



**Legislative Bulletin.....May 19, 2004**

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**H.R. 4200**—National Defense Authorization Act for Fiscal Year 2005

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**H.R. 4200—National Defense Authorization Act for Fiscal Year 2005  
(Hunter)**

**Order of Business:** The bill is scheduled to be considered beginning on Wednesday, May 19<sup>th</sup>, subject to a structured rule. The amendments made in order under the rule will be summarized in a separate document.

**Cost to Taxpayers:** According to CBO, H.R. 4200 would authorize regular appropriations in FY2005 totaling \$418.82 billion and supplemental FY2005 appropriations of \$25.0 billion (with no additional authorizations in future years) for the Department of Defense. The bill also contains provisions that would decrease mandatory spending (including asset sales) below the baseline by \$24 million in FY2005 and by \$22 million over the FY2005-09 period.

For details on specific authorizations, see the “Comprehensive Summary” section below.

**Overall Authorizations:** **The President requested budget authority of \$423.1 billion for the national defense budget function (regular appropriations) for fiscal year 2005.**

**The committee recommends an overall level of \$422.1 billion in budget authority.** This amount represents an increase of approximately \$21.7 billion from the budget authority provided in the authorization bill for FY2004 (H.R. 1588 last year). This differential does not include the supplemental appropriations enacted into law for FY2004.

In addition, the bill would authorize supplemental FY2005 appropriations of \$25.0 billion for ongoing war operations in Afghanistan and Iraq (in accordance with the President’s request).

**Does the Bill Create New Federal Programs or Rules?:** Yes, as detailed below and in the specifics of the bill.

**Constitutional Authority:** The Armed Services Committee, in Report 108-491, fails to cite a *specific* clause of constitutional authority. Article I, Section 8, Clause 1 grants Congress the power to “provide for the common Defence and general welfare of the United States.” Article I, Section 8, Clauses 12 through 16 grant Congress the power “To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years; To

provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval forces; To provide for calling forth the Militia to execute the Laws of the Unions, suppress Insurrections and repel Invasions; To provide for organizing, arming, and disciplining, the Militia and for governing such Part of them as may be employed in the Service of the United States..." In addition, Article I, Section 8, Clause 17 provides that Congress shall have the power "To exercise exclusive Legislation in all Cases whatsoever...over all Places purchased by the Consent of the Legislature of the state in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;"

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**Comprehensive Summary:** H.R. 4200 would authorize appropriations for fiscal year 2005 for the Department of Defense and the military functions of the Department of Energy. The bill would also prescribe personnel strengths for all components of the U.S. armed forces. What follows are highlights of the three divisions (Dept. of Defense, Military Construction, and Dept. of Energy & Others) of the bill.

**Where available, the Bush Administration's funding requests are parenthetically indicated in italics.**

Division A = Department of Defense Authorizations

Division B = Military Construction Authorizations

Division C = Department of Energy National Security Authorizations and Other Authorizations

### **Division A—Title I—Procurement**

- **Total Procurement.** \$76.22 billion (*\$76.03 billion*)
- **Army.** Aircraft--\$2.81 billion (*\$2.66 billion*); Missiles—\$1.41 billion (*\$1.40 billion*); Weapons and Tracked Combat Vehicles--\$1.74 billion (*\$1.64 billion*); Ammunition--\$1.73 billion (*\$1.56 billion*); Other Procurement--\$4.31 billion (*\$4.24 billion*).
- **Navy.** Aircraft--\$8.91 billion (*\$8.77 billion*); Weapons (including missiles and torpedoes)--\$2.25 billion (*\$2.10 billion*); Ammunition--\$870.8 million (*\$858.6 million*); Shipbuilding and Conversion--\$10.12 billion (*\$9.96 billion*); Other Procurement--\$4.88 billion (*\$4.83 billion*).
- **Marine Corps.** \$1.32 billion (*\$1.19 billion*).
- **Air Force.** Aircraft--\$13.65 billion (*\$13.16 billion*); Missiles--\$4.64 billion (*\$4.72 billion*); Ammunition--\$1.40 billion (*\$1.40 billion*); Other Procurement--\$13.23 billion (*\$13.28 billion*).
- **Defense-Wide Activities.** \$2.95 billion (*\$2.88 billion*).

