



No. 24

May 19, 2003

S. 1050 – National Defense Authorization Act for FY 2004

Calendar No. 96

Reported as an original bill from the Committee on Armed Services on May 13, by voice vote.
S. Rept. 108-46; additional views filed.

NOTEWORTHY

- The unanimous consent agreement for consideration of S. 1050 provides that the Senate proceed to the bill at 2:30 p.m. on May 19 for debate only; first degree amendments must be relevant, and any second degree amendment must be relevant to the first degree amendment. Amendments can be offered beginning at 6:00 p.m. tonight. Votes will occur on Tuesday.
- S. 1050 authorizes \$400.5 billion in budget authority for FY 2004, an increase of \$17.9 billion above last year's appropriations and an increase of 3.2 percent in real terms. The President requested \$399.7 billion.
- The bill includes \$75.6 billion in procurement funding, \$1.1 billion above the President's request, and \$63.2 billion in funding for research, development, test and evaluation, \$1.3 billion over the request.
- The bill includes an across-the-board military pay raise of 3.7 percent, and a targeted pay raise of up to 6.25 percent for mid-career personnel.
- S. 1050 augments the Administration's request by approximately \$400 million to improve homeland defense capabilities, including \$42.2 million for chemical and biological defense program research and development, \$147 million for innovative technologies to combat terrorism, \$76.6 million for the Chemical and Biological Installation/Force Protection Program, and \$88.4 million to field an additional 12 Weapons of Mass Destruction/Civil Support Teams.
- S. 1050 authorizes the requested amount, \$9.1 billion, for ballistic missile defense research and development and procurement.

HIGHLIGHTS

In addition to items noted on page one of this Notice, S. 1050:

- Precludes designation of critical habitat under the Endangered Species Act on Department of Defense lands that are subject to an Integrated Natural Resource Management Plan. [For background, see RPC paper, “The Impact of Environmental Extremism on Military Readiness: the Encroachment Problem,” 4/1/03/.
- Reduces procurement of F/A-22 aircraft by two from the Administration’s request, in order to improve scheduled production delivery.
- Authorizes the construction of the following new ships: \$1.5 billion for one Virginia-class attack submarine, \$3.2 billion for three Arleigh-Burke class destroyers, \$1.2 billion for one San Antonio-class amphibious ship, and \$722.3 million for two T-AKE auxiliary cargo and ammunition ships.
- Authorizes \$1.9 billion for advance procurement of the CVN-21 aircraft carrier.
- Authorizes over \$4.4 billion (\$56 million above the requested amount), for continued development of the Joint Strike Fighter.
- Extends emergency procurement authorities passed in the aftermath of September 11, 2001, to ensure that the U.S. armed forces can respond rapidly to contingency operations and facilitate defense against or recovery from terrorist attacks.
- Approves a provision to give the Commander of the U.S. Joint Forces Command limited acquisition authority for the rapid development and fielding of important new command and control capabilities for combatant commanders.
- Authorizes \$6.7 billion for the Special Operations Command, including an additional \$107 million for weapons systems, psychological operations capabilities and enhanced intelligence.
- Authorizes a 25-percent increase in unmanned systems.

House Action

The House Armed Services Committee approved its FY04 Defense Authorization bill, H.R. 1588, on May 14, 2003, by a vote of 58-2. The House bill includes some latitude for the Secretary of Defense's request for changes in the civilian personnel system and provides limited relief from environmental laws to enhance realistic combat training. The bill also approves the \$9 billion in funds that the President seeks for missile defense. The House is expected to turn to H.R. 1588 on May 21.

BILL PROVISIONS

Title I — Procurement

For procurement, the Committee approves \$75.6 billion, \$1.1 billion over the request.

