



No. 66

May 14, 2004

## **S. 2400 – National Defense Authorization Act for FY2005**

Calendar No. 503

*Reported by the Committee on Armed Services on May 11, 2004, as an original bill without amendment, by a unanimous vote. S. Rept. 108-260; additional views filed.*

### **Noteworthy**

- By unanimous consent, on Monday, May 17 at 2:30 p.m., the Senate will begin consideration of S. 2400. The first vote on an amendment is slated for 5:30 p.m. It is the Majority Leader's intention that the Senate complete action on the bill prior to the scheduled Memorial Day recess.
- S. 2400 authorizes \$422.2 billion in budget authority for defense programs in FY05, an increase of \$20.9 billion above last year's appropriations and an increase of 3.4 percent in real terms.
- The bill includes \$76.5 billion in procurement funding, a \$1.8 billion increase above the President's request; \$68.6 billion in funding for research, development, test and evaluation, \$800 million over the request; and \$120.5 billion for operations and maintenance, \$1.37 billion less than the request.
- The bill includes an across-the-board military pay raise of 3.5 percent, a permanent increase in the rate of family separation allowance from \$100.00 per month to \$250.00 per month, and a permanent increase in the rate of special pay for duty subject to hostile fire or imminent danger from \$150.00 per month to \$225.00 per month.
- The bill authorizes a program, known as TRICARE Reserve Select, offering permanent elective coverage for Selected Reserve members under TRICARE. The program is a new premium-based option, under which TRICARE Standard would be available to any member of the Selected Reserve while in a non-active status, and the member's family.
- The bill adds \$925.0 million for additional up-armored high-mobility, multi-purpose, wheeled vehicles (HMMWVs) and add-on ballistic protection for medium and heavy tactical vehicles to provide force protection for soldiers in Iraq and Afghanistan.

## Highlights

In addition to items noted on page one of this notice, S. 2400:

- authorizes \$10.2 billion for ballistic missile defense (BMD) research;
- authorizes \$3.4 billion for the procurement of 22 F/A-22 Raptor aircraft, a reduction of two aircraft from the request in order to improve scheduled production delivery;
- authorizes \$4.6 billion for the Joint Strike Fighter;
- authorizes \$1.5 billion for the DD(X) destroyer program, including \$22.1 million for detail design and advanced construction of the lead ship and an additional \$99.4 million for detail design of the second ship;
- includes several provisions that would improve the oversight of contractors performing security, intelligence, law enforcement and criminal justice functions in Iraq and other areas where U.S. forces are engaged in military operations;
- authorizes more than \$400 million above the President's budget request for enhanced health benefits for reservists, which will improve mobilization readiness and ensure continuity of health care services;
- adds \$107.4 million to the Army and Marine Corps for the Rapid Fielding Initiative and other equipment such as night vision devices and squad automatic weapons for individual soldier and Marine protection;
- adds \$603.2 million for force protection gear and combat clothing for troops;
- directs the Secretary of Defense to develop comprehensive Department of Defense policy and procedures for the prevention of and response to incidents of sexual assault involving military members;
- authorizes an additional \$150.0 million to fund the first increment of advanced construction of the first LHA(R) Amphibious Assault Ship;
- supports the Army's transformation initiative by authorizing \$3.2 billion in research and development funding for Future Combat Systems, the Non-Line of Sight Cannon system and the Non-Line of Sight Launch System; and
- adds \$46.9 million to field an additional 7 Weapons of Mass Destruction-Civil Support Teams (WMD-CST), which will result in 55 teams by the end of FY05.

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## **House Action**

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The House Armed Services Committee approved its FY05 Defense Authorization bill, H.R. 4200, on May 12, 2004, by a vote of 60-0. The bill approves \$422.2 billion for the Department of Defense and the national security programs of the Department of Energy. The bill requires a two-year delay in the 2005 round of base closings and authorizes \$25 billion in a reserve fund for the war in Iraq. The House is expected to consider the bill on the floor the week of May 17, 2004.

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## **Bill Provisions**

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### **Division A – Department of Defense Authorizations**

#### **Title I – Procurement**

For procurement, the Committee approves \$76.5 billion, \$1.8 billion above the request.

