 billion in the Iraq Freedom Fund, of which \$1.978 was only for classified programs leaving \$1 billion as flexible funding.	Provided \$25 billion for operations in Iraq and Afghanistan, almost in regular appropriations accounts subject to normal procedures requiring congressional approval of transfers above certain thresholds, with \$2.5 billion in the flexible Iraq Freedom Fund.	Provides \$25 billion for operations in Iraq and Afghanistan, most in regular appropriations accounts, with \$3.8 billion in the flexible Iraq Freedom Fund, of which \$1.8 billion is for classified programs, leaving \$2 billion for unforeseen expenses.
In a manager's amendment in full committee markup, added \$685 million to the emergency funding for Iraq for State Department operations and \$95 million in emergency funds for famine relief and refugee assistance in Sudan and Chad.	Approved a floor amendment to provide \$95 million for assistance to refugees in Sudan and Chad.	Adds \$685 million for State Department operations in Iraq, \$95 million for assistance to refugees in Sudan and Chad, \$500 million for fire fighting, \$50 million for security at the party conventions, and \$26 million for a federal judiciary shortfall
Added \$800 million, close to amounts approved in prior years, for unrequested, earmarked medical R&D and related projects, including breast cancer and prostate cancer research.	Added about \$650 million for earmarked medical R&D and related programs, of which \$200 million for cancer research, including peer-reviewed breast cancer, prostate cancer, and other cancer research, was provided in a single block, with the Defense Department directed to allocate the funds.	Adds about \$1 billion for earmarked medical R&D and related programs, most as in the House bill and as in the past, earmarked for particular programs.

House Appropriations	Senate Appropriations	Conference Appropriations
<p>Approved a measure setting conditions on the conversion of work involving more than 10 employees to private contractors, including full competition, that savings exceed the lesser of 10% or \$10 million, and that the contractor not receive an advantage due to health insurance costs.</p>		<p>Agrees to the House provision.</p>
<p>Cut operation and maintenance accounts by \$415 million to reflect under-obligation of O&M funds in prior years, by \$335 million for assumed efficiencies in administrative and related activities; by \$86 million to eliminate growth above inflation in requested funds for base operations support, by \$92 million for overstated civilian pay requirements, by \$177 million to reflect a slower rate than estimated in converting jobs from uniformed positions to civilian ones, by \$316 million in working capital funds to reflect cash balances and purchases that will not be necessary, by \$967 million of excess cash balances in the transportation working capital fund, by \$300 million for overstated requirements for outside contracts, by \$100 million for unnecessary payments to contractors for taxes, and by \$55 million for overestimated civilian separation incentives.</p>	<p>Cut operation and maintenance accounts by \$478 million to reflect the planned end of U.S. operations in Bosnia in December 2004, by \$92 million for overstated civilian pay requirements, by \$197 million due to slower rates of converting military to civilian jobs and fewer civilian buyouts, and by \$347 million for costs of environmental programs.</p>	<p>Cuts operation and maintenance accounts by \$478 million for operations in Bosnia, by \$92 million for overstated civilian pay requirements, by \$156 million for slower military to civilian conversions, and by \$235 million as an unallocated cut in administration and servicewide activities.</p>

Congressional Committee and Floor Action

House Defense Authorization Markup

The House marked up its version of the defense authorization bill on May 12. Some highlights of the committee-reported bill include the following.

Military Personnel End-Strength, Pay, and Benefits.

- Increased statutory end-strength for the Army by 10,000 troops each year from FY2005 through FY2007 and for the Marine Corps by 3,000 troops each year through FY2007.
- Approved the requested pay raise of 3.5% for uniformed personnel.
- Approved a measure to increase annuities for age 62-and-older survivors of military retirees from 35% of retired pay to 55% in increments through FY2008.
- Eliminated a statutory limit on funding for military housing privatization.
- Permanently increased the Family Separation Allowance from \$100 to \$250 per month and increased Imminent Danger Pay from \$150 to \$225 per month. Also increased hardship duty pay, which may be provided to troops outside of combat zones, from \$300 to \$750 per month.
- Established a program to replace lost income of reservists mobilized for extended periods up to \$3000 per month.
- Permanently extended to all hospitalized personnel a provision in the FY2004 defense appropriations act (P.L. 108-283) that eliminated a requirement that military personnel pay for meals while hospitalized for combat-related injuries.
- Directed the Defense Department to establish a three-year demonstration program that would permit non-deployed reservists not eligible for employer-sponsored health benefits to sign up for health insurance through the military-run TRICARE program.
- Required separate campaign medals for Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.
- Directed the Secretary of Defense to submit proposed changes in the Uniform Code of Military Justice regarding sexual assaults. Also extended the term of a task force on sexual assaults.

Major Weapons Programs.

- Provided \$10.0 billion for missile defense programs, \$177 million below the request, cut funding for kinetic interceptor development by \$200 million, and added \$90 million for additional Patriot PAC-3 missiles.
- Required the Air Force to enter into a multi-year contract to acquire Boeing KC-767A tanker aircraft. Also required that a new contract be negotiated after June 1, 2004, and that an independent panel review the contract terms.
- Approved the requested shift of funds from Comanche helicopter development to other Army aviation and related programs.
- Approved \$2.9 billion, as requested, for 42 F/A-18E/F aircraft.
- Approved \$4.6 billion, as requested, for F-35 Joint Strike Fighter development.
- Added \$100 million to begin development of a next-generation bomber.
- Added \$118 million to procure 35 UH-60 Army helicopters, rather than the 27 requested.
- Added \$150 million as an initial increment for construction of a new LHD(R) amphibious ship.
- Provided about the requested amounts to procure three DDG-51 destroyers, one Virginia-class attack submarine, one LPD-17 amphibious ship, and two T-AKE auxiliary ships.
- Approved funds for continued development of the DD(X) destroyer and the Littoral Combat Ship (LCS) but eliminated \$221 million from the DD(X) program and \$107 million from the LCS budget to begin constructing the first of each class of ships.
- Adopted an amendment in the committee markup to prohibit leasing of support ships from foreign providers for more than one year.

Other Key Actions.

- Added substantial funds for force protection and related programs, including \$705 million for up-armored Humvees, \$332 million for add-on armor for Humvees and trucks, \$421 million for body armor, and \$517 million for the Army's Rapid Fielding Initiative. Also passed a separate measure, H.R. 4323, to provide statutory authority to the Secretary of Defense to procure equipment needed for

combatant commands rapidly by waiving normal acquisition requirements.

- Approved a provision that would require the Defense Department to submit several reports related to military basing requirements by March of 2006 and only then permit a new round of military base closures no sooner than 2007.
- Approved a measure that would require that foreign countries receive no more in trade offsets as a percentage of the value of a contract for purchasing U.S. military equipment than the percentage of domestic content required for U.S.-purchased military equipment.
- Approved one provision to tighten restrictions on transfer of technology with potential military utility to China and another to expand the number of Chinese firms defined as a “military company” to which sales are restricted.
- Approved an amendment offered in committee mark-up to strengthen requirements that Defense Department civilian employees be allowed to compete for operations that otherwise would be outsourced.
- Provided \$409 million, as requested, for the Cooperative Threat Reduction program.
- Approved funding as requested for Robust Nuclear Earth Penetrator R&D and for other research on new nuclear weapons.
- Included a provision requiring the Treasury Department, rather than the Defense Department, to make annual payments to the military retirement fund for the costs of providing TRICARE health insurance to over-65 military retirees beginning in FY2006. This is an effort to free up an additional \$11-12 billion for defense programs by shifting costs to the non-defense side of the budget.

House Defense Authorization Floor Action

On Tuesday, May 18, the House Rules Committee met to consider proposed amendments to H.R. 4200 and to decide which to allow for debate on the House floor. The committee reported a rule (H.Res. 648) on May 19, as debate on the bill was scheduled to begin. Several leading Democrats, including Representative Martin Frost, the ranking member of the Rules Committee, Representative Ike Skelton, the ranking member of the Armed Services Committee, and Representative John Spratt, the second ranking member of the Armed Services Committee, opposed the rule because it did not make in order several proposed amendments.

Amendments Not Made in Order.

All of the senior Democrats who opposed the rule complained, in particular, that the rule did not make in order an amendment proposed by Representative Spratt to transfer \$414.4 million from specified missile defense programs to provide targeted military pay raises, Marine Corp force protection measures, and improvements to the Patriot PAC-3 missile defense system. Other amendments not made in order by the rule included

- An amendment by Representative Loretta Sanchez to make penalties for sexual abuse crimes under the Uniform Code of Military Justice consistent with penalties under the U.S. Code.
- An amendment by Representative Jane Harman to limit missile defense funding to the FY2004 level, which is about \$1.2 billion below the FY2005 request, to require operational testing before missile defense systems are deployed, and to authorize \$500 million for port security;
- An amendment by Representative John Tierney to require operational testing before deploying missile defense systems;
- An amendment by Representative Jim Cooper to authorize \$67.7 billion in supplemental appropriations for military operations in Iraq and Afghanistan; and
- An amendment by Representative Ed Markey to delete \$29.8 million requested in the Department of Energy for a new facility to produce plutonium pits for nuclear weapons.
- An amendment by Representative Jim Matheson to require congressional authority for renewed nuclear testing.
- An amendment by Representative Adam Schiff to add \$200 million to Department of Energy non-proliferation programs.
- An amendment by Representative Norm Dicks also to require the Defense Department to follow a formal process in making new rules for civilian personnel in DOD, to consult unions about the rules, and to allow congressional review.
- An amendment by Representatives Jay Inslee and Chris Van Hollen to provide specified civil service protections for civilian defense employees.
- An amendment by Representative Joel Hefley, to provide a right of appeal and some other protections to groups of as few as 10 federal employees whose jobs are being studied for privatization.

- An amendment by Representative Tom Lantos to require federal agencies to make up lost wages of employees who are military reservists mobilized for service, and to establish a cost-sharing plan with state and local governments to eliminate losses for state and local government employees.
- An amendment by Representative Jose Serrano to provide health screening for military personnel exposed to depleted uranium.

Amendments Agreed To.

Of the amendments made in order, selected amendments that the House agreed to include

- An amendment by Representative Virgil Goode to allow military personnel to assist in border protection (231-191);
- An amendment by Representative Duncan Hunter expressing the sense of Congress concerning the abuse of persons in custody in Iraq (416-4);
- An amendment by Representative Kendrick Meek to require the Secretary of Defense to identify mission-critical information that should be transmitted immediately from the field to senior Defense Department officials and to set up mechanisms to transmit such information;
- An amendment by Representative Alcee Hastings that expresses the sense of Congress that no funds available to any department or agency of the United States government may be used to provide assistance for the reconstruction of Iraq unless the President certifies to Congress that the United States has entered into an agreement with the Iraqi Governing Council or a transitional government in Iraq under which Iraq agrees that it will expend a significant portion of its revenues generated from oil production for reconstruction;
- An amendment by Representative Curt Weldon expressing the sense of Congress that the Secretary of Defense should assist the Iraqi government in destroying the Abu Ghraib prison and replacing it with a modern detention facility (308-114);
- An amendment by Representative Ike Skelton on behalf of Representative Louise Slaughter and others, requiring the Secretary of Defense to develop a comprehensive policy for the Department of Defense on the prevention of and response to sexual assaults involving members of the Armed Forces and requiring DOD to take related measures to address sexual assaults involving members of the Armed Forces (410-0);

- An amendment by Representative Norm Dicks requiring the Air Force to enter into a contract to acquire KC-767 tanker aircraft by March 1, 2005 (in Hunter en bloc amendment);
- An amendment by Representative Alcee Hastings to add \$100 million for Department of Energy cleanup (in Hunter en bloc amendment);
- An amendment by Representative Donald Manzullo to require the job creation in the United States be a factor in determining contract awards (in Hunter en bloc amendment);
- An amendment by Representative Curt Weldon to give rural firefighting agencies priority in acquiring excess defense property (in Hunter en bloc amendment);
- An amendment by Representative Henry Brown to give state and local health agencies priority in acquiring excess defense property (in Hunter en bloc amendment);
- A second amendment by Representative Henry Brown to require the Secretary of Defense to consider establishing a joint medical care facility with the Veteran's Administration when requesting funds for health facility construction (in Hunter en bloc amendment);
- An amendment by Representative Brian Baird requiring the Defense Department to study and issue a report to Congress on mental health services available to U.S. military personal deployed to combat theaters (in Hunter en bloc amendment);
- An amendment by Representative Zach Wamp making changes to the Energy Employees Occupational Illness Compensation Program; and
- An amendment by Representative Jim Ryun requiring the Secretary of Defense to initiate senior officer official educational programs with Taiwan (290-132).

Amendments and Motion to Recommit Rejected.

Of the amendments made in order under the rule, the House rejected

- An amendment by Representative Susan Davis to repeal the prohibition on servicewomen and female military dependents receiving abortions, even when paid for privately, at overseas military hospitals (202-221);
- An amendment by Representative Mark Kennedy to delete the provision in the House committee bill that would delay military base closures until 2007 (162-259); and

- An amendment by Representative Ellen Tauscher to reduce funds for the Robust Nuclear Earth Penetrator nuclear warhead and other new nuclear weapons R&D by \$36.6 million, the total amount requested, and to transfer the funds to intelligence programs and conventional weapons to defeat hardened and deeply buried targets (204-214).

The House also rejected by a vote of 202-224 a motion to recommit offered by Representative Henry Waxman. The motion instructed the Armed Services Committee to report back a bill including a sense of the Congress statement that the House should appoint a select committee to investigate the treatment of detainees held in connection with Operation Iraqi Freedom, Operation Enduring Freedom, or any other operation related to the Global War on Terrorism.

Senate Defense Authorization Markup

The Senate Armed Services Committee finished marking up its version of the FY2005 defense authorization bill (S. 4200) on May 6. Some highlights of the committee-reported version of the bill include

Military Personnel End-Strength, Pay, and Benefits.

- Gave the Secretary of Defense authority to increase Army active duty end-strength by up to 30,000 through FY2009. The committee did not, however, increase permanent statutory end-strength.
- Approved the requested pay raise of 3.5% for uniformed personnel.
- Increased the Family Separation Allowance from \$100 to \$250 per month and increased Imminent Danger Pay from \$150 to \$225 per month. These measures make permanent increases that Congress approved last year in the FY2003 and FY2004 Iraq supplemental appropriations bills.
- Established a two-year demonstration program to allow non-deployed military reservists not eligible for employer-sponsored health insurance to sign up for health insurance through the military-run TRICARE program.
- Also established a new health insurance program, called TRICARE Reserve Select, under which reservists and their dependents may sign up for health insurance through TRICARE, with employees paying 28% of the cost, as in the federal civilian health program, if employers agree to cover the remaining cost, or 100% if employers do not cover part of the cost.
- Also made permanent a provision in the FY2004 Iraq supplemental that temporarily gave reservists earlier eligibility for pre-deployment medical care.

- Added \$400 million to the request for reserve medical care.
- Established a commission on the National Guard and Reserves.
- Required separate campaign medals for Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.
- Extended to all hospitalized personnel a provision in the FY2004 defense appropriations bill that eliminated a requirement that military personnel pay for meals while hospitalized for combat-related injuries.
- Directed the Secretary of Defense to establish a uniform policy on sexual assault.

Major Weapons Programs.

- Approved \$10.2 billion, approximately the amount requested, for missile defense programs, though the committee trimmed funds for kinetic interceptor development and added funds for ground-based mid-course defense and for additional Patriot PAC-3 missiles.
- Added \$35 million for cost overruns on the Space Based Infrared System-High early warning satellite and \$35 million for the Advanced Extremely High Frequency communication satellite.
- Approved the requested shift of funds from Comanche helicopter development to other Army aviation and related programs.
- Approved the requested \$905 million for Stryker medium armored vehicle procurement.
- Approved the requested \$3.2 billion for Army Future Combat System development.
- Approved requested funds for three DDG-51 destroyers, one Virginia-class submarine, one LPD-17 amphibious ship, and two T-AKE auxiliary ships.
- Added \$150 million as the first increment of funding for procurement of the first of the new LHA(R)-class of amphibious assault ships.
- Approved \$1.5 billion, as requested, for DD(X) destroyer development, including \$221 million in the R&D accounts for design and the start of production of the first ship of the class, and added \$99.4 million to accelerate design of the second ship.

- Approved \$1.5 billion, as requested for Littoral Combat Ship (LCS) development, including \$107 million for design and the start of production of the first ship of the class.
- Authorized \$2.9 billion for 42 Navy/Marine F/A-18E/F aircraft, as requested.
- Approved \$3.6 billion for F-35 Joint Strike fighter development, adding \$15 million for the short-takeoff variant.
- Approved \$3.4 billion for 22 F/A-22 fighters, a reduction of \$280 million and 2 aircraft from the request.
- Authorized \$708 million, as requested, for the Joint Unmanned Combat Air vehicles program.

Other Key Actions.

- Added substantial amounts for force protection and related measures, including \$925 million for up-armored Humvees and add-on armor (the Administration requested \$163 million for 818 up-armored Humvees), \$603 million for force protection gear and combat clothing, and \$107 million for the Army Rapid Fielding Initiative (designed to deploy high priority items rapidly to the soldiers in the field) and for Army and Marine individual equipment.
- Provided \$11 billion, an increase of \$445 million over the request, for basic and applied research.
- Approved \$409 million, as requested, for the Cooperative Threat Reduction program that finances programs to safeguard or eliminate weapons in the former Soviet Union. Also allowed funding for a chemical demilitarization plant in Russia about which there has been a longstanding disagreement between the House and Senate.
- Approved \$1.3 billion, as requested, for Department of Energy non-proliferation programs.
- Approved requested funding for the Robust Nuclear Earth Penetrator and for other nuclear weapons R&D.
- Approved a potentially controversial legislative measure regarding handling of radioactive waste at the Savannah River nuclear plant.
- Agreed to an Administration request to increase a legislative cap on U.S. military personnel in Colombia from 400 to 800 and to increase the cap on contractors from 400 to 600.

Senate Defense Authorization Floor Action

The Senate began floor action on S. 2400 on May 17, when it approved an amendment by Senator Hutchison to authorized medical and dental care for military academy cadets and midshipmen. Through the rest of that week, the Senate disposed of only a few more amendments, in part because members of the Armed Services Committee were involved in hearings on the Iraq prison abuse scandal. The Senate resumed debate on June 2. The Senate continued floor debate on the bill the weeks of June 14 and June 21, picking up its pace, adopting 36 amendments and rejecting 2, with 34 amendments pending as of June 23. On June 22, a cloture motion was filed with a vote expected on June 24 about whether to cut off debate. Late on June 23, however, the Senate passed the bill by 97 to 0.

Amendments Agreed To.