- The Committee approves \$12 billion for **shipbuilding**; \$1 billion for the Army's interim armored combat vehicle (**Stryker**); \$1.5 billion for **Army attack and lift helicopters**; \$2 billion for **C-17** strategic lift aircraft; and \$8 billion for **various tactical aircraft** for the Air Force and Navy.
- The Committee approves multi-year contracts for the **F/A-18**, the **E-2C**, the **Tactical Tomahawk**, and the **Virginia-class submarine**, in anticipation that these multi-year procurements will yield substantial savings. However, with regard to the Tomahawk, which is to complete Initial Operational Test and Evaluation (IOT&E) in March 2004, the Committee recommends a provision that would delay award of a multi-year procurement contract until, as a result of testing, the missile is recommended for use in the fleet.
- The Committee increases by \$55 million funds for the **C-37**, to accelerate procurement and permit an aircraft to be procured in FY04. The C-37 is a long-range, twin-engine commercially available transport aircraft used for executive transport for the Chief of Naval Operations, unified commanders, and staff.
- The bill provides \$39.4 million above the requested amount for procurement and installation of three additional **P-3 AIP kits** (anti-surface warfare improvement program) to expand the P-3's capability of operating in littoral regions with the addition of advanced sensors, expanded communications and survivability upgrades.
- The budget requested no funds for refueling any **Los Angeles-class attack submarines**. The Committee recommends an increase of \$248 million to refuel the U.S.S. Jacksonville, which would otherwise be decommissioned. Decommissioning the U.S.S. Jacksonville

would leave the Navy below the Quadrennial Defense Review-recommended force level for attack submarines. The 2001 QDR recommended 55 attack subs as a minimum force necessary to present a moderate operational risk.

- The budget request for \$3.7 billion for 22 **F/A-22 Raptor aircraft** is cut by \$217 million, for a total authorization of \$3.5 billion for 20 F/A-22s (that is, a reduction of 2 aircraft). The Committee cites an inability to meet production schedules.
- The Committee provides an increase of \$60 million for a total of \$669.3 million in the **Evolved Expendable Launch Vehicle (EELV)** to support assured access to space and launch services for national security payloads, noting that the commercial launch market has collapsed, and additional government support is required to sustain the two existing commercial vendors in the near term.
- The Senate bill adds seven more **UH-60 helicopters** above the requested numbers, for a total of 17 UH-60s, adding \$70.7 million to the requested amount of \$138.8 million. The budget requested \$136.5 million for selected upgrades. The Committee recommends a transfer of \$100 million from the Army Aircraft Procurement for a total authorization of \$36.5 million for UH-60 upgrades and recommends \$170.2 million for UH-60M recapitalization.
- The Committee recommends an increase of \$43 million for **HELLFIRE air-to-surface missiles** for a total of \$76 million.
- The Committee adds \$40 million for the **Javelin anti-tank program**, for a total of \$173.1 million.
- The **MV-22 Osprey** program receives \$833.1 million for nine aircraft for the Marine Corps, and \$217.9 million for two **CV-22 Ospreys** for the Air Force.
- The bill provides \$705 million for procurement of **JDAMs (Joint Direct Attack Munitions)** for the Navy and Air Force.
- The bill provides \$762.5 million for procurement of **Apache Longbow** helicopters.
- The bill adds \$11 million for **Patriot** modifications, for a total authorization of \$223.5 million.
- The bill adds \$15 million to repair four **CH-47s**, for a total authorization of \$510.5 million.
- The bill adds \$12.3 million for the **OH-58D Kiowa** warrior for safety enhancements, for a total of \$57.3 million.

- The bill adds \$23.5 million for **HMMWVs, High Mobility Multi-purpose Wheeled Vehicles**.
- The bill cuts \$3.6 million from Advanced Procurement for the **Advanced Seal Delivery System** because of developmental problems in battery life and acoustic signature on this mini-submarine.

