

# CRS Report for Congress

## Defense: FY2009 Authorization and Appropriations

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

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

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# Defense: FY2009 Authorization and Appropriations

## Summary

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

In addition to the \$541.1 billion requested for the base line (i.e., non-war cost) budget, the request also included \$70 billion in a lump-sum account to cover war costs in the first part of FY2009. Although a provision of the FY2007 defense authorization act requires the President to include in the annual budget request funds to cover the estimated cost of operations in Iraq and Afghanistan for the entire fiscal year, Administration officials said that could not be done in the FY2009 request.

On April 30 the Senate Armed Services Committee approved its version of the FY2009 defense authorization bill, authorizing the appropriation of \$612.5 billion in new budget authority for national security programs, including \$542.5 billion for the base line budget and a \$70 billion placeholder allowance for war-related costs. This is essentially the amount requested by the President, except for minor changes recommended by CBO on the basis of different technical assumptions.

While the Senate committee approved essentially the level of spending requested by the President, it recommended – as usual – a large number of increases and decreases in funding for specific programs. However, it approved without major change the funding requests for several programs that have been the subject of controversy, including the Army's Future Combat Systems (FCS), the Navy's DDG-1000 destroyer, and the Air Force's KC-45A refueling tanker. The committee bill would add to the request \$497 million to either continue or terminate production of the Air Force's F-22 fighter. It also would add to the request \$465 million to continue development of an alternate engine for the F-35 Joint Strike fighter and \$35 million to improve the engine currently slated for installation in the planes.

The Senate committee bill also would bar – with some exceptions – the expenditure of DOD funds for any infrastructure project in Iraq costing more than \$2 billion.

The House Armed Services Committee is scheduled to begin marking up its version of the FY2009 defense authorization bill the week of May 5.

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# Defense: FY2009 Authorization and Appropriations

## Most Recent Developments

The Senate Armed Services Committee completed its markup of the FY2009 National Defense Authorization Act on April 30, approving a bill that would authorize FY2009 appropriations for national security-related activities by the Department of Defense and other agencies totaling \$612.5 billion. That amount is the total allowed for national security by both the House and Senate versions of the FY2009 congressional budget resolution.<sup>1</sup>

The bill's total includes authorization of \$542.5 billion for the so-called "base budget" which covers Department of Defense (DOD) activities not related to operations in Iraq and Afghanistan as well as defense-related activities of the Department of Energy and other agencies. The bill also would authorize an additional \$70 billion in a lump-sum to cover war costs in the first part of the fiscal year.

The Senate Armed Services bill, which the full Senate may take up later in May, would give military personnel an annual pay raise of 3.9 % instead of the 3.4 % raise the President proposed. It also would authorize appropriation of \$26.1 billion for the Defense Health Program, including \$1.2 billion which the President had not requested, intending to raise that amount by increasing fees charged some military retirees participating in the TRICARE health care program.

The committee measure also would prohibit the use of funds authorized by the bill to pay for any infrastructure project in Iraq costing more than \$2 million.

The House Armed Services Committee is scheduled to begin marking up its version of the FY2009 defense authorization bill (H.R. 5658) on May 7.

## Overview of the Administration Request

On February 4, 2008, the Administration released its federal budget request for FY2009 which included \$606.8 billion in discretionary budget authority for national defense.<sup>2</sup> This includes \$515.4 billion for the so-called base budget of the

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<sup>1</sup> The amount authorized is CBO's reestimate of the cost of the program for which the President requested \$611.1 billion.

<sup>2</sup> The budget request includes an additional \$4.3 billion in mandatory spending for the  
(continued...)

Department of Defense (DOD) – the cost of routine activities excluding U.S. operations in Iraq and Afghanistan. It also includes a lump-sum request for \$70 billion to cover war costs in the first part of the year.