The Senate cleared a number of technical amendments that were agreed to by both sides and also agreed to an amendment by Senators John Warner and Ted Stevens to authorize \$25 billion for military operations in Iraq and Afghanistan. Selected substantive measures agreed to included amendments

- By Senator Pete Domenici, S.Amdt. 3192, to accelerate non-proliferation measures aimed at removing and safeguarding fissile materials abroad (May 19, voice vote);
- By Senator Robert Byrd, S.Amdt. 3212, to increase the authorized size of the defense acquisition work force by 15% over the next three years (May 19, voice vote);
- By Senators Tom Daschle and Lindsey Graham, S.Amdt. 3258, to allow all non-deployed reservists to receive health insurance for themselves and their dependents through the military TRICARE program, with the federal government paying the employer share of costs (June 2, 70-25);
- By Senators John Warner, Carl Levin, and Ted Stevens, S.Amdt. 3260, to authorize \$25 billion in contingent emergency funds for operations in Iraq and Afghanistan (June 2, 95-0);
- By Senator Ron Wyden, S.Amdt. 3305, to require that federal employees, rather than contractor personnel, oversee acquisition contracts (June 14, unanimous consent);
- By Senator Christopher Dodd, S.Amdt. 3312, to provide reimbursements for protective, safety, or health equipment purchased by or on behalf of service members deployed in connection with Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom (June 14, 91-0);
- By Senators Edward Kennedy and Saxby Chambliss, S.Amdt. 3257, to require public-private competitions and establish other regulations

governing outsourcing of Defense Department functions with more than 10 civilian employees (June 14, unanimous consent);

- By Senators Susan Collins and Carl Levin, S.Amdt. 3224, to provide civilian personnel with bid protest rights in outsourcing competitions (June 14, unanimous consent);
- By Senator John Warner Amendment, S.Amdt. 3432, to name the bill in honor of Ronald W. Reagan (June 14, unanimous consent);
- By Senator Tom Harkin S.Amdt. 3316, expressing the sense of the Senate that Armed Forces Radio and Television Service programming should be balanced (June 14, unanimous consent);
- By Senator Harry Reid, S.Amdt. 3307, to require that any plan for compensation to individuals in military prisons in Iraq include provisions for compensation to former prisoners of war held by the regime of Saddam Hussein (June 14, unanimous consent);
- By Senators Gordon Smith and Edward Kennedy, S.Amdt. 3183, to provide Federal assistance to States and local jurisdictions to prosecute hate crimes, including crimes against gays (approved June 15, 65-33);
- By Senator Richard Durbin, S.Amdt. 3386, to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment (approved June 16, voice vote);
- By Senators Jeff Sessions and Charles Schumer, S.Amdt. 3372, to extend military extraterritorial jurisdiction to cover not only personnel and contractor personnel of the Department of Defense, but also personnel and contractor personnel of any federal agency or provisional authority supporting the mission of the Department of Defense overseas (approved June 16, unanimous consent);
- By Senator Patty Murray, S.Amdt. 3427, to facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom (approved June 17, voice vote);
- By Senator John Warner, a second degree amendment, S.Amdt. 3453, to require the Secretary of Defense to prescribe and apply criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense program — in adopting the Warner amendment the Senate rejected an to an amendment by Senator Jack Reed, S.Amdt. 3354, to require the Director of Operational Test and Evaluation to prescribe and oversee operational tests (approved, June 17, 55-44);

- By Senator Jack Reed, S.Amdt. 3352, to increase Army active duty end-strength for FY2005 by 20,000 to 502,400 (approved June 17, 93-4);
- By Senator Tom Daschle, S.Amdt. 3202, to provide relief for mobilized military reservists from certain federal agricultural loan obligations (approved June 17, unanimous consent);
- By Senators John Ensign, Lindsey Graham, and Saxby Chambliss, S.Amdt. 3440, to protect documents relating to the United Nations Oil for Food program with Iraq and to require a GAO report on the program (approved June 17, unanimous consent);
- By Senators Hilary Clinton and James Talent, S.Amdt. 3163, to improve medical tracking and pre-deployment medical treatment of reservists (approved June 17, unanimous consent);
- By Senator Diane Feinstein, S.Amdt. 3172, to state the sense of the Senate that perchlorate contamination is a health problem (approved June 17, unanimous consent);
- By Senator Christopher Bond, S.Amdt. 3245, to require two reports on operation of the Federal Voting Assistance Program and the military postal system together with certain actions to improve the military postal system (approved June 17, unanimous consent);
- By Senator Ben Campbell, S.Amdt. 3237, to equalize procedures applied to Army personnel in Korea with procedures applied elsewhere in awarding the Combat Infantryman Badge and the Combat Medical Badge (approved June 17, unanimous consent); and
- By Senator Bill Nelson, S.Amdt. 3279, to require a report on any relationships between terrorist organizations based in Colombia and foreign governments and organizations (approved June 17, unanimous consent);
- By Senators Durbin, Mikulski, Landrieu, Murray, Dayton, and Corzine, S.Amdt. 3196, to ensure reservists who are federal employees will not lose pay if mobilized for active duty (approved June 18, unanimous consent);
- By Senator Reid, S.Amdt. 3297 as modified, to eliminate the phase-in of concurrent receipt for those veterans with a disability rating of 100% that Congress established last year (approved June 18, unanimous consent);
- By Senator Warner, S.Amdt. 3458 as modified, to express sense of Congress to continue current policy that there be no media coverage of the return to the United States of remains of deceased service members (approved June 21, 52 to 38);

- By Senator Brownback, S.Amdt. 3464, to increase penalties tenfold for indecent language broadcast on television or radio (approved June 22, 99-1);³
- By Senator Dorgan, S.Amdt. 3235, to repeal FCC regulations published in 2003 that generally loosened ownership restrictions for television and radio media companies; amendment retains current 39% limit on the size of the national audience that was adopted in P.L. 108-199 (FY2004 Consolidated Appropriations Act) (approved June 22);⁴
- By Senator Reid (for Hollings), S.Amdt. 3466, to protect children from violent programming (approved June 22);
- By Senator Warner (for McCain), S.Amdt. 3461, to allow the Secretary of Defense to exempt from Buy American restrictions seven countries who have “declaration of principles” agreements with the United States regarding reciprocal procurement of defense items (approved June 22, 54-46);
- By Senator Levin (for Boxer), S.Amdt. 3367, to exempt abortions of pregnancies due to rape or incest from the prohibition against using DOD funds (part of en bloc amendments approved on June 22);
- By Senator Warner (for McCain), S.Amdt. 3319, to repeal several reporting requirements on identifying and assessing essential items in the defense industrial base that were adopted in last year’s defense authorization act (part of en bloc amendments approved on June 22);
- By Senator Warner (for McCain), S.Amdt. 3441, to prohibit acquisition of Air Force tanker refueling aircraft until 60 days after currently required studies are completed and to require the Secretary of Defense to certify that acquisition complies with all applicable laws, Office of Management circulars, and regulations (part of en bloc amendments approved on June 22);
- By Senator James Inhofe, S.Amdt. 3198, to increase from \$150 million to \$250 million the amount of assistance the United States may provide to Iraqi and Afghan military and security forces (part of en bloc amendments approved on June 22);

³ For more detail, see CRS Report RL31925, *Regulation of Broadcast Indecency: Background and Legal Analysis* by Angie Welborn and Henry Cohen.

⁴ For more detail, see CRS Report RL31925, *FCC Media Ownership Rules: Issues for Congress* by Charles B. Goldfarb; see also, BNA, *Daily Report for Executives*, “Senate Gets Tough on Media Ownership, Indecency, but Prospects Dim in Conference.”

- By Senators Clinton, Leahy, and Kennedy, S.Amdt. 3204, to require a Comptroller General report on closure of Department of Defense dependent elementary and secondary schools and commissary stores. (part of en bloc amendments approved on June 22);
- By Senator Bond, S.Amdt. 3384, as modified, to include certain former nuclear weapons workers in a group receiving benefits under the Energy Employees Occupational Illness Compensation Program and to provide for disposal of excess stocks (agreed to on June 23);
- By Senator Warner (for McConnell), S.Amdt. 3472, to require a report on the stabilization of Iraq , including efforts to enlist the support of other nations (approved by a vote of 71 to 27 on June 23);
- By Senators Landrieu and Snowe, S.Amdt. 3315 as modified, to phase in increases in survivor benefits over 3½ years (agreed to on June 23);
- By Senator Bingaman, S.Amdt. 3459 as modified, to require reports on detainment of foreign nationals held by DOD for more than 45 (agreed to on June 23);
- By Senator Daschle, S.Amdt. 3468 to S.Amdt. 3409, to assure funding increases for veterans health care sufficient to cover increases in population and inflation (agreed to on June 23 after a motion to waive a point of order against S.Amdt. 3409 was rejected by a vote of 49-49); and
- By Senator Reid (for Leahy), S.Amdt. 3387, stating that it is U.S. policy that foreign prisoners be treated according to standards the United States would regard as legal if applied by an enemy against American prisoners, that U.S. officials are bound by laws against torture and abuse, and that cases against prisoners at Guantanamo be pursued expeditiously and requiring that the Administration provide various information to Congress, including a schedule for military commissions at Guantanamo, all International Red Cross reports regarding treatment of prisoners in current operations, and a report setting forth all approved interrogation techniques (motion to table failed June 23, 45-50, and amendment was subsequently agreed to).

Amendments Rejected.

The most high-profile debate in the Senate's first week of action on the authorization was about an amendment by Senators Trent Lott, Byron Dorgan, and others to delay domestic military base closures by two years that the Senate narrowly rejected. Another major debate concerned a provision in the bill to allow nuclear waste at the Savannah River nuclear plant in South Carolina to be redefined as low-level waste that could be stored indefinitely on site, but the Senate rejected an amendment by Senator Maria Cantwell to delete provisions backed by the Department of Energy from the bill. A key debate the week of June 14 was over a

proposal by Senators Edward Kennedy and Diane Feinstein to eliminate funds for the Robust Nuclear Earth Penetrator nuclear warhead and other new nuclear weapons, which the Senate also rejected.

Amendments rejected include

- An amendment by Senators Trent Lott, Byron Dorgan, Olympia Snowe, Diane Feinstein, Thad Cochran, and Tom Daschle, S.Amdt. 3158, to delay by at least two years the next round of domestic military base closures, to permit only bases abroad to be closed in 2005, and to provide that Congress must renew authority for base closures to occur in 2007 by approving a joint resolution to be considered under expedited procedures (rejected May 18, 47-49).
- An amendment by Senator Frank Lautenberg and others, S.Amdt. 3151, to strengthen measures designed to prevent U.S.-based companies from engaging in business with nations found to sponsor international terrorism (rejected May 19, 49-50);
- An amendment by Senators John Kyl and John Coryn, S.Amdt. 3191, to raise funds for defense programs by imposing an excise tax on lawyers fees exceeding \$20,000 per hour in tobacco cases (rejected May 19, 39-62);
- An amendment by Senator Maria Cantwell, S.Amdt 3261, to eliminate a provision in the committee version of the bill that would allow the Department of Energy to reclassify certain waste at the Savannah River, South Carolina, nuclear weapons production plant as low-level waste that can be stored indefinitely on-site (not agreed to June 3, 48-48);
- An amendment by Senators Edward Kennedy and Diane Feinstein, S.Amdt. 3263, to prohibit the use of funds for new nuclear weapons development under the Stockpile Services Advanced Concepts Initiative or for the Robust Nuclear Earth Penetrator (RNEP) (rejected June 15, 42-55);
- By Senator Christopher Dodd, S.Amdt. 3313, to prohibit the use of contractors to seek intelligence from military detainees and to establish limitations on the transfer of custody of prisoners of the Department of Defense (tabled June 16, 54-43);
- By Senator Patrick Leahy, S.Amdt. 3292, to stiffen penalties against profiteering and fraud in contracts for military operations support, post-war relief, or reconstruction (rejected June 16, 46-52);
- By Senator Barbara Boxer, S.Amdt. 3368, to allow deployment of the ground-based midcourse defense element of the national ballistic missile defense system only after the mission-related capabilities of

the system have been confirmed by operationally realistic testing (rejected June 17, 42-57);

- By Senator Jack Reed, S.Amdt. 3354, to require the Director of Operational Test and Evaluation to prescribe and oversee operational tests of ballistic missile defense systems (rejected when the Senate agreed to the Warner 2nd degree substitute, June 17, 55-44); and
- By Senator Joseph Biden, S.Amdt. 3379, to provide funds for the security and stabilization of Iraq by suspending a portion of the reduction in the highest income tax rate for individual taxpayers (rejected June 17, 44-53).

- By Senator Lautenberg, S.Amdt. 3291, to require that the Secretary of the Defense develop a protocol to permit media coverage of the return of remains of service members who die overseas (rejected June 21, 39 to 54);

- By Senator Levin, S.Amdt. 3338, re-allocate funds from Ground-based Midcourse interceptors in the missile defense program to nuclear nonproliferation activities in the Department of Energy's Global Threat Reduction Initiative program, and to anti-terrorism/force protection programs (rejected June 22, 44 to 56);

- By Senator Dayton, S.Amdt. 3197, to restore current Buy American restrictions by deleting Sections 842 and 843 in the reported version of the bill that had allowed the Secretary of Defense to exempt some 21 countries who had memorandums of understanding with the United States about defense trade (rendered moot June 22 by passage of the Warner (McCain) S.Amdt. 3461);

- By Senator Levin (for Kennedy), S.Amdt. 3377, to require reports on the efforts of the President to stabilize Iraq and relieve the burden on members of the Armed Forces of the United States deployed in Iraq and the Persian Gulf region (rejected June 23, 48-50);

- By Senator Reed, S.Amdt. 3353, to limit the obligation and expenditure of funds for the Ground-Based Midcourse Defense program pending the submission of a report on operational test and evaluation (rejected June 23, 45-53);

- By Senator Levin (for Byrd), S.Amdt. 3423, to reduce authority provided in the committee bill for U.S. military personnel in Colombia from 800 to 500 and for contractor personnel from 600 to 500 (rejected June 23, 40-58);

- By Senators Leahy and Corzine, S.Amdt. 3485 (to S.Amdt. 3387), to direct the Attorney General to submit to the Committee on the Judiciary of the Senate all documents in the possession of the Department of Justice relating to the treatment and interrogation of

individuals held in the custody of the United States (rejected June 23, 46-50);

- By Senator Levin (for Corzine), S.Amdt. 3303, to reduce the age for receipt of military retired pay for nonregular service from 60 to 55 (rejected when a motion to waive a point of order that the measure violated provisions of the Budget Act by increasing mandatory spending was not upheld June 23, 49-49); and
- By Senator Reid (for Daschle), S.Amdt. 3409, to assure that funding is provided for veterans health care each fiscal year to cover increases in population and inflation (rejected when a motion to waive a point of order that the measure violated provisions of the Budget Act by increasing mandatory spending was not upheld June 23, 49-48).

House Defense Appropriations Markup

The House Appropriations Committee marked up its version of the FY2005 defense authorization bill on June 16 and reported H.R. 4613 on June 18, 2004 (H.Rept. 108-553). Some highlights of the committee-reported version of the bill include the following.

Iraq and Afghanistan Costs.

- The committee provided \$25 billion to cover part of the costs of operations and Afghanistan — the committee would make the money available on enactment of the bill, so some of the funds could be used to cover costs in FY2004 as well as FY2005. The committee did not agree to the Administration request to provide all of the funds in a flexible account that would allow the Secretary of Defense to transfer money to activities without prior congressional approval. The committee also required quarterly reports on the use of the funds.

Military Personnel End-Strength, Pay, and Benefits.

- Provided funding for a military pay raise of 3.5% and for housing allowances and other benefits as approved in the House authorization.
- Within the \$25 billion for Iraq and Afghanistan, included funds for Army and Marine Corps end-strength increases as approved in the House authorization.
- Cut \$499.7 million from military personnel accounts to reflect perennial underexecution of military personnel programs in prior years, as reported by the General Accounting Office.

Major Weapons Programs.

- Added \$2.2 billion for what the committee describes as an initiative to “recapitalize” Army and Marine Corps ground forces. The increases included \$950 million, doubling the amount requested, to procure Stryker armored personnel carriers and associated equipment sufficient to stand-up an additional Stryker brigade, \$350 million for other armored combat vehicles, \$503 million for helicopters, \$390 million for trucks and other support vehicles, and \$52 million for the ammunition production base.
- Provided \$9.7 billion for missile defense, \$458 million below the request. The committee indicated overall support for the program, but said that the remaining funds provide a sufficient increase over last year’s program. The committee also rescinded \$31.5 million due to termination of a joint satellite program with Russia (called RAMOS) and \$74.7 million due to restructuring of the Airborne Laser program.
- Cut the Army’s request for \$3.2 billion for Future Combat System development by \$324 million, \$79 million more than the House authorization. Most of the reduction was in what the committee described as management overhead, but the committee also cut \$76 million from the non-line of sight launch system (NLOS-LS), terminating the project. The committee continued full funding for the non-line of sight cannon (NLOS-C) program, however.
- Provided \$165 million, \$76 million more than requested, to fully fund construction of a Theater Support Vessel in Army R&D accounts.
- Agreed with the House authorization in trimming \$248 million from the DD(X) R&D program, including funds to begin constructing the first ship.
- In place of DD(X) construction, the committee added \$125 million in advance procurement for one additional DDG-51 destroyer to be fully funded in the FY2006 or FY2007 budgets.
- Did not agree with the House authorization cut of \$107 million for construction of the first Littoral Combat Ship. Instead, the committee added \$107 million to the program to fully fund the cost of building the first ship, though it cut \$50 million for design of the second ship of the class, saying it was redundant.
- Eliminated \$44 million requested for R&D on the LHA(R) amphibious ship program and provided no funds for procurement, rejecting the addition of \$150 million for LHA(R) advance procurement recommended in the House and Senate authorization bills.

- Supported procurement of 24 F/A-22 fighters, as requested.
- Provided \$4.4 billion for F-35 Joint Strike Fighter R&D funding, a reduction of \$240 million to reflect delays that are anticipated in view of problems in controlling aircraft weight. Also prohibited obligation of \$1.4 billion of the funds until DOD reports to Congress on plans to adjust the program following an independent review.
- Objected strongly to provisions in multi-year procurement contracts the Air Force negotiated to purchase C-17 and C-130 aircraft, saying that they violate rules requiring full funding of the total cost of useable end-items of equipment.⁵ The committee revised requirements in the annual appropriations bill governing multi-year procurement and shifted \$159 million from C-17 upgrades to fully fund 15 aircraft, one more than requested.
- Provided \$100 million in a “Tanker Replacement Transfer Fund” available to acquire KC-767 tanker aircraft whenever the status of the program warrants acquisition.
- Added \$91 million for the Space Based Infrared System-High (SBIRS-High) program, more than the \$35 million the House and Senate authorizers added. Agreed, with minor variations, to cuts the authorizers made in the Transformational Communications Satellite and the Evolved Expendable Launch Vehicle (EELV). In report language, the committee said that two contractors for the EELV may not be justified.
- Provided \$75 million for the Space Based Radar program, \$253 million below the request, effectively terminating the program, with the remaining funds to be used for alternative technologies and concepts.
- Added \$50 million for new bomber development, half what the House authorization added.

Other Key Actions.

- Added \$900 million, close to amounts approved in prior years, for unrequested, earmarked medical R&D projects, including breast cancer and prostate cancer research.

⁵ For an extensive discussion of recent debates over “full funding” *versus* “incremental funding, with historical background on the full funding requirement, see CRS Report RL31404, *Defense Procurement: Full Funding Policy — Background, Issues, and Options for Congress*, by Ronald O’Rourke and Stephen Daggett.

- Added \$500 million in operation and maintenance accounts to redress shortfalls identified by the military services in short-term, readiness-related areas.
- Cut operation and maintenance accounts by \$415 million to reflect under-obligation of O&M funds in prior years, by \$335 million for assumed efficiencies in administrative and related activities; by \$86 million to eliminate growth above inflation in requested funds for base operations support, by \$92 million for overstated civilian pay requirements, by \$177 million to reflect a slower rate than estimated in converting jobs from uniformed positions to civilian ones, by \$316 million in working capital funds to reflect cash balances and purchases that will not be necessary, by \$967 million of excess cash balances in the transportation working capital fund, by \$300 million for overstated requirements for outside contracts, by \$100 million for unnecessary payments to contractors for taxes, and by \$55 million for overestimated civilian separation incentives.
- Added \$25 billion for operations in Iraq and Afghanistan. The committee provided almost all of the funds in regular appropriations accounts except for \$2.978 billion in the Iraq Freedom Fund, a flexible transfer account. Of the \$2.978 billion, however, \$1.978 is available only for classified programs described in an annex to the report, so only \$1 billion is available as flexible funding.
- In a manager's amendment during the full committee markup, the committee added \$685 million to the emergency funding for Iraq for State Department operations and also added \$95 million in emergency funds for famine relief and refugee assistance in Sudan and Chad.

House Defense Appropriations Floor Action

On June 22, the House voted to pass H.R. 4613, the FY2005 DOD Appropriations Act by 403 to 17. Before the bill was passed, however, controversy erupted over H.Res. 683, the rule to consider H.R. 4613, which, as proposed by the Rules Committee, included placeholder language that would allow the conferees to raise the ceiling on the national debt as part of the bill rather than requiring a separate vote (H.Rept. 108-559). The vote on the rule, H.Res. 683, was 220 to 196.⁶

The House then adopted the Lewis *en bloc* amendment requiring several reports from DOD, including one on reducing the dud rate of cluster munitions, another on contracts for security, translation, and interrogation services in Iraq, Afghanistan, or Guantanamo Bay, as well as requiring notification to the International Relations, Foreign Relations, and the defense committees before providing assistance to Iraqi and Afghan military and security forces. The House rejected an amendment by

⁶ *Congressional Record*, June 22, p. D670.

Congressman Inslee that would have prohibited the use of funds for implementing reforms of DOD's civilian personnel system.⁷ Five amendments were withdrawn.

Senate Defense Appropriations Markup

Military Personnel End-Strength, Pay, and Benefits.

- Provided funding for a military pay raise of 3.5% and for housing allowances and other benefits as approved in the Senate authorization.
- Within the \$25 billion for Iraq and Afghanistan, included funds for an increase in Army end-strength of 20,000 as approved in the Senate authorization.
- Cut \$375 million from military personnel accounts to reflect perennial underexecution of military personnel programs in prior years, as reported by the General Accounting Office.
- Cut \$93.8 million from military personnel accounts to reflect the planned end of U.S. operations in Bosnia in December 2004.

Major Weapons Programs.

- Provided \$865 million, out of the \$25 billion in emergency funding added for Iraq and Afghanistan, for an Army "Rapid Response Force Protection Initiative." The funds may be used for up-armored Humvees, bolt on armor kits, armored cabs, or other related purposes. Also provided \$240 million for Marine Corps vehicle hardening.
- Provided \$10.2 billion, about the amount requested, for missile defense programs. Added \$80 million for the Israeli Arrow program. Agreed to terminate the U.S.-Russian RAMOS program, but allocated \$5 million for a follow-on program. Added \$163.5 million for Ground-Based Midcourse Defense. Cut \$252 million, about half the amount requested, from the Ballistic Missile Defense System Interceptor program, a program to develop a very high acceleration, mobile booster and warhead for land- and sea-basing and to explore space-based interceptors.
- Provided the full \$3.2 billion requested for Army Future Combat System development. The committee specifically approved continued funding for the non-line of sight launch system (NLOS-LS), which the House committee wants to terminate.
- Provided \$905 million, as requested, for Stryker armored vehicle procurement — the House bill added \$950 million.

⁷ *Congressional Record*, June 22, p. H4722.

- Approved \$221 million for construction of the first DD(X) destroyer, but moved the money from R&D to procurement. The House committee eliminated the funds. Also added \$99 million for design of the second ship of the class, following the Senate authorization.
- Provided \$107 million in R&D, as requested, for construction of the first prototype Littoral Combat Ship — the House committee provided an additional \$107 million to fully fund construction.
- Added \$175 million for LHD(R) advance procurement — the House committee provided no funds, while both authorization bills approved \$150 million.
- Supported procurement of 24 F/A-22 fighters, as requested.
- Provided full funding, as requested, for Navy and Air Force development of the F-35 Joint Strike Fighter — did not concur with House cuts due to delays.
- Provided \$110 million for tanker aircraft replacement, but did not specify whether the funds were for KC-767s, in effect leaving the issue for authorizers to decide.
- Provided \$508 million for development of the Space-Based Infrared System-High (SBIRS-High), but did not add \$91 million, as the Air Force had requested and the House agreed.
- Provided \$228 million for the Space-Based Radar program, \$100 million below the request. The committee did not agree with House cuts that would effectively terminate the program.
- Provided \$375 million for the Transformation Communications Satellite, \$400 million below the request. The House cut \$100 million.
- Provided \$511 million for the Evolved Expendable Launch Vehicle, \$100 million below the request due to launch delays. The House cut \$91 million.
- Provided \$557 million for development of a replacement Marine One helicopter, \$220 million below the request, as in the House.