Title II — Research, Development, Test and Evaluation

- The Committee approves \$63.2 billion, an increase of \$1.3 billion above the President's request, for **RDT&E**. This increase in Science and Technology (S&T) funds brings the DoD closer to the Secretary's goal of devoting 3 percent of all defense funds to the S&T programs.
- RDT&T funds include \$1 billion for the next-generation **DDX destroyer**, \$1.7 billion for the **Future Combat System**, and \$5.6 billion for development of various tactical aircraft, including over \$4.4 billion for continued development of the **Joint Strike Fighter**, an increase of \$56 million above the budget request.
- The Committee provides increases in S&T accounts, including \$130 million in unmanned systems and \$150 million in technologies to combat threats of terrorism at home and abroad, as well as an additional \$50 million in basic research.
- The Committee provides an increase of \$35 million for the **Littoral Combat Ship**, and asks for a report from the Comptroller General to detail the Navy's progress in defining concepts of operations for the LCS.
- The **Joint Strike Fighter** receives an additional \$56 million to continue development of a second-source, interchangeable engine on its original schedule.
- The Committee adds \$80 million in funds for the **Global Positioning System III (GPS III)** for continued development of this satellite. The additional funds could mean a first launch of GPS III in 2010. The Committee noted that the current generation of GPS is vulnerable to jamming and the Department of Defense has determined that GPS II improvements are not enough to satisfy future requirements.
- The **Advanced Extremely High Frequency System (AEHF)**, a satellite communications system, receives an additional \$60 million for additional spare parts to support critical military communications.
- The Committee adds \$4 million for **space control technologies**, to assess and evaluate kinetic energy anti-satellite technologies developed in the 1990s as part of a space control

architecture, and to continue development of space control technologies that leverage those capabilities and investments.

- The **U-2** aircraft program receives \$33 million to reduce risks associated with integrating existing signals intelligence sensors on upgraded platforms.
- The Committee adds \$100 million for the **ground-based midcourse missile defense program** to provide for an additional intercept test in FY04, in order to reduce schedule costs and risks; \$36 billion was the midcourse request. This addition of funds will support the goal of fielding 20 interceptors at Greely and Vandenberg air bases by the end of FY05.
- The Committee authorizes a restructuring of the **PAC-3** and **MEADS (Medium Extended Air Defense System)** to coordinate the research and development on these two terminal-phase BMD systems.
- **BMD system interceptors** receive a cut of \$70 million. The program is intended to develop interceptors for boost phase or mid-course that can be ground- or sea-based. (The Committee notes that the budget represents a six-fold increase for the interceptors and that there is no path to migrate technology to sea-based.)
- The Committee recommends an increase of \$10 million for the **Arrow** program for continued R&D for the U.S.-Israel Arrow Ballistic Missile Defense program.
- The Committee approves the **Space-Based Radar** request of \$274.1 million. The Committee recommends a report by March 30, 2004 on architecture options and spiral development. SBR is meant to provide persistent, all-weather detection and tracking of time-critical targets.
- On the **Space Based Infrared** program (SBIRS), the Air Force is to develop a plan to reduce the production gap on SBIRs from two years to one year, with a report by December 15, 2003.

Title III — Operation and Maintenance (O&M)

- The bill provides \$130.6 billion in the O&M title.
- The Committee recommends a provision that would give the Secretary of Interior and Secretary of Defense the ability to use management plans, prepared under the Sikes Act, as a substitute for critical habitat designation on Department of Defense lands if the Secretary of Interior determines that these plans provide adequate protection for endangered or threatened species. The provision would not retroactively eliminate or change critical habitat designations that are already in place.

Title IV — Military Personnel Authorizations

- The Committee supports the Administration's request for manpower end strength for active duty and Selected Reserve personnel of the Armed Services.
- The Committee includes a provision that would increase the number of reserve personnel on active duty in support of the Reserves to improve unit readiness and to assist in implementing 12 additional weapons of mass destruction-civil support teams.

Title V — Military Personnel Policy

- The Committee includes a provision authorizing a high-tempo allowance for personnel who repeatedly are called on to deploy away from their home bases.
- The Committee includes a provision that would require the Services to prescribe policies on sexual misconduct applicable to service academies. Additionally, the Secretary of Defense is required to conduct annual assessments, including surveys of academy personnel, to determine the effectiveness of academy policies, training, and procedures for handling sexual misconduct.