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

Because it has not submitted a request for funds to cover the full anticipated costs of operations associated with Iraq and Afghanistan, the Administration is not in compliance with a provision of the FY2007 John Warner National Defense Authorization Act (P.L. 109-364, Section 1008) which requires the President to include in future annual budget requests funds to cover the anticipated cost of operations in Iraq and Afghanistan. The Administration's DOD budget request for FY2008, sent to Congress in February 2007, included a request for \$141.7 billion (subsequently increased to \$189.3 billion) to cover anticipated war costs for the entire fiscal year.

Administration officials raise three arguments to justify the inclusion in the FY2009 request of a \$70 billion funding wedge for war costs rather than an amount expected to cover operations in Iraq and Afghanistan for the whole year. First, they point out that, at the time the FY2009 request was sent to Congress, legislators had not yet acted on \$102.5 billion worth of the FY2008 war cost request. Second, they note that the President will not decide until this coming summer whether to reduce the number of U.S. troops in Iraq below the level deployed in early 2007, before the "surge" of additional forces that currently are being withdrawn. Third, officials note that a new president, who will be elected in November and take office in January 2009, will be responsible for U.S. policy in Iraq and Afghanistan during most of FY2009.

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

The House may act the week of May 5 on an FY2008 supplemental appropriations bill that would deal with the balance of the President's FY2008 war costs funding request.<sup>3</sup>

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<sup>2</sup> (...continued)  
national defense function of the budget (Function 050).

<sup>3</sup> For congressional action on the supplemental request, see CRS Report for Congress RL34275, *FY2008 Supplemental Appropriations for Global War on Terror Military Operations, International Affairs, and Other Purposes*, by Stephen Daggett, et al. For policy issues raised by that request, see CRS Report for Congress RL33110, *The Cost of Iraq, Afghanistan and Other Global War on Terror Operations since 9/11*, by Amy Belasco.

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

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

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

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

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

## Status of Legislation

Congress has begun action on the annual defense authorization bill with the Senate Armed Services Committee approving its version April 30 and Senate floor action possible later in May. The House Armed Services Committee is scheduled to begin marking up its version of the bill on May 7.



**Table 2A. Status of FY2009 Defense Authorization**

Full Committee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
	4/30/08								

Action on the FY2009 defense appropriations bill has not yet been scheduled.

**Table 2B. Status of FY2009 Defense Appropriations Bill**

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	

### Is the Budget Too Small? The 4% Debate

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

Senior leaders of the military services have been particularly vocal in arguing for substantial increases in the defense budget. The Chairman of the Joint Chiefs, Admiral Michael Mullen, has, for some time, urged 4% of GDP for defense. For the past two years, the Chief of Staff and Secretary of the Air Force have argued that the Air Force needs an average of \$20 billion more each year for the next several years in weapons acquisition accounts. In the past few months, senior Army officials have pointed out that the Army budget, including war costs, has grown to over \$230

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<sup>4</sup> For an example of the 4% argument, see Jim Talent and Mackenzie Eaglen, “Providing for the Common Defense: Four Percent for Freedom,” Heritage Foundation, December 13, 2007. The target is not intended to be very precise – proponents have not specified, for example, whether the 4% goal applies to just the Defense Department budget or to the national defense budget function – a difference, in itself, of \$22-23 billion each year.

billion. Though it may come down some, they say, if forces in Iraq and elsewhere are brought home, several more years of spending at near that level will be needed to repair, replace, and upgrade equipment consumed by the war-time pace of operations. For their part, Navy leaders now calculate that the long-term shipbuilding plan they have proposed for the past few years will, in the future, cost an average of \$20 billion a year in FY2007 prices, an increase of about 40% over earlier estimates.<sup>5</sup>