### **Division A—Title II—Research, Development, Test, and Evaluation**

- **Total RDT&E.** \$68.13 billion (*\$67.77 billion*)

- **Army**. \$9.48 billion (*\$9.27 billion*)
- **Navy**. \$16.05 billion (*\$16.35 billion*)
- **Air Force**. \$21.53 billion (*\$21.11 billion*)
- **Defense-Wide Activities**. \$20.77 billion (*\$20.74 billion*)
- **Operational Test & Evaluation, Defense-Wide**. \$305.14 million (*\$305.14 million*)
- **Defense Science and Technology**. Earmarks \$11.07 billion for the Defense Science and Technology Program.

### **Division A—Title III—Operation and Maintenance**

- **Total Operations and Maintenance & Other Programs**. \$140.6 billion (*\$140.61 billion*)
- **Army**. \$25.84 billion (*\$26.13 billion*)
- **Navy**. \$29.52 billion (*\$29.79 billion*)
- **Marine Corps**. \$3.64 billion (*\$3.63 billion*)
- **Air Force**. \$27.14 billion (*\$28.47 billion*)
- **Defense-Wide Activities**. \$17.32 billion (*\$17.49 billion*)
- **Army Reserve**. \$2.00 billion (*\$2.01 billion*)
- **Naval Reserve**. \$1.24 billion (*\$1.24 billion*)
- **Marine Corps Reserve**. \$188.7 million (*\$188.7 million*)
- **Air Force Reserve**. \$2.23 billion (*\$2.24 billion*)
- **Army National Guard**. \$4.43 billion (*\$4.44 billion*)
- **Air National Guard**. \$4.45 billion (*\$4.42 billion*)
- **Drug Interdiction and Counter-Drug Activities, Defense-Wide**. \$852.7 million (*\$852.7 million*)
- **Defense Health Program**. \$17.81 billion (*\$17.64 billion*)
- **Chemical Agents and Munitions Destruction**. \$1.37 billion (*\$1.37 billion*)
- **Defense Inspector General**. \$193.6 million (*\$244.6 million*)
- **Resolving and Management Funds**. \$2.83 billion (*\$3.02 billion*)
- **Body Armor**. Authorizes the reimbursement of servicemen for the cost of protective body armor purchased by the serviceman for use while deployed in Afghanistan and Iraq, if not issued such armor.
- **Public-Private Competition**. Establishes a pilot program to examine the use of the public-private competition process outlined in OMB Circular A-76. By the end of the two-year pilot program, the Secretary of Defense would have to have allowed civilian employees to compete for new projects that add up to approximately one-tenth the value of all DoD funds spent on new projects during the two years.

### **Division A—Title IV—Military Personnel Authorizations**

Authorized personnel levels as of September 30, 2005:

- **Army**. 482,400
- **Navy**. 365,900
- **Marine Corps**. 175,000

- **Air Force.** 359,700
- **Army National Guard, Selected Reserve.** 350,000
- **Army Reserve, Selected Reserve.** 205,000
- **Naval Reserve, Selected Reserve.** 83,400
- **Marine Corps Reserve, Selected Reserve.** 39,600
- **Air National Guard, Selected Reserve.** 106,800
- **Air Force Reserve, Selected Reserve.** 76,100
- **Coast Guard Reserve, Selected Reserve.** 10,000
- **Army National Guard, Full-Time Duty.** 26,476
- **Army Reserve, Full-Time Duty.** 14,970
- **Naval Reserve, Full-Time Duty.** 14,152
- **Marine Corps Reserve, Full-Time Duty.** 2,261
- **Air National Guard, Full-Time Duty.** 12,225
- **Air Force Reserve, Full-Time Duty.** 1,900
- **Army National Guard, Dual-Status Military Technicians.** At least 25,076 (24,589)
- **Army Reserve, Dual-Status Military Technicians.** At least 7,299
- **Air National Guard, Dual-Status Military Technicians.** At least 22,956
- **Air Force Reserve, Dual-Status Military Technicians.** At least 9,954
- **Army Reserve, Non-Dual-Status Military Technicians.** No more than 795
- **Army National Guard, Non-Dual-Status Military Technicians.** No more than 1,600
- **Air Force Reserve, Non-Dual-Status Military Technicians.** No more than 90
- **Air National Guard, Non-Dual-Status Military Technicians.** No more than 350
- **Armed Forces Retirement Home.** \$61.2 million
- **Authorization of Appropriations for Military Personnel.** \$104.65 billion (\$104.81 billion)