Other Key Actions.

- Added about \$650 million for earmarked medical R&D programs, about half the amount in the House bill. Of this amount \$200 million for cancer research, including peer-reviewed breast cancer, prostate cancer, and other cancer research, was provided in a single block, and the committee directed the Defense Department to allocate the funds. In the past, most such funds have been

earmarked for specific diseases. Also provided \$50 million in a similar block for other peer-reviewed medical R&D programs.

- Cut \$478.2 million from operation and maintenance accounts to reflect the planned end of U.S. operations in Bosnia in December 2004.
- Provided \$25 billion for operations in Iraq and Afghanistan. The committee provided most of the funds in regular appropriations accounts, subject to normal procedures requiring congressional approval of transfers above certain thresholds. Provided \$2.5 billion in the flexible Iraq Freedom Fund.

Senate Defense Appropriations Floor Action

On June 24, the Senate took up the House-passed version of the FY2005 defense appropriations bill (H.R. 4613), substituted the terms of its committee-reported version of the bill (S. 2559), acted on a number of amendments, and then passed the amended version of H.R. 4613 by a vote of 98-0.

Amendments Adopted. The Senate adopted a number of amendments to add relatively small amounts for a number of specific projects. In addition, the Senate approved amendments

- By Senator Mike DeWine (S.Amdt. 3493) to provide \$95 million — as was provided in the House-passed bill — for humanitarian relief activities in Sudan and Chad (the Senate did not, however, add \$685 million, as the House did, for State Department operations in Iraq); and
- By Senator Robert Byrd (S.Amdt. 3502), expressing the sense of the Senate that the Administration should request funds for ongoing military operations, including operations in Iraq and Afghanistan, as part of the regular annual defense budget request rather than as supplemental appropriations (approved 89-9).

Amendment Rejected. The Senate also rejected one amendment

- By Senator Biden (S.Amdt. 3520) to increase the amount provided for humanitarian relief in Sudan and Chad to \$188 million (tabled, 53-42).

Issues for Congress

One issue was paramount in congressional debate about the FY2005 defense budget — whether Congress should provide funding for operations in Iraq and Afghanistan before early 2005, when the Bush Administration initially said it planned to request supplemental appropriations. In May, the Administration requested an

additional \$25 billion for Iraq and Afghanistan, which Congress subsequently approved in all versions of the annual defense authorization and appropriations bills. Congress did not, however, agree to provide the Administration with the extensive flexibility it wanted to allocate the money among accounts.

A number of other issues were also on the agenda, including some that were politically contentious this year and some with significant long-term defense policy implications. Among the key issues for Congress were

- To what extent budget deficits over the next few years might constrain defense spending;
- Whether Congress should require a substantial, temporary increase in active duty end-strength, particularly in the Army, to ease pressures on the force caused by operations in Iraq and Afghanistan;
- Whether the planned deployment of a missile defense test bed with a limited operational capability in September or October was scheduled primarily for political rather than for sound technical reasons;
- To what extent major weapons programs in all of the services may need to be reined in, both because of limits on overall defense spending and because of rapid cost growth in several big projects;
- How the Defense Department's change in longstanding regulations governing weapons acquisition procedures to permit what DOD calls "evolutionary acquisition" is affecting managerial controls and congressional oversight over major weapons programs;
- Whether Congress should provide additional military personnel benefits, including (1) access to DOD-provided health insurance for non-deployed military reservists and their dependents and (2) increased military retiree survivor benefits;
- Whether Congress should delay or restrict a new round of base closures planned in calendar year 2005;
- The status of Pentagon plans to redeploy U.S. military forces stationed abroad and the implications for congressional oversight and defense budgets;
- How the Army plans to manage and to finance a far-reaching reorganization of its combat forces to increase the number of deployable combat brigades and to turn brigades, rather than divisions, into the major unit of action in future operations;
- How the Defense Department is restructuring its civilian personnel system following Congress's approval last year of the Pentagon's request for broad authority to reform civil service pay and performance rules;
- Whether Congress should approve the Defense Department's request for changes in environmental laws and regulations governing military training in addition to changes Congress approved last year;
- Whether Department of Energy plans to investigate new nuclear weapons — including low and variable yield weapons and earth penetration weapons — are strategically sound and in line with authority Congress provided last year;

- Whether Congress should require the Defense Department to begin acquiring Boeing KC-767 tanker aircraft; and
- Whether Congress should take steps to limit foreign military sales offsets or to strengthen “Buy American” requirements.

The following discussion provides brief background information on each of these issues and discusses congressional action to date.

Funding for Iraq and Afghanistan

The Administration did not initially request funding for ongoing operations in Iraq and Afghanistan in the regular FY2005 defense bills. Instead, officials said that they expected to request supplemental appropriations for overseas operations some time early in calendar year 2005, possibly when the FY2006 budget request is submitted at the beginning of February. After considerable debate in Congress, however, on May 12, 2004, the White House submitted an amendment to its FY2005 request in which it asked for \$25 billion to be appropriated into a reserve fund for operations in Iraq and Afghanistan in early FY2005.⁸

Two issues remained for Congress, however. One was whether Congress should appropriate more than \$25 billion, since costs in FY2005 are expected to total at least twice as much.⁹ Although there was considerable discussion about the issue, and several amendments were proposed to add money, the House- and Senate-passed versions of the authorization and appropriations bills all provided \$25 billion.

A second issue — and, in the end, the key one — was how much flexibility Congress would agree to provide the Administration in allocating additional funds. The Administration’s May 12 request would permit the Secretary of Defense, in consultation with the Office of Management and Budget, to allocate the funds to any budget account, requiring only that the Secretary notify Congress five days before transferring the funds. Many Members of Congress, including the leaders of the appropriations committees, said that they were not willing to provide so much flexibility and intended to ensure that funds are available only for specified activities (for a full discussion, see CRS Report RL32422, *The Administration’s FY2005 Request for \$25 Billion for Operations in Iraq and Afghanistan: Precedents and Options for Congress*, by Stephen Daggett and Amy Belasco).

The debate over funding for Iraq and Afghanistan began as soon as the Administration presented its budget request, when some legislators complained that the Administration’s failure to request money was intended to avoid a congressional debate about Iraq policy during the presidential election campaign, to obscure the war’s long-term costs, and to understate the size of projected federal budget deficits.

⁸ Office of Management and Budget, “Budget Amendment: \$25 Billion Contingent Emergency Reserve Fund (Department of Defense — Iraq Freedom Fund),” May 12, 2004, [http://www.whitehouse.gov/omb/budget/amendments/amendment_5_12_04.pdf].

⁹ In testimony before the Senate Armed Services Committee on May 13, 2004, Deputy Secretary of Defense Paul Wolfowitz said that costs in Iraq and Afghanistan are running at \$4.5-\$5 billion per month, an annual rate of \$50-\$60 billion.

The issue became particularly acute days later when Army Chief of Staff General Peter Schoomaker was asked about it in a Senate Armed Services Committee hearing on February 10. Schoomaker said he was “concerned ... on how we bridge between the end of this fiscal year and whenever we could get a supplemental in the next year. And I do not have an answer for exactly how we could do that.” General Michael Hagee, the Commandant of the Marine Corps, echoed Schoomaker’s concern.

In response, the next day, February 11, DOD Comptroller Dov Zakheim held a press briefing to explain that Pentagon leaders were sure they could meet Army and Marine Corps requirements into next Spring by “cash flowing” regular FY2005 appropriations.¹⁰ In FY2003, Zakheim said, the Defense Department was able to provide \$26 billion for Iraq war costs before Congress could approve supplemental appropriations; the money, he said, was mainly operation and maintenance funds that would otherwise not have been spent until the fourth quarter of the fiscal year. DOD and also the Office of Management and Budget (OMB), he said, were certain that they could manage FY2005 funding in a similar way. Zakheim also argued that it was appropriate to delay requesting funds for Iraq because of great uncertainty about costs, particularly following the planned transfer of sovereignty to an interim Iraqi government on June 30.

Subsequently, a number of related issues emerged.

- One issue is what precedents earlier wars provide. Last year, a CRS memo reported that the initial funding for most conflicts — from World War II, to Korea, to Vietnam, to the 1991 Persian Gulf War — was generally provided through supplemental appropriations.¹¹ That memo did not, however, address funding for wars after the initial phases. On that question, the precedents are mixed. While the Korean conflict was financed mainly with supplementals, World War II and Vietnam were funded both with supplementals and with regular appropriations. (For a review of methods used to fund operations since 1991, see CRS Report RL32141, *Funding for Military and Peacekeeping Operations: Recent History and Precedents*, by Jeff Chamberlin.) Vietnam therefore, is the most recent truly comparable example. In that case, the Administration first asked for a \$700 million supplemental for FY1965 in May of 1965; then for a \$1.7 billion addition to the regular FY1966 defense appropriations bill, which was requested as a budget amendment in the summer of 1965; and then, in January of 1966, as troop levels in Southeast Asia were climbing, a supplemental of \$12.3 billion for FY1966 and regular appropriations of \$10.3 billion for FY1967, both requested when the FY1967 budget was submitted. So, in the case of Vietnam, the Johnson Administration asked for emergency

¹⁰ DOD Comptroller Dov Zakheim, “Defense Department Special Briefing: Purpose Of Budget Supplementals,” February 11, 2004, available electronically at [<http://www.defense.link.mil/transcripts/2004/tr20040211-0440.html>].

¹¹ Stephen Daggett, “Budgeting for Wars in the Past,” Congressional Distribution Memo, updated March 27, 2003.

supplementals when necessary, but also requested funds in regular appropriations bills as soon as those bills were on the congressional agenda, even though troop levels were in flux and the duration of the conflict could not be foreseen.

- As the defense bills were being marked up, there was also some discussion in Congress about the adequacy of FY2004 funding for Iraq. In testimony before the House Armed Services Committee on April 21, 2004, General Richard Myers, the Chairman of the Joint Chiefs of Staff, said that the military services had identified a preliminary shortfall of about \$4 billion through the end of the fiscal year. He also said that the Defense Department was in the midst of a budget review which the service chiefs thought would be able to find enough money in, for example, underexecuting acquisition programs, to cover the shortfall. General Myers reiterated that assessment in testimony before the Senate Defense Appropriations Subcommittee on May 12, 2004. In its review of the issue, CRS found that FY2004 shortfalls could be substantial but that funds to cover costs are also available, so that the Defense Department may, indeed, be able to get through FY2004 (see CRS Report RL32381, *Adequacy of the Army's FY2004 Funding for Operations in Iraq*, by Amy Belasco). More recently, the Government Accountability Office calculated that the Defense Department was as much as \$12 billion short and would have to halt planned training and make other substantial changes in plans to pay the bills (Government Accountability Office, *Military Operations: Fiscal Year 2004 Costs for the Global War on Terrorism Will Exceed Supplemental, Requiring DOD to Shift Funds from Other Uses*, GAO-04-915, July 21, 2004). In the end, Congress made the \$25 billion it provided in emergency funds available immediately on enactment of the legislation, so funds were available in August, and the Administration tapped about \$2 billion for immediate costs.
- A final related issue is whether the Defense Department has requested enough money for everyday equipment for troops in Iraq and Afghanistan, including equipment for force protection — that is, for items such as up-armored Humvees, body armor, robots and other devices for coping with improvised explosive devices (IEDs), night vision goggles, and other equipment of immediate value to troops on the ground. Senator Jack Reed pointed to a Defense Department reprogramming request that would allocate \$619 million for urgent Iraq needs.¹² And in the April 21 House Armed Services Committee hearing with General Myers, Representative Curt Weldon cited a number of shortfalls in such equipment that the Army identified in its annual unfunded priorities list.

¹² Jonathan Weisman, “War May Require More Money Soon,” *Washington Post*, April 21, 2004.

Congressional Action. In all four versions of the annual defense bills, Congress agreed to provide \$25 billion as an initial down payment for costs of operations in Iraq and Afghanistan in FY2005. The House, Senate, and conference versions of the defense appropriations make the money available as soon as the bill is signed into law, which means that the money could be used not only for initial costs in FY2005, but also to cover any shortfalls in the remainder of FY2004.

The key issues to be resolved in the appropriations conference were how to divide up the money among Department of Defense appropriations accounts, how much to provide in a flexible transfer account that can be used to meet unanticipated expenses, how much “general transfer authority” to provide the Defense Department to move money between appropriations accounts (with advance congressional approval), and what reporting requirements to establish.

The House version of the appropriations bills provided somewhat more detail than the Senate bill in allocating the money among regular appropriations accounts and in specifying what weapons programs it approved, though the differences were relatively minor. The House bill provided \$2.978 billion in a flexible transfer account, called the Iraq Freedom Fund. Of the \$2.978 billion, however, \$1.978 billion was for classified programs described in an annex to the report, so only \$1 billion was available as flexible funding. The Senate bill technically provided all of the \$25 billion in the Iraq Freedom Fund, but it also set detailed floors and/or ceilings on amounts that could be transferred from the fund into regular appropriations accounts, leaving \$2.5 billion as flexible funding. The House bill also provided \$3 billion of general transfer authority for the entire FY2005 defense appropriations bill, including the \$25 billion in emergency funds. The Senate bill provided \$4 billion. Transfers of funds using general transfer authority are subject to detailed requirements governing the reprogramming of funds and require advance approval of the congressional defense committees.

The House appropriations bill required a number of reports on operations in Iraq and Afghanistan, including semiannual reports on the amounts spent by month, an assessment of progress, an assessment of the effects of operations on personnel recruitment and retention, monthly costs of equipment repair, the amounts and types of foreign support, and details of reserve mobilizations; a report by October 1, 2004, on projected costs from FY2006 through FY2011 or a certified statement by the President that a realistic projection of costs is not possible; quarterly reports on amounts used to provide transportation and other logistical support to allied nations providing forces in Iraq; and a list of all contracts for support of operations in Iraq, Afghanistan, and Guantanamo Bay.

The Senate appropriations bill required five-day advance notification to Congress of any transfer of funds into regular appropriations accounts under the terms of the bill; quarterly reports on cumulative transfers; quarterly reports on logistical and other support to allied nations; 15-day advance notification of support for the New Iraqi Army and the Afghan National Army; and quarterly reports on the use of funds for the Commander’s Emergency Response Program.

The appropriations conference agreement provides most of the \$25 billion in regular appropriations accounts, with report language further directing the allocation

of procurement and some operating funds in some detail. This is closer to the House than to the Senate approach. The agreement also provides \$3.8 billion in the flexible Iraq Freedom Fund, but \$1.8 billion of that is for specific classified programs, leaving \$2 billion in flexible funding. The conference bill also provides that \$1.5 billion of the \$25 billion for Iraq and Afghanistan may be transferred among accounts provided only that Congress is promptly notified of the transfer. The Iraq/Afghanistan title of the bill also increases FY2004 general transfer authority by \$700 million, from \$2.1 to \$2.8 billion. And the overall bill provides \$3.5 billion of general transfer authority — a substantial increase from amounts provided in recent years.

The conference agreement requires a number of reports on operations in Iraq and Afghanistan, including semi-annual reports, due on April 30 and October 31 of each year, on amounts expended for military operations and reconstruction in Iraq and Afghanistan in the previous six months, progress in preventing attacks on U.S. personnel, effects of operations on military readiness, effects on personnel recruitment and retention, costs for repair or equipment, types and extent of foreign support, and reserve mobilizations.

Deficits and the Defense Budget

Congressional debate about the FY2005 budget seems to mark a turning point of sorts. After several years in which mounting budget deficits were apparently of less interest in Congress than tax cuts, Medicare prescription drug coverage, and increased benefits for military retirees, old-time deficit cutting religion appeared to undergo a bit of a revival. The Administration proposed a budget plan which it said will cut the federal budget in half by FY2009, though there is considerable debate about whether it would actually accomplish that. In their versions of the FY2005 budget resolution, both the House and the Senate imposed somewhat tighter restrictions on total discretionary spending than the Administration, and the Senate voted to reimpose procedural restrictions, known as “PAYGO” rules, both on increases in mandatory programs and on reductions in revenues. Statutory PAYGO rules were first established by the Budget Enforcement Act of 1990, but expired after FY2002.

Battles over how to control federal deficits were fixtures of congressional budget debates from the time Congress approved the first Gramm-Rudman-Hollings deficit control act in November 1985 into the late 1990s. Congress passed revised measures to limit deficits in 1987, 1990, 1993, and 1997. It was only after 1998 that an economic boom, together with several rounds of tax increases and measures to limit spending, led, though only temporarily, to budget surpluses. The deficit battles, as well as the end of the Cold War, were a major factor affecting defense spending. Adjusted for inflation, the defense budget declined in real terms for 14 straight years, from FY1986 through FY1999, and began to turn up again only in FY2000 as deficit pressures eased.

The re-emergence of the deficit as an issue, therefore raises an obvious question: to what extent might ongoing efforts to control budget deficits eventually limit the amounts available for defense? This year, there was a serious debate in Congress about the total amount for defense for the first time in several years. In the Senate,

Budget Committee Chairman Don Nickles proposed, and the full committee reported, a budget resolution that reduced the recommended total for national defense by \$6.9 billion below the Administration request. In the House, Budget Committee Chairman Jim Nussle initially proposed a \$2 billion cut in defense in an attempt to make the point that everything — even defense — needed to be on the table to control long-term spending. While Congress did not, in the end, support cuts in defense, the long-term budget situation may raise the issue again in the future.

Congressional Action. In the Senate, the Budget Committee reported version of the annual budget resolution (S.Con.Res. 95) recommended \$415.2 billion for the national defense budget function (function 050), \$6.9 billion below the CBO reestimate of the Administration request (see **Table 4**). In a floor vote on March 10, however, the Senate approved an amendment by Senator John Warner to restore the funds. In the House, Budget Committee Chairman Jim Nussle dropped his proposal to recommend \$2 billion less for defense than the Administration requested. The House resolution (H.Con.Res. 393), as reported by the Budget Committee and as passed by the full House, recommended the requested level of funding for national defense, though \$2.6 billion of the request was shown in a new budget function for Homeland Security.

The conference agreement on the budget resolution provides \$472.2 billion for national defense in FY2005, including \$50 billion for overseas contingency operations. The House approved the budget resolution on May 20, and also approved a measure “deeming” the totals in the budget resolution to have been agreed to for purposes of subsequent House action on appropriations bills and other legislation. The Senate, however, never took up the budget resolution. This compelled the Senate to begin acting on FY2005 appropriations bills with the level of funding for total discretionary programs set at the level projected in the FY2004 budget resolution, which was \$814 billion in new budget authority. This was about \$8 billion below the level requested by the Administration and \$7 billion below the level approved in the “deeming” resolution in the House.

This caused some problems in the Senate, which came to a head in action on the defense appropriations bill. As a way of coping with the \$7 billion gap with the House, the Senate Appropriations Committee designated \$7 billion in the regular FY2005 defense appropriations bill as “emergency” funds. The effect was to allow allocations of funds to other, non-defense appropriations bills to equal the total in the House. If House conferees had accepted this approach, it would have freed up \$7 billion for additional funding for non-defense bills within the \$821 billion cap on discretionary funding. The House leadership objected. The solution was to include in the FY2005 defense appropriations bill a measure “deeming” a total of \$821 billion in discretionary budget authority to apply in the Senate as in the House. With Senate passage of the defense appropriations conference report, that level is now in effect. Ultimately, the defense appropriations conference agreement provided \$391.2 billion for regular Department of Defense programs, about \$1.7 billion below the Administration request.

Table 4. Congressional Budget Resolution Target for the National Defense Budget Function (050)
(millions of dollars)

	FY2004	FY2005	FY2006	FY2007	FY2008	FY2009
Administration Request (OMB Estimate)						
Budget Authority	460,547	423,098	444,016	464,787	485,812	508,150
Outlays	453,684	450,586	436,147	447,074	467,063	487,181
Administration Request (CBO Reestimate) /a/						
Budget Authority	463,604	422,157	445,708	466,709	487,999	510,429
Outlays	452,946	449,442	442,157	448,787	467,709	489,186
Senate Budget Committee Budget Resolution, Excluding Contingency Fund						
Budget Authority	463,604	415,257	445,708	456,148	467,482	479,494
Outlays	452,946	444,033	440,563	441,290	451,419	463,058
Senate-Passed Budget Resolution, Excluding Contingency Fund						
Budget Authority		422,157	445,708	456,148	467,482	479,494
Outlays		449,442	442,157	441,732	451,564	463,106
Senate-Passed vs Senate Budget Committee						
Budget Authority		+6,900	0	0	0	0
Outlays		+5,409	+1,594	+442	+145	+48
Senate-Passed vs. CBO Reestimate of Request						
Budget Authority		0	0	-10,561	-20,517	-30,935
Outlays		0	0	-7,055	-16,145	-26,080
House-Passed Budget Resolution, Excluding Allowance for Iraq Supplemental /b/						
Budget Authority	461,544	419,634	442,400	464,000	486,149	508,369
Outlays	451,125	447,114	439,098	445,927	465,542	487,186
House Alternative, Cummings, Congressional Black Caucus						
Budget Authority		408,486	430,694	451,728	473,293	494,923
Outlays		439,979	428,774	434,219	453,061	473,956
House Alternative, Stenholm, Blue Dog Coalition /a/						
Budget Authority		422,157	444,807	466,423	488,691	511,074
Outlays		449,442	441,451	448,337	468,010	489,757
House Alternative, Hensarling, Republican Study Committee						
Budget Authority	461,544	419,634	442,400	464,000	486,149	508,369
Outlays	451,125	447,114	439,098	445,927	465,542	487,186
House Alternative, Spratt, Democratic Substitute /a/						
Budget Authority	463,600	422,200	445,700	466,700	488,000	510,400
Outlays	453,000	448,300	441,500	448,400	467,500	489,300
Conference Agreement, Including Contingency Fund						
Budget Authority	463,617	472,157	432,366	442,103	452,073	462,069
Outlays	452,953	474,298	452,218	434,750	438,532	447,364

Sources: Congressional Budget Office; Senate Budget Committee, March 5, 2004; S.Con.Res. 95 as passed by the Senate; House Budget Committee report on the FY2005 budget resolution, H.Rept. 108-441; *Congressional Record*, March 25, 2004; H.Rept. 108-498.