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

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

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

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

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

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

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

- Future baseline budgets are widely expected to decline: The Administration plan to balance the federal budget by FY2012 includes limits on defense as well as non-defense spending. White House budget projections accommodate an increase of about 5% above inflation in the FY2009 DOD budget, but project a cumulative decline of about 3% between FY2009 and FY2012. Many unofficial projections of the deficit situation are less sanguine than the Administration's, so many analysts expect, at best, a flat baseline defense budget for the foreseeable future.<sup>7</sup> Increased costs in part of the budget, therefore, will necessarily come at the expense of resources available in other areas.
- Supplemental appropriations are expected to decline as well: While plans to withdraw from Iraq are uncertain, the military services expect that supplemental appropriations will come down within a few years. Costs for training and equipment maintenance that have been covered in supplementals, then, will migrate back into the baseline budget at the expense of other programs, and money to further upgrade ground forces will have to be found elsewhere.

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<sup>6</sup> These issues were discussed in a CRS seminar on the FY2009 defense budget on February 11, 2008. A video of the seminar is available on line or as a DVD to congressional offices. See "FY2009 Defense Budget: Issues for Congress, Online, Video," at [<http://www.crs.gov/products/multimedia/MM70107.shtml>]. The seminar slides illustrate points discussed below, and are available at "FY2009 Defense Budget: Issues for Congress: A Powerpoint Summary," at [<http://www.crs.gov/products/browse/documents/WD06002.pdf>].

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

- Costs of military personnel have grown dramatically in recent years: Since the end of the 1990s, Congress has approved substantial increases in military pay and benefits, including pay increases of ½ percent above civilian pay indices in 7 of the past 8 years, three rounds of “pay table reform” that gave larger raises to personnel in the middle grades, increased housing allowances to eliminate on-base and off-base disparities, DOD-provided health insurance for Medicare-eligible military retirees (known as “TRICARE” for Life),<sup>8</sup> concurrent receipt of military retired pay and veterans disability benefits that had earlier been offset, elimination of a reduction in retiree survivor benefits that had occurred at age 62, and large increases in enlistment and reenlistment bonuses and special pays. While bonuses and some other payments may decline in the future, most of the past increases in pay and benefits have been built into the basic cost of personnel. CRS calculates that uniformed personnel now cost 40% more, after adjusting for inflation, than in FY1999.<sup>9</sup>
- Operating costs continue to grow above base inflation: Historically, military operation and maintenance budgets, which pay for everything from personnel training, to weapons repairs, to facility operations, to health care, have increased relative to the size of the force by about 2.5% per year above inflation. These increases are not as large as in some areas of the civilian economy, such as health care, but they do not reflect gains in productivity that are common in other sectors of the economy. Continued growth in operating costs, which is now widely seen as a fact of life in defense planning, erodes the availability of resources for weapons modernization and other priorities.
- Increasing generational cost growth in major weapons programs: It is generally expected that new generations of weapons will be more expensive than the systems they replace as weapons technology advances. The rate of generational cost growth, however, is becoming a matter of increasing concern within the Defense Department. New stealthy aircraft, multi-mission ships, advanced space systems, and networked missiles, guns, and vehicles appear to be getting more expensive than their predecessors at a greater rate than in the past. Unless budgets increase more rapidly than costs, trade-offs between the costs of new weapons and the size of the force may be required.
- Poor cost estimates: The difficulties engendered by accelerating inter-generational weapons cost growth are exacerbated by poor cost

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<sup>8</sup> TRICARE is a DOD-run health insurance program for military dependents.

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

estimation. The Government Accountability Office has documented frequent, substantial increases in costs of major defense systems compared to original development estimates. A side-effect of inaccurate cost projections is to exacerbate instability in the overall defense budget, which entails inefficient production rates for major weapons programs and increased costs due to changing production plans.<sup>10</sup>