### **Division A—Title V—Military Personnel Policy**

- **Prayer at Military Service Academies.** Permits the respective Superintendents of the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Air Force Academy to allow voluntary, nondenominational prayer at academy activities, subject to such limitations as the President may prescribe.
- **Medals for Afghanistan and Iraq.** Requires the establishment of separate campaign medals for service in Operation Enduring Freedom (Afghanistan) and Operation Iraqi Freedom..
- **Sexual Assault.** Directs the Secretary of Defense to investigate what changes to the Uniform Code of Military Justice and the Manual for Courts-Martial are required to address issues relating to sexual assault and to conform the Code and Manual more closely to federal laws and regulations that address such issues. Additionally, the task force established last year to examine matters relating to sexual harassment and violence at the Academies would be extended for an additional 18 months.
- **Frequent Flyer Miles.** Allows the Secretary of Defense to accept from any person or government agency the donation of travel benefits (such as frequent flyer miles) for

facilitating the travel of servicemen (and the families of servicemen) who are deployed on active duty and who are granted recuperative or other authorized leave during the deployment.

- **Electronic Voting**. Repeals the requirement to conduct an electronic voting demonstration project on military bases for the November 2004 election.
- Contains various provisions about status grades and promotions, education, and other miscellaneous items.

### **Division A—Title VI—Compensation and Other Personnel Benefits**

- **Basic Pay for All Uniformed Services**. Increases basic pay by **3.5%** for all members of the uniformed services and provides incentives to retain junior officers and highly skilled enlisted members.
- **Annuities**. Phases in increases for annuities for surviving spouses over age 62.
- **Bonuses**. Extends through December 31, 2005, dozens of bonus and special-pay authorities (for example: bonuses for reserve reenlistment, nurse anesthetists, dentists, nuclear specialists, aviation officer retention, prior service enlistment, and service in Antarctica or on the Arctic Icepak).

### **Division A—Title VII—Health Care Matters**

- **TRICARE**. Makes various clarifications, updates, and improvements to the TRICARE system
- **Private Health Care Providers**. Directs the Secretary of Defense to establish a pilot program in which non-military health care resources are employed to serve military servicemen.

### **Division A—Title VIII—Acquisition Policy, Acquisition Management, and Related Matters**

- **Rapid Acquisition Authority**. Provides rapid acquisition authority when necessary to respond to combat emergencies.
- **Simplified Acquisition Authority**. Extends through the beginning of FY2010 the authority for simplified acquisition procedures.
- **Inflation**. Adjusts certain acquisition thresholds for inflation.
- **Outsourcing**. Establishes a \$50 million grant program for defense contractors to implement strategies that avoid the outsourcing of defense jobs (including cost-cutting measures, retraining program, technology development, and plant upgrades). The federal share could not exceed 50% of the costs of implementing such strategies.

### **Division A—Title IX—Department of Defense Organization and Management**

- **Abuse of Detainees**. Directs the Secretary of Defense to prescribe procedures for DoD and its contractors to prevent the conditions leading to acts of abuse of detainees held by the U.S. as part of the Global War on Terrorism. Included in such procedures

would be providing all detainees with information (in their own language) about their rights under the Geneva Convention, conducting unannounced inspections of prisons, and prohibiting contact between male guards and female detainees and between female guards and male detainees.