Title VI — Compensation and Other Personnel Benefits

- The Committee recommends a provision that would authorize an across-the-board **military pay raise** of 3.7 percent and an **additional targeted pay raise** for certain experienced mid-career personnel, ranging from 5.25 to 6.25 percent, for an overall raise of 4.15 percent.
- The Committee mandates a **\$100-per-month assignment incentive pay** for all military members stationed in Korea.
- The Committee recommends a provision authorizing an increase in the rate of **family separation allowance** from \$100 per month to \$250 per month.
- The Committee authorizes an increase in the rate of **special pay for duty subject to hostile fire or imminent danger** from \$150 per month to \$225 per month.
- The Committee directs that **annual military pay raises** after FY2006 be equal to the annual increase in the employment cost index (ECI).

- The Committee authorizes an increase in the **death gratuity** from \$6,000 to \$12,000, effective September 11, 2001.

Title VII — Health Care

- The Committee mandates the availability of TRICARE beneficiary counseling assistance coordinators to assist reserve component beneficiaries using the TRICARE program with reserve-unique health benefit issues.
- The Committee directs the Secretary of Defense to ensure the continued viability and adequacy of the TRICARE standard benefit.

Title VIII — Acquisition Policy

- The Committee recommends a pilot program to allow the Department of Defense to base its competitive sourcing decisions for information technology services on best-value criteria and to ensure that schedules for public-private competitions are based on the availability of sufficient DoD personnel, training and technical resources to conduct such competitions.
- The Committee authorizes the Secretary of Defense to waive most domestic-source or content requirements for defense allies that provide reciprocal treatment for U.S. defense products, with two exceptions: the Berry Amendment (10 U.S.C. 2533A, which restricts purchases by DoD of food, textiles, and specialty metals to domestic suppliers) and shipbuilding and repair.

Title IX — DoD Reorganization and Management

- The Committee recommends the Under Secretary of the Air Force have appropriate oversight of space science and technology (S&T) programs, and develop a space S&T strategy. It also advises the Secretary of Defense, pursuant to recommendations made by the Space Commission three years ago, to develop a strategy for personnel with space expertise, and to ensure that career space fields are integrated within the services to the maximum extent possible.

Title X — General Provisions

- The committee requires a comprehensive after-action **report on the conduct of Operation Iraqi Freedom.**

- The Committee directs the President to submit a report to Congress no later than April 1, 2004, on the potential uses of **unmanned aerial vehicles** for support of the performance of homeland security missions.

Title XIII — Matters Relating To Other Nations

- The Committee recommends \$450.8 million, the requested amount, for the **Cooperative Threat Reduction Program**, and authorization is provided for CTR projects and activities outside the states of the former Soviet Union. The President is provided a one-year authority to waive the conditions that must be met before continuing the Russian chemical demilitarization program at Shchuch'ye in FY04.

Division B — Military Construction Authorizations

- The Committee authorizes \$9.5 billion for **military construction**, slightly more than the Administration's request of \$9 billion. This amount reflects an increased investment in installations in the United States with the expected changes in overseas basing strategy, and includes funding for critical unfunded military construction requirements identified by the services, as well as more than \$200 million in quality-of-life projects.

Title XXXI — Department of Energy National Security Programs

- The committee provides the amount requested for atomic energy defense activities: \$16.7 billion.
- The Committee recommends \$8.9 billion for the National Nuclear Security Administration (NNSA); which includes \$6.5 billion for weapons activities (a \$79.3-million increase above the requested amount for FY04); \$1.3 billion for defense nuclear non-proliferation; and \$1.4 billion for directed stockpile work;
- The Committee authorized \$1.7 billion for readiness in the technical base, which funds facilities and infrastructure in the weapons complex to meet a maintenance backlog (an increase of \$79.3 million); \$182.4 million for secure transportation assets; \$585.8 million for safeguards and security; and \$265.1 million for military facilities and infrastructure.
- The Committee recommends \$2.4 billion for **nuclear stockpile safety and reliability efforts, also known as readiness campaigns**. The *efforts* focus on science and engineering *activities* involving the three weapons laboratories, the Nevada Test Site, and the weapons plants. Each campaign is focused on a specific activity to enhance the safety, security and reliability of the existing stockpile.