- New requirements based on the lessons of Iraq and Afghanistan: The wars in Iraq and Afghanistan have led to very large increases in equipment requirements for ground forces, particularly for force protection, communications, and transportation. National Guard combat units that earlier were equipped with older systems cascaded from active units are now seen as part of the rotation base that require equally modern equipment. And full sets of current equipment are also expected to be available not only for next-to-deploy units, but also for units as they begin to reset from overseas rotations. A key lesson of the war is that what used to be called “minor procurement” for ground forces was substantially under-capitalized.
- A broader range of national security challenges: A common presumption before 9/11 was that forces trained and equipped for traditional conflicts between national armies would be able to cope with what were seen as less demanding other challenges such as stability operations. Now the view is that forces must be designed not only for traditional conflicts, but for insurgencies and other irregular wars, support of allies, threats of catastrophic attacks by non-state actors with weapons of mass destruction, and entirely new kinds of disruptive attacks on specific U.S. and allied vulnerabilities. The effect has been to broaden requirements without, necessarily, an attendant offsetting reduction in older force goals.

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

More money is one alternative. Other alternatives may include backing away from plans to add 92,000 active duty troops to the Army and Marine Corps; shifting resources among the military services to reflect new challenges rather than allocating

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

them roughly the same proportions every year; reviewing requirements for expensive new technologies in view of the presence or absence of technologically peer or near peer competitors; and shifting resources from military responses to global threats toward non-military means of prevention. The defense budget environment, however, appears likely to be troubling enough that it will force some attention to these matters earlier in the term of the next President rather than much later.

## Potential Issues in the FY2009 Base Budget Request

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

**Military Pay Raise.** The budget includes \$2 billion to give military personnel a 3.4 % pay raise effective January 1, 2009, an increase that would keep pace with the average increase in private-sector wages as measured by the Labor Department's Employment Cost Index (ECI), as required by law.<sup>11</sup> For several years, some have contended that service members' pay should increase at a faster rate than the annual increase in the ECI in order to compensate for a lag in military pay resulting from budget-constrained pay hikes in the 1990s. DOD officials deny that any such pay-gap exists, but Congress typically has sided with the advocates of larger increases. For every fiscal year but one since FY2000, Congress has mandated a military pay increase one-half percent higher than the rate of increase in the ECI.

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

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<sup>11</sup> See CRS Report for Congress RL33446, *Military Pay and Benefits: Key Questions and Answers*, by Charles A. Henning.

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

**TRICARE Fees and Co-pays.** For the third consecutive year, the Administration's budget assumes that part of the cost of the Defense Health program – \$1.2 billion in the pending FY2009 request – will be covered by an increase in fees, co-payments and deductibles charged to retirees under the age of 65 who participate in TRICARE, DOD's medical insurance program for active and retired service members and their dependents. The increases are intended partly to restrain the rapid growth of DOD's annual health-care budget – projected to reach \$64 billion by FY2015 – and partly to compensate for the fact that TRICARE fees have not been increased since 1995.<sup>13</sup> This year, as in the two previous years, the proposed fee increases are vehemently opposed by organizations representing service members and military retirees who argue that giving medical care to retirees on favorable terms is appropriate given the unique hardships of a military career. Congress rejected the proposed fee hikes in the FY2007 and FY2008 budget proposals, and the Senate Armed Services Committee has done so in drafting its version of the FY2009 defense authorization bill.

**War Funding.** As has been the case in recent years, this year it appears that funding for military operations in Iraq, Afghanistan, and elsewhere will be provided in emergency supplemental appropriations bills rather than through the regular defense authorization and appropriations process. A second supplemental FY2008 appropriations bill, which the House plans to take up the week of May 5, is widely expected to include a \$65-70 billion "bridge fund" to cover essential operational costs well into calendar year 2009 – quite likely though June or July.<sup>14</sup> This would leave it to the next Administration to decide to how much to request in a second, full year supplemental to finance equipment reset, equipment upgrade, and some other costs.