- **Secretary of the Navy**. Redesignates the title of the Secretary of the Navy to the Secretary of the Navy and Marine Corps.

### **Division A—Title X—General Provisions**

- **Transfer Authority**. Authorizes the Secretary of Defense, in the interest of national security, to transfer up to **\$3.0 billion** in authorizations to any other authorization for fiscal year 2005, as long as the transfer is from a lower-priority authorization to a higher-priority authorization, the transfer is not used to provide authority to an item that has been denied authorization by Congress, and the Secretary “promptly” notifies Congress of the transfer. Treats any such transfer as an equivalent increase in the amount authorized for the account to which the amount is transferred.
- **Foreign-Built Vessels**. Prevents the long-term lease of any vessel constructed primarily in a foreign shipyard.
- **Colombia**. Extends through 2006 the authority for DoD to provide counter-drug activities in Colombia (using not more than 500 members of the Armed Forces).
- **Firearms**. Instructs the Secretary of Defense to report “in detail” the effects on both military readiness and the defense industrial base that would result from the elimination of the domestic firearms manufacturing base.
- **Commission**. Establishes the Commission on the Long-Term Implementation of the New Strategic Posture of the United States to examine the long-term needs of a non-nuclear strategic posture.

### **Division A—Title XI—Civilian Personnel**

- **Unauthorized Use of Medals**. Prohibits, in most cases, the wearing or commercial use of medals, decorations, or other DoD insignia for the recognition of civilian employees and other individuals who render service to DoD.
- Includes several provisions regarding pay parity.

### **Division A—Title XII—Matters Relating to Other Nations**

- **Iraq under Saddam**. Requires the gathering and transfer of information regarding the conditions in Iraq under Saddam Hussein to “indigenous Iraqi entities” committed to documenting such conditions.
- **Foreign Forces**. Allows up to \$25 million to be spent to support foreign forces, irregular forces, or individuals who are supporting U.S. special operations forces combating terrorism.
- **Commanders’ Emergency Response Program**. Allows up to \$300 million to be distributed to military commanders in Iraq to respond to urgent humanitarian relief

and reconstruction requirements within their respective areas of responsibility. A similar program could be set up for Afghanistan.

- **Iraqi Security**. Directs the Secretary of Defense to report to Congress, within four months of enactment, a plan for establishing viable and professional Iraqi security forces able to provide for the long-term security of the Iraqi people.
- **Contractors in Iraq**. Directs the Secretary of Defense to report to Congress, within three months of enactment, guidance on how to manage contractors that support deployed forces.
- **Army Specialist Joseph Darby**. Expresses a sense of Congress commending Army Specialist Joseph Darby for revealing the abuses at the Abu Gharib prison in Iraq.
- **Procurement Sanctions**. Prohibits the procurement of any goods and services from any foreign person who has knowingly sold or transferred certain defense articles to China.

### **Division A—Title XIII—Cooperative Threat Reduction with States of the Former Soviet Union**

*From funds allocated above:*

- **Strategic Offensive Arms Elimination in Russia**. \$58.5 million
- **Nuclear Weapons Transportation Security in Russia**. \$26.3 million
- **Nuclear Weapons Storage Security in Russia**. \$48.7 million
- **Biological Weapons Proliferation Prevention Activities in the Former Soviet Union**. \$55.0 million
- **Other Program Support**. \$14.3 million
- **Defense and Military Contacts**. \$8.0 million
- **Chemical Weapons Destruction in Russia**. \$158.4 million
- **Weapons of Mass Destruction Proliferation Prevention Activities in Former Soviet States**. \$40.0 million

### **Division A—Title XIV—Export Controls and Counterproliferation Matters**

- **Licensing Exemption Prohibition**. Prohibits the President from establishing an exemption from the license requirements for the export of significant military equipment.
- **Export controls**. Directs the President to periodically report to Congress on how America's international export control system could be improved.
- **Counterproliferation fellowship**. Authorizes the Secretary of Defense to create a new program under which foreign military defense personnel are selected to attend Department of Defense courses and programs in counterproliferation and nonproliferation matters in order to improve the ability of the foreign military defense personnel to contribute to halting the illicit acquisition or transportation of weapons of mass destruction or of materials that support the development or use of such weapons.
- **Former WMD Engineers**. Authorizes the Secretary of Energy to create a program to promote non-weapons-related employment opportunities in the U.S. and in some

states of the former Soviet Union for scientists, engineers, and technicians formerly engaged in developing weapons of mass destruction.