- The Committee approves \$1.05 billion for up-armored high mobility multi-purpose wheeled vehicles (UAH), and wheeled vehicles add-on ballistic protection, an increase of \$925.0 million above the budget request; the bill also includes a provision to allow the Secretary of the Army to allocate \$610.0 million for the UAH production and armor protection to meet Army force protection requirements (sec. 112).
- The Committee approves \$603.2 million for force protection gear and combat clothing for service members.
- The bill adds \$107 million to the Army and Marine Corps for the Rapid Fielding Initiative and night vision devices to provide individual soldier and marine protection.
- The bill adds \$62.4 million for critical new capabilities for the Special Operations Forces.
- The bill includes several provisions for the Marine Corps, including: \$175.4 million and multi-year procurement authority for 97 Lightweight 155mm howitzers (sec. 122); and an additional \$46.7 million for personal protection gear and equipment such as radios, squad automatic weapons, and night vision goggles.
- The Committee approves \$905.1 million for 310 Stryker vehicles.
- The Committee approves the reallocation of funding from the termination of the Comanche program to include: \$463.5 million for 27 UH-60L and 5UH-60M Black Hawk helicopters; \$727.3 million for CH-47 Chinook helicopters; \$673.6 million for the conversion of Apache AH-64 helicopters to the Apache Longbow

helicopter; \$272.2 million for aircraft survivability equipment; and \$131.1 million for Shadow Tactical Unmanned Aerial Vehicles, including an increase of \$25.6 million for two additional Shadow aircraft.

- The Committee approves \$6.7 billion for: three DDG-51 *Arleigh Burke*-class destroyers; one *Virginia*-class submarine; one LPD-17 *San Antonio*-class amphibious transport dock ship; and two T-AKE auxiliary cargo and ammunition ships.
- The bill authorizes \$81.8 million for the assault amphibious vehicle (AAV) product improvement program.
- The Committee approves the detail design and advance construction of the first LHA(R)-class amphibious assault ship, and adds \$150.0 million as the first increment of funding for this ship (sec. 121).
- The bill includes \$3.4 billion for 22 Raptor F/A-22 aircraft, a reduction of \$280.0 million and 2 aircraft to allow the Air Force time to improve its production delivery schedule.
- The bill approves \$2.9 billion for 42 F/A-18 Super Hornet aircraft; and \$1.0 billion for 11 C-130J and 4 KC-130J aircraft.
- The bill adds \$30.0 million for additional kits and installations for the C-5 avionics modernization program.
- The bill adds \$26.8 million for the P-3 aircraft anti-surface warfare improvement program.
- The bill includes provisions that would restrict the Air Force from retiring any KC-135E tanker aircraft or F-117 fighter aircraft in fiscal year 2005 (secs. 131 and 132).
- The bill contains a number of provisions related to space, including increases of: \$35.0 million for the Advanced Extremely High Frequency communications satellite for a procurement authorization of \$133.6 million; and \$15.0 million for the Wideband Gapfiller communications satellite for a procurement authorization of \$55.3 million.
- The bill adds \$20.0 million for 23 additional Tactical Tomahawk cruise missiles, for a total authorization of \$276.0 million and 316 missiles.
- The bill includes an increase of \$90.0 million for an additional 36 PAC-3 missiles, for a total procurement authorization of \$579.0 million and 144 missiles.

## **Title II – Research, Development, Test and Evaluation**

For research, development, test and evaluation, the Committee approves \$68.58 billion, \$803.0 million above the request.

- The Committee approves \$11.0 billion for the Defense Science and Technology program, including an additional \$445.0 million for transformational basic and applied research activities, bringing the Department closer to its goal of investing 3 percent of its budget in such programs.
- The Committee approves \$10.2 billion for ballistic missile defense (BMD) research and development and procurement, including a net increase of \$40.0 million for the ground-based midcourse BMD system to reduce program risk. The bill allows the Missile Defense Agency (MDA) to use research and development funds to field an initial set of missile defense capabilities (sec. 221). The bill also gives the MDA Director the authority to approve changes in the Patriot/Medium Extended Air Defense System program that would alter the role of that system in the BMD system (sec. 222).
- The bill authorizes \$1.5 billion for the DD(X) destroyer program, including \$221.0 million for the detail design and advanced construction of the lead ship and an additional \$99.4 million for the detail design of the second ship (sec. 211).
- The Committee approves \$4.6 billion for the Joint Strike Fighter, including an increase of \$15.0 million to assess the potential for increased thrust from the lift fan on the short takeoff, vertical landing variant of the aircraft (sec. 215).
- The bill includes \$708.0 million for the Joint Unmanned Combat Air Systems program.
- The bill includes \$132.4 million for H-1 helicopter upgrades, including an additional \$42.0 million to address survivability for the AH-1Z.
- The Committee approves increased funding for transformational technologies including: \$70.0 million for unmanned systems science and technology programs; over \$100.0 million for programs to enhance force protection; and \$80.0 million for basic research, information assurance and advanced composite materials.
- The bill includes over \$3.2 billion in research and development funding for Future Combat Systems, including \$497.6 million for the continued development of the Non-Line-of Sight Cannon System.
- The bill adds \$35.0 million for the Space Based Infrared early warning satellite.
- The bill adds \$40.0 million in innovative technologies to combat terrorism.
- The bill adds \$8.7 million for expanded care and services at the Walter Reed Amputee Patient Care Center.