The FY2009 defense authorization, however, may also formally approve FY2009 war-related funding in a separate title of the bill. The Senate Armed Services Committee included \$70 billion for war costs in Title XV of its bill, and the House Armed Services Committee may do the same. While this will have no direct effect on funding, which is determined by appropriations bills in any event, some policy measures may be included in the authorization. In its markup of the authorization bill, the Senate Armed Services Committee includes provisions requiring that much of the reconstruction assistance provided to Iraq, a large amount

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

<sup>14</sup> CRS calculates that \$55-\$60 billion in supplemental funding, if allocated mainly to Army, Marine Corps, and Air Force operation and maintenance, to Army personnel, to the JIED Defeat Fund, and to the Afghanistan and Iraq Security Forces Funds, would be enough to carry on operations through the end of July, 2009.

of which is included in the Defense Department budget,<sup>15</sup> be delivered as loans rather than grants.

**Projected Navy strike Fighter Shortfall.** Some analyses of the number of F-18 strike fighters available to the Navy show a substantial shortfall of aircraft from about the middle of the next decade until about 2025, when the full planned number of F-35 Joint Strike Fighters becomes available. The number of available aircraft, however, depends on assumptions about the number of hours that current aircraft can fly, and at what cost for maintenance, upgrades, and overhauls. Boeing has recently offered to sell additional F/A-18E/F versions of the aircraft to the Navy for about \$50 million apiece, as much as 10% cheaper than planned for additional aircraft, if the Navy agrees to buy 170 aircraft in a multiyear contract that would have early termination penalties. Several Members of Congress have expressed concerns about the potential shortfall and may propose that the FY2009 authorization approve a new multiyear deal. Future funding for the additional aircraft, however, might compete with funds for other projects, particularly if defense budgets level off in the 2010s.<sup>16</sup>

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

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

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<sup>15</sup> DOD provided assistance includes reconstruction grants distributed by local U.S. military commanders through the Commanders' Emergency Response Program (CERP), which totaled \$850 million in FY2007 for both Iraq and Afghanistan, and security assistance provided through the Iraq and Afghanistan Security Forces Funds, which, together, totaled \$5.5 billion for Iraq and \$7.4 billion for Afghanistan in FY2007.

<sup>16</sup> Megan Scully, "Boeing Presses Armed Services Panels To Have Navy Buy More Super Hornets," *National Journal Congress Daily AM*, April 29, 2008.

<sup>17</sup> Geoff Fein, "Lawmakers Hope To Add Three More Ships To Navy's FY '09 Procurement Plan," *Defense Daily*, February 28, 2008.



**Littoral Combat Ship Funding.** The Administration has also requested \$920 million for two Littoral Combat Ships (LCS). This is a relatively small, lower cost ship with a common hull to support modular designs for several purposes. It is intended to be bought in large numbers over time for operations in relatively close-to-shore waters. The program has suffered significant cost growth, however, raising questions about the number of ships that can be afforded. Last year, Congress cut funding for all but one ship and shifted the savings to purchase other ships. This year may again be a test of congressional support for the ship in view of continuing cost issues.<sup>18</sup>

**CG-X Design.** The CG-X is the current designation for a new ship dedicated to missile defense missions. Its design was, for many years, expected to be based on the DDG-1000. Now, however, it appears that the Navy is inclined to build a substantially larger ship. Some defense committee members have raised questions about the status of the Navy's design and about the affordability of the program. There has also been some support in Congress for building a nuclear powered cruiser.<sup>19</sup>

**Reliable Replacement Warhead.** There has been a great deal of controversy in Congress in recent years about the Energy Department's plans to design a new nuclear warhead intended, according to its advocates, to take advantage of new technologies to improve safety and reliability in a new warhead to replace deteriorating older systems. In the past, Congress has provided funding only for conceptual design of the Reliable Replacement Warhead (RRW), but it has not permitted funds to be used for engineering development. The FY2008 consolidated appropriations act, P.L. 110-161, which included energy and water appropriations, provided no DOE funds for the RRW. In the FY2009 budget, DOE has requested \$10 million for RRW design, and the Navy has requested \$23 million.<sup>20</sup>