Notes

- a. The CBO reestimate, the Blue Dog Coalition plan, and the Democratic Substitute all make projections through FY2014 — figures beyond FY2009 are not shown here.
- b. The House-passed budget resolution excludes \$2.6 billion of homeland security-related funding from the national defense budget function (function 050) in FY2005 and instead provides it in a new “homeland security” budget function (function 100). If the defense-related homeland security funds are added to the National Defense Budget Function, the totals equal the CBO reestimate of the Administration request.

In an attempt to ease constraints on defense spending, the House Armed Services Committee included in its version of the defense authorization bill a procedural measure to shift costs of future health insurance benefits for military personnel when they retire from the Defense Department to the general Treasury and from discretionary funds subject to budgetary caps to the mandatory side of the ledger. Under current law, the Defense Department is required to make annual contributions to the military retirement fund sufficient to cover cost in the future of providing guaranteed medical care to 65-and-over military retirees (this is known as TRICARE for Life, and was established in the FY2001 national defense authorization act, P.L. 106-398). These contributions are considered part of the cost of military personnel and are scored as discretionary funds requiring annual appropriations.

The measure (Section 1541 of the House bill), which was approved with amendments in the conference agreement (Section 725 of the conference bill), requires the Treasury to make the contributions to the retirement trust fund instead of the Defense Department beginning in the FY2006 budget. The effect would be to reduce DOD personnel costs by an average of about \$12 billion a year over the next five years. A sense of Congress provision added in the conference agreement urges that this shift should not reduce the total discretionary funding requested for the Defense Department — in effect, increasing defense spending by \$12 billion a year.

So far, the Office of Management and Budget has not agreed. In a December 9, 2004 letter to the Chairmen of the House and Senate Budget Committees, OMB urged that the FY2006 budget resolution score the health insurance contributions to the military retirement fund according to earlier precedents. Traditionally, OMB has supported the principle, known as “accrual accounting,” which holds that the actuarially determined costs of future benefits for current personnel should be included in annual budgets of federal agencies in order to allocate the actual, full costs of personnel to current programs.

Active Duty End-Strength

Even before the current conflict in Iraq began, there was some support in Congress for increasing the size of the active duty force, particularly in the Army, as a means of reducing strains on military personnel that some argued were aggravated by frequent military operations abroad, such as peacekeeping operations in Bosnia and Kosovo.¹³ In the House, Representative Ike Skelton, the ranking Democrat on the House Armed Services Committee, argued for some years that the Army needed about 40,000 more troops.¹⁴

¹³ Many, including senior Army leaders, complained that peacekeeping operations created an excessively high operational tempo. Others argued that the Army should not have been overly taxed by deploying 5,000-10,000 of its 480,000 active duty troops in contingency operations, and that it would not have had problems if its personnel system was better adapted to post-Cold War requirements. For a discussion, see John C.F. Tillson, *It's the Personnel System*, Institute for Defense Analyses, September 2000.

¹⁴ See, for example, Rep. Ike Skelton, “We Are Wearing Them Out: Why We Need to (continued...)”

Now, the need to keep a substantial number of troops in Iraq for an as yet indeterminate period has made end-strength a critical issue. Currently, the Defense Department has waived statutory caps on end-strength, and it is keeping about 30,000 more personnel in the active duty force than before the war in Iraq. Costs of paying these additional troops — as well as temporarily mobilized reserve troops — has been covered with FY2003 and FY2004 supplemental appropriations. Army leaders have said that they want to keep as many as 30,000 additional troops in the service for the next couple of years, not only to ease strains of overseas deployments, but also to allow some flexibility as the Army reorganizes its combat units (see below). So it appears likely that the Administration will want to keep some additional end-strength for some time, still paid for with supplemental appropriations — Army officials say the increases will be needed the end of FY2006.

The Defense Department, however, has opposed congressional measures to increase statutory end-strength and to establish end-strength minimums. It appears that the Defense Department wants flexibility to increase or reduce troop levels without a congressional mandate. But neither critics nor proponents of an increase in statutory end-strength have addressed why it would be better or worse than the present situation, in which DOD is keeping added end-strength by waiving the current statutory caps.

In response to past, pre-Iraq proposals to increase end-strength, Secretary Rumsfeld has argued that the services can increase the number of deployable troops without adding to overall end-strength by more efficiently managing the forces that are available. One key efficiency measure is a plan to transfer as many as 10,000 jobs now performed by uniformed personnel to civilians in FY2004 and another 10,000 in FY2005. Reportedly, some Pentagon studies have found that as many as 320,000 military jobs could be performed by civilians.¹⁵

These prospects have not persuaded advocates in Congress that potential problems caused by the burden of rotating forces into Iraq are being adequately addressed. Some Members of Congress have proposed increasing the Army's statutory end-strength by as many as 40,000 troops. And some have proposed, as well, that some of the additional troops should be assigned to units specially organized and trained for stability operations overseas.

A part of the discussion of end-strength is the cost. The Congressional Budget Office estimated that in 2002 the average active duty service-member received a compensation package, including pay and non-cash benefits, of about \$99,000 per year.¹⁶ So, without including training and other operating costs of additional forces, a rough starting point for analysis is that each additional 10,000 active duty troops will add about \$1 billion to the defense budget. These estimates are in line with

¹⁴ (...continued)

Increase Army Troop Strength, *Congressional Record*, July 1, 1999, pp. H5324-H5326.

¹⁵ See Peter Grier, "The New Drawdown," *Air Force Magazine*, March, 2004.

¹⁶ Congressional Budget Office, *Military Compensation: Balancing Cash and Noncash Benefits*, January 2004.

Army projections, which are that it would cost \$3.6 billion a year to add 30,000 troops to the force. Presumably, these troops would be used to fill out existing units, not to add new ones, which would cost additional money.

Congressional Action. At the end of April, House Armed Services Committee Chairman Duncan Hunter announced that he would propose an increase in statutory end-strength for the Army and the Marine Corps in the committee markup of the FY2005 defense authorization bill.¹⁷ The bill as reported by the committee and passed by the House includes his proposal to increase statutory end-strength in the Army by 10,000 and in the Marine Corps by 3,000 in each of the next three years, for a total increase of 39,000 troops. The committee assumed that the costs of the increase in FY2005 will be paid for not out of regular funds but out of additional funding for Iraq — in the \$25 billion contingency fund for the first part of the fiscal year and/or in later supplemental appropriations.

In the Senate, Senators Reed, Akaka, Clinton, Nelson (FL), Hagel, McCain, Schumer, Landrieu, and Boxer, sponsored a bill, S. 2165, to increase Army end-strength by 30,000. The Senate Armed Services Committee included a measure in its version of the FY2005 authorization that would permit, but not require, the Secretary of Defense to increase total active duty end-strength by up to 30,000 through FY2009. Finally, on June 17, by a vote of 93-4, the Senate adopted an amendment by Senator Reed to increase FY2005 Army active duty end-strength by 20,000.

The end-strength issue was not resolved in the FY2005 defense appropriations conference report. The bill provides funds for added end-strength within the \$25 billion provided for Iraq and Afghanistan, but it does not prejudge whether an increase in the statutory end-strength will be agreed to in the authorization conference. The defense authorization conference agreement increases Army end-strength by 20,000 and Marine end-strength by 3,000 in FY2005 and establishes the increased totals as minimums. The conference bill also authorizes additional increases of 10,000 in the Army and 6,000 in the Marine Corps over the next four years, but it does not establish them as minimums.

Missile Defense

In December 2002, the White House announced a plan to deploy a what it referred to as a “test bed” of ground-based missile defense interceptors — 10 to be deployed in Alaska and 10 in California — intended to have a limited operational capability against long-range missile attacks against the United States beginning by the end of September 2004. That deployment plan has been delayed by at least a couple of months and there have been some changes in the proposed program in the interim. The main change is that only one type of missile booster will initially be available because a fire in a production plant delayed production of a second rocket engine. The Missile Defense Agency has been working on construction of missile silos and support facilities and began placing interceptors in silos in Alaska in July,

¹⁷ John M. Donnelly, “Hunter Says He Will Press for Increase of 39,000 Troops Over Next Three Years,” *CQ Today*, April 29, 2004.

2004. An operational capability by was expected to be declared in early October, but it is now unclear when it will be announced.¹⁸

The system that is being deployed will not be a full up operational missile defense. It will rely on a ground-based missile tracking radar, called “Cobra Dane,” that was built to monitor Soviet missile tests and that can track warheads launched Korea or elsewhere in Asia. Cobra Dane does not look over the poles for warheads launched from the Middle East, however, nor can it be aimed to follow missiles or interceptors in the U.S. Pacific Test Range far to the south. The radar also does not have the degree of precision that is planned for the future. A more capable ship-borne radar is still being developed. The interceptor warheads are also still being tested against various kinds of increasingly complex targets, and the system has not demonstrated that it is a reliable operational weapon. The avowed primary purpose of the test bed is to be just that — a system to allow progressively more demanding tests against progressively more realistic targets under progressively more realistic operating conditions. Test intercepts cannot, however, be carried out from the 10 interceptor missiles being deployed at Fort Greeley, Alaska, however, because of range safety issues. The Pentagon’s Director of Operational Testing, Tom Christie, has told Congress that he has advocated the deployment of some kind of test bed precisely as a means of strengthening the rigor of the development process.¹⁹

Although there has been little criticism of the decision to develop a missile defense test bed, *per se*, the White House decision to declare a system operational in the midst of a presidential election campaign was a matter of occasionally testy debate in Congress.²⁰ Some other issues have also emerged. A big issue is cost — one key question is whether the big increase in missile defense funding over the past few years is justified or whether funds should be shifted to other priorities. A perennial issue has been whether the Missile Defense Agency should spend less on development of space-based systems that may be technologically risky or more on Patriot missile batteries and other systems that may be of more immediate value to troops in the field.

Another set of issues has to do with management of the program. There have been repeated delays and substantial cost increases in the missile defense program itself and, particularly, in some related programs, including the Space-Based Infrared System (SBIRS)-High, run by the Air Force, the Space Surveillance and Tracking System (SSTS, formerly SBIRS-Low), run by the Missile Defense Agency, and the Airborne Laser (ABL) an Air Force-run, Missile Defense Agency-funded program. Missile defense programs may be a test of whether the Pentagon’s “spiral

¹⁸ Bradley Graham, “General Says Missile Defense Could Be Ready Soon,” *Washington Post*, April 28, 2004; Bradley Graham, “Interceptor System Set, But Doubts Remain: Network Hasn’t Undergone Realistic Testing,” *Washington Post*, September 29, 2004.

¹⁹ See Statement by Thomas P. Christie Director, Operational Test and Evaluation, before the Senate Committee on Armed Services, March 11, 2004 and Statement by Thomas P. Christie, Director, Operational Test and Evaluation, before the House Armed Services Committee, March 25, 2004.

²⁰ See, for example, an exchange between Rep. Ellen Tauscher and Rep. Terry Everett in the House Armed Services Committee hearing of March 25, 2004, cited above.

development” acquisition strategy (see below), which is designed to accelerate the development process, may not also weaken managerial and cost controls.

Congressional Action. Both the House and the Senate Armed Services Committees generally supported the Administration request, though they made some small changes (see **Table A-2**, below, for details). The House committee reduced funds for Advanced Concepts by \$50 million, for system core technologies by \$30 million, for the Forward Deployable Radar (to be deployed with the THAAD system) by \$56 million, and for interceptors, particularly for sea-based systems, by \$75 million. The committee added \$47 million for the Theater High Altitude Area Defense (THAAD) program, \$30 million for mid-course defense, and \$30 million for advanced technologies for THAAD and the PAC-3. The committee also required a report on the status of the Airborne Laser, though it indicated overall support for the program.

The Senate committee added \$40 million to the ground-based mid-course defense program to reduce development risk and \$90 million for 36 additional PAC-3 missiles. For details of House and Senate committee action, see **Table A-2** in Appendix A.

Missile defense funding was not an issue on the House floor, however, because the Rules Committee refused to permit any missile defense-related amendments. Senior Democrats complained in particular that the Rules Committee did not make in order an amendment by Representative John Spratt, the second ranking Democrat on the Armed Services Committee, to shift \$414 million from specified missile defense programs to military pay and benefits and to force protection programs.

The key issue in debate on the Senate floor was whether to require more stringent operational testing of missile defense systems. On June 17, the Senate adopted an amendment by Senator John Warner to require the Secretary of Defense to prescribe and apply criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense program. By adopting the Warner amendment, the Senate rejected an amendment by Senator Jack Reed to require the Director of Operational Test and Evaluation to prescribe and oversee operational tests. Later, on June 22, by a vote of 44-56 the Senate rejected an amendment by Senator Carl Levin to reduce funds for missile defense by \$515 million and reallocate the money to Department of Energy counter-proliferation, to NORAD cruise missile detection programs, and to various Department of Defense homeland defense programs.

The House Appropriations Committee made somewhat deeper cuts in the request for missile defense programs than either authorizing committee — in all, the committee cut \$457.9 million from the request, though the committee report noted that the remaining total is \$632.4 million above FY2004 funding. The committee made cuts of \$205 million in program elements containing funds for programs being coordinated by a “Ballistic Missile Defense National Team” of government, contractor, and federal research center personnel. The goal of the national team effort is to integrate various elements of the overall missile defense program, including terminal defense and midcourse defense, into a single system. The committee said that the Missile Defense Agency’s budget justification material did

not provide a sufficient rationale for the amounts requested. In addition, the committee cut \$25 million from advanced concepts developments, saying that current systems needed more testing, and \$61.5 million from terminal defense programs, citing growth in management costs and delays in rocket motor production. In addition, the committee recommended rescinding \$74 million of previously appropriated funds because of delays in the Airborne Laser program.

In contrast, the Senate Appropriations Committee approved the full \$10.2 billion requested — it actually increased the total by about \$16 million — though it did shift some funds among missile defense programs. The committee added \$80 million for the Israeli Arrow program, added \$163.5 million for Ground-Based Midcourse Defense, and cut \$252 million, about half the amount requested, from the Ballistic Missile Defense System Interceptor program, a program to develop a very high acceleration, mobile booster and warhead for land- and sea-basing and to explore space-based interceptors.

The appropriations conference report provides \$10.0 billion for missile defense, \$176 million below the request, but \$280 million above the House level. The agreement increased funds for ground-based missile defense and reduced funds for interceptor R&D. The agreement also made an unallocated, across-the-board cut of \$180 million, allowing DOD to decide how to allocate the reduction.

“Bow Waves” and “Train Wrecks”: Cost Growth and Affordability of Major Weapons Programs

A perennial issue in defense policy is whether future defense budgets will be large enough to finance all of the weapon acquisition programs that are in the pipeline. There are a couple of variations on the theme.

One issue is whether a “bow wave” of acquisition costs will grow unsustainable at some point in the future. The term “bow wave” technically refers to the normal funding profile of a major program: funding is small in the early stages of development, climbs during engineering development, peaks during full rate procurement, and then declines again as production winds down. When several weapons programs appear likely to grow in concert, then a large collective “bow wave” may appear to be looming in the future.

A second issue is whether projected weapons procurement budgets are large enough to replace aging weapons as they reach the ends of their nominal service lives. A 1999 report by the Center for Strategic and International Studies (CSIS), entitled *The Coming Defense Train Wreck*, argued that projected procurement budgets would fall as much as 50% a year short of the amount needed to maintain a modernized force.²¹ That study evoked considerable controversy. Very large variations in projected total costs could arise from minor changes in assumed rates of cost growth from one generation of weapons to the next, in assumptions about possible extensions of nominal service lives with upgrades, and in assumptions about

²¹ Daniel Goure and Jeffrey M. Ranney, *Averting the Defense Train Wreck in the New Millennium* (Washington: Center for Strategic and International Studies, 1999).

whether some elements of the force (such as strategic nuclear weapons) need to be updated at all.²²

Since 1999, the Congressional Budget Office has done a series of studies of what it calls a “steady state” procurement rate (i.e., the rate at which weapons would have to be replaced to maintain a modernized force of a given size) and also of the cumulative cost of the Pentagon’s actual weapons plans.²³ CBO’s initial “steady state” studies found a shortfall, but not of the magnitude CSIS projected. CBO’s more recent studies of the affordability of the Administration plan find a potentially substantial “cost risk” if program costs grow above what the services are now projecting.

Cost growth in major weapons programs is nothing new; it has plagued planners at least since the early days of modern systems analysis studies of defense policy in the 1960s.²⁴ Despite efforts to fix it, however, the problem now appears to be recurring among most of the Defense Department’s current, most high-profile weapons programs, including

- Air Force F/A-22 fighter: As a recent GAO report points out,²⁵ the development cost has grown from a 1986 Air Force estimate of \$12.6 billion to a current estimate of \$28.7 billion, the average unit procurement cost (not including R&D) has grown from an estimated \$69 million per aircraft to \$153 million, and planned procurement has declined from an initial goal of 750 aircraft to a current Air Force estimate of 276 to fit within a procurement cost cap (which GAO estimates will permit only 218 aircraft at the most recent unit cost estimates).
- Air Force/Navy F-35 Joint Strike Fighter: Between September 30, 2003 and December 31, 2003, official DOD estimates of JSF costs, provided to Congress in quarterly Selected Acquisition Reports, grew by \$45 billion, from \$199.7 billion to \$244.8 billion, a 23% increase.
- Space launch systems: Over the same period projected Air Force Evolved Expendable Launch Vehicle (EELV) program costs grew by \$11.6 billion, from \$20.8 billion to \$32.3 billion, a 56% increase.

²² See Steven Kosiak, *CSIS ‘Train Wreck’ Is Off Track Background*, Washington: Center for Strategic and Budgetary Assessments, March 28, 2000.

²³ The most recent report is Congressional Budget Office, *The Long-Term Implications of Current Defense Plans: Detailed Update for Fiscal Year 2004*, February 2004.

²⁴ For one example, see Edmund Dews *et al.*, *Acquisition Policy Effectiveness: Department of Defense Experience in the 1970s*, RAND Corporation Report R-2516-DR&E, October 1979.

²⁵ U.S. General Accounting Office, *Tactical Aircraft: Changing Conditions Drive Need for New F/A-22 Business Case*, GAO-04-391, March 15, 2004

- Missile defense: Over the same period, estimated costs of the overall missile defense R&D program grew by \$3.2 billion, from \$62.9 billion to \$66.1 billion, a 5% increase.
- Marine Corps V-22 tilt rotor aircraft: The total acquisition cost (R&D plus procurement) has grown from an estimated \$32.4 million per aircraft in 1986 to \$104.9 million per aircraft currently, while the planned total procurement has declined from 913 to 458 aircraft.²⁶
- Prior year Navy shipbuilding: Congress appropriated \$1.3 billion for cost growth in Navy ships that are now under construction in FY2003 and another \$636 million in FY2004, and the Administration is requesting \$484 million for shipbuilding cost growth in FY2005.
- Navy DD(X) destroyer and Littoral Combat Ship (LCS) acquisition: The Navy estimates that it will cost about \$39 billion to acquire 24 DD(X) destroyers and \$14 billion to acquire about 56 LCS. Based on historical trends, however, CBO estimates a cost of about \$53 billion for the DD(X) destroyers,²⁷ while the LCS design remains too uncertain for alternative cost estimates.
- Space-Based Infrared System-High (SBIRS-High), Spaced-Based Infrared System-Low (SBIRS-Low), and Airborne Laser (ABL) programs: The SBIRS-High, an Air Force-run program to develop a new missile launch detection and tracking satellite that would be tied into a national missile defense, has more than doubled in cost since 1995 to over \$8 billion, including a \$2 billion estimate increase in 2001, and it still appears to be experiencing delays and cost growth. Recently the Air Force confirmed reports that the cost will grow by another \$1 billion and that satellite launches will be delayed another two years. There have been similar, though less severe delays and cost growth in the Missile Defense Agency-run SBIRS-Low program to develop a low-earth-orbit missile tracking satellite. And the Air Force-run, Missile Defense Agency-funded Airborne Laser program has been delayed and has suffered enough cost growth that the Air Force has decided to use available R&D funds for one rather than two aircraft.
- The Army Future Combat System (FCS): The FCS program remains at a very early stage of development, with several differing design

²⁶ Department of Defense, "Selected Acquisition Report Summary Tables," December 31, 2003. Unlike the F-22 and F-35, this is not a recent development — the largest cost growth in the program occurred some years ago.

²⁷ Congressional Budget Office, *Transforming the Navy's Surface Combatant Force*, March 2003, and updated data provided to CRS on June 26, 2003. For a detailed discussion, see CRS Report RL32109, *Navy DD(X) and LCS Ship Acquisition Programs: Oversight Issues and Options for Congress*, by Ronald O'Rourke.

alternatives still under consideration. Until recently, production was planned to begin in 2008 with an initial operational capability in 2010. In an April 2004 report, however, GAO found that 3/4 of the necessary technologies for the system were immature when the program started and that prototypes would not be available for testing until shortly before production planned.²⁸ Most recently, the Army announced a major restructuring of the program which will delay major components for at least two years and increase total program costs by \$25 to \$30 billion.²⁹

Taken together, all of this suggests that the “cost risk” CBO has warned about is an imminent prospect, and that the affordability of current weapons modernization plans is in some doubt. The issue for Congress, this year and perhaps more and more pressingly in the future, is what to do about it. One possibility is to increase defense spending, though budget deficits may make that problematic. Another is to terminate other programs in addition to the Comanche and, earlier, the Crusader — Senator John McCain recently mentioned the F-22.³⁰ A third is to restructure priorities within the defense budget to find more money for weapons, though demands to increase end-strength appear at odds with such a prospect.