### **Title III – Operation and Maintenance (O&M)**

The bill provides \$120.51 billion in the O&M title, \$1.37 billion less than the request.

- The bill includes a provision to authorize up to \$300.0 million within O&M to be used for the commanders emergency response program to meet immediate relief and reconstruction needs in Iraq and Afghanistan (sec. 311).
- The Committee recommends \$50.0 million of counterdrug funding for counternarcotics efforts in Afghanistan.
- The bill includes a provision that directs the U.S. Comptroller General to conduct a study to evaluate the issues surrounding the contamination of drinking water at Camp Lejeune, North Carolina, and potential adverse health effects to Marines and their families (sec. 324).
- The bill includes an increase of \$130.0 million for maintenance activities, including \$60.0 million for KC-135 airframe and engine maintenance and \$70.0 million for Navy ship maintenance.
- The bill provides approximately \$115.0 million for logistics, environmental security, ammunition, and corrosion prevention.
- The bill authorizes \$256.5 million for remediation of Formerly Used Defense Sites, an increase of \$40.0 million over the budget request.
- The bill adds \$147.0 million for the Pueblo Chemical Agent Disposal Facility to facilitate the ability of the United States to meet its obligations under the Chemical Weapons Convention.

### **Title IV – Military Personnel Authorizations**

- The Committee authorizes the Secretary of Defense to increase the Army active duty end strength by up to 30,000 soldiers during the 2005 through 2009 timeframe (sec. 402).
- The Committee authorizes increases over FY04 levels in end strength for Reserve full time support personnel of 1,003 for the Army National Guard and 62 for the Air National Guard, to enhance readiness and to support the activation of 7 additional Weapons of Mass Destruction-Civil Support Teams (sec. 412).

### **Title V – Military Personnel Policy**

- The bill includes a provision that would require separate campaign medals for Operation Enduring Freedom and Operation Iraqi Freedom (sec. 542).

- The bill includes a provision that would reduce from 0.10 percent to 0.08 percent the permissible blood alcohol level for drunken operation of a vehicle, aircraft, or vessel under the Uniform Code of Military Justice, bringing the Code to the level adopted by nearly all the States (sec. 551).
- The Committee directs the Secretary of Defense to develop a comprehensive Department of Defense policy and procedures for prevention of and response to incidents of sexual assault involving military members, which the Services must implement by March 2005 (sec. 553).

## **Title VI – Compensation and Other Personnel Benefits**

- The Committee approves a permanent increase in the rate of family separation allowance from \$100.00 per month to \$250.00 per month (sec. 603).
- The Committee approves a permanent increase in the rate of special pay for duty subject to hostile fire or imminent danger from \$150.00 per month to \$225.00 per month (sec. 617).
- The bill includes a provision to authorize the Secretary of Defense to pay for travel of certain pre-selected family members to any location for the burial ceremony of a service member (sec. 631).

## **Title VII – Health Care**

- The bill authorizes more than \$400.0 million above the President's request for enhanced health benefits for reserves, which will improve mobilization readiness and continuity of health care services.
- The bill authorizes a program, known as TRICARE Reserve Select, offering permanent elective coverage for Selected Reserve members under TRICARE. The program is a new premium based option, under which TRICARE Standard would be available to any member of the Selected Reserve while in a non-active status, and the member's family (sec. 706).
- The bill authorizes a demonstration program to test the feasibility of providing health benefits to reserve members in a non-active status who are unemployed or not covered by employer-provided health care coverage (sec. 701).
- The Committee directs the Comptroller General to review and report on the transition to new TRICARE contracts, and to evaluate the effectiveness of TRICARE's new governance structure, contracts and business planning procedures in meeting the goals of continuously improved beneficiary satisfaction.

- The bill repeals the requirement for military members to pay subsistence charges while hospitalized (sec. 711).
- The bill adds \$7.8 million for expanded care and services at the Walter Reed Amputee Patient Care Center.

### **Title VIII – Acquisition Policy, Acquisition Management, and Related Matters**

- The bill includes a provision to establish a commission to assess the future of the defense industrial base (sec. 841).
- The bill includes a provision to improve the oversight of contactors performing security, intelligence, law enforcement and criminal justice function in Iraq and other areas where U.S. forces are engaged in military operations (sec. 865).

### **Title IX – DoD Organization and Management**

- The bill establishes a Commission on the National Guard and Reserve that will study the roles and mission of the reserve component including pay and benefits. The Commission’s report would be due to the Congress by the end of 2005 (sec. 902).