**Missile Defense.** The Administration requested \$9.3 billion for missile defense R&D in FY2009. While Congress has generally supported about the level of spending the Administration has requested in recent years, it has frequently reduced funding for technologically more challenging systems such as the kinetic energy interceptor program to intercept missiles in the boost phase, and it has increased funding for currently deployed systems, mainly the Patriot PAC III theater defense system. For the past two years, Congress has also eliminated money to begin construction at missile defense sites in Europe, saying in various reports that the funding was premature because there was no firm agreement with Poland and the Czech Republic where deployment is planned. The FY2009 request includes \$132.6 million for military construction at an interceptor site in Europe, which is planned in

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<sup>18</sup> See CRS Report to Congress RL33741, *Navy Littoral Combat Ship(LCS) Program: Background and Issues for Congress*, by Ronald O'Rourke.

<sup>19</sup> See CRS Report to Congress RL34179, *CG(X) Cruiser Program: Background, Oversight Issues and Options for Congress*, by Ronald O'Rourke.

<sup>20</sup> For a full discussion, see CRS Report RL32929, *The Reliable Replacement Warhead Program: Background and Current Developments*, by Jonathan Medalia.

Poland, and \$108.5 million for military construction at a radar site, which is planned in the Czech Republic.<sup>21</sup>

**Long-Range Non-Nuclear Prompt Global Strike.** For the past several years, the Administration has pursued programs that might permit it to deploy conventional warheads on long-range missiles that now carry nuclear warheads. In recent years, this effort has focused on the possible deployment of conventional warheads on Trident submarine-launched ballistic missiles. The funding requests sought to continue R&D on the reentry vehicle that would carry the warhead, and have sought to begin modifying and equipping Trident missiles and submarines to carry the new reentry vehicles. Congress has not approved this funding. In FY2007, it permitted the continuing R&D on the reentry vehicle, but did not fund the programs that would modify the missiles and submarines. In FY2008, Congress again rejected all funding for the conventional Trident modification, and aggregated the funding for research on the reentry vehicle with other DOD funding for research on prompt global strike technologies. It directed that DOD explore all options for achieving the PGS mission, and not focus on the near-term Trident option. Congress has objected to the Trident option in part because of doubts that the capability is needed immediately, and in part because of concerns that other nations might mistake the nature of a U.S. Trident missile launch. Congress appropriated \$100 million for this combined program in FY2008; the Administration has requested \$117 million for FY2009.<sup>22</sup>

**Future Combat Systems.** The FY2009 budget request includes \$3.6 billion to continue development and begin production of the Army's Future Combat Systems (FCS). FCS is a computer-networked array of 14 types of manned and unmanned ground and aerial vehicles intended to replace the Army's current fleet of combat vehicles, including M-1 Abrams tanks and M-2 Bradley infantry vehicles, beginning in 2015. The Army has estimated that the entire program could cost \$230 billion over many years and the Defense Department's Cost Analysis Improvement Group (CAIG) projects the cost to be \$300 billion. Critics have assailed the program on several grounds: some argue that it is unaffordable; some contend that it is optimized to fight the sort of conventional battles at which the U.S. Army already excels rather than the insurgencies, such as those in Iraq and Afghanistan, that it may be more likely to confront; and some object that the program as currently scheduled will take too long to get more effective weapons into the hands of the troops.<sup>23</sup> In FY2006-08, Congress cut a total of \$789 million from the Army's FCS budget requests. This year, House Defense Appropriations Subcommittee Chairman John P. Murtha has suggested that near-term funding for the program be increased by \$20 billion to

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<sup>21</sup> For the current status of the program, see CRS Report RL34051, *Long-Range Ballistic Missile Defense in Europe*, by Steven A. Hildreth and Carl Ek.