- **The Naval Reactors program** received a funding increase of \$20 million above the request to decommission older facilities. Total funding is \$788.4 million.
- The Committee approves the budget request of \$21 million for the Advanced Concepts Initiative, of which \$15 million is dedicated to the **Robust Nuclear Earth Penetrator (RNEP)**, or “bunker buster,” intended for underground, hardened military targets.
- Included in the restrictions and limitations section of the report is a provision repealing Section 3136 of the National Defense Authorization bill of FY94. This recommended provision would lift the prohibition on research and development of **low-yield nuclear weapons**. The Committee points out that this provision should not be construed as authorizing testing, acquisition, or development of a low-yield nuclear weapon.
- The Committee also addresses the readiness posture of U.S. underground nuclear weapons tests, directing the Energy Secretary to achieve and maintain a **readiness posture** of 18 months by October 1, 2006, for resumption of underground nuclear tests. The Secretary must also submit a report to Congress if he determines a different readiness posture is feasible and advisable.
- The Committee directs an updated report on **stockpile stewardship** criteria, and the Energy Secretary is to report to the Congressional defense committees by March 1, 2005 on clear and scientific criteria for judging the safety and reliability of the nuclear weapons stockpile to provide an adequate degree of certainty that the stockpile is safe and reliable.
- The DoE is urged to evaluate options to accelerate **modern pit facility (MPF)** design and construction and to assess options to ensure that the nation’s experience in this area is not further degraded until the MPF becomes operational. The Committee expresses concern about the proposed 2020 starting date for operations of the new MPF and the loss of technical expertise in pit production due to the closure of the Rocky Flats, Colorado, facility in 1989.

OTHER VIEWS

Additional Views of Senators Chambliss, Cornyn, Graham (SC), and Inhofe

Senators Chambliss, Cornyn, Graham and Inhofe disagree with the \$217 million reduction in funding for the F/A-22 program, arguing that the funding cut will further hinder the production effort, and that the funding cut will add a per-plane cost of \$3 million and a corresponding decrease in the number of aircraft delivered by as much as 10 planes.

Additional Views of Senator Reed

Senator Reed highlights his concerns with the bill, claiming it embarks the United States on a path towards a new nuclear arms race. On missile defense, Senator Reed agrees with the restoration of the intercept test in 2004, but is concerned that the plan is to “field the system (BMD) before we even know if it will work,” claiming the system cannot distinguish between a warhead and a decoy.

COST

CBO has not yet costed the bill. According to the Congressional Budget Office, the budget authority implication for national defense, or Function 050, of the Senate-reported bill, S. 1050, is \$400.5 billion.

ADMINISTRATION POSITION

The Statement of Administration Policy was unavailable at press time. However, Secretary Rumsfeld, on May 13, 2003, sent a letter to House Armed Services Committee Chairman Duncan Hunter in opposition to any effort to delay or eliminate the BRAC (Base Closure and Realignment Commission) round in 2005. The letter said, “If the President is presented a bill to repeal or delay BRAC, then I would join other senior advisors to the President in recommending that he veto any such legislation.”

POSSIBLE AMENDMENTS

These amendments were known to be possibilities at press time. Others are anticipated.

Levin and/or Reed: To reinstate the ban on research and development of low-yield nuclear weapons.

Levin and/or Reed: To eliminate funding for the Robust Nuclear Earth Penetrator (RNEP).

Cochran: To provide \$115 million for the Arrow ballistic missile defense program.

Nelson (FL): To increase the minimum military retiree Survivor Benefit Plan basic annuity for surviving spouses age 62 and older; to eliminate the current offset against the annuities paid to widows and surviving children by the DoD Survivors' Benefits Plan by the VA Dependency and Indemnity Compensation.

Domenici: To include specialized dental care among those military families qualifying for travel reimbursement.

To ensure that commissioned officers who are waiting for the beginning of basic training have access to TRICARE.

Graham (SC): To provide for comprehensive reform of the Guard and Reserve health care and retirement systems.