### **Title X – General Provisions**

- The bill authorizes the Secretary of Defense to transfer funds of up to \$3.0 billion within Division A of the bill, if in the national interest, with proper notification given to Congress (sec. 1001).
- The bill includes a provision that requires the Secretary of Defense to report to the congressional defense committees on contractor security in Iraq (sec. 1022).
- The bill includes a provision that would direct the Secretary of Defense to develop and coordinate a policy for ensuring the survivability of defense critical systems exposed to chemical or biological contamination (sec. 1043).
- The bill includes a provision to establish a panel to study the future of military space launch capabilities (sec. 1032).
- The bill includes a provision to strengthen the oversight framework for addressing DoD’s inability to produce reliable financial information or auditable financial statements.
- The bill includes a provision which renews the authority of the Secretary of Defense to use counterdrug funding for combating narcoterrorism in Colombia,

and raises the troop cap on U.S. forces in Colombia from 400 to 800 military personnel and from 400 to 600 contractor personnel (sec. 1052).

- The bill includes a provision to authorize the Secretary of Defense, in consultation with the Secretary of State, to provide up to \$150.0 million to Iraq and Afghanistan security forces solely for the purpose of combating terrorism and supporting U.S. forces (sec. 1053).

## **Title XII – Cooperative Threat Reduction with States of the Former Soviet Union**

- The Committee authorizes \$409.2 million for DoD's Cooperative Threat Reduction (CTR) Program, the same as the budget request (sec. 1202).
- The Committee approves \$409.2 million for CTR (sec. 1201) and provides the President the permanent authority to waive, on an annual basis, the conditions that must be met before continuing the Russian chemical demilitarization program at Shchuch'ye in FY04 (sec. 1203).

### **Division B – Military Construction Authorizations**

- The Administration requested \$9.48 billion for the military construction and family housing program. The Committee has included \$9.82 billion for military construction and family housing to provide a prudent investment in overseas locations and increased investment in installations in the United States. The Committee included over \$100.0 million in additional funding for critical unfunded military construction requirements identified by the military services, and an additional \$172.0 million to fund improvements to facilities supporting our National Guard and Reserve forces.

### **Division C – Department of Energy National Security Authorizations and Other Authorizations**

#### **Title XXXI – Department of Energy National Security Programs**

- The bill approves \$9.2 billion for the National Nuclear Security Administration, including \$6.67 billion for weapons activities (sec. 3101).
- The bill authorizes \$1.3 billion for the Department of Energy (DOE) nonproliferation programs (sec. 3101), and removes the \$50.0 million limitation on DOE's authority to spend nuclear materials protection and cooperation program funds on new projects outside of the former Soviet Union (sec. 3131).

- The bill requires that the Administrator for Nuclear Security submit a report to the congressional defense committees before funds can be spent on the Advanced Nuclear Weapons Concepts Initiative (sec. 3112).
- The bill clarifies the authority of the Secretary of Energy to proceed with the accelerated cleanup plan at the Hanford Site in Washington, the Idaho National Engineering and Environmental Lab in Idaho, and the Savannah River Site in South Carolina, including waste incidental to reprocessing (sec. 3119).

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## **Administration Position**

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At press time, the Administration had not yet released its Statement of Administration Policy on S. 2400.

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## **Cost**

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S. 2400 authorizes \$422.2 billion in budget authority for defense programs in FY05, an increase of \$20.9 billion above last year's appropriations and an increase of 3.4 percent in real terms.

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## **Other Views**

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### **Senators Chambliss, Inhofe, Collins, Graham (SC), Cornyn, Nelson (NE)**

The Senators presented concern about the Committee's inclusion of a reduction of two F/A-22s and \$280.2 million from the fiscal year 2005 President's proposed budget request of 24 aircraft. The Senators stated that the "Lot 2 aircraft that are behind schedule were authorized and appropriated in FY02 and will start delivering this summer. The Lot 5 aircraft to be funded this year are scheduled to deliver in 2007. Reducing the funding for Lot 5 aircraft in FY05 has no relevance to the current schedule delays and will do nothing to help the contractor recover to schedule." They further noted, "An amendment accepted by the Committee includes bill language which would authorize the procurement of up to 24 F/A-22's if the Air Force and contractor can identify efficiencies in the program, recover to the original contract schedule, and ensure that logistics and spare parts accounts will not be sacrificed to buy additional aircraft."

### **Senator Akaka**

Senator Akaka raised concerns about reductions in Working Capital Funds, stating: "The rationale for these cuts was that the working capital funds have been generating excess cash due to higher-than-projected business to meet wartime demands. This much is true. But at the same time that the funds are generating additional revenue, they are incurring additional expenses. It is somewhat like a department store after a huge sale—the racks are empty and the cash registers are full, but the store has ordered new

inventory to refill the shelves. Until the trucks arrive with the goods, cash levels are high. This is the cash that we have cut so drastically in this bill.”

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## **Possible Amendments**

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No unanimous consent agreement limits amendments. At press time, several amendments were expected. For details of some of the anticipated amendments, refer to the RPC Alert, issued to Senators and defense analysts on May 4, 2004.