**Division A—Title XV—Authorization for Increased Costs Due to Operation Iraqi Freedom and Operation Enduring Freedom**

*Total supplemental FY2005 appropriations: \$25.0 billion*

PROCUREMENT:

- **Army**. Aircraft--\$498.3 million; Missiles—\$42.8 million; Weapons and Tracked Combat Vehicles--\$201.9 million; Ammunition--\$78.8 million; Other Procurement--\$1.57 billion; National Guard and Reserve equipment--\$50.0 million.
- **Navy and Marine Corps**. Ammunition--\$38.4 million.
- **Marine Corps**. Procurement--\$98.2 million.
- **Air Force**. Procurement--\$99.0 million.
- **Defense-Wide Activities**. Procurement--\$720.0 million

OPERATION & MAINTENANCE:

- **Army**. \$9.61 billion
- **Navy**. \$256.5 million
- **Marine Corps**. \$2.40 billion
- **Air Force**. \$1.64 billion
- **Defense-Wide Activities**. \$2.33 billion

OTHER:

- **Defense Health Program**. \$75.0 million
- **Military Personnel**. \$5.31 billion
  
- **Transfers**. Authorizes inter-account transfers within this title of up to \$2.5 billion.
- **Army Troop Levels**. Increases active Army strength levels over three years, reaching 512,400 by September 30, 2007.
- **Marine Corps Troop Levels**. Increases active Marine strength levels over three years, reaching 184,000 by September 30, 2007.
- **Imminent Danger Pay**. Extends the increased rates for imminent danger pay and family separation allowances.

**Division B—Title XXI—Army**

*Authorization of Appropriations for Military Construction, Army. Specific projects listed in Section 2101 of H.R. 4200, as reported.*

- **Military Construction**. \$1.87 billion (\$1.77 billion)
- **Military Family Housing: Construction, Acquisition, Planning, Design, Improvement**. \$636.1 million (\$636.1 million)
- **Military Family Housing: Support**. \$926.5 million (\$928.5 million)



### **Division B—Title XXII—Navy and Marine Corps**

*Authorization of Appropriations for Military Construction, Navy. Specific projects listed in Section 2201 of H.R. 4200, as reported.*

- **Military Construction.** \$1.08 billion (*\$1.06 billion*)
- **Military Family Housing: Construction, Acquisition, Planning, Design, Improvement.** \$139.1 million (*\$139.1 million*)
- **Military Family Housing: Support.** \$696.3 million (*\$704.5 million*)

### **Division B—Title XXIII—Air Force**

*Authorization of Appropriations for Military Construction, Air Force. Specific projects listed in Section 2301 of H.R. 4200, as reported.*

- **Military Construction.** \$792.1 million (*\$664.0 million*)
- **Military Family Housing: Construction, Acquisition, Planning, Design, Improvement.** \$847.0 million (*\$847.0 million*)
- **Military Family Housing: Support.** \$854.7 million (*\$863.9 million*)

### **Division B—Title XXIV—Defense Agencies**

*Authorization of Appropriations for Military Construction, Defense Agencies. Specific projects listed in Section 2401 of H.R. 4200, as reported.*

- **Military Construction.** \$708.9 million (*\$699.4 million*)
- **Military Family Housing: Construction, Acquisition, Planning, Design, Improvement.** \$49.0 million (*\$49.0 million*)
- **Military Family Housing: Support.** \$49.6 million (*\$49.6 million*)

### **Division B—Title XXV—North Atlantic Treaty Organization Security Investment Program**

- **NATO Construction and Land Acquisition Projects.** \$165.8 million (*\$165.8 million*)