Congressional Action. The congressional defense committees made a number of changes in major weapons programs. Among the changes, a few stand out. The Senate Armed Services Committee trimmed F/A-22 procurement from 24 to 22 aircraft saving \$280 million. The rationale was that the program had been delayed in any case, so production will be slower than the Air Force had planned. Critics of the decision argued that production capabilities will ramp back up by 2007, when the money provided in the FY2005 budget would actually be spent. Neither appropriations committee supported a cut, making the issue moot: the appropriations conference agreement provides funds for 24 aircraft.

The House Armed Services Committee trimmed funds for two high-profile Navy programs on the grounds that production is beginning faster than the maturity of planned technology and the stability of system design warrants. These programs are the Navy DD(X) destroyer and the Navy Littoral Combat Ship (LCS). The FY2005 request includes funds in the R&D accounts to begin construction of the first of each of the DD(X) and LCS ships. The committee said that production is not yet justified, so it trimmed \$221 million from the DD(X) and \$107 million from the LCS. Opponents of the cuts have argued that reductions will delay ship construction, and that old ways of developing ships led to obsolete technology being deployed. The Senate Armed Services Committee provided requested funding for both DD(X) and LCS construction, and added \$99 million for the DD(X) to accelerate design of a second ship.

²⁸ U.S. General Accounting Office, *Defense Acquisitions: The Army's Future Combat Systems' Features, Risks, and Alternatives*, GAO-04-635T, April 1, 2004.

²⁹ Jonathan Karp and Greg Jaffe, “Army Plans To Postpone Modernization Program: Boeing-Led Development Of Technology Will Require At Least Two More Years,” *Wall Street Journal*, July 14, 2004.

³⁰ Sen. John McCain on *Meet the Press*, April 11, 2004.

The House Appropriations Committee followed the House authorizers on the DD(X), cutting \$221 million, but it added \$125 million in its place to begin building an additional DG-51 destroyer. The House appropriators did not agree to cut LCS construction, however, and instead added \$107 million to fully fund the cost of constructing the first ship.

The Senate Appropriations Committee provided the \$221 million requested for DD(X) construction, but in Navy procurement funds rather than in R&D, and added \$99 million for second ship design, following the Senate authorization. The Senate appropriators also provided requested funding for LCS construction. So the key differences were between the appropriators. The House wanted to delay DD(X) production and instead build an additional DG-51, while the Senate supported the DD(X) and wanted to add \$99 million. Both the House and the Senate appropriations supported LCS construction, and the House wanted to add \$107 million.

The appropriations conference agreement ultimately did not support the cuts in either program that the House Armed Services Committee had imposed at the beginning of the congressional process. The appropriations conference agreement provides \$221 million for DD(X) construction, but in procurement rather than in R&D, as the Senate proposed. The agreement also provides \$214 million to fully fund construction of the first LCS in the R&D accounts, as the House wanted.

The House Armed Services Committee also trimmed \$245 million from the Army's Future Combat System development request, saying that the money was "excess to requirements." The committee included a provision, Section 211, requiring extensive reports on the status of the program and mandating that specific criteria be met before proceeding with various stages of the development process. The House Appropriations Committee went further — it cut \$324 million and eliminated funds for non-line of sight launch system (NLOS-LS) development. Neither Senate committee reduced funds for FCS, so this became a major issue in conference. As the appropriations conference was concluding, there were reports, since officially confirmed by the Army, that the Army is proposing a two-year delay in the program.³¹

The appropriations conference agreement trimmed \$268 million from the program but included \$58.2 million for NLOS-LS. The agreement also includes a statutory provision requiring the Army to field a version of the non-line-of-sight cannon by 2010, even if other elements of the FCS program are not deployed by then.

Other major weapons issues in the appropriations conference negotiations concerned space systems. The House appropriators shifted \$91 million from the Evolved Expendable Launch Vehicle (EELV) program to the Space-Based Infrared System-High (SBIRS-High) program, as the Air Force requested. Senate appropriators, however, cut \$100 million from the EELV due to delays, but did not

³¹ Jonathan Karp and Greg Jaffe, "Army Plans to Postpone Modernization Program: Boeing-Led Development of Technology Will Require at Least Two More Years," *Wall Street Journal*, July 14, 2004, p. 7.

add anything to SBIRS-High. The appropriations conference agreement cuts \$100 million from the EELV and adds \$91 million to SBIRS-High.

The House appropriators cut \$100 million from the \$775 million requested for the Transformational Communications Satellite program, following the House authorization, while the Senate appropriators cut \$400 million. The appropriations conference report cut \$300 million.

And the House appropriators essentially terminated Space-Based Radar development, leaving \$75 million for research into alternatives. The Senate appropriators cut \$100 million from the \$327 million requested. The appropriations conference report follows the House, essentially terminating the program.

Evolutionary Acquisition and Spiral Development

The Defense Department has formally adopted a new process for acquiring weapons, which it calls evolutionary acquisition with spiral development. The goal of the process is to accelerate the deployment of new technology to troops in the field by deploying what is technologically ready and then progressively improving it as new technology matures.

These goals appear to have pretty widespread support in Congress. Moreover, the new acquisition policies, which the Clinton Administration had also been considering, appear in many ways closer to commercial practices that have often been successful.³² But there has also been some concern that the new procedures may weaken managerial controls and congressional oversight.³³ Some programs, like the Littoral Combat Ship, have been started without the kind of systematic, formal analysis of alternatives that earlier regulations required. In other cases, GAO and others have warned that large investments are being made in programs that still appear technologically immature, with potentially high risk of delays and cost growth and with a prospect that systems will not fully meet operational requirements.³⁴

Military Personnel Benefits

In recent years, Congress has repeatedly enhanced personnel benefits for uniformed personnel. Benefit increases have included “TRICARE for Life,” which guarantees full medical coverage to Medicare-eligible military retirees, repeal of a 1986 law that reduced retirement benefits for new military enlistees, a phased in plan

³² U.S. General Accounting Office, *Defense Acquisitions: DOD's Revised Policy Emphasizes Best Practices, but More Controls Are Needed*, GAO-04-53, November 10, 2003.

³³ See *ibid.* and also CRS Report RS21195, *Evolutionary Acquisition and Spiral Development in DOD Programs: Policy Issues for Congress*, by Ronald O'Rourke and Gary J. Pagliano.

³⁴ U.S. General Accounting Office, *Defense Acquisitions: Assessments of Major Weapon Programs*, GAO-04-248, March 31, 2004.

to fully offset off-base housing costs, increased imminent danger pay and family separation allowances, and a one-year trial program to provide health insurance to non-activated reservists not eligible for employer-provided insurance.

A particularly big issue in the last couple of years has been whether to permit concurrent receipt of military retired pay and veterans disability payments. In the FY2003 defense authorization, Congress approved a limited plan to permit retirees with disabilities directly related to combat to receive both retired pay and disability benefits without an offset. In the FY2004 defense authorization, Congress supplemented that measure with a plan to phase in concurrent receipt for all retirees with a service-connected disability of 50% or greater.

Although veterans organizations still would like full concurrent receipt for all retirees with any degree of disability, that issue has not been a matter of much debate this year. But two other personnel benefit issues were on the agenda this year.

One issue was whether to provide medical insurance to non-deployed reservists. Congress had to decide whether to extend a provision in the FY2004 Iraq supplemental appropriations bill (P.L. 108-106) that permits reservists without employer-provided health insurance to sign up for the DOD TRICARE program that provides health care to a military dependents, provided the reservists pay a share of the cost equivalent to what civilian federal employees pay for their health plan. Beyond that, Senators Daschle and Graham of South Carolina proposed a bill to permit all reservists, whether eligible for employer-provided health insurance or not, to sign up for TRICARE.

A second issue was whether to increase benefits provided under the military Survivor Benefit Plan (SBP). Several Members of Congress have proposed measures to revise longstanding rules that reduce benefits for surviving dependents of military retirees once the survivors reach age 62. The reduction was originally enacted to take account of survivors becoming eligible for social security benefits. Veterans groups have long argued that the reduction is out of date, unclear to participants, and unfair to survivors. (For a full discussion, see CRS Report RL31664, *The Military Survivor Benefit Plan: A Description of Its Provisions*, by David Burrelli; and CRS Report RL31663, *Military Benefits for Former Spouses: Legislation and Policy Issues*, by David Burrelli.)

Congressional Action. In the committee-reported and House-passed version of the FY2005 defense authorization, the House included a provision that would increase Survivor Benefit Plan (SBP) payments to over-62 dependents of deceased military retirees from 35% of retired pay to 55% in increments by March 2008. On June 23, the Senate adopted an amendment to the authorization by Senators Mary Landrieu and Olympia Snowe, to phase in increased benefits over 10 years through 2014 — the amendment would provide 45% of retired pay after September 2008, and 55% after September 2014.

A key issue in congressional action on the Survivor Benefit Plan — and which shaped the terms of the amendment the Senate adopted — was how to pay for it. The House version of the budget resolution included a provision, Section 303, that established a “deficit-neutral” reserve fund for a measure that would increase SBP

payments. The measure provided that the chairman of the Budget Committee may adjust totals in the budget resolution to accommodate an SBP increase if the Armed Services Committee reports a bill that provides an increase offset by cuts in other mandatory programs.

This was potentially a show-stopper. Because the Armed Services Committees have jurisdiction only over a limited number of mandatory programs, mainly military retiree pay and benefits, it normally would be difficult for the committees to come up with offsets, though it may have been possible to offer a floor amendment that would tap other mandatory programs or increase revenues. The Democratic alternative budget, offered by Representative John Spratt, included a provision that would have required the Armed Services Committee to report a measure providing increased survivor benefits as part of a larger reconciliation bill making other changes in mandatory programs and revenues, but the House rejected the Spratt alternative.

On March 11, the Senate adopted a floor amendment to its version the budget resolution by Senator Mary Landrieu to establish a reserve fund that would raise aggregates in the budget resolution by \$2.757 billion from FY2005-FY2009 to allow for a measure, reported either by the Armed Services Committee or by the Appropriations Committee, that would eliminate the SBP over-62 Social Security reduction. Senator Landrieu's amendment proposed offsetting the costs by eliminating tax benefits to individuals and corporations that avoid United States taxation by establishing a foreign domicile and by closing other tax loopholes and tax shelters.

The conference agreement on the budget resolution includes the House provision — i.e., it would permit an increase in SBP payments only if offset by other cuts in mandatory spending. As it turns out, however, the House Armed Services Committee (acting before the conference agreement on the budget resolution was completed) was able to fund a way around the potential impasse.

The solution was a by-product of committee action on Boeing KC-767 tanker aircraft acquisition. Last year, the conference agreement on the FY2004 defense authorization (P.L. 108-136) included a provision that authorized the Air Force to proceed with a program to lease 20 and then buy 80 aircraft. Because of the way the provision was worded, the Congressional Budget Office (CBO) scored the measure as a mandatory program. In its version of the FY2005 authorization, the House committee revised the KC-767 acquisition plan. It approved a multi-year procurement contract for the 80 aircraft to be procured, and it authorized money in Air Force RDT&E to develop needed aircraft modifications. CBO scores this approach for procuring 80 aircraft as a discretionary program, so it credited the Armed Services Committee with \$14.3 billion in savings in mandatory programs from FY2006-FY2012.³⁵ These amounts were then available to offset the SBP increases (and, also, to offset an increase in mandatory spending due to the committee's extension of the military family housing privatization initiative).

³⁵ Congressional Budget Office, "Cost Estimate: H.R. 4200 — National Defense Authorization Act for Fiscal Year 2005 as Reported by the House Armed Services Committee, May 14, 2004," May 17, 2004, Table 4.

The Senate, however, did not have any such windfall of mandatory offsets in hand when it acted on survivor benefits. As a result, the Senate limited the cost of the program by providing the full 55% of retired pay only after the end of FY2014, since mandatory spending increases over a 10-year period, but not beyond that, are subject to a point of order. The Senate also eliminated a provision in the original Landrieu proposal that limited premium increases for retirees who sign up for survivor benefits, so the cost of the 45% increase that is phased in by 2008 may be paid for by the beneficiaries. The issue for authorization conferees is whether to adopt the more limited benefits provided in the Senate proposal or figure out how to offset costs of the House proposal if, as appears quite possible, there is no agreement to alter that KC- 767 acquisition plan as the House has proposed.

In action on TRICARE for reservists, the House and Senate approved several measures.

- Both the House and the Senate Armed Services Committees approved measures to establish demonstration projects that would allow non-deployed reservists and their dependents to sign up for health insurance through the TRICARE program.
- The Senate Armed Services Committee-reported version of the defense authorization included a measure, called “TRICARE Reserve Select,” to allow non-deployed reservists access to health insurance for them and their dependents through the military-run TRICARE program, provided that the full costs are paid either through employer-employee cost sharing or if reservists cover the full cost.
- On June 2, the Senate approved a floor amendment to the authorization bill by Senators Tom Daschle and Lindsey Graham to allow all non-deployed reservists to receive health insurance for themselves and their dependents through the military TRICARE program, with the federal government paying the employer share of costs.

The issue for the authorization conference was whether to approve only some kind of demonstration program for providing health insurance for reservists, or whether, instead, to adopt one of the Senate approaches — either TRICARE Reserve Select, which offers TRICARE if employers share costs or if reservists pay the full cost, or the Daschle-Graham proposal for the federal government to pay the employer share.

The appropriations conference report did not resolve any of these, or other, personnel benefits issues. The part of the bill providing \$25 billion for Iraq and Afghanistan includes funds in the Defense Health Program to finance increases in TRICARE for reservists, including TRICARE for non-deployed reservists without access to employer-sponsored health insurance, for the next four months. But the appropriations conference did not address other benefits increases.

The authorization conference agreement resolved both issues. The agreement incorporates the House measure on the Survivor Benefits Plan — i.e., it phases in the full 55% benefit by FY2008. The costs were offset by savings in mandatory budget accounts from changes in the KC-767 acquisition plan.

On the issue of TRICARE for reservists, the authorization conference agreement is a compromise between the House and the Senate. The agreement provides that reservists who are activated for duty and who subsequently reenlist are eligible for TRICARE benefits for one year for each 90 days of active duty service, provided they pay 28% of the cost of the benefit. The conference agreement did not establish a demonstration program for a broader program, but instructed GAO to study DOD's preparations for carrying out a demonstration.

Base Closures

In the FY2003 defense authorization bill, Congress approved a new round of military base closures to be carried out in calendar year 2005. In February 2004, the Defense Department met one requirement of the law by issuing a statement of criteria to be used in deciding which bases to close. In addition, DOD has issued guidance to the military services on how the process of identifying bases to recommend for closure will be organized. Senior Pentagon officials have said that size of the basing structure remains as much as 25% larger than is needed, implying that the 2005 base closure round could be quite large.

In Congress, the 2005 base closure round has been a matter of extensive debate. Last year, the House Armed Services Committee-reported version of the FY2004 defense authorization bill included a provision that would have restricted the extent of future base closures by requiring the Defense Department to maintain a base structure large enough to absorb an increase in the size of the force plus redeployment of forces deployed abroad to the United States. Under a veto threat from the White House, that provision was removed from the bill in conference.

This year, the issue was again on the agenda. Several Members of Congress criticized the Defense Department's base closure criteria, mainly for not including the cumulative economic effect of prior base closures as a factor in deciding on new closures. In the presidential campaign, Senator John Kerry said he would prefer to delay a new base closure round pending decisions on the size of the force and on overseas deployments.³⁶

Congressional Action. The House-passed version of the defense authorization bill included provisions that would delay the next scheduled round of military base closures from 2005 to 2007. The measure required a series of reports, due between January 1, 2006, and March 15, 2006, before a new round may begin. The reports included studies on how the Pentagon's Global Posture Review of overseas deployments may affect domestic basing requirements (see below); how force transformation will affect basing requirements; how changes in the reserve

³⁶ Jodi Wilgoren, "Kerry Calls For Halt To Work Of Base-Closing Panel," *New York Times*, March 13, 2004.

forces will affect basing requirements; and how surge requirements will affect basing requirements. Although the committee agreed to delay base closures, it rejected an amendment in the markup by Representative Gene Taylor to eliminate the next round entirely.

In floor action, the full House rejected an amendment by Representative Mark Kennedy to remove the base closure delay from the bill. The Senate, however, rejected an amendment by Senators Trent Lott, Byron Dorgan, and others, to delay additional domestic base closures until 2007. So base closures were a major issue in House-Senate authorization conference negotiations. The Administration threatened to veto the authorization bill if it includes a measure delaying base closures, as in the House-passed bill. The authorization conference agreement does not agree to the House-passed delay.

Overseas Troop Deployments

After the Cold War ended, the United States reduced the number of troops deployed overseas, especially in Europe, but it did not relocate remaining troops away from old Cold War forward bases. In November 2003, the Bush Administration has announced that it was undertaking a Global Posture Review to reconsider where and how U.S. troops are deployed overseas.³⁷ Officials subsequently undertook extensive discussions with allies, in Europe and elsewhere, about changes in the location of U.S. troops. On August 16, 2004, the President announced that 60,000-70,000 U.S. troops would be withdrawn from locations overseas to the United States.³⁸ U.S. forces in Germany will be reduced the most; a naval command now in England will be relocated to Italy; and the United States will build a number of bare bones facilities in several countries that can be used as needed to support troop deployments to different parts of the world.

To date, the main interest in the issue in Congress has been from subcommittees overseeing military construction. A potential large-scale redeployment of U.S. troops, however, also has profound implications for the overall global capabilities of U.S. forces, for regional alliances, and for foreign policy in general.

Army Transformation

Early in the year, the new Chief of Staff of the Army, General Peter Schoomaker, announced some very far-reaching changes in the organization of the Army and in Army personnel policies. These measures are designed to make the Army more flexible to respond to small as well as large operational requirements, and to create a force that is easier to deploy rapidly abroad.

³⁷ U.S. Department of Defense News Transcript, "Defense Department Background Briefing on Global Defense Posture," November 25, 2003.

³⁸ "President's Remarks to Veterans of Foreign Wars Convention," Cincinnati, Ohio, August 16, 2004.

One change is to increase the number of deployable combat brigades in the active duty force from 33 to 43 by 2006 and perhaps to 48 after that. A related change is to turn brigades rather than divisions into the basic, deployable “unit of action” in the Army. This means giving brigades the communications, command structures, transportation and engineering support elements, and other associated units to allow them to operate independently of divisions and, above the division level, corps. A third change is to revise the personnel system so that entire units are kept together for training and deployment; this is known as unit manning, and it is to replace the Army’s longstanding individual replacement system.

The Army’s reorganization plan raises a number of issues for Congress. One is how much it will cost and how the Army will finance the reorganization. The biggest costs may be in equipping brigades to operate independently. Reportedly, the Army has estimated that the plan could cost \$20 billion through FY2011.³⁹ Another issue is how the plan will affect Army end-strength requirements. Army officials want to add to the number of combat units within current end-strength. But this will require reassigning personnel from non-combat positions to the new brigades, and officials have not said how many positions will be affected.⁴⁰ A third issue is how the plan will affect the relationship between active duty and reserve components. Currently, reserves are mobilized to fill out deploying active duty units. The effort to make active duty units more rapidly deployable, therefore, has important implications for the role and structure of reserves. And, finally, the Army has failed in past efforts to use unit manning, in part because it affects how individuals meet rotational requirements for promotion. Congress may be concerned about how unit manning will affect the overall Army personnel system.

DOD’s Civilian and Uniformed Personnel Systems

Last year, Congress agreed to an Administration request to give the Secretary of Defense very broad authority to reorganize DOD’s civilian personnel system. DOD is now beginning to implement changes. Some of the steps the department has taken to date have led to disagreements with some employees and some unions — particularly a measure that would move authority to bargain locally over certain work rules to the national level. So Congress was, in effect, tasked to exercise some oversight over how the new system is being implemented. In addition, last year, Congress considered, but ultimately did not act on amendments to the personnel proposals to ensure certain traditional civil service procedures. Similar measures were proposed this year.

Last year, the Defense Department also requested changes in several laws governing assignment of senior officers, but Congress did not act on the request. This year, the Pentagon has again submitted legislative proposals giving the Secretary

³⁹ Anne Plummer, “Army Chief Tells President Restructuring Force Could Cost \$20 Billion,” *Inside the Army*, February 9, 2004.

⁴⁰ Army reform advocate Douglas MacGregor has proposed brigades of 5,000 to 6,000 troops, which would be about twice as large as the Army four-brigade-per-division plan implies. For a discussion see Elaine M. Grossman, “General Unscrambles New Jargon for Reformulated Army Divisions,” *Inside the Pentagon*, February 12, 2004.

of Defense more authority over senior officers. The proposals include allowing the Secretary to reassign three- and four-star generals and admirals to new positions within the same grade without Senate confirmation, allowing senior officers to serve up to age 72, allowing the Secretary greater flexibility to reassign officers between the ranks one- to four-star generals and admirals, and a measure to eliminate restrictions on the length of service of military service chiefs and of the chairman and vice chairman of the Joint Chiefs of Staff.

Congressional Action. The House version of the authorization bill included a measure allowing the President to extend the terms of military service chiefs by up to two years in normal circumstances or by an additional period if the total term is not over eight years in time or war or national emergency. The House version also included measures to allow an increase in the military's mandatory retirement age for up to 10 senior officers and a measure repealing a requirement that no more than 50% of flag officers may be above the one-star level. None of these provision were included in the Senate bill, and none were adopted in the conference agreement.

Several civilian personnel management issues were debated in floor action on the bills. On June 22, by a vote of 202-218, the House rejected an amendment to the defense appropriations bill to prohibit the use of funds in the bill to implement changes in civilian personnel management practices that Congress approved last year. The House approved a measure, however, setting conditions on the conversion of work to private contractors, including a requirement that, for an conversion involving 10 or more employees, the conversion involves a full competition, savings exceed the lesser of 10% or \$10 million, and that the contractor not receive an advantage due to health insurance costs. The appropriations conference accepted the House measure.

On the authorization bill, the House approved a similar measure limiting outsourcing, and also approved a measure permitting civilian employees to protest privatization decisions. The Senate approved also approved a somewhat different measure allowing employee protests. The authorization conference agreement includes limits on privatization similar to those in the appropriations bill — the agreement does not directly address health insurance costs, but requires a study of the impact of health and other benefits in privatization competitions. The authorization conference agreement also includes a provision allowing employee protests of privatization decisions under certain conditions.

Easing Environmental Provisions Affecting Military Training

For the past three years, the Defense Department has proposed a number of legislative measures, under the rubric of the Readiness and Range Preservation Initiative, to ease the application of several environmental statutes to military training. In the FY2003 defense authorization, Congress agreed to amend the Migratory Bird Treaty Act as it applies to accidental injuries to birds caused by military aircraft. In the FY2004 defense authorization, Congress agreed to changes in the Marine Mammal Protection Act and in the Endangered Species Act.

This year, the Administration proposed somewhat revised versions of proposals it made in prior years to amend the Clean Air Act, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). As DOD explains these provisions,⁴¹ they would

- Extend the allowable time to incorporate new military readiness activities into a Clean Air Act State Implementation Plan when new units are moved to an installation; and
- Clarify regulation of munitions under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Resource Conservation and Recovery Act (RCRA) if and only if munitions are used on an operational range and those munitions and their associated constituents remain there.

Administration officials said that changes were made in these proposals to reflect particularly concerns expressed by state environmental enforcement agencies. But in response to the revised proposals, 39 states' attorneys general signed a joint letter criticizing the new measures.⁴² Representative John Dingell, the Ranking Democrat on the House Energy and Commerce Committee, issued a press release and two fact sheets criticizing the Administration proposals.⁴³

Congressional Action. Congress did not consider the Administration's environment proposals this year. Neither the House nor the Senate Armed Services Committees considered the proposals in action on their versions of the defense authorization. In the House, Readiness Subcommittee Chairman Joel Hefley said he had no plans to move a package, and House Energy and Commerce Committee

⁴¹ See Department of Defense, "Readiness and Range Preservation Initiative," April 2004, overview and fact sheets at [<https://www.denix.osd.mil/denix/Public/Library/Sustain/RRPI/rrpi.html>].

⁴² National Association of Attorneys General, "Thirty-nine Attorneys General Express Opposition to Legislation to Limit Department of Defense Environmental Liability," April 19, 2004, [<http://www.naag.org/issues/pdf/20040419-signon-dod.pdf>].

⁴³ Rep. John D. Dingell, Ranking Member, House Energy and Commerce Committee, "DOD Again Seeks Environmental Exemptions Despite Its Historic Record of Contamination," Press Release, April 7, 2004, with two staff-prepared fact sheets.

Chairman Joe Barton said he did not intend to address the issues in time for House action on the defense authorization if at all.⁴⁴

Development of New Nuclear Weapons

Last year, after extensive debate both in the House and in the Senate, Congress approved a measure in the FY2004 defense authorization bill that repealed a FY1994 provision that had limited research on and development of new, low-yield nuclear weapons. In its place, Congress added a provision to prohibit engineering development of new low-yield weapons without specific authorization by Congress (P.L. 108-136, Section 3116). The FY2004 authorization also approved requested funding for R&D on new weapons, but the final appropriations bill imposed some limitations. In the FY2004 energy and water development appropriations bill (H.R. 2754, P.L. 108-137), Congress provided \$6 million, as requested, for the Department of Energy's Advanced Concepts Initiative (ACI) to study new weapons, but it prohibited obligation of \$4 million of that amount until DOE submits a report on its plans. The bill also trimmed funding to study a Robust Nuclear Earth Penetrator (RNEP) warhead from the \$15 million requested to \$7.5 million.

New nuclear weapons R&D was an issue in Congress again this year. Controversy developed, in particular, over proposed funding for the RNEP. The Administration requested FY2005 funding for the RNEP of \$27.6 million, and it projected total funding of \$484.7 million over the five years from FY2005-FY2009. These amounts go far beyond the total of about \$45 million that the Department of Energy said last year would be needed between FY2003 and FY2005 for feasibility studies. (For full discussions of these issues, see CRS Report RL32130, *Nuclear Weapons Initiatives: Low-Yield R&D, Advanced Concepts, Earth Penetrators, Test Readiness*, by Jonathan Medalia; CRS Report RL32347, *Robust Nuclear Earth Penetrator Budget Request and Plan, FY2005-FY2009*, by Jonathan Medalia; and CRS Report RL32347, *Robust Nuclear Earth Penetrator Budget Request and Plan, FY2005-FY2009*, by Jonathan Medalia.) The Administration also requested \$9 million for the ACI.

Congressional Action. On April 28, Senator Dianne Feinstein made a major speech on the Senate floor criticizing Administration plans for development of new nuclear weapons, including the robust nuclear earth penetrator.⁴⁵ She said that she intended to propose an amendment to the defense authorization bill to apply the same restrictions to development of the RNEP as to advanced systems — i.e., she would require specific congressional authorization for RNEP engineering and development.

In House action on the defense authorization bill, the House rejected an amendment by Representative Ellen Tauscher to eliminate the \$36.6 million requested for RNEP development and for the Advanced Concepts Initiative (ACI) and to transfer the funds to non-nuclear programs to defeat deeply buried and

⁴⁴ Mary Clare Jalonick, "Barton Says Defense Bill Will Not Include Environmental Waivers Pentagon Seeks," *CQ Today*, April 28, 2004.

⁴⁵ Sen. Diane Feinstein, "A Credibility Gap on New Nuclear Weapons," *Congressional Record*, April 28, 2004, pp. S4486-S4488.

hardened targets. On June 15, the Senate rejected an amendment by Senator Feinstein and Senator Ted Kennedy to eliminate funds for RNEP and the ACI. The authorization conference agreement does not limit RNEP or ACI funding.

Notwithstanding the House and Senate votes on the defense authorization bill, however, the committee-reported and House-passed version of the Energy and Water Appropriations bill (H.R. 4614) eliminated funds both for the RNEP and for the ACI. Moreover, in report language, the committee was very critical of the Administration's plans for developing new nuclear weapons (see H.Rept. 108-554, pp. 114-115). The Senate never acted on its version of the energy and water bill. A conference agreement on the energy and water bill was included in the consolidated appropriations bill (H.R. 4818) that Congress approved in November. The agreement followed the House and eliminates funds for the Robust Nuclear Earth Penetrator and the Advanced Concepts Initiative.

Boeing KC-767 Tanker Aircraft Acquisition

Last year, in the FY2004 defense authorization (P.L. 108-136), Congress rejected an Air Force proposal to lease 100 Boeing 767 aircraft modified as refueling tankers and instead approved a plan to lease 20 aircraft and purchase 80 more. Early in 2004, however, a report by the Defense Department's Inspector General and a later study by the Defense Science Board both raised questions about the status of the program. The Defense Department then put a decision on whether to proceed with the program on hold, pending the results of a formal Air Force Analysis of Alternatives (AOA), which is not expected until the end of this year. Subsequently, the program was mired in scandal when a former senior Air Force acquisition official overseeing tanker negotiations pleaded guilty to illegally seeking employment with Boeing.

Congress also investigated the proposal and Senator John McCain put a hold on approval of some Pentagon nominations because DOD has not provided some requested documents.⁴⁶ Air Force Secretary Douglas Roche later warned that reopening the proposals might require reviewing proposals by other suppliers, including the European Aeronautic Defence and Space (EADS) company.

Congressional Action. The House Armed Services Committee-reported version of the FY2005 defense authorization included a provision that authorizes the Air Force to proceed with multi-year procurement of 80 KC-767 aircraft and another provision that required the Air Force to enter into a contract with Boeing to acquire the aircraft. The multi-year authorization provision replaced (and repealed) an earlier authorization for multi-year procurement in the FY2004 defense authorization, but did not repeal an authorization in that bill for the Air Force to lease 20 aircraft, which therefore would remain in effect. The committee provision also required that a new contract for KC-767 acquisition be signed after June 1, 2004, and be reviewed by an independent panel established to assess the terms of the contract and determine whether the Air Force received full and fair value. On the floor, the House approved

⁴⁶ Charles Aldinger, Reuters, "Rumsfeld's Tough Choice on Boeing E-Mails," *Washington Post*, March 4, 2004.

an amendment by Representative Norman Dicks (passed as part of a Hunter *en bloc* amendment) to require that the contract be completed no later than March 1, 2005.

Senator McCain, among others, continued to oppose the KC-767 acquisition plan, at least until the mandated studies were completed. Last year, the Senate Armed Services Committee, on which Senator McCain serves, was the only one of the four congressional defense committees to turn down a Defense Department reprogramming request that would have allowed the Air Force to go ahead with its initial proposal to lease 100 aircraft. Instead, the committee proposed the modified lease 20-buy 80 plan that the House then agreed to in conference negotiations on the FY2004 authorization. On the Senate floor, Senator McCain proposed a number of 767-related amendment to the defense authorization bill, all of which would set conditions before funds may be obligated for the program. On June 22, the Senate adopted a McCain amendment to prohibit acquisition of Air Force aerial refueling aircraft until 60 days after currently required studies are completed and requiring the Secretary of Defense to certify that acquisition complies with all applicable laws, Office of Management circulars, and regulations.

For their part, the appropriators left resolution of the KC-767 issue up to the authorizers, though both the House and the Senate Appropriations Committees supported the program in the past. The House Appropriations Committee provided \$100 million for KC-767 acquisition in a transfer fund that could be used for procurement, R&D, or leasing of the aircraft. The Senate Appropriations Committee provided \$110 million in a fund available for tanker aircraft replacement, which, presumably, could be used for KC-767s or for some other program. The appropriations conference report includes \$100 million for a tanker replacement program.

The authorization conference agreement repeals the lease provision in the FY2004 bill and approves multiyear procurement of a tanker replacement. So the Air Force may still decide to acquire KC-767 refueling aircraft at some time in the next few months, or it may decide to acquire some other system.

Buy American Act, Trade Offsets, and Related Issues

Last year, the House-passed authorization bill included provisions to strengthen requirements that the Defense Department buy defense equipment and parts from American companies. The Senate opposed these measures, and the issue held up final approval of the defense authorization bill for some time. Advocates of more stringent buy American provisions were not fully satisfied with the outcome, so the issue was expected to come up in some form again this year. A related issue is whether the Navy should be permitted to continue leasing some support ships from foreign firms, or should, instead, be required to buy new ships from American shipyards. See above for discussions of congressional action on the issue.

Congressional Action. The House Armed Services Committee did not directly seek to strengthen “Buy American” provisions in its version of the FY2005 defense authorization, but it addressed the issue indirectly in a provision regarding offsets for foreign military sales. U.S. sales of military equipment to foreign countries often include agreements to offset part or all of the value of the sale.

Offsets may include allowing foreign suppliers to provide parts for the system, allowing foreign companies to perform assembly operations or other parts of production, or requiring U.S. purchases of equipment from foreign providers. The House version of the authorization bill includes a measure that would prohibit the United States from purchasing foreign-made defense items unless the seller agrees to provide trade “offsets” equal, as a share of value, to the offsets the selling nation applies to purchases from the United States. The provision may be waived if the Secretary of Defense certifies that a purchase is necessary to meet U.S. national security objections.

In the Senate, the authorization bill, as reported by the Armed Services Committee, included provisions allowing the Defense Department to waive domestic content requirements for purchases from foreign countries that have a reciprocal trade agreement with the United States. On June 22, the Senate considered an amendment by Senators Mark Dayton and Russ Feingold to eliminate those provisions. The Senate rejected that proposal, however, when it adopted, by a vote of 54-46, a substitute amendment proposed by Senator McCain to revise the language of the original provision. The McCain amendment, included in the Senate-passed version of the bill, allows the Defense Department to waive domestic content requirements for trade with any nation that has signed a “Declaration of Principles” agreement with the United States regarding reciprocity in defense trade. On June 23, the Senate also agreed to an amendment by Senator Christopher Dodd to penalize contractors that agree to offsets of more than 100% of the value of a contract for sales of defense goods to foreign nations.

The authorization conference agreement requires the Secretary of Defense to develop a defense acquisition trade policy designed to eliminate any adverse impact of offset agreements in defense trade. Conferees dropped the Senate provision allowing waivers of buy American laws.

Legislation

Concurrent Budget Resolution

S.Con.Res. 95 (Nickles). An original concurrent resolution setting forth the congressional budget for the United States government for FY2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009. Reported by the Senate Budget Committee without written report, March 5, 2004. Measure laid before the Senate, March 8, 2004. Considered by the Senate, March 10-12, 2004. Agreed to in the Senate with amendments (51-45), March 12, 2004. House struck all after the enacting clause and inserted the provisions of H.Con.Res. 393, March 29, 2004. House requested a conference and appointed conferees, March 30, 2004. Senate disagreed to House amendment and appointed conferees, March 31, 2004. Conference report filed (H.Rept. 108-498), May 19, 2004. House approved conference report (216-213), May 19, 2004.

H.Con.Res. 393 (Nussle). A concurrent resolution establishing the congressional budget for the United States government for FY2005 and setting forth

appropriate budgetary levels for fiscal years 2004 and 2006 through 2009. Reported by the House Budget Committee (H.Rept. 108-441), March 19, 2004. Considered by the House, March 24-25, 2004. Agreed to in the House (215-212), March 25, 2004. House inserted the provisions of H.Con.Res. 393 into S.Con.Res. 95 and agreed to S.Con.Res. 95, March 29, 2004. House requested a conference, March 30, 2004.

Defense Authorization

H.R. 4200 (Hunter). To authorize appropriations for FY2005 for military activities of the Department of Defense, to prescribe military personnel strengths for FY2005, and for other purposes. Marked up by the House Armed Services Committee, May 12, 2004. Ordered to be reported by the House Armed Services Committee (H.Rept. 108-491), May 13, 2004. Considered by the House, May 19-20, 2004. Motion to recommit failed with instructions (202-224), May 20, 2004. Agreed to by the House (391-34), May 20, 2004. Senate took up H.R. 4200, struck all after the enacting clause and inserted the provisions of S. 2400, and approved H.R. 4200, as amended, by unanimous consent, June 23, 2004. Senate insisted on its amendments, requested a conference, and appointed conferees, June 24, 2004. Conference report filed (H.Rept. 108-767), October 8, 2004. Conference report agreed to in the House (359-14) and in the Senate (unanimous consent), October 9, 2004. Signed into law by the President (P.L. 108-375), October 28, 2004.

S. 2400 (Warner). An original bill to authorize appropriations for FY2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes. Marked up by the Senate Armed Services Committee, May 6-7, 2004. Reported by the Senate Armed Services Committee (S.Rept. 108-260), May 11, 2004. Considered in the Senate, May 17-21, June 2-4, 7, and 14-18, 21-23, 2004. Agreed to in the Senate, with amendments (97-0), June 23, 2004. Senate incorporated S. 2400 into H.R. 4200 and Senate adopted H.R. 4200 as amendment by unanimous consent, June 23, 2004.

Defense Appropriations

H.R. 4613 (Lewis). Making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes. Reported by the House Appropriations Committee, June 18, 2004 (H.Rept. 108-553). Reported by the Rules Committee with amendment, H.Res. 683 on June 21, 2004. Considered in the House, June 22, and passed by a vote of 403 to 17 on June 22, 2004. Taken up and considered by the Senate; Senate struck all after the enacting clause and inserted the provisions of S. 2559, as reported by the Armed Services Committee; Senate considered amendments and adopted H.R. 4613, as amended (98-0), June 24, 2004. Senate insisted on its amendments, requested a conference, and appointed conferees, June 24, 2004. House disagreed to the Senate amendments, agreed to a conference, agreed to instruct conferees by a voice vote, and appointed conferees, July 13, 2004. Conference report filed (H.Rept. 108-622), July 20, 2004. Conference report agreed to in the Senate (96-0) and in the House (410-12), July 22, 2004. Signed into law by the President (P.L. 108-287), August 5, 2004.

S. 2559 (Stevens). An original bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2005, and for other purposes. Ordered to be reported by the Senate Appropriations Committee, without written report, June 22, 2004. Senate incorporated S. 2559 into H.R. 4613 as an amendment and took up H.R. 4613, as amended, June 24, 2004. Report filed by the Senate Appropriations Committee (S.Rept. 108-284), June 24, 2004.

For Additional Reading

CRS Reports

CRS Report RL32381. *Adequacy of the Army's FY2004 Funding for Operations in Iraq.*

CRS Report RL32056. *The Air Force KC-767 Tanker Lease Proposal: Key Issues For Congress.*

CRS Report RS20859. *Air Force Transformation.*

CRS Report RS20787. *Army Transformation and Modernization: Overview and Issues for Congress.*

CRS Report RL31954. *Civil Service Reform: Analysis of the National Defense Authorization Act for FY2004.*

CRS Report RL31924. *Civil Service Reform: H.R. 1836, Homeland Security Act, and Current Law.*

CRS Report RL31187. *Combating Terrorism: 2001 Congressional Debate on Emergency Supplemental Allocations.*

CRS Report RS21327. *Concurrent Receipt of Military Retirement and VA Disability Benefits: Budgetary Issues.*

CRS Report RS21644. *Defense Funding by Mission For Iraq, Afghanistan, and Homeland Security: Issues and Implications.*

CRS Report RL30392. *Defense Outsourcing: The OMB Circular A-76 Policy.*

CRS Issue Brief IB10062. *Defense Research: DOD's Research, Development, Test and Evaluation Program.*

CRS Report RL32238. *Defense Transformation: Background and Oversight Issues for Congress.*

CRS Report RS21195. *Evolutionary Acquisition and Spiral Development in DOD Programs: Policy Issues for Congress.*

- CRS Report RL32141. *Funding for Military and Peacekeeping Operations: Recent History and Precedents.*
- CRS Report RL32090. *FY2004 Supplemental Appropriations for Iraq, Afghanistan, and the Global War on Terrorism: Military Operations & Reconstruction Assistance.*
- CRS Report RL31946. *Iraq War: Defense Program Implications for Congress.*
- CRS Report RL32216. *Military Base Closures: Implementing the 2005 Round.*
- CRS Report RS21822. *Military Base Closures: DOD's 2005 Internal Selection Process.*
- CRS Report RL30051. *Military Base Closures: Agreement on a 2005 Round.*
- CRS Report RL31663. *Military Benefits for Former Spouses: Legislation and Policy Issues.*
- CRS Report RS21754. *Military Forces: What is the Appropriate Size for the United States?*
- CRS Issue Brief IB85159. *Military Retirement: Major Legislative Issues.*
- CRS Report RS21148. *Military Space Programs: Issues Concerning DOD's SBIRS and STSS Programs.*
- CRS Report RL31664. *The Military Survivor Benefit Plan: A Description of Its Provisions.*
- CRS Report RL31111. *Missile Defense: The Current Debate.*
- CRS Report RS20851. *Naval Transformation: Background and Issues for Congress.*
- CRS Report RL32130. *Nuclear Weapon Initiatives: Low-Yield R&D, Advanced Concepts, Earth Penetrators, Test Readiness.*
- CRS Report RL32347. *Robust Nuclear Earth Penetrator Budget Request and Plan, FY2005-FY2009.*
- CRS Report RL31406. *Supplemental Appropriations for FY2002: Combating Terrorism and Other Issues.*
- CRS Report RL31829. *Supplemental Appropriations FY2003: Iraq Conflict, Afghanistan, Global War on Terrorism, and Homeland Security.*
- CRS Issue Brief IB92115. *Tactical Aircraft Modernization: Issues for Congress.*

Appendix A. Funding Tables

**Table A-1. Congressional Action on
FY2005 Defense Appropriations Bill by Title**
(budget authority in millions of dollars)

	Request	House	Change to Request	Senate	Change to Request	Confer- ence	Change to Request
Regular Appropriations							
Military Personnel	104,812	104,192	-620	103,869	-942	103,731	-1,081
Operation and Maintenance	121,875	120,568	-1,306	121,410	-464	121,065	-810
Procurement	74,662	77,355	+2,692	76,467	+1,804	77,678	+3,016
RDT&E	67,772	68,947	+1,174	68,769	+997	69,933	+2,161
Revolving and Management Funds	2,955	2,361	-594	2,128	-827	2,379	-576
Other Defense Programs*	20,110	20,401	+292	20,592	+482	20,656	+546
Related Agencies	552	557	+5	567	+15	557	+5
General Provisions	70	-3,227	-3,297	-2,648	-2,718	-4,846	-4,916
Consolidated Appropriations Rescission	—	—	—	—	—	-300	-300
Total, Regular Appropriations	392,807	391,153	-1,654	391,153	-1,654	390,853	-1,354
Emergency Appropriations							
Department of Defense Iraq/ Afghanistan Operations	25,000	25,000	—	25,000	—	25,000	—
Repeal of Defense Rescission in FY2004 Omnibus Appropriations	—	—	—	—	—	1,800	+1,800
Department of State Iraq Operations	—	685	+685	—	—	685	+685
Refuge Assistance, Sudan and Chad	—	95	+95	95	+95	95	+95
Convention Security Assistance	—	—	—	—	—	50	+50
Federal Judiciary Defender Services	—	—	—	—	—	26	+26
Wildland Fire Suppression	—	—	—	—	—	500	+500
Total, Emergency Appropriations	25,000	25,780	+780	25,095	+95	28,156	+3,156
Grand Total in Bill	417,807	416,933	-874	416,248	-1,559	416,633	-574

Sources: H.Rept. 108-553; S.Rept. 108-284, H.Rept. 108-622, H.Rept. 108-792.

Table A-2. National Defense Budget Function Request by Appropriations Bill, FY2002-FY2005

(current year dollars in millions)

	FY2002	FY2003	FY2004	FY2005
Subfunction 051 — Department of Defense, Military	344,984	437,863	441,709	402,633
Defense Appropriations Bill	336,655	428,125	434,995	394,393
Military Personnel	86,957	109,062	117,713	106,346
Operation & Maintenance	133,851	178,316	168,470	141,245
Procurement	62,740	78,490	80,920	74,905
RDT&E	48,718	58,103	64,665	68,942
Revolving & Management Funds	4,389	4,154	3,227	2,955
Military Construction Appropriations Bill	10,679	10,853	9,789	9,461
Military Construction	6,631	6,670	5,956	5,289
Family Housing	4,048	4,183	3,833	4,172
Mandatory/Scoring	-2,350	-1,116	-3,075	1,216
DoD Offsetting Receipts (Net) & Other	-1,703	-1,178	-3,056	1,218
OMB rounding/scoring difference	-647	62	-19	-2
Subfunction 053 — Atomic Energy Defense Activities	15,225	16,365	16,753	17,220
Energy and Water Appropriations Bill	15,068	15,915	16,480	16,958
Atomic Energy Defense Activities	14,910	15,752	16,321	16,798
Formerly Utilized Sites Remedial Action	140	144	139	140
Nuclear Facilities Safety Board	18	19	20	20
Labor-HHS-Education Appropriations Bill	157	450	273	262
Occupational Illness Compensation Fund	157	450	273	262
Subfunction 054 — Defense Related Activities	1,897	1,957	2,085	3,245
VA-HUD-Independent Agencies Appropriations Bill	95	95	94	853
US Antarctic Logistical Support Act (NSF)	70	69	68	68
Social Security Wage Credits Post 1956 Service	0	0	0	759
Selective Service System	25	26	26	26
Defense Appropriations Bill	330	359	360	508
Intelligence Community Management Staff	118	136	134	269
CIA Retirement & Disability Fund	212	223	226	239
Homeland Security Appropriations Bill	695	753	877	937
Coast Guard (Defense Related)	440	340	400	340
Emergency Preparedness and Response	50	50	50	50
R&D, Acquisition and Operations	0	363	287	407
Information Analysis & Infrastructure Protection	96	0	140	140
Homeland Security (Defense Related)	109	0	0	0
Commerce-Justice-State Appropriations Bill	678	652	656	667
Radiation Exposure Compensation Trust Fund	174	143	107	137
Department of Justice (Defense Related)	45	39	59	35
FBI (Defense Related)	459	470	490	495
Labor-HHS-Education Appropriations Bill	0	0	0	181
Health Care Trust Fund Post 1956 Service	0	0	0	181
Transportation-Treasury-Appropriations Bill	99	98	98	99
Maritime Security/Ready Reserve Fleet	99	98	98	99
Total National Defense	362,106	456,185	460,547	423,098

Source: Department of Defense, *National Defense Budget Estimates for FY2005*, March 2004.

Table A-3. Congressional Action on Missile Defense Programs

(amounts in millions of dollars)

	Request	House Authori- zation	Senate Authori- zation	Conf. Authori- zation	House Appro- priations	Senate Appro- priations	Conf. Appro- priations	Change to Request
Procurement/ RDT&E Total	10,170.7	9,993.7	10,133.0	9,949.3	9,712.8	10,186.5	9,994.8	-175.9
Procurement Total	577.2	577.2	667.2	577.2	577.2	577.2	577.2	—
Patriot PAC-3	489.3	489.3	579.3	489.3	489.3	489.3	489.3	—
Patriot Mods	87.9	87.9	87.9	87.9	87.9	87.9	87.9	—
RDT&E Total	9,593.5	9,416.5	9,465.8	9,372.1	9,135.6	9,609.3	9,417.6	-175.9
RDT&E Missile Defense Agency	9,146.7	8,969.7	9,014.0	8,923.3	8,688.8	9,162.5	8,968.7	-177.9
0603175C Ballistic Missile Defense Technology	204.3	208.3	211.6	210.4	196.3	232.1	228.3	+24.0
0603879C Advanced Concepts, Evaluations And Systems	256.2	206.2	256.2	231.2	231.2	256.2	231.2	-25.0
0603881C Ballistic Missile Defense Terminal Defense Segment	937.7	984.7	937.7	937.7	876.2	1,017.7	944.2	+6.5
0603882C Ballistic Missile Defense Midcourse Defense Segment	4,384.8	4,414.8	4,424.8	4,446.8	4,369.8	4,548.3	4,630.5	+245.7
0603883C Ballistic Missile Defense Boost Defense Segment	492.6	492.6	492.6	492.6	495.6	497.6	498.4	+5.8
0603884C Ballistic Missile Defense Sensors	592.0	541.0	612.0	601.0	595.0	613.5	605.8	+13.9
0603886C Ballistic Missile Defense System Interceptor	511.3	444.3	311.3	348.3	398.3	259.3	348.3	-163.0
0603888C Ballistic Missile Defense Test & Targets	713.7	713.7	713.7	713.7	713.7	713.7	716.7	+3.0
0603889C Ballistic Missile Defense Products	418.6	358.6	423.6	405.1	388.6	413.6	405.1	-13.5
0603890C Ballistic Missile Defense Systems Core	479.8	449.8	474.8	405.8	310.3	454.8	409.6	-70.2
0901585C Pentagon Reservation	13.9	13.9	13.9	13.9	13.9	13.9	13.9	—
0901598C Management HQ - MDA	141.9	141.9	141.9	116.9	100.0	141.9	116.9	-25.0
Missile Defense Programs - Undistributed Reduction	—	—	—	—	—	—	-180.0	-180.0
RDT&E Army	360.4	360.4	365.4	362.4	360.4	360.4	362.4	+2.0
0603869A Medium Extended Air Defense System (MEADS)	264.5	264.5	328.7	264.5	264.5	264.5	264.5	—
0604865A Patriot PAC-3	64.2	64.2	0.0	64.2	64.2	64.2	64.2	—
0203801A Project 036 Patriot Product Improvement	31.7	31.7	36.7	33.7	31.7	31.7	33.7	+2.0
RDT&E Joint Staff	86.4	86.4	86.4	86.4	86.4	86.4	86.4	—
0605126J Joint Theater Air and Missile Defense (JTAMDO)	86.4	86.4	86.4	86.4	86.4	86.4	86.4	—

Sources: Department of Defense, *Procurement Programs (P-1)*, Fiscal Year 2005, February 2004; Department of Defense, *RDT&E Programs (R-1)*, Fiscal Year 2005, February 2004; H.Rept. 108-491; S.Rept. 108-260; H.Rept. 108-553; S.Rept. 108-284; H.Rept. 108-767.

Note: Excludes \$22.3 million requested for military construction.

Table A-4. House and Senate Action on Major Weapons Acquisition Programs: Authorization
(amounts in millions of dollars)

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Army Aircraft and Vehicles													
UH-60 Blackhawk	27	314.5	67.6	35	432.0	67.6	27	432.0	67.6	27	314.5	67.6	House adds \$118 mn. for 8 aircraft.
CH-47 Chinook Upgrades	—	727.3	12.9	—	733.8	12.9	—	727.3	12.9	—	702.3	12.9	Conf. cuts \$25 mn. for production efficiencies.
AH-64D Apache Longbow	19	654.5	—	19	654.5	—	19	659.5	—	19	654.5	—	Senate adds \$5 mn. for combo pak.
Future Combat System	—	—	3,198.1	—	—	2,952.8	—	—	3,198.1	—	—	2,928.0	House cuts \$245 mn. Conf. cuts \$270 mn.
Bradley Mods/Base Sustainment	—	126.8	—	—	191.9	—	—	126.8	—	—	178.3	—	House adds \$40 mn. for upgrade program and \$25 mn. for reactive armor. Conf. adds \$34 mn. for upgrade program and \$17.5 mn. for reactive armor.
M1 Abrams Mods/Upgrades	—	409.1	16.1	—	409.1	16.1	—	409.1	16.1	—	409.1	—	—
Stryker Interim Armored Vehicle	310	905.1	51.9	310	905.1	51.9	310	905.1	51.9	310	905.1	51.9	—
Up-Armored Humvees	818	163.0	—	—	867.7	—	—	478.0	—	—	735.0	—	House adds \$704.7 mn. in emergency supplemental authorization. Senate adds \$315.0 mn. in regular bill plus \$610 for uparmored Humvees or add-on armor. Conf. adds \$572 mn. for uparmored vehicles.
Navy Vessels													
DDG-51 Destroyer	3	3,445.0	146.5	3	3,545.0	168.3	3	3,445.0	146.5	3	3,445.0	150.8	House adds \$22 mn. in R&D, conf. adds \$4 mn.
DD(X)	1	—	1,450.6	—	—	1,239.5	1	—	1,550.0	1	—	1,490.5	House cuts \$221 mn. for initial ship construction, adds \$10 mn. for advanced gun system. Senate adds \$99 mn. for 2 nd ship design. Conf. adds \$84 mn. for 2 nd ship, cuts \$45 mn. from fleet support R&D.
LHD(1) Amphibious Ship	—	236.0	—	—	236.0	—	—	236.0	—	—	236.0	—	—

CRS-88

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
LHD-9/LHA(R) Advance Proc.	—	—	—	—	150.0	—	—	150.0	—	—	150.0	—	House adds \$150 mn. in advance procurement for items common to LHA(R) and LHD-9. Senate and conf. add \$150 mn. for LHA(R).
Littoral Combat Ship	1	—	352.1	—	—	244.4	1	—	352.1	1	—	350.1	House cuts \$107.7 mn. for initial ship construction.
Virginia-Class Submarine	1	2,453.0	143.3	1	2,453.0	153.3	1	2,453.0	219.4	1	2,453.0	155.3	House adds \$10 mn. in RDT&E for multi-mission modules. Senate adds \$76 mn. in RDT&E, including \$56 mn. for multi-mission modules. Conf. adds \$12 mn. for R&D.
Air Force/Navy/Marine Aircraft													
F/A-18E/F Fighter	42	2,985.8	134.6	45	3,009.8	134.6	42	2,985.8	134.6	42	2,985.8	134.6	House adds \$24 mn. for 3 aircraft.
Bomber Development	—	—	—	—	—	100.0	—	—	—	—	—	30.0	House adds \$100 mn., conf. adds \$30 mn.
C-17 Airlift Aircraft	14	3,839.9	199.7	14	3,874.8	199.7	14	3,839.8	199.7	14	3,873.8	199.7	House and conf. add \$35 mn. for a maintenance training system.
F-22 Fighter	24	4,157.0	564.5	24	4,157.0	564.5	22	3,876.8	564.5	24	4,127.0	534.5	Senate cuts \$280 mn. for 2 aircraft due to production delay. Conf. cuts \$30 mn. in proc. and \$30 mn. in R&D for efficiencies.
Joint Strike Fighter (Navy)	—	—	2,264.5	—	—	2,264.5	—	—	2,279.5	—	—	2,138.5	Senate adds \$15 mn. for STOVL lift fan. Conf. adds \$8 mn. for fan, cuts \$134 mn. for engine, retooling.
Joint Strike Fighter (AF)	—	—	2,307.4	—	—	2,307.4	—	—	2,307.4	—	—	2,173.4	Conf. cuts \$134 mn. for engine, retooling, etc.
V-22 Tilt Rotor Aircraft	11	1,234.7	395.4	11	1,234.7	395.4	11	1,234.7	395.4	11	1,234.7	353.4	Conf. cuts \$42 mn. due to flight test delay.
VHXX Executive Helicopter	—	—	777.4	—	—	557.4	—	—	632.4	—	—	557.4	House cuts \$220 mn., Senate cuts \$145 mn., conf. cuts \$220 mn. due to delays.
KC-767/Other Tanker	—	—	—	—	15.0	80.0	—	—	—	—	15.0	80.0	House and conf. add \$15 mn. for procurement and \$80 mn. for RDT&E.

CRS-89

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Missiles/Space Systems													
Tactical Tomahawk Cruise Missile	293	256.2	28.8	350	305.8	28.8	316	276.2	33.8	321	280.2	32.8	House adds \$50 mn for 57 missiles. Senate adds \$20 mn. for 23 missiles and \$5 mn. for RDT&E. Conf. adds \$24 mn. for 28 missiles and \$4 mn. for R&D.
Advanced Extremely High Frequency Satellite	—	98.6	612.0	—	133.6	612.0	—	133.6	612.0	—	98.6	612.0	House adds \$35 mn. for advanced procurement for a 4 th satellite assuming follow-on Transformational Satellite delay. Senate adds \$35 mn. for spare parts and long-lead items.
Evolved Expendable Launch Vehicle	3	611.0	27.0	3	511.0	27.0	3	511.0	27.0	3	511.0	27.0	House, Senate, and conf. cut \$100 mn. due to launch delay.
Space-Based Infrared System-High	—	—	508.4	—	—	543.4	—	—	543.3	—	—	543.3	House, Senate, and conf. add \$35 mn. for RDT&E.
Transformational Communications Satellite	—	—	774.8	—	—	674.8	—	—	674.8	—	—	474.8	House and Senate cut \$100 mn. from RDT&E due to risk of delays. Conf. cuts \$300 mn.
Space-Based Radar	—	—	327.7	—	—	327.7	—	—	327.7	—	—	75.0	Conf. cuts \$273 mn. following appropriations.

Sources: H.Rept. 108-491; S.Rept. 108-260.

Table A-5. House and Senate Action on Major Weapons Acquisition Programs: Appropriations

(amounts in millions of dollars)

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Army Aircraft and Vehicles													
UH-60 Blackhawk	27	327.6	67.6	39	441.7	67.6	27	314.5	97.6	33	378.1	88.6	House adds \$127 mn. for 12 aircraft. Senate adds \$30 mn. for R&D. Conf. adds \$64 mn. for 6 aircraft for Army National Guard.
CH-47 Chinook Upgrades	—	727.3	12.9	—	1,063.3	12.9	—	707.3	12.9	—	872.8	12.9	House adds \$336 mn. in Army recapitalization. Senate cuts \$20 mn. for production efficiencies. Conf. adds \$168 mn. for aircraft, cuts \$22.5 mn.
AH-64D Apache Longbow	19	654.5	—	19	654.5	—	19	654.5	—	19	654.5	—	—
Future Combat System	—	—	3,198.1	—	—	2,873.7	—	—	3,198.1	—	—	2,929.9	House cuts \$324.3 mn., terminates NLOS-LS. Senate establishes new program element with \$79.5 mn. for NLOS-LS. Conf. cuts \$250 mn. for excessive overhead, provides \$58.2 mn. for NLOS-LS in new program element.
Bradley Mods/Base Sustainment	—	126.8	—	—	310.8	—	—	158.8	—	—	305.7	—	House adds \$174 mn. for Bradley Operation Desert Storm (ODS) upgrades as part of Army recapitalization initiative. Senate adds \$7 mn. for diagnostics and \$25 mn. for reactive armor. Conf. adds \$158 mn. for upgrades, \$17.5 mn. for armor.
M1 Abrams Mods/Upgrades	—	409.1	16.1	67	409.1	16.1	—	409.1	16.1	67	409.1	16.1	—
Stryker Interim Armored Vehicle	310	905.1	51.9	—	1,855.1	51.9	310	905.1	51.9	—	1,530.1	51.9	House adds \$950 million to equip an additional brigade. Conf. adds \$625 mn.
Up-Armored Humvees	818	163.0	—	—	837.3	—	*	*	—	—	735.0	—	House adds \$674.3 mn. in Iraq/Afghanistan emergency funds. Senate adds \$865 mn. in Iraq/Afghanistan funding for force protection, of which some may be for up-armored Humvees. Conf. adds \$572 mn. from emergency funds.

CRS-91

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Navy Vessels													
DDG-51 Destroyer	3	3,445.0	146.5	3	3,670.0	163.0	3	3,445.0	146.5	3	3,495.0	160.0	House adds \$125 mn. in proc. for advance procurement for additional ship in FY2006 or FY2007, \$100 mn. for upgrades, \$16.5 mn. in R&D. Conf. adds \$50 mn. for upgrades, \$13.4 mn. in R&D.
DD(X)	1	—	1,450.6	1	—	1,201.8	1	320.5	1,229.5	1	305.5	1,195.5	House cuts \$221 mn. in R&D for ship construction. Senate moves construction funds from R&D to procurement, adds \$99 mn. for 2 nd ship. Conf. moves construction funds from R&D to procurement, adds \$84 mn. for 2 nd ship, trims some other R&D.
LHD-9/LHA(R) Advance Proc.	—	—	—	—	—	—	—	175.0	—	—	150.0	—	House does not add funds as did authorization. Senate adds \$175 mn. for first increment of construction. Conf. adds \$150 mn. for same.
Littoral Combat Ship	1	—	352.1	1	—	409.1	1	—	352.1	1	—	407.1	House adds \$107 mn. to fully fund ship construction, cuts \$50 mn. for design of 2 nd ship. Conf. adds \$107 mn. for full funding, cuts \$2 mn. from 2 nd ship design.
Virginia-Class Submarine	1	2,453.0	143.3	1	2,453.0	141.3	1	2,453.0	208.4	1	2,453.0	173.2	Senate adds \$65 mn. for multi-mission module, other R&D. Conf. adds \$30 mn. in R&D.
Air Force/Navy/Marine Aircraft													
F/A-18E/F Fighter	42	2,985.8	134.6	42	2,985.8	136.6	42	2,985.8	136.6	42	2,985.8	138.3	—
Bomber Development	—	—	—	—	—	50.0	—	—	—	—	—	30.0	House adds \$50 mn. Conf. adds \$30 mn.
C-17 Airlift Aircraft	14	3,839.9	199.7	15	3,839.8	202.7	14	3,873.8	201.7	15	4,032.4	201.7	House adds \$159 mn. for 1 aircraft and full funding, cuts \$159 mn. for upgrades. Senate adds \$34 mn. for maintenance training. Conf. adds \$159 mn. for 1 aircraft and full funding and \$34 mn. for training.
F-22 Fighter	24	4,157.0	564.5	24	4,127.0	554.5	24	4,127.0	564.5	—	4,127.0	554.5	House, Senate, and Conf. cut \$30 mn. in proc. for expected manuf. cost savings.
Joint Strike Fighter (Navy)	—	—	2,264.5	—	—	2,168.5	—	—	2,264.5	—	—	2,168.5	House cuts \$96 mn. due to delays. Senate earmarks \$15 mn. for STOVL. Conf. cuts \$96 mn. for delays.

CRS-92

	Request			House Action			Senate Action			Conference Action			Comments
	Procurement		R&D	Procurement		R&D	Procurement		R&D	Procurement		R&D	
	#	\$	\$	#	\$	\$	#	\$	\$	#	\$	\$	
Joint Strike Fighter (AF)	—	—	2,307.4	—	—	2,199.4	—	—	2,309.9	—	—	2,200.7	House cuts \$108 mn. due to delays. Senate adds \$2.5 mn. for tire R&D. Conf. cuts \$108 mn. for delays, adds \$1.3 mn. for tire R&D.
V-22 Tilt Rotor Aircraft	11	1,234.7	395.4	11	1,234.7	344.4	11	1,234.7	388.4	11	1,234.7	357.4	House cuts \$51 mn. in R&D due to delays. Senate cuts \$7 mn. Conf. cuts \$42 mn. in R&D for delays, adds \$4 mn. for upgrade.
VHXX Executive Helicopter	—	—	777.4	—	—	557.4	—	—	557.4	—	—	557.4	House, Senate, Conf. cut \$220 mn. due to delays.
KC-767 Tanker/Tanker Replacement	—	—		—	100.0	—	—	110.0	—	—	100.0	—	House adds \$100 mn. in transfer fund for proc. or R&D. Senate provides \$110 mn. for tanker replacement. Conf. provides \$100 mn. for tanker replacement.
Missiles/Space Systems													
Tactical Tomahawk Cruise Missile	293	256.2	28.8	293	256.2	31.8	316	293.2	36.8	—	280.2	32.8	House does not follow auth. add. Senate adds \$37 mn. in proc. for 23 missiles and \$8 mn. in R&D for terrain aided navigation. Conf. adds \$24 mn. for additional missiles and \$4 mn. for R&D.
Advanced Extremely High Frequency Satellite	—	98.6	612.0	—	78.6	612.0	—	98.6	612.0	—	78.6	612.0	House and conf. cut \$20 mn. from advance procurement.
Evolved Expendable Launch Vehicle	3	611.0	27.0	3	520.0	27.0	—	511.0	27.0	—	511.0	27.0	House cuts \$91 mn. for transfer to SBIRS-High. Senate and conf. cut \$100 mn. due to launch delays.
Space-Based Infrared System-High	—	—	508.4	—	—	599.4	—	—	508.4	—	—	599.4	House adds \$91 mn. per AF request, vs. \$35 mn. add in auth. Conf. adds \$91 mn.
Transformational Communications Satellite	—	—	774.8	—	—	674.8	—	—	374.8	—	—	474.8	House cuts \$100 mn. following auth. Senate cuts \$400 mn. for delay to reduce program risk. Conf. cuts \$300 mn.
Space-Based Radar	—	—	327.7	—	—	75.0	—	—	227.7	—	—	75.0	House cuts \$252.7 mn., terminating current program. Senate cuts \$100 mn. for risk reduction. Conf. following House, cuts \$252.7 mn.

Source: H.Rept. 108-553, S.Rept. 108-284, H.Rept. 108-622.