<sup>22</sup> See CRS Report RL33067, *Conventional Warheads for Long-Range Ballistic Missiles: Background and Issues for Congress*, by Amy F. Woolf.

<sup>23</sup> See CRS Report RL32888, *The Army's Future Combat System (FCS): Background and Issues for Congress*, by Andrew Feickert.

accelerate deployment of those elements of FCS nearest completion, at the expense of cancelling or delaying other elements of the program.<sup>24</sup>

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

**F-22 Fighter.** Congress may want to consider whether to add funds to the Air Force's F-22 fighter program either to shut down production or to continue it. Although Air Force officials have argued vigorously for purchase of 381 of the planes, DOD plans to buy only 183, with the last 20 paid for by \$3.4 billion included in the FY2009 budget. However, the request includes no funds to pay for closing the F-22 production line in an orderly way that would facilitate its resuscitation at a later date. Reportedly, the shut down could cost as much as \$500 million.<sup>25</sup> DOD officials have said they may include in the FY2009 war cost supplemental request – not yet sent to Congress – funds to buy four additional F-22s which, they contend, would defer the necessity of a shut down decision until the next Administration had time to decide whether to continue production or end it.<sup>26</sup> However others deny that funding for four planes would delay the need for a decision long enough to make a difference.

**Mid-Air Refueling Tanker.** Critics may try to block funding for the KC-45, a tanker version of the European-designed Airbus A330 which the Air Force selected rather than a version of the Boeing 767 to replace aging Boeing-built KC-135 refueling tankers.<sup>27</sup> Airbus builder EADS has partnered by Northrop Grumman to build the KC-45. The Government Accountability Office (GAO) is reviewing a protest of the Air Force decision filed by Boeing, which contends that the contract was awarded unfairly. GAO is expected to rule on the protest by June 19. The FY2009 budget request includes \$62 million for components that would be used in the first five KC-45s and \$832 million to continue developing the tanker.

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<sup>24</sup> *Defense News*, "Battle Over Proposal to Speed FCS," by Kris Osborne, March 24, 2008.

<sup>25</sup> *Aviation Week and Space Technology*, "Fate of F-22, C-17 Lines Uncertain in Fiscal 2009," by Amy Butler and David A. Fulgham, February 11, 2008.

<sup>26</sup> *Ibid.*

<sup>27</sup> See CRS Report RL34398, *Air Force Air Refueling: The KC-X Aircraft Acquisition Program*, by William Knight and Christopher Bolkom.

**C-17 Cargo Jet.** As with the F-22 fighter program, so with the C-17 long-range cargo plane. The Administration's FY2009 budget request includes neither funds to buy components to continue C-17 production, as many have urged, nor the funds that would be needed to terminate production. As with the case of the F-22, the Administration has said that the next President should decide the future of the C-17 program. While some DOD studies have concluded that the 190 C-17s previously funded will suffice, critics challenge that assessment on several grounds. While some in Congress favor production of additional C-17s, others favor upgrades to older C-5 cargo planes DOD plans to retire.<sup>28</sup>

## **Bill-by-Bill Synopsis of Congressional Action to Date**

### **Congressional Budget Resolution**

Congress has begun, but has not completed, work on the annual congressional budget resolution, which will include recommended ceilings for FY2009 and the following four years on budget authority and outlays for national defense and other broad categories (or "functions") of federal expenditure. These functional ceilings are not binding on the Appropriations committees nor do they formally constrain the authorizing committees in any way. However, the budget resolution's ceilings on the so-called "050 function" – the budget accounts funding the military activities of DOD and the defense-related activities of the Department of Energy and other agencies – have in the past indicated the general level of support in the House and Senate for the President's overall defense budget proposal.

Both the House version of the budget resolution (H Con Res 312), adopted March 13, and the Senate version (S. Con Res 70), adopted March 14, set the budget authority ceiling for the 050 "national defense" function at \$612.5 billion. This is essentially identical to the President's request (\$611.1 billion) with the difference reflecting recalculation by the Congressional Budget Office (CBO) on the basis of slightly different technical assumptions.