### **Division B—Title XXVI—Guard and Reserve Forces Facilities**

- **Army National Guard.** \$393.2 million (*\$295.7 million*)
- **Army Reserve.** \$117.0 million (*\$87.1 million*)
- **Naval and Marine Corps Reserve.** \$31.0 million (*\$25.3 million*)
- **Air National Guard.** \$184.6 million (*\$127.4 million*)
- **Air Force Reserve.** \$114.1 million (*\$84.6 million*)

### **Division B—Title XXVII—Expiration and Extension of Authorizations**

- **Expiration of Authorizations.** Establishes an expiration date for all military construction and family housing authorizations at the later of October 1, 2007 or the date of enactment of an Act authorizing funds for military construction for fiscal year 2008.
- **Extensions of Authorizations.** Extends by several years the expiration dates of various specific projects.

### **Division B—Title XXVIII—General Provisions**

- **Base Realignment and Closure (BRAC).** Delays by two years (from 2005 to 2007) all provisions regarding (including the implementation of) the next round of military base closures under BRAC. **President Bush opposes this delay, and John Kerry supports it.**
- **Vulnerability to Terrorist Attack.** Directs the Secretary of Defense to annually assess the vulnerability of military installations located inside and outside the United States to terrorist attack and to develop construction standards and take other such steps to reduce the identified vulnerabilities.
- Includes a variety of construction-related adjustments of authority.
- **Land Conveyances.** Authorizes dozens of land conveyances to localities.

### **Division C—Title XXXI—Department of Energy National Security Programs**

*Authorization of Appropriations for the National Nuclear Security Administration. Details on specific projects given in Section 3101 of H.R. 4200, as reported.*

- **Weapons Activities.** \$6.58 billion (*\$6.57 billion*)
- **Defense Nuclear Nonproliferation.** \$1.34 billion (*\$1.35 billion*)
- **Naval Reactors.** \$797.9 million (*\$797.9 million*)
- **Office of Administrator for Nuclear Security.** \$333.7 million (*\$333.7 million*)
- **Total.** \$9.05 billion (*\$9.05 billion*)

*Authorization of Appropriations for Environmental and Other Activities.*

- **Defense Site Acceleration Completion.** \$5.88 billion (*\$5.97 billion*)
- **Defense Environmental Services.** \$986.5 million (*\$982.5 million*)
- **Other Defense Activities for National Security.** \$658.6 million (*\$664.6 million*)
- **Defense Nuclear Waste Disposal.** \$131.0 million (*\$131.0 million*)
- **Total.** \$7.65 billion (*\$7.75 billion*)

*Other provisions:*

- **High-Level Radioactive Waste.** Requires the Secretary of Energy to work with the National Academy of Science to study the plans to manage the nuclear waste streams that are not currently planned for disposal in a high-level repository.

- **Funds Transfers.** Provides for certain funds transfers within the Department of Energy.

**Division C—Title XXXII—Defense Nuclear Facilities Safety Board**

- **Authorized Appropriations.** \$21.3 million (\$20.3 million)

**Division C—Title XXXIII—National Defense Stockpile**

- **Authorization of Appropriations.** Authorizes \$59.7 million from the National Defense Stockpile Transaction Fund for the operation and maintenance of the National Defense Stockpile for fiscal year 2005. Permits the use of additional funds for extraordinary or emergency conditions 45 days after a notification to Congress.

**Division C—Title XXXIV—Naval Petroleum Reserves**

- **Authorized Appropriations.** \$20.0 million

**Division C—Title XXXV—Maritime Administration**

*Authorization of Appropriations for the Maritime Administration under the Department of Transportation.*

- **Operations and Training Activities.** \$109.3 million
- **Loan Guarantee Program, Administrative Expenses.** \$4.8 million
- **Disposal of Obsolete Vessels.** \$35.0 million

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To view the RSC Policy Brief for the defense authorizations for FY2004 (last year's bill, H.R. 1588), visit this website: <http://johnshadegg.house.gov/rsc/DODAuthFY04PB.pdf>

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