Appendix B. Overview of the Administration Request

On February 2, 2004, the Administration released its FY2005 federal budget request. The request includes \$423.1 billion in new budget authority for national defense, of which \$402.6 billion is for military activities of the Department of Defense, \$17.2 billion for atomic energy defense activities of the Department of Energy, and \$3.2 billion for defense-related activities of other agencies. The request does not include funding for ongoing military operations in Iraq, Afghanistan, and elsewhere, for which Administration officials have said they expect to submit a supplemental appropriations request early in calendar year 2005.

Table B-1 shows the Administration projection of funding for the national defense budget function from FY2005 through FY2009, including requested funding for Department of Defense military activities and for defense-related activities of the Department of Energy and other agencies. It also shows the Administration's estimate of FY2004 funding.

The FY2004 amounts are not directly comparable to figures for later years, because they include supplemental appropriations for operations in Iraq, Afghanistan, and elsewhere, while the Administration projections for FY2005 and beyond do not. **Table B-2** shows Department of Defense funding for FY2004 with and without supplemental appropriations compared to the FY2005 request.

With one exception, the Administration's FY2005 defense request does not mark a dramatic departure from plans officials have presented to Congress over the past couple of years.

The exception is the Army's decision to terminate the Comanche helicopter program. Otherwise, the Administration's request mainly reflects ongoing trends in the defense budget, including

- continued growth in operation and maintenance and in military personnel costs; and
- continued growth in a few very large weapons programs, including the Air Force F-22 fighter, the multi-service F-35 Joint Strike Fighter (JSF), the Navy's DD(X) destroyer and Littoral Combat Ship (LCS) programs, the Army's Future Combat System, and, largest of all, missile defense.

**Table B-1. National Defense Budget Function, FY2004-FY2009,
Administration Projection**
(budget authority in billions of dollars)

	Estimate FY2004	Request FY2005	Proj. FY2006	Proj. FY2007	Proj. FY2008	Proj. FY2009
Military Personnel	117.7	106.3	110.9	114.7	118.4	122.1
Operation & Maintenance	168.5	141.2	146.8	151.8	156.9	164.6
Procurement	80.9	74.9	80.4	90.6	105.1	114.0
RDT&E	64.7	68.9	71.0	70.7	71.6	70.7
Military Construction	6.0	5.3	8.8	12.1	10.8	10.2
Family Housing	3.8	4.2	4.6	4.5	3.6	3.5
Other	0.2	1.7	1.1	0.5	0.2	3.7
Subtotal, Department of Defense	441.7	402.6	423.7	444.9	466.8	488.9
Department of Energy, Defense-Related	16.8	17.2	18.1	17.6	16.7	16.9
Other Agency Defense- Related	2.1	3.2	2.3	2.3	2.4	2.4
Total, National Defense	460.5	423.1	444.0	464.8	485.8	508.2

Source: Office of Management and Budget, *Historical Tables: Budget of the United States Government for FY2005*, Feb. 2004; Department of Defense, *National Defense Budget Estimates for FY2005*, Mar. 2004.

**Table B-2. Department of Defense Budget, FY2004-FY2005,
With and Without FY2004 Supplemental Funding**
(budget authority in billions of dollars)

	FY2004 With Supple- mental	FY2004 Supple- mental	FY2004 Without Supple- mental	FY2005 Request	FY2004- FY2005 Change Without Supple- mental
Military Personnel	117.7	17.8	99.9	106.3	+6.4
Operation & Maintenance	168.5	40.3	128.2*	141.2	+13.0
Procurement	80.9	5.5	75.4	74.9	-0.5
RDT&E	64.7	0.3	64.3	68.9	+4.6
Military Construction	6.0	0.5	5.5	5.3	-0.2
Family Housing	3.8	0.0	3.8	4.2	+0.4
Other	0.2	0.6	-0.5	1.7	+2.2
TOTAL	441.7	65.1	376.6	402.6	+26.0

Sources: Department of Defense, *Financial Summary Tables, FY2005 Budget*, February 2004.

***Note:** The FY2004 total shown for Operation and Maintenance (O&M) includes an offsetting rescission of \$3.5 billion. Without the rescission, the total for O&M, not including supplemental funding, is \$131.7 billion, which is the total of programmatic funding available to DOD, and which is most comparable to the \$141.2 billion requested for O&M in FY2005. The FY2004 figures shown include total offsetting rescissions of \$6.1 billion.

Comanche Termination

On February 23, two weeks after the budget was released, the Army announced a decision to terminate development of the Comanche helicopter and to shift budget savings into other Army aviation programs. In all, the Army spent about \$8 billion on the Comanche prior to FY2005 and estimated that its plan to acquire 650 aircraft through FY2014 would cost an additional \$29 billion. Halting the program will save about \$1.2 billion in FY2005, \$8.9 billion from FY2005-FY2009, and, according to Army officials, \$14.6 billion from FY2005-FY2011, minus termination costs estimated at \$450-\$680 million. Army officials said they would reallocate all of these funds to other Army helicopter, missile, and unmanned aerial vehicle (UAV) programs. On March 3, 2004, the White House submitted a budget amendment that shifts FY2005 Comanche funds to other Army programs.

Continued Growth in Operation and Maintenance and in Military Personnel Costs

As **Table B-2**, above, shows, the Defense Department's FY2005 budget is about \$26 billion higher than the baseline FY2004 budget (i.e., excluding FY2004 supplemental funding). Of that increase, \$6.4 billion is for military personnel and \$13.0 billion for operation and maintenance (O&M). The O&M increase is a bit overstated because the FY2004 base reflects a \$3.5 billion rescission in FY2003 emergency supplemental funds. But even after adjusting for the FY2004 rescission, over 70% of the requested DOD increase between FY2004 and FY2005 is for personnel and O&M.

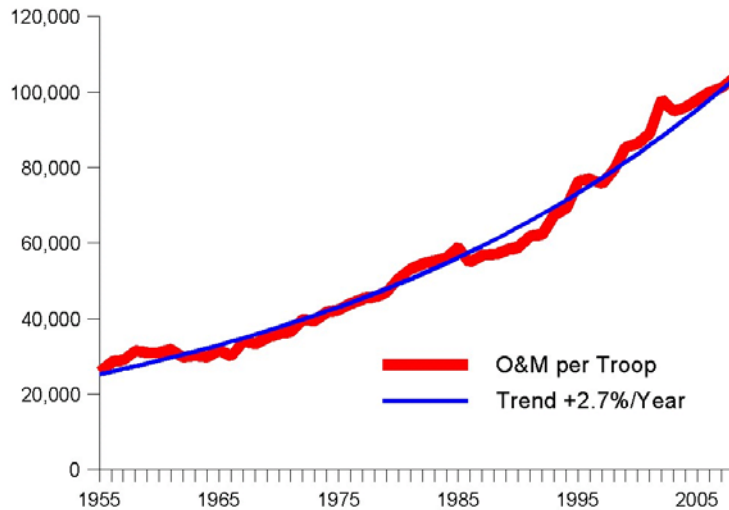
Operation and Maintenance Costs Trends. For O&M, this is not a new story. As **Figure B-1** shows, after adjusting for inflation and for changes in the size of the force, total operation and maintenance funding has grown at a very steady rate of just over 2.5% per year above inflation ever since the end of the Korean War. Many things explain the trend: (1) the steadily growing cost of operating and maintaining new generations of more capable and sophisticated weapons; (2) efforts to improve the extent and quality of military training; (3) efforts to ensure that the quality of life in the military keeps up with the quality of life in the civilian sector as the military has shifted to an all volunteer, older, more commonly married, and more skilled force (this is reflected, among other things in growing health care costs and in expenditures to operate facilities); and (4) modest but steady real growth in the compensation of DOD civilian personnel, most of whom are paid with O&M funds. The cost of maintaining aging equipment in recent years does not appear to be major factor.⁴⁷

Over the years, the Defense Department has perennially tried to slow the growth of O&M costs. Efficiency measures — including base closures, outsourcing, business process reforms, and attempts in the acquisition process to improve weapons reliability — may have had some effect, but not enough to slow the long-term trend perceptibly. Experience during the Clinton Administration may be an

⁴⁷ For a detailed analysis, see Congressional Budget Office, *The Effects of Aging on the Costs of Operating and Maintaining Military Equipment*, August 2001.

object lesson. Pentagon officials often projected that O&M costs would level off. When they did not, more money had to be found to make up O&M shortfalls, sometimes at the expense of procurement accounts and at other times from increases in the defense total. For its part, the Bush Administration has built into its budgets an expectation that O&M costs will continue to rise.

Figure B-1. Operation and Maintenance Budget Authority Per Active Duty Troop, FY1955-FY2009
(Constant FY2005 dollars)



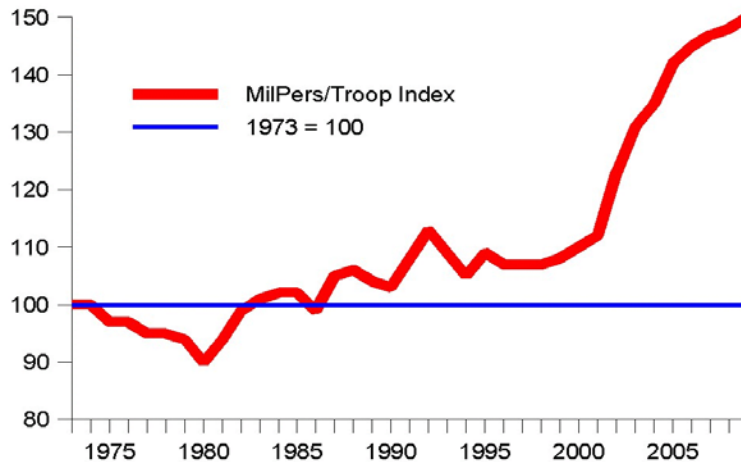
Recent Rapid Growth in Military Personnel Costs. Military personnel costs have also grown over time, particularly since the inception of the all volunteer force in 1973. Until FY2000, the rate of growth was relatively modest. Beginning with the FY2000 defense bills, however, Congress, sometimes at the Pentagon’s request and sometimes not, has approved a series of increases in military pay and benefits that have driven up personnel costs dramatically. These increases include

- Annual military pay raises pegged at 0.5% above the “employment cost index,” a measure of pay rates in the civilian sector;
- “Pay table reform” which gave larger, often substantial, pay raises to targeted mid-level personnel in an effort to ensure retention of skilled people;
- Repeal of a 1986 measure, known as “REDUX,” that had reduced retirement benefits for personnel entering the force after that time;
- A plan to reduce out-of-pocket housing costs for personnel living off base by increasing housing allowances enough to eliminate differences with on-base housing; and
- Most expensive of all, in the FY2001 defense authorization, a measure known as “TRICARE for Life” to provide full health care benefits to over-65 military retirees.

Figure B-2 shows the trend in total military personnel funding, adjusting for inflation and for changes in the size of the force, indexed to 1973, the first year of the

all-volunteer force.⁴⁸ By this measure, uniformed military personnel are 30% more expensive in FY2005 than in FY1973. While the rate of growth may level off over the next few years, annual pay raises and other changes in benefits start from a much higher base than just a few years ago, and very high personnel costs are a fact of life in long-term military budget planning.

**Figure B-2. Military Personnel Budget Authority
Per Active Duty Troop, FY1973-FY2009**
(Constant FY2005 dollars using CPI-W indexed to FY1973)



Growth of Large Acquisition Programs

Compared to the FY2000 defense budget — the last full budget approved without subsequent supplemental funding during the Clinton Administration — the Bush Administration's FY2005 request reflects a substantial increase in funding for major weapons acquisition programs. Over the five year period, without adjusting for inflation, weapons procurement is about 36% higher, and, strikingly, research, development, test, and evaluation (RDT&E) is 78% higher (see **Table B-3**).

Although these increases are going to finance acquisition of a broad range of weapons programs, a very large part of the growth is for just a few programs, many still in the R&D stage. **Table B-3** shows trends in funding for seven selected major weapons acquisition programs from FY2000 through FY2005 (note that figures in this table are not adjusted for inflation). These seven programs alone account for 34% of the increase in the RDT&E title between FY2000 and FY2005 and 35% of the increase in weapons procurement. These and a few other large programs will continue to dominate the acquisition part of the defense budget for the next several years.

⁴⁸ CRS calculations, using DOD data on Military Personnel funding and end-strength and adjusted for inflation using the CPI-W. The CPI-W is used rather than DOD deflators because DOD deflators simply count pay raises as inflation. The measure used here tracks changes in military personnel pay and benefits relative to inflation for typical wage earners.

Table B-3. Increases in Funding for Selected Acquisition Programs, FY2000-FY2005
(budget authority in millions of current year dollars)

	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
Missile Defense						
Procurement	50	389	754	756	818	577
RDT&E	4,455	4,929	6,946	6,801	8,163	9,594
Total	4,505	5,318	7,700	7,557	8,981	10,171
Joint Strike Fighter/F-35						
RDT&E						
Navy	238	341	725	1,662	2,159	2,265
Air Force	249	341	720	1,613	2,093	2,307
Total	488	682	1,445	3,274	4,252	4,572
F-22 Raptor						
Procurement (#)	[0]	[10]	[13]	[21]	[22]	[24]
Procurement (\$)	566	2,537	3,031	4,461	4,115	4,157
RDT&E	2,239	1,412	877	909	929	565
Total	2,805	3,948	3,908	5,370	5,043	4,722
DD(X) Destroyer						
Procurement (\$)	—	—	—	—	—	—
RDT&E	161	288	490	916	1,089	1,451
Total	161	288	490	916	1,089	1,451
Littoral Combat Ship (LCS)						
Procurement (\$)	—	—	—	—	—	—
RDT&E	—	—	—	35	166	244
Total	—	—	—	35	166	244
Interim Armored Vehicles/Stryker						
Procurement (#)	[0]	[447]	[300]	[282]	[306]	[310]
Procurement (\$)	22	928	653	780	983	905
RDT&E	15	257	98	150	61	52
Total	37	1,185	751	930	1,043	957
Future Combat System						
Procurement (\$)	—	—	—	—	—	—
RDT&E	12	75	129	370	1,684	3,198
Total	12	75	129	370	1,684	3,198
Total for 7 Programs						
Procurement (\$)	876	4,195	5,164	7,658	8,075	7,904
RDT&E	7,131	7,302	9,260	10,795	14,183	17,410
Total	8,007	11,497	14,424	18,453	22,258	25,314
Total Acquisition Budget						
Procurement (\$)	54,972	62,608	62,739	78,495	80,920	74,904
RDT&E	38,707	41,595	48,713	58,103	64,665	68,942
Total	93,679	104,203	111,452	136,598	145,585	143,846

Sources: Department of Defense, *Program Acquisition Costs by Major Weapon System*, annual editions for FY2002-FY2005; Department of Defense, *RDT&E Program Descriptive Summaries*, various years and service volumes; Department of Defense, *Procurement Programs (P-1)*, various years.

From a budgeting perspective, this is also nothing new. The growing cost of major weapons programs also drove budgets higher in the past. Much of the increased spending during the defense buildup of the first four years of the Reagan Administration went to pay for procurement of weapons that began development in the early 1970s as the war in Vietnam was winding down. Similarly, much of the increase in the early years of the George W. Bush Administration is going to carry on weapons programs which were started some years ago. Almost all of these programs have experienced significant cost growth and schedule delays, which raises some questions about the long-term affordability of current weapons plans (see below for a more extensive discussion).

Appendix C: Defense Budget Trends

Even without supplemental funding for Iraq and Afghanistan, the FY2005 Bush Administration defense request represents a substantial increase from the amounts provided in the final years of the Clinton Administration. **Table C-1** compares the FY2000 defense plan, which was the last full budget year of the previous Administration with the FY2005 request. Adjusted for inflation, the overall FY2005 request is about 23% higher, with the largest increases in procurement, +28%, and, most strikingly, in R&D, +66%. This represents an average annual growth rate of 3.7% above inflation over the five-year period.

Table C-1. Change in National Defense Budget Function by Appropriations Title, FY2000-FY2005
(budget authority in billions of constant FY2005 dollars)

	Actual FY2000 (FY2005 \$)	Request FY2005 ^a	Difference	Percent Difference
Military Personnel ^b	88.9	106.3	+17.5	+19.7%
Operation and Maintenance	124.5	141.2	+16.8	+13.5%
Procurement	58.6	74.9	+16.3	+27.8%
RDT&E	41.6	68.9	+27.3	+65.7%
Military Construction	5.5	5.3	-0.2	-4.1%
Family Housing	3.8	4.2	+0.4	+10.1%
Other	5.9	1.7	-4.2	-70.7%
Subtotal, Department of Defense	328.8	402.6	+73.8	+22.5%
Department of Energy Defense-Related	14.1	17.2	+3.1	+22.3%
Other Defense-Related	1.4	3.2	+1.9	+138.3%
Total, National defense	344.2	423.1	+78.9	+22.9%

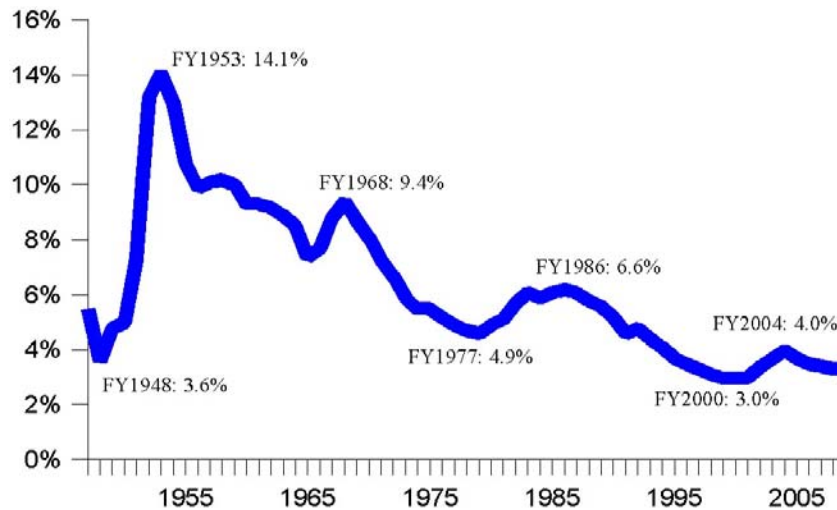
Sources: CRS calculations based on amounts from the Office of Management and Budget and FY2005 base year deflators from the Department of Defense.

Notes

- FY2005 amounts do not include anticipated supplemental appropriations for Iraq and Afghanistan.
- The FY2000 Military Personnel total is inflated to FY2005 prices using Department of Defense “deflators,” which count military pay raises as inflation. A calculation using different deflators, such as the Consumer Price Index, would show a different amount: see Figure 2 above.

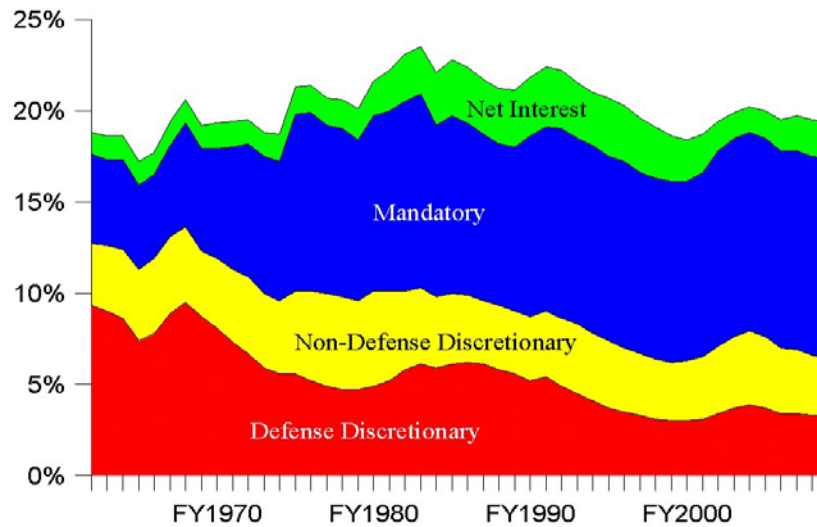
Though substantial, these increases are not as large those in the first five years of the Reagan Administration. Between FY1980 and FY1985, the defense budget grew by 48%, an average annual increase of 8.1%. Moreover, even when funding for operations in Iraq and Afghanistan is included, military spending remains relatively low as a percentage of GDP. The FY2004 budget, including costs of Iraq and Afghanistan is about 4% of GDP, substantially higher than in FY2000, but well below what it was in the mid-1980s, when the Cold War was still going on (see **Figure C-1**).

**Figure C-1. National Defense Outlays
% of GDP, FY1947-FY2009**



Advocates of higher military spending sometimes point to the long-term decline in defense as a share of the economy to argue that the nation can easily afford more. One counter-argument, or at least part of a counter-argument, is that the trend in defense spending is part of a broader long-term trend in the federal budget, in which both defense and non-defense discretionary spending have declined while mandatory programs have grown. As **Figure C-2** shows, total federal spending has been remarkably stable at about 20% of GDP over the past 40 years. So to increase defense substantially as a share of the economy would require either an increase in total federal spending as a share of GDP or offsetting reductions elsewhere.

**Figure C-2. Federal Outlays % of GDP,
FY1962-FY2009**



After FY2005, the Administration defense plan, again not including war-related supplementals, calls for fairly modest increases in the defense budget averaging a bit over 2% per year above inflation. **Table C-2** shows the trend.

**Table C-2. Administration Projections for the
National Defense Budget Function, FY2005-FY2009**
(budget authority in billions of current and constant FY2005 dollars)

	Request FY2005	Proj. FY2006	Proj. FY2007	Proj. FY2008	Proj. FY2009
Current year dollars	423.1	444.0	464.8	485.8	508.2
Constant FY2005 dollars	423.1	433.7	443.0	451.5	460.5
Real growth/decline	—	+2.5%	+2.1%	+1.9%	+2.0%

Source: CRS calculations using deflators from Department of Defense Comptroller.