### **FY2009 Defense Authorization: Highlights of the Senate Armed Services Committee Bill<sup>29</sup>**

The FY2009 defense authorization bill approved April 30 by the Senate Armed Services Committee would authorize a total of \$612.5 billion in new budget authority for national security programs, including 542.5 billion for the base line budget and a \$70 billion placeholder allowance for war-related costs. This is essentially the

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<sup>28</sup> See CRS Report RL34264, *Strategic Airlift Modernization: Analysis of C-5 Modernization and C-17 Acquisition Issues*, by William Knight and Christopher Bolkom.

<sup>29</sup> This section is based on the Senate Armed Services Committee's summary of its action, released May 1, 2008. It will be revised as soon as the committee report on the bill becomes available.

amount requested by the President, except for minor changes recommended by CBO on the basis of different technical assumptions.

According to the committee's April 30 press release, the bill:

- authorizes a 3.9 % military pay raise, rather than the 3.4 % increase requested by the Administration;
- rejects the Administration's proposal to increase fees, co-pays and deductibles that would be charged to some military retirees by DOD's TRICARE medical insurance program; the bill also would authorize \$1.2 billion for the Defense Health program which the Administration had not requested in anticipation of revenue from the proposed higher fees;
- authorizes an increase in Army and Marine Corps end-strength during FY2009 of 7,000 and 5,000 personnel, respectively, as part of the Administration's plan to increase active-duty end-strength of those two services by a total of 92,000;
- authorizes the services to let a limited number of personnel leave active service for up to three years and return with no loss of rank or time-in-service to test the feasibility of allowing service members more flexibility in pursuing their careers,
- requires DOD to conduct a comprehensive study of the risk that critical installations could be cut off from their current sources of energy;
- requires DOD to establish ethics standards to prohibit conflicts of interest on the part of contractor employees who perform acquisition functions for the Department;
- bars private security contractors from performing in an area of combat operations any "inherently governmental functions," which are defined to include "security operations if they will be performed in highly hazardous public areas where the risks are uncertain and could reasonably be expected to require deadly force that is more likely to be initiated by contractor personnel than by others;
- prohibits contractor employees from interrogating detainees during or in the aftermath of hostilities, a restriction that would take effect one year after enactment of the bill;
- requires the armed services to ensure that field commanders "urgent requirements" for specific equipment be presented to senior service officials for review within 60 days of submission;

- requires boards to review and approve or reject any proposed change in the requirements a weapons program is to meet that would increase the cost of the program;
- authorizes the amounts requested to deploy in Poland and the Czech Republic elements of an anti-missile defense system, but with restrictions on the use of the money until the host governments formally approve the deployment and Congress receives certain reports from DOD relating to the project;
- adds \$350 million to the \$843 million requested to develop the Transformational Satellite (TSAT), which would be a key node in a planned, high-volume, global laser-communication network;
- authorizes the \$10 million requested in the Energy Department's defense-related budget for research on the Reliable Replacement Warhead, but denies authorization for the \$23 million in the Navy's budget request for that proposed new nuclear warhead;
- authorizes with minor changes the administration's request to fund eight ships and adds \$170 million to buy components for an LPD-17-class amphibious landing transport;
- authorizes the \$3.6 billion requested for the Army's FCS program;
- authorizes, in addition to the \$6.7 billion requested for the F-35 Joint Strike Fighter, \$465 million to continue development of the General Electric alternative engine for that plane and \$35 million to fund improvements to the Pratt&Whitney engine currently slated for use in the plane;
- adds to the budget request \$497 million to be used either for components that would be used in F-22s that would be funded in future budgets or to pay for shutting down the F-22 production line; and
- prohibits, with a few exceptions, the use of funds authorized by the bill to pay for infrastructure projects in Iraq costing more than \$